Higher Education Act of 1965

[P.L. 89–329]

[As Amended Through P.L. 114–113, Enacted December 18, 2015]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Act of 1965".

[The table of contents is not part of the law and is provided for the convenience of the reader.]

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TITLE I—GENERAL PROVISIONS

PART A—DEFINITIONS

SEC. 101. [20 U.S.C. 1001] GENERAL DEFINITION OF INSTITUTION OF HIGHER EDUCATION.

(a) INSTITUTION OF HIGHER EDUCATION.—For purposes of this Act, other than title IV, the term "institution of higher education" means an educational institution in any State that—

(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of section 484(d);

(2) is legally authorized within such State to provide a program of education beyond secondary education;

(3) provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) ADDITIONAL INSTITUTIONS INCLUDED.—For purposes of this Act, other than title IV, the term "institution of higher education" also includes—

(1) any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a); and

(2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1), admits as regular students individuals—

(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) who will be dually or concurrently enrolled in the institution and a secondary school.

(c) LIST OF ACCREDITING AGENCIES.—For purposes of this section and section 102, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part H of title IV, to be reliable authority as to the quality of the education or training offered.

SEC. 102. [20 U.S.C. 1002] DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.

(a) DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.—

(1) INCLUSION OF ADDITIONAL INSTITUTIONS.—Subject to paragraphs (2) through (4) of this subsection, the term "institution of higher education" for purposes of title IV includes, in addition to the institutions covered by the definition in section 101—

(A) a proprietary institution of higher education (as defined in subsection (b) of this section);

(B) a postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) only for the purposes of part D of title IV, an institution outside the United States that is comparable to an institution of higher education as defined in section 101 and that has been approved by the Secretary for the purpose of part D of title IV, consistent with the requirements of section 452(d).

(2) INSTITUTIONS OUTSIDE THE UNITED STATES.—

(A) IN GENERAL.—For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 101 (except that a graduate medical school, nursing school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 101(a)(4)). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made under part D of title IV unless—

(i) except as provided in subparagraph (B)(iii)(IV), in the case of a graduate medical school located outside the United States—

(I)(aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part D of title IV; and

(bb) at least 75 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Grad-

uates received a passing score in the year preceding the year for which a student is seeking a loan under part D of title IV; or

(II) the institution—

(aa) has or had a clinical training program that was approved by a State as of January 1, 1992; and

(bb) continues to operate a clinical training program in at least one State that is approved by that State;

(ii) in the case of a veterinary school located outside the United States that does not meet the requirements of section 101(a)(4), the institution's students complete their clinical training at an approved veterinary school located in the United States; or

(iii) in the case of a nursing school located outside of the United States—

(I) the nursing school has an agreement with a hospital, or accredited school of nursing (as such terms are defined in section 801 of the Public Health Service Act (42 U.S.C. 296)), located in the United States that requires the students of the nursing school to complete the students' clinical training at such hospital or accredited school of nursing;

(II) the nursing school has an agreement with an accredited school of nursing located in the United States providing that the students graduating from the nursing school located outside of the United States also receive a degree from the accredited school of nursing located in the United States;

(III) the nursing school certifies only Federal Direct Stafford Loans under section 455(a)(2)(A), Federal Direct Unsubsidized Stafford Loans under section 455(a)(2)(D), or Federal Direct PLUS Loans under section 455(a)(2)(B) for students attending the institution;

(IV) the nursing school reimburses the Secretary for the cost of any loan defaults for current and former students included in the calculation of the institution's cohort default rate during the previous fiscal year; and

(V) not less than 75 percent of the individuals who were students or graduates of the nursing school, and who took the National Council Licensure Examination for Registered Nurses in the year preceding the year for which the institution is certifying a Federal Direct Stafford Loan under section 455(a)(2)(A), a Federal Direct Unsubsidized Stafford Loan under section 455(a)(2)(D), or a Federal Direct PLUS Loan under section 455(a)(2)(B), received a passing score on such examination.

(B) ADVISORY PANEL.—

(i) IN GENERAL.—For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) SPECIAL RULE.—If the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 101.

(iii) REPORT.—

(I) IN GENERAL.—Not later than 1 year after the date of enactment of the Higher Education Opportunity Act, the advisory panel described in clause (i) shall submit a report to the Secretary and to the authorizing committees recommending eligibility criteria for participation in the loan programs under part D of title IV for graduate medical schools that—

(aa) are located outside of the United States;

(bb) do not meet the requirements of subparagraph (A)(i); and

(cc) have a clinical training program approved by a State prior to January 1, 2008.

(II) RECOMMENDATIONS.—In the report described in subclause (I), the advisory panel's eligibility criteria shall include recommendations regarding the appropriate levels of performance for graduate medical schools described in such subclause in the following areas:

(aa) Entrance requirements.

(bb) Retention and graduation rates.

(cc) Successful placement of students in United States medical residency programs.

(dd) Passage rate of students on the United States Medical Licensing Examination.

(ee) The extent to which State medical boards have assessed the quality of such school's program of instruction, including through on-site reviews.

(ff) The extent to which graduates of such schools would be unable to practice medicine in 1 or more States, based on the judgment of a State medical board.

(gg) Any areas recommended by the Comptroller General of the United States under section 1101 of the Higher Education Opportunity Act.

(hh) Any additional areas the Secretary may require.

(III) MINIMUM ELIGIBILITY REQUIREMENT.—In the recommendations described in subclause (II), the criteria described in subparagraph (A)(i)(I)(bb), as amended by section 102(b) of the Higher Education Opportunity Act, shall be a minimum eligibility requirement for a graduate medical school described in subclause (I) to participate in the loan programs under part D of title IV.

(IV) AUTHORITY.—The Secretary may—

(aa) not earlier than 180 days after the submission of the report described in subclause (I), issue proposed regulations establishing criteria for the eligibility of graduate medical schools described in such subclause to participate in the loan programs under part D of title IV based on the recommendations of such report; and

(bb) not earlier than one year after the issuance of proposed regulations under item (aa), issue final regulations establishing such criteria for eligibility.

(C) FAILURE TO RELEASE INFORMATION.—The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part D of title IV.

(D) SPECIAL RULE.—If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under title IV, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part D of title IV while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) LIMITATIONS BASED ON COURSE OF STUDY OR ENROLLMENT.—An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) offers more than 50 percent of such institution's courses by correspondence (excluding courses offered by telecommunications as defined in section 484(l)(4)), unless the institution is an institution that meets the definition in section 3(3)(C) of the Carl D. Perkins Career and Technical Education Act of 2006;

(B) enrolls 50 percent or more of the institution's students in correspondence courses (excluding courses offered by telecommunications as defined in section 484(l)(4)), unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of

this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) LIMITATIONS BASED ON MANAGEMENT.—An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11, United States Code, between July 1, 1998, and December 1, 1998; or

(B) the institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under title IV, or has been judicially determined to have committed fraud involving funds under title IV.

(5) CERTIFICATION.—The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part H of title IV.

(6) LOSS OF ELIGIBILITY.—An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution

is removed from eligibility for funds under title IV as a result of an action pursuant to part H of title IV.

(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.—

(1) PRINCIPAL CRITERIA.—For the purpose of this section, the term "proprietary institution of higher education" means a school that—

(A)(i) provides an eligible program of training to prepare students for gainful employment in a recognized occupation; or

(ii)(I) provides a program leading to a baccalaureate degree in liberal arts, and has provided such a program since January 1, 2009; and

(II) is accredited by a recognized regional accrediting agency or association, and has continuously held such accreditation since October 1, 2007, or earlier;

(B) meets the requirements of paragraphs (1) and (2) of section 101(a);

(C) does not meet the requirement of paragraph (4) of section 101(a);

(D) is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part H of title IV; and

(E) has been in existence for at least 2 years.

(2) ADDITIONAL INSTITUTIONS.—The term "proprietary institution of higher education" also includes a proprietary educational institution in any State that, in lieu of the requirement in section 101(a)(1), admits as regular students individuals—

(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) who will be dually or concurrently enrolled in the institution and a secondary school.

(c) POSTSECONDARY VOCATIONAL INSTITUTION.—

(1) PRINCIPAL CRITERIA.—For the purpose of this section, the term "postsecondary vocational institution" means a school that—

(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) meets the requirements of paragraphs (1), (2), (4), and (5) of section 101(a); and

(C) has been in existence for at least 2 years.

(2) ADDITIONAL INSTITUTIONS.—The term "postsecondary vocational institution" also includes an educational institution in any State that, in lieu of the requirement in section 101(a)(1), admits as regular students individuals—

(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or (B) who will be dually or concurrently enrolled in the institution and a secondary school.

SEC. 103. [20 U.S.C. 1003] ADDITIONAL DEFINITIONS.

In this Act:

(1) AUTHORIZING COMMITTEES.—The term "authorizing committees" means the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives.

(2) COMBINATION OF INSTITUTIONS OF HIGHER EDUCATION.—The term "combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on the group's behalf.

(3) CRITICAL FOREIGN LANGUAGE.—Except as otherwise provided, the term "critical foreign language" means each of the languages contained in the list of critical languages designated by the Secretary in the Federal Register on August 2, 1985 (50 Fed. Reg. 31412; promulgated under the authority of section 212(d) of the Education for Economic Security Act (repealed by section 2303 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988)), as updated by the Secretary from time to time and published in the Federal Register, except that in the implementation of this definition with respect to a specific title, the Secretary may set priorities according to the purposes of such title and the national security, economic competitiveness, and educational needs of the United States.

(4) DEPARTMENT.—The term "Department" means the Department of Education.

(5) DIPLOMA MILL.—The term "diploma mill" means an entity that—

(A)(i) offers, for a fee, degrees, diplomas, or certificates, that may be used to represent to the general public that the individual possessing such a degree, diploma, or certificate has completed a program of postsecondary education or training; and

(ii) requires such individual to complete little or no education or coursework to obtain such degree, diploma, or certificate; and

(B) lacks accreditation by an accrediting agency or association that is recognized as an accrediting agency or association of institutions of higher education (as such term is defined in section 102) by—

(i) the Secretary pursuant to subpart 2 of part H of title IV; or

(ii) a Federal agency, State government, or other organization or association that recognizes accrediting agencies or associations.

(6) DISABILITY.—The term "disability" has the same meaning given that term under section 3(2) of the Americans With Disabilities Act of 1990.

(7) DISTANCE EDUCATION.—

(A) IN GENERAL.—Except as otherwise provided, the term"distance education"means education that uses one or more of the technologies described in subparagraph (B)—

(i) to deliver instruction to students who are separated from the instructor; and

(ii) to support regular and substantive interaction between the students and the instructor, synchronously or asynchronously.

(B) INCLUSIONS.—For the purposes of subparagraph (A), the technologies used may include—

(i) the Internet;

(ii) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

(iii) audio conferencing; or

(iv) video cassettes, DVDs, and CD–ROMs, if the cassettes, DVDs, or CD–ROMs are used in a course in conjunction with any of the technologies listed in clauses (i) through (iii).

(8) EARLY CHILDHOOD EDUCATION PROGRAM.—The term "early childhood education program" means—

(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including a migrant or seasonal Head Start program, an Indian Head Start program, or a Head Start program or an Early Head Start program that also receives State funding;

(B) a State licensed or regulated child care program; or

(C) a program that—

(i) serves children from birth through age six that addresses the children's cognitive (including language, early literacy, and early mathematics), social, emotional, and physical development; and

(ii) is—

(I) a State prekindergarten program;

(II) a program authorized under section 619 or part C of the Individuals with Disabilities Education Act; or

(III) a program operated by a local educational agency.

(9) ELEMENTARY SCHOOL.—The term "elementary school" has the same meaning given that term under section 8101 of the Elementary and Secondary Education Act of 1965.

(10) GIFTED AND TALENTED.—The term "gifted and talented" has the same meaning given that term under section 8101 of the Elementary and Secondary Education Act of 1965.

(11) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given that term under section 8101 of the Elementary and Secondary Education Act of 1965.

(12) NEW BORROWER.—The term "new borrower" when used with respect to any date means an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under title IV.

(13) NONPROFIT.—The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(14) POVERTY LINE.—The term "poverty line" means the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(15) SCHOOL OR DEPARTMENT OF DIVINITY.—The term "school or department of divinity" means an institution, or a department or a branch of an institution, the program of instruction of which is designed for the education of students—

(A) to prepare the students to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation); or

(B) to prepare the students to teach theological subjects.

(16) SECONDARY SCHOOL.—The term "secondary school" has the same meaning given that term under section 8101 of the Elementary and Secondary Education Act of 1965.

(17) SECRETARY.—The term "Secretary" means the Secretary of Education.

(18) SERVICE-LEARNING.—The term "service-learning" has the same meaning given that term under section 101(23) of the National and Community Service Act of 1990.

(19) SPECIAL EDUCATION TEACHER.—The term "special education teacher" means teachers who teach children with disabilities as defined in section 602 of the Individuals with Disabilities Education Act.

(20)[1] STATE; FREELY ASSOCIATED STATES.—

(A) STATE.—The term "State" includes, in addition to the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

(B) FREELY ASSOCIATED STATES.—The term "Freely Associated States" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(21) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the same meaning given that term under section 8101 of the Elementary and Secondary Education Act of 1965.

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[1] The placement of paragraph (20) does not necessarily reflect the placement of such paragraph in alphabetical order. Section 103(a)(2) of PL 110–315 provides as follows:

(2) REDESIGNATION AND REORDERING OF DEFINITIONS.—Section 103 (as amended by paragraph (1)) (20 U.S.C. 1003) is further amended by reordering paragraphs (1) through (16) and the paragraphs added by paragraph (1) of this subsection in alphabetical order based on the headings of such paragraphs, and renumbering such paragraphs as so reordered.

The amendment was carried out by sorting such term as if the first word "State" was the only word that appears in the heading.

(22) STATE HIGHER EDUCATION AGENCY.—The term "State higher education agency" means the officer or agency primarily responsible for the State supervision of higher education.

(23) UNIVERSAL DESIGN.—The term"universal design"has the meaning given the term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

(24) UNIVERSAL DESIGN FOR LEARNING.—The term "universal design for learning" means a scientifically valid framework for guiding educational practice that—

(A) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and

(B) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.

PART B—ADDITIONAL GENERAL PROVISIONS

SEC. 111. [20 U.S.C. 1011] ANTIDISCRIMINATION.

(a) IN GENERAL.—Institutions of higher education receiving Federal financial assistance may not use such financial assistance, directly or indirectly, to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except that nothing in this subsection shall be construed to prohibit an institution from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or to have the institution's curriculum restricted on the subject of discrimination.

(b) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed to limit the rights or responsibilities of any individual under the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, or any other law.

SEC. 112. [20 U.S.C. 1011a] PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS.

(a) PROTECTION OF RIGHTS.—(1) It is the sense of Congress that no student attending an institution of higher education on a full- or part-time basis should, on the basis of participation in protected speech or protected association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division of the institution directly or indirectly receiving financial assistance under this Act, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

(2) It is the sense of Congress that—

(A) the diversity of institutions and educational missions is one of the key strengths of American higher education;

(B) individual institutions of higher education have different missions and each institution should design its academic program in accordance with its educational goals;

(C) an institution of higher education should facilitate the free and open exchange of ideas;

(D) students should not be intimidated, harassed, discouraged from speaking out, or discriminated against;

(E) students should be treated equally and fairly; and

(F) nothing in this paragraph shall be construed to modify, change, or infringe upon any constitutionally protected religious liberty, freedom, expression, or association.

(b) CONSTRUCTION.—Nothing in this section shall be construed—

(1) to discourage the imposition of an official sanction on a student that has willfully participated in the disruption or attempted disruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education, provided that the imposition of such sanction is done objectively and fairly; or

(2) to prevent an institution of higher education from taking appropriate and effective action to prevent violations of State liquor laws, to discourage binge drinking and other alcohol abuse, to protect students from sexual harassment including assault and date rape, to prevent hazing, or to regulate unsanitary or unsafe conditions in any student residence.

(c) DEFINITIONS.—For the purposes of this section:

(1) OFFICIAL SANCTION.—The term "official sanction"—

(A) means expulsion, suspension, probation, censure, condemnation, reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

(2) PROTECTED ASSOCIATION.—The term "protected association" means the joining, assembling, and residing with others that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(3) PROTECTED SPEECH.—The term "protected speech" means speech that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

SEC. 113. [20 U.S.C. 1011b] TERRITORIAL WAIVER AUTHORITY.

The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

SEC. 114. [20 U.S.C. 1011c] NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

(a) ESTABLISHMENT.—There is established in the Department a National Advisory Committee on Institutional Quality and Integrity (in this section referred to as the "Committee") to assess the process of accreditation and the institutional eligibility and certification of institutions of higher education (as defined in section 102) under title IV.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall have 18 members, of which—

(A) six members shall be appointed by the Secretary;

(B) six members shall be appointed by the Speaker of the House of Representatives, three of whom shall be appointed on the recommendation of the majority leader of the House of Representatives, and three of whom shall be appointed on the recommendation of the minority leader of the House of Representatives; and

(C) six members shall be appointed by the President pro tempore of the Senate, three of whom shall be appointed on the recommendation of the majority leader of the Senate, and three of whom shall be appointed on the recommendation of the minority leader of the Senate.

(2) QUALIFICATIONS.—Individuals shall be appointed as members of the Committee—

(A) on the basis of the individuals' experience, integrity, impartiality, and good judgment;

(B) from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, representing all sectors and types of institutions of higher education (as defined in section 102); and

(C) on the basis of the individuals' technical qualifications, professional standing, and demonstrated knowledge in the fields of accreditation and administration in higher education.

(3) TERMS OF MEMBERS.—Except as provided in paragraph (5), the term of office of each member of the Committee shall be for six years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(4) VACANCY.—A vacancy on the Committee shall be filled in the same manner as the original appointment was made not later than 90 days after the vacancy occurs. If a vacancy occurs in a position to be filled by the Secretary, the Secretary shall publish a Federal Register notice soliciting nominations for the position not later than 30 days after being notified of the vacancy.

(5) INITIAL TERMS.—The terms of office for the initial members of the Committee shall be—

(A) three years for members appointed under paragraph (1)(A);

(B) four years for members appointed under paragraph (1)(B); and

(C) six years for members appointed under paragraph (1)(C).

(6) CHAIRPERSON.—The members of the Committee shall select a chairperson from among the members.

(c) FUNCTIONS.—The Committee shall—

(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part H of title IV;

(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

(4) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under title IV, together with recommendations for improvements in such process;

(5) advise the Secretary with respect to the relationship between—

(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

(B) State licensing responsibilities with respect to such institutions; and

(6) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe by regulation.

(d) MEETING PROCEDURES.—

(1) SCHEDULE.—

(A) BIANNUAL MEETINGS.—The Committee shall meet not less often than twice each year, at the call of the Chairperson.

(B) PUBLICATION OF DATE.—The Committee shall submit the date and location of each meeting in advance to the Secretary, and the Secretary shall publish such information in the Federal Register not later than 30 days before the meeting.

(2) AGENDA.—

(A) ESTABLISHMENT.—The agenda for a meeting of the Committee shall be established by the Chairperson and shall be submitted to the members of the Committee upon notification of the meeting.

(B) OPPORTUNITY FOR PUBLIC COMMENT.—The agenda shall include, at a minimum, opportunity for public comment during the Committee's deliberations.

(3) SECRETARY'S DESIGNEE.—The Secretary shall designate an employee of the Department to serve as the Secretary's designee to the Committee, and the Chairperson shall invite the Secretary's designee to attend all meetings of the Committee.

(4) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee, except that section 14 of such Act shall not apply.

(e) REPORT AND NOTICE.—

(1) NOTICE.—The Secretary shall annually publish in the Federal Register—

(A) a list containing, for each member of the Committee—

(i) the member's name;

(ii) the date of the expiration of the member's term of office; and

(iii) the name of the individual described in subsection (b)(1) who appointed the member; and

(B) a solicitation of nominations for each expiring term of office on the Committee of a member appointed by the Secretary.

(2) REPORT.—Not later than the last day of each fiscal year, the Committee shall make available an annual report to the Secretary, the authorizing committees, and the public. The annual report shall contain—

(A) a detailed summary of the agenda and activities of, and the findings and recommendations made by, the Committee during the fiscal year preceding the fiscal year in which the report is made;

(B) a list of the date and location of each meeting during the fiscal year preceding the fiscal year in which the report is made;

(C) a list of the members of the Committee; and

(D) a list of the functions of the Committee, including any additional functions established by the Secretary through regulation.

(f) TERMINATION.—The Committee shall terminate on September 30, 2016.

SEC. 115. [20 U.S.C. 1011d] STUDENT REPRESENTATION.

The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this Act, include individuals who are, at the time of appointment, attending an institution of higher education.

SEC. 116. [20 U.S.C. 1011e] FINANCIAL RESPONSIBILITY OF FOREIGN STUDENTS.

Nothing in this Act or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by—

(1) making advance payment of such tuition and fees;

(2) making deposits in an escrow account administered by such institution for such payments; or

(3) obtaining a bond or other insurance that such payments will be made.

SEC. 117. [20 U.S.C. 1011f] DISCLOSURES OF FOREIGN GIFTS.

(a) DISCLOSURE REPORT.—Whenever any institution is owned or controlled by a foreign source or receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year,

the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

(b) CONTENTS OF REPORT.—Each report to the Secretary required by this section shall contain the following:

(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

(3) In the case of an institution which is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

(c) ADDITIONAL DISCLOSURES FOR RESTRICTED AND CONDITIONAL GIFTS.—Notwithstanding the provisions of subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose the following:

(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

(d) RELATION TO OTHER REPORTING REQUIREMENTS.—

(1) STATE REQUIREMENTS.—If an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a). The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

(2) USE OF OTHER FEDERAL REPORTS.—If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this section, a

copy of the report may be filed with the Secretary in lieu of a report required under subsection (a).

(e) PUBLIC INSPECTION.—All disclosure reports required by this section shall be public records open to inspection and copying during business hours.

(f) ENFORCEMENT.—

(1) COURT ORDERS.—Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated under this section, a civil action may be brought by the Attorney General, at the request of the Secretary, in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of this section.

(2) COSTS.—For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

(g) REGULATIONS.—The Secretary may promulgate regulations to carry out this section.

(h) DEFINITIONS.—For the purpose of this section—

(1) the term "contract" means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

(2) the term "foreign source" means—

(A) a foreign government, including an agency of a foreign government;

(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

(3) the term "gift" means any gift of money or property;

(4) the term "institution" means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State, that—

(A) is legally authorized within such State to provide a program of education beyond secondary school;

(B) provides a program for which the institution awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of the institution's subunits; and

(5) the term "restricted or conditional gift or contract" means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding—

(A) the employment, assignment, or termination of faculty;

(B) the establishment of departments, centers, research or lecture programs, or new faculty positions;

(C) the selection or admission of students; or

(D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

SEC. 118. [20 U.S.C. 1011g] APPLICATION OF PEER REVIEW PROCESS.

All applications submitted under the provisions of this Act which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary, which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

SEC. 119. [20 U.S.C. 1011h] BINGE DRINKING ON COLLEGE CAMPUSES.

(a) SHORT TITLE.—This section may be cited as the "Collegiate Initiative To Reduce Binge Drinking and Illegal Alcohol Consumption".

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in an effort to change the culture of alcohol consumption on college campuses, all institutions of higher education should carry out the following:

(1) The president of the institution should appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force should make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution should provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

(2) The institution should provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities.

(3) The institution should enforce a "zero tolerance" policy on the illegal consumption of alcohol by students at the institution.

(4) The institution should vigorously enforce the institution's code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems should be referred for assistance, including on-campus counseling programs if appropriate.

(5) The institution should adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It

should adopt policies limiting the advertisement and promotion of alcoholic beverages on campus.

(6) The institution should work with the local community, including local businesses, in a "Town/Gown" alliance to encourage responsible policies toward alcohol consumption and to address illegal alcohol use by students.

SEC. 120. [20 U.S.C. 1011i] DRUG AND ALCOHOL ABUSE PREVENTION.

(a) RESTRICTION ON ELIGIBILITY.—Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless the institution certifies to the Secretary that the institution has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

(1) the annual distribution to each student and employee of—

(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on the institution's property or as part of any of the institution's activities;

(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

(C) a description of the health-risks associated with the use of illicit drugs and the abuse of alcohol;

(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by subparagraph (A); and

(2) a biennial review by the institution of the institution's program to—

(A) determine the program's effectiveness and implement changes to the program if the changes are needed;

(B) determine the number of drug and alcohol-related violations and fatalities that—

(i) occur on the institution's campus (as defined in section 485(f)(6)), or as part of any of the institution's activities; and

(ii) are reported to campus officials;

(C) determine the number and type of sanctions described in paragraph (1)(E) that are imposed by the institution as a result of drug and alcohol-related violations and fatalities on the institution's campus or as part of any of the institution's activities; and

(D) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

(b) INFORMATION AVAILABILITY.—Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

(A) the periodic review of a representative sample of programs required by subsection (a); and

(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

(2) REHABILITATION PROGRAM.—The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.

(d) APPEALS.—Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

(e) ALCOHOL AND DRUG ABUSE PREVENTION GRANTS.—

(1) PROGRAM AUTHORITY.—The Secretary may make grants to institutions of higher education or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and the violence associated with such use. Such grants or contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

(2) AWARDS.—Grants and contracts shall be awarded under paragraph (1) on a competitive basis.

(3) APPLICATIONS.—An institution of higher education, a consortium of such institutions, or another organization that desires to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such

manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

(4) ADDITIONAL REQUIREMENTS.—

(A) PARTICIPATION.—In awarding grants and contracts under this subsection the Secretary shall make every effort to ensure—

(i) the equitable participation of private and public institutions of higher education (including community and junior colleges); and

(ii) the equitable geographic participation of such institutions.

(B) CONSIDERATION.—In awarding grants and contracts under this subsection the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

SEC. 121. [20 U.S.C. 1011j] PRIOR RIGHTS AND OBLIGATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) PRE-1987 PARTS C AND D OF TITLE VII.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and for each succeeding fiscal year to pay obligations incurred prior to 1987 under parts C and D of title VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992.

(2) POST-1992 AND PRE-1998 PART C OF TITLE VII.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and for each succeeding fiscal year to pay obligations incurred prior to the date of enactment of the Higher Education Amendments of 1998 under part C of title VII, as such part was in effect during the period—

(A) after the effective date of the Higher Education Amendments of 1992; and

(B) prior to the date of enactment of the Higher Education Amendments of 1998.

(b) LEGAL RESPONSIBILITIES.—

(1) PRE-1987 TITLE VII.—All entities with continuing obligations incurred under parts A, B, C, and D of title VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Amendments of 1992.

(2) POST-1992 AND PRE-1998 PART C OF TITLE VII.—All entities with continuing obligations incurred under part C of title VII, as such part was in effect during the period—

(A) after the effective date of the Higher Education Amendments of 1992; and

(B) prior to the date of enactment of the Higher Education Amendments of 1998,

shall be subject to the requirements of such part as such part was in effect during such period.

SEC. 122. [20 U.S.C. 1011k] RECOVERY OF PAYMENTS.

(a) PUBLIC BENEFIT.—Congress declares that, if a facility constructed with the aid of a grant under part A of title VII as such part A was in effect prior to the date of enactment of the Higher Education Amendments of 1998, or part B of such title as part B was in effect prior to the date of enactment of the Higher Education Amendments of 1992, is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of such title as so in effect.

(b) RECOVERY UPON CESSATION OF PUBLIC BENEFIT.—If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A of title VII as such part A was in effect prior to the date of enactment of the Higher Education Amendments of 1998, or part B of title VII as such part B was in effect prior to the date of enactment of the Higher Education Amendments of 1992—

(1) the applicant under such parts as so in effect (or the applicant's successor in title or possession) ceases or fails to be a public or nonprofit institution; or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term "academic facility" (as such term was defined under title VII, as so in effect), unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) PROHIBITION ON USE FOR RELIGION.—Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under title VII (as in effect prior to the date of enactment of the Higher Education Amendments of 1998) shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

SEC. 123. [20 U.S.C. 1011l] DIPLOMA MILLS.

(a) INFORMATION TO THE PUBLIC.—The Secretary shall maintain information and resources on the Department's website to assist students, families, and employers in understanding what a diploma mill is and how to identify and avoid diploma mills.

(b) COLLABORATION.—The Secretary shall continue to collaborate with the United States Postal Service, the Federal Trade Commission, the Department of Justice (including the Federal Bureau of Investigation), the Internal Revenue Service, and the Office of Personnel Management to maximize Federal efforts to—

(1) prevent, identify, and prosecute diploma mills; and

(2) broadly disseminate to the public information about diploma mills, and resources to identify diploma mills.

PART C—COST OF HIGHER EDUCATION

SEC. 131. [20 U.S.C. 1015] IMPROVEMENTS IN MARKET INFORMATION AND PUBLIC ACCOUNTABILITY IN HIGHER EDUCATION.

(a) IMPROVED DATA COLLECTION.—

(1) DEVELOPMENT OF UNIFORM METHODOLOGY.—The Secretary shall direct the Commissioner of Education Statistics to convene a series of forums to develop nationally consistent methodologies for reporting costs incurred by postsecondary institutions in providing postsecondary education.

(2) REDESIGN OF DATA SYSTEMS.—On the basis of the methodologies developed pursuant to paragraph (1), the Secretary shall redesign relevant parts of the postsecondary education data systems to improve the usefulness and timeliness of the data collected by such systems.

(3) INFORMATION TO INSTITUTIONS.—The Commissioner of Education Statistics shall—

(A) develop a standard definition for the following data elements:

(i) tuition and fees for a full-time undergraduate student;

(ii) cost of attendance for a full-time undergraduate student, consistent with the provisions of section 472;

(iii) average amount of financial assistance received by an undergraduate student who attends an institution of higher education, including—

(I) each type of assistance or benefit described in section 428(a)(2)(C)(ii);

(II) fellowships; and

(III) institutional and other assistance; and

(iv) number of students receiving financial assistance described in each of subclauses (I), (II), and (III) of clause (iii);

(B) not later than 90 days after the date of enactment of the Higher Education Amendments of 1998, report the definitions to each institution of higher education and within a reasonable period of time thereafter inform the authorizing committees of those definitions; and

(C) collect information regarding the data elements described in subparagraph (A) with respect to at least all institutions of higher education participating in programs under title IV, beginning with the information from academic year 2000–2001 and annually thereafter.

(b) DATA DISSEMINATION.—The Secretary shall make available the data collected pursuant to subsection (a). Such data shall be available in a form that permits the review and comparison of the data submissions of individual institutions of higher education. Such data shall be presented in a form that is easily understandable and allows parents and students to make informed decisions based on the costs for typical full-time undergraduate students.

(c) STUDY.—

(1) IN GENERAL.—The Commissioner of Education Statistics shall conduct a national study of expenditures at institu-

tions of higher education. Such study shall include information with respect to—

(A) the change in tuition and fees compared with the consumer price index and other appropriate measures of inflation;

(B) faculty salaries and benefits;

(C) administrative salaries, benefits and expenses;

(D) academic support services;

(E) research;

(F) operations and maintenance; and

(G) institutional expenditures for construction and technology and the potential cost of replacing instructional buildings and equipment.

(2) EVALUATION.—The study shall include an evaluation of—

(A) changes over time in the expenditures identified in paragraph (1);

(B) the relationship of the expenditures identified in paragraph (1) to college costs; and

(C) the extent to which increases in institutional financial aid and tuition discounting practices affect tuition increases, including the demographics of students receiving such discounts, the extent to which financial aid is provided to students with limited need in order to attract a student to a particular institution, and the extent to which Federal financial aid, including loan aid, has been used to offset the costs of such practices.

(3) FINAL REPORT.—The Commissioner of Education Statistics shall submit a report regarding the findings of the study required by paragraph (1) to the appropriate committees of Congress not later than September 30, 2002.

(4) HIGHER EDUCATION MARKET BASKET.—The Bureau of Labor Statistics, in consultation with the Commissioner of Education Statistics, shall develop a higher education market basket that identifies the items that comprise the costs of higher education. The Bureau of Labor Statistics shall provide a report on the market basket to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 2002.

(5) FINES.—In addition to actions authorized in section 487(c), the Secretary may impose a fine in an amount not to exceed $25,000 on an institution of higher education for failing to provide the information described in paragraph (1) in a timely and accurate manner, or for failing to otherwise cooperate with the National Center for Education Statistics regarding efforts to obtain data on the cost of higher education under this section and pursuant to the program participation agreement entered into under section 487.

(d) PROMOTION OF THE DEPARTMENT OF EDUCATION FEDERAL STUDENT FINANCIAL AID WEBSITE.—The Secretary shall display a link to the Federal student financial aid website of the Department in a prominent place on the homepage of the Department's website.

(e) ENHANCED STUDENT FINANCIAL AID INFORMATION.—

(1) IMPLEMENTATION.—The Secretary shall continue to improve the usefulness and accessibility of the information provided by the Department on college planning and student financial aid.

(2) DISSEMINATION.—The Secretary shall continue to make the availability of the information on the Federal student financial aid website of the Department widely known, through a major media campaign and other forms of communication.

(3) COORDINATION.—As a part of the efforts required under this subsection, the Secretary shall create one website accessible from the Department's website that fulfills the requirements under subsections (b), (f), and (g).

(f) IMPROVED AVAILABILITY AND COORDINATION OF INFORMATION CONCERNING STUDENT FINANCIAL AID PROGRAMS FOR MILITARY MEMBERS AND VETERANS.—

(1) COORDINATION.—The Secretary, in coordination with the Secretary of Defense and the Secretary of Veterans Affairs, shall create a searchable website that—

(A) contains information, in simple and understandable terms, about all Federal and State student financial assistance, readmission requirements under section 484C, and other student services, for which members of the Armed Forces (including members of the National Guard and Reserves), veterans, and the dependents of such members or veterans may be eligible; and

(B) is easily accessible through the website described in subsection (e)(3).

(2) IMPLEMENTATION.—Not later than one year after the date of enactment of the Higher Education Opportunity Act, the Secretary shall make publicly available the Armed Forces information website described in paragraph (1).

(3) DISSEMINATION.—The Secretary, in coordination with the Secretary of Defense and the Secretary of Veterans Affairs, shall make the availability of the Armed Forces information website described in paragraph (1) widely known to members of the Armed Forces (including members of the National Guard and Reserves), veterans, the dependents of such members or veterans, States, institutions of higher education, and the general public.

(4) DEFINITION.—In this subsection, the term "Federal and State student financial assistance" means any grant, loan, work assistance, tuition assistance, scholarship, fellowship, or other form of financial aid for pursuing a postsecondary education that is—

(A) administered, sponsored, or supported by the Department of Education, the Department of Defense, the Department of Veterans Affairs, or a State; and

(B) available to members of the Armed Forces (including members of the National Guard and Reserves), veterans, or the dependents of such members or veterans.

(g) PROMOTION OF AVAILABILITY OF INFORMATION CONCERNING OTHER STUDENT FINANCIAL AID PROGRAMS.—

(1) DEFINITION.—For purposes of this subsection, the term "nondepartmental student financial assistance program" means

any grant, loan, scholarship, fellowship, or other form of financial aid for students pursuing a postsecondary education that is—

(A) distributed directly to the student or to the student's account at an institution of higher education; and

(B) operated, sponsored, or supported by a Federal department or agency other than the Department of Education.

(2) AVAILABILITY OF OTHER STUDENT FINANCIAL AID INFORMATION.—The Secretary shall ensure that—

(A) not later than 90 days after the Secretary receives the information required under paragraph (3), the eligibility requirements, application procedures, financial terms and conditions, and other relevant information for each nondepartmental student financial assistance program are searchable and accessible through the Federal student financial aid website in a manner that is simple and understandable for students and the students' families; and

(B) the website displaying the information described in subparagraph (A) includes a link to the National Database on Financial Assistance for the Study of Science, Technology, Engineering, and Mathematics pursuant to paragraph (4), and the information on military benefits under subsection (f), once such Database and information are available.

(3) NONDEPARTMENTAL STUDENT FINANCIAL ASSISTANCE PROGRAMS.—The Secretary shall request all Federal departments and agencies to provide the information described in paragraph (2)(A), and each Federal department or agency shall—

(A) promptly respond to surveys or other requests from the Secretary for the information described in such paragraph; and

(B) identify for the Secretary any nondepartmental student financial assistance program operated, sponsored, or supported by such Federal department or agency.

(4) NATIONAL STEM DATABASE.—

(A) IN GENERAL.—The Secretary shall establish and maintain, on the website described in subsection (e)(3), a National Database on Financial Assistance for the Study of Science, Technology, Engineering, and Mathematics (in this paragraph referred to as the "STEM Database"). The STEM Database shall consist of information on scholarships, fellowships, and other programs of Federal, State, local, and, to the maximum extent practicable, private financial assistance available for the study of science, technology, engineering, or mathematics at the postsecondary and postbaccalaureate levels.

(B) DATABASE CONTENTS.—The information maintained on the STEM Database shall be displayed on the website in the following manner:

(i) SEPARATE INFORMATION.—The STEM Database shall provide separate information for each of the fields of science, technology, engineering, and mathe-

matics, and for postsecondary and postbaccalaureate programs of financial assistance.

(ii) INFORMATION ON TARGETED ASSISTANCE.—The STEM Database shall provide specific information on any program of financial assistance that is targeted to individuals based on financial need, merit, or student characteristics.

(iii) CONTACT AND WEBSITE INFORMATION.—The STEM Database shall provide—

(I) standard contact information that an interested person may use to contact a sponsor of any program of financial assistance included in the STEM Database; and

(II) if such sponsor maintains a public website, a link to the website.

(iv) SEARCH AND MATCH CAPABILITIES.—The STEM Database shall—

(I) have a search capability that permits an individual to search for information on the basis of each category of the information provided through the STEM Database and on the basis of combinations of categories of the information provided, including—

(aa) whether the financial assistance is need- or merit-based; and

(bb) by relevant academic majors; and

(II) have a match capability that—

(aa) searches the STEM Database for all financial assistance opportunities for which an individual may be qualified to apply, based on the student characteristics provided by such individual; and

(bb) provides information to an individual for only those opportunities for which such individual is qualified, based on the student characteristics provided by such individual.

(v) RECOMMENDATION AND DISCLAIMER.—The STEM Database shall provide, to the users of the STEM Database—

(I) a recommendation that students and families should carefully review all of the application requirements prior to applying for any aid or program of student financial assistance; and

(II) a disclaimer that the non-Federal programs of student financial assistance presented in the STEM Database are not provided or endorsed by the Department or the Federal Government.

(C) COMPILATION OF FINANCIAL ASSISTANCE INFORMATION.—In carrying out this paragraph, the Secretary shall—

(i) consult with public and private sources of scholarships, fellowships, and other programs of student financial assistance; and

(ii) make easily available a process for such entities to provide regular and updated information about the scholarships, fellowships, or other programs of student financial assistance.

(D) CONTRACT AUTHORIZED.—In carrying out the requirements of this paragraph, the Secretary is authorized to enter into a contract with a private entity with demonstrated expertise in creating and maintaining databases such as the one required under this paragraph, under which contract the entity shall furnish, and regularly update, all of the information required to be maintained on the STEM Database.

(5) DISSEMINATION OF INFORMATION.—The Secretary shall take such actions, on an ongoing basis, as may be necessary to disseminate information under this subsection and to encourage the use of the information by interested parties, including sending notices to secondary schools and institutions of higher education.

(h) NO USER FEES FOR DEPARTMENT FINANCIAL AID WEBSITES.—No fee shall be charged to any individual to access—

(1) a database or website of the Department that provides information about higher education programs or student financial assistance, including the College Navigator website (or successor website) and the websites and databases described in this section and section 132; or

(2) information about higher education programs or student financial assistance available through a database or website of the Department.

SEC. 132. [20 U.S.C. 1015a] TRANSPARENCY IN COLLEGE TUITION FOR CONSUMERS.

(a) DEFINITIONS.—In this section:

(1) COLLEGE NAVIGATOR WEBSITE.—The term "College Navigator website" means the College Navigator website operated by the Department and includes any successor website.

(2) COST OF ATTENDANCE.—The term "cost of attendance" means the average annual cost of tuition and fees, room and board, books, supplies, and transportation for an institution of higher education for a first-time, full-time undergraduate student enrolled in the institution.

(3) NET PRICE.—The term "net price" means the average yearly price actually charged to first-time, full-time undergraduate students receiving student aid at an institution of higher education after deducting such aid, which shall be determined by calculating the difference between—

(A) the institution's cost of attendance for the year for which the determination is made; and

(B) the quotient of—

(i) the total amount of need-based grant aid and merit-based grant aid, from Federal, State, and institutional sources, provided to such students enrolled in the institution for such year; and

(ii) the total number of such students receiving such need-based grant aid or merit-based grant aid for such year.

(4) TUITION AND FEES.—The term "tuition and fees" means the average annual cost of tuition and fees for an institution of higher education for first-time, full-time undergraduate students enrolled in the institution.

(b) CALCULATIONS FOR PUBLIC INSTITUTIONS.—In making the calculations regarding cost of attendance, net price, and tuition and fees under this section with respect to a public institution of higher education, the Secretary shall calculate the cost of attendance, net price, and tuition and fees at such institution in the manner described in subsection (a), except that—

(1) the cost of attendance, net price, and tuition and fees shall be calculated for first-time, full-time undergraduate students enrolled in the institution who are residents of the State in which such institution is located; and

(2) in determining the net price, the average need-based grant aid and merit-based grant aid described in subsection (a)(3)(B) shall be calculated based on the average total amount of such aid received by first-time, full-time undergraduate students who are residents of the State in which such institution is located, divided by the total number of such resident students receiving such need-based grant aid or merit-based grant aid at such institution.

(c) COLLEGE AFFORDABILITY AND TRANSPARENCY LISTS.—

(1) AVAILABILITY OF LISTS.—Beginning July 1, 2011, the Secretary shall make publicly available on the College Navigator website, in a manner that is sortable and searchable by State, the following:

(A) A list of the five percent of institutions in each category described in subsection (d) that have the highest tuition and fees for the most recent academic year for which data are available.

(B) A list of the five percent of institutions in each such category that have the highest net price for the most recent academic year for which data are available.

(C) A list of the five percent of institutions in each such category that have the largest increase, expressed as a percentage change, in tuition and fees over the most recent three academic years for which data are available, using the first academic year of the three-year period as the base year to compute such percentage change.

(D) A list of the five percent of institutions in each such category that have the largest increase, expressed as a percentage change, in net price over the most recent three academic years for which data are available, using the first academic year of the three-year period as the base year to compute such percentage change.

(E) A list of the ten percent of institutions in each such category that have the lowest tuition and fees for the most recent academic year for which data are available.

(F) A list of the ten percent of institutions in each such category that have the lowest net price for the most recent academic year for which data are available.

(2) ANNUAL UPDATES.—The Secretary shall annually update the lists described in paragraph (1) on the College Navigator website.

(d) CATEGORIES OF INSTITUTIONS.—The lists described in subsection (c)(1) shall be compiled according to the following categories of institutions that participate in programs under title IV:

(1) Four-year public institutions of higher education.

(2) Four-year private, nonprofit institutions of higher education.

(3) Four-year private, for-profit institutions of higher education.

(4) Two-year public institutions of higher education.

(5) Two-year private, nonprofit institutions of higher education.

(6) Two-year private, for-profit institutions of higher education.

(7) Less than two-year public institutions of higher education.

(8) Less than two-year private, nonprofit institutions of higher education.

(9) Less than two-year private, for-profit institutions of higher education.

(e) REPORTS BY INSTITUTIONS.—

(1) REPORT TO SECRETARY.—If an institution of higher education is included on a list described in subparagraph (C) or (D) of subsection (c)(1), the institution shall submit to the Secretary a report containing the following information:

(A) A description of the major areas in the institution's budget with the greatest cost increases.

(B) An explanation of the cost increases described in subparagraph (A).

(C) A description of the steps the institution will take toward the goal of reducing costs in the areas described in subparagraph (A).

(D) In the case of an institution that is included on the same list under subparagraph (C) or (D) of subsection (c)(1) for two or more consecutive years, a description of the progress made on the steps described in subparagraph (C) of this paragraph that were included in the institution's report for the previous year.

(E) If the determination of any cost increase described in subparagraph (A) is not within the exclusive control of the institution—

(i) an explanation of the extent to which the institution participates in determining such cost increase;

(ii) the identification of the agency or instrumentality of State government responsible for determining such cost increase; and

(iii) any other information the institution considers relevant to the report.

(2) INFORMATION TO THE PUBLIC.—The Secretary shall—

(A) issue an annual report that summarizes all of the reports by institutions required under paragraph (1) to the authorizing committees; and

(B) publish such report on the College Navigator website.

(f) EXEMPTIONS.—

(1) IN GENERAL.—An institution shall not be placed on a list described in subparagraph (C) or (D) of subsection (c)(1), and shall not be subject to the reporting required under subsection (e), if the dollar amount of the institution's increase in tuition and fees, or net price, as applicable, is less than $600 for the three-year period described in such subparagraph.

(2) UPDATE.—Beginning in 2014, and every three years thereafter, the Secretary shall update the dollar amount described in paragraph (1) based on annual increases in inflation, using the Consumer Price Index for each of the three most recent preceding years.

(g) STATE HIGHER EDUCATION SPENDING CHART.—The Secretary shall annually report on the College Navigator website, in charts for each State, comparisons of—

(1) the percentage change in spending by such State per full-time equivalent student at all public institutions of higher education in such State, for each of the five most recent preceding academic years;

(2) the percentage change in tuition and fees for such students for all public institutions of higher education in such State for each of the five most recent preceding academic years; and

(3) the percentage change in the total amount of need-based aid and merit-based aid provided by such State to full-time students enrolled in the public institutions of higher education in the State for each of the five most recent preceding academic years.

(h) NET PRICE CALCULATOR.—

(1) DEVELOPMENT OF NET PRICE CALCULATOR.—Not later than one year after the date of enactment of theHigher Education Opportunity Act, the Secretary shall, in consultation with institutions of higher education and other appropriate experts, develop a net price calculator to help current and prospective students, families, and other consumers estimate the individual net price of an institution of higher education for a student. The calculator shall be developed in a manner that enables current and prospective students, families, and consumers to determine an estimate of a current or prospective student's individual net price at a particular institution.

(2) CALCULATION OF INDIVIDUAL NET PRICE.—For purposes of this subsection, an individual net price of an institution of higher education shall be calculated in the same manner as the net price of such institution is calculated under subsection (a)(3), except that the cost of attendance and the amount of need-based and merit-based aid available shall be calculated for the individual student as much as practicable.

(3) USE OF NET PRICE CALCULATOR BY INSTITUTIONS.—Not later than two years after the date on which the Secretary makes the calculator developed under paragraph (1) available to institutions of higher education, each institution of higher education that receives Federal funds under title IV shall

make publicly available on the institution's website a net price calculator to help current and prospective students, families, and other consumers estimate a student's individual net price at such institution of higher education. Such calculator may be a net price calculator developed—

(A) by the Department pursuant to paragraph (1); or

(B) by the institution of higher education, if the institution's calculator includes, at a minimum, the same data elements included in the calculator developed under paragraph (1).

(4) DISCLAIMER.—Estimates of an individual net price determined using a net price calculator required under paragraph (3) shall be accompanied by a clear and conspicuous notice—

(A) stating that the estimate—

(i) does not represent a final determination, or actual award, of financial assistance;

(ii) shall not be binding on the Secretary, the institution of higher education, or the State; and

(iii) may change;

(B) stating that the student must complete the Free Application for Federal Student Aid described in section 483 in order to be eligible for, and receive, an actual financial aid award that includes Federal grant, loan, or work-study assistance under title IV; and

(C) including a link to the website of the Department that allows students to access the Free Application for Federal Student Aid described in section 483.

(i) CONSUMER INFORMATION.—

(1) AVAILABILITY OF TITLE IV INSTITUTION INFORMATION.—Not later than one year after the date of enactment of theHigher Education Opportunity Act, the Secretary shall make publicly available on the College Navigator website, in simple and understandable terms, the following information about each institution of higher education that participates in programs under title IV, for the most recent academic year for which satisfactory data are available:

(A) A statement of the institution's mission.

(B) The total number of undergraduate students who applied to, were admitted by, and enrolled in the institution.

(C) For institutions that require SAT or ACT scores to be submitted, the reading, writing, mathematics, and combined scores on the SAT or ACT, as applicable, for the middle 50 percent range of the institution's freshman class.

(D) The number of first-time, full-time, and part-time students enrolled at the institution, at the undergraduate and (if applicable) graduate levels.

(E) The number of degree- or certificate-seeking undergraduate students enrolled at the institution who have transferred from another institution.

(F) The percentages of male and female undergraduate students enrolled at the institution.

(G) Of the first-time, full-time, degree- or certificate-seeking undergraduate students enrolled at the institution—

(i) the percentage of such students who are from the State in which the institution is located;

(ii) the percentage of such students who are from other States; and

(iii) the percentage of such students who are international students.

(H) The percentages of first-time, full-time, degree- or certificate-seeking students enrolled at the institution, disaggregated by race and ethnic background.

(I) The percentage of undergraduate students enrolled at the institution who are formally registered with the office of disability services of the institution (or the equivalent office) as students with disabilities, except that if such percentage is three percent or less, the institution shall report "three percent or less".

(J) The percentages of first-time, full-time, degree- or certificate-seeking undergraduate students enrolled at the institution who obtain a degree or certificate within—

(i) the normal time for completion of, or graduation from, the student's program;

(ii) 150 percent of the normal time for completion of, or graduation from, the student's program; and

(iii) 200 percent of the normal time for completion of, or graduation from, the student's program;

(K) The number of certificates, associate degrees, baccalaureate degrees, master's degrees, professional degrees, and doctoral degrees awarded by the institution.

(L) The undergraduate major areas of study at the institution with the highest number of degrees awarded.

(M) The student-faculty ratio, the number of full-time and part-time faculty, and the number of graduate assistants with primarily instructional responsibilities, at the institution.

(N)(i) The cost of attendance for first-time, full-time undergraduate students enrolled in the institution who live on campus;

(ii) the cost of attendance for first-time, full-time undergraduate students enrolled in the institution who live off campus; and

(iii) in the case of a public institution of higher education and notwithstanding subsection (b)(1), the costs described in clauses (i) and (ii), for—

(I) first-time, full-time students enrolled in the institution who are residents of the State in which the institution is located; and

(II) first-time, full-time students enrolled in the institution who are not residents of such State.

(O) The average annual grant amount (including Federal, State, and institutional aid) awarded to a first-time, full-time undergraduate student enrolled at the institution who receives financial aid.

(P) The average annual amount of Federal student loans provided through the institution to undergraduate students enrolled at the institution.

(Q) The total annual grant aid awarded to undergraduate students enrolled at the institution, from the Federal Government, a State, the institution, and other sources known by the institution.

(R) The percentage of first-time, full-time undergraduate students enrolled at the institution receiving Federal, State, and institutional grants, student loans, and any other type of student financial assistance known by the institution, provided publicly or through the institution, such as Federal work-study funds.

(S) The number of students enrolled at the institution receiving Federal Pell Grants.

(T) The institution's cohort default rate, as defined under section 435(m).

(U) The information on campus safety required to be collected under section 485(i).

(V) A link to the institution's website that provides, in an easily accessible manner, the following information:

(i) Student activities offered by the institution.

(ii) Services offered by the institution for individuals with disabilities.

(iii) Career and placement services offered by the institution to students during and after enrollment.

(iv) Policies of the institution related to transfer of credit from other institutions.

(W) A link to the appropriate section of the Bureau of Labor Statistics website that provides information on regional data on starting salaries in all major occupations.

(X) Information required to be submitted under paragraph (4) and a link to the institution pricing summary page described in paragraph (5).

(Y) In the case of an institution that was required to submit a report under subsection (e)(1), a link to such report.

(Z) The availability of alternative tuition plans, which may include guaranteed tuition plans.

(2) ANNUAL UPDATES.—The Secretary shall annually update the information described in paragraph (1) on the College Navigator website.

(3) CONSULTATION.—The Secretary shall regularly consult with current and prospective college students, family members of such students, institutions of higher education, and other experts to improve the usefulness and relevance of the College Navigator website, with respect to the presentation of the consumer information collected in paragraph (1).

(4) DATA COLLECTION.—The Commissioner for Education Statistics shall continue to update and improve the Integrated Postsecondary Education Data System (referred to in this section as "IPEDS"), including the reporting of information by institutions and the timeliness of the data collected.

(5) INSTITUTION PRICING SUMMARY PAGE.—

(A) AVAILABILITY OF LIST OF PARTICIPATING INSTITUTIONS.—The Secretary shall make publicly available on the College Navigator website in a sortable and searchable format a list of all institutions of higher education that participate in programs under title IV, which list shall, for each institution, include the following:

(i) The tuition and fees for each of the three most recent academic years for which data are available.

(ii) The net price for each of the three most recent available academic years for which data are available.

(iii)(I) During the period beginning July 1, 2010, and ending June 30, 2013, the net price for students receiving Federal student financial aid under title IV, disaggregated by the income categories described in paragraph (6), for the most recent academic year for which data are available.

(II) Beginning July 1, 2013, the net price for students receiving Federal student financial aid under title IV, disaggregated by the income categories described in paragraph (6), for each of the three most recent academic years for which data are available.

(iv) The average annual percentage change and average annual dollar change in such institution's tuition and fees for each of the three most recent academic years for which data are available.

(v) The average annual percentage change and average annual dollar change in such institution's net price for each of the three most recent preceding academic years for which data are available.

(vi) A link to the webpage on the College Navigator website that provides the information described in paragraph (1) for the institution.

(B) ANNUAL UPDATES.—The Secretary shall annually update the lists described in subparagraph (A) on the College Navigator website.

(6) INCOME CATEGORIES.—

(A) IN GENERAL.—For purposes of reporting the information required under this subsection, the following income categories shall apply for students who receive Federal student financial aid under title IV:

(i) $0–30,000.

(ii) $30,001–48,000.

(iii) $48,001–75,000.

(iv) $75,001–110,000.

(v) $110,001 and more.

(B) ADJUSTMENT.—The Secretary may adjust the income categories listed in subparagraph (A) using the Consumer Price Index if the Secretary determines such adjustment is necessary.

(j) MULTI-YEAR TUITION CALCULATOR.—

(1) DEVELOPMENT OF MULTI-YEAR TUITION CALCULATOR.—Not later than one year after the date of enactment of theHigher Education Opportunity Act, the Secretary shall, in consultation with institutions of higher education, financial

planners, and other appropriate experts, develop a multi-year tuition calculator to help current and prospective students, families of such students, and other consumers estimate the amount of tuition an individual may pay to attend an institution of higher education in future years.

(2) CALCULATION OF MULTI-YEAR TUITION.—The multi-year tuition calculator described in paragraph (1) shall—

(A) allow an individual to select an institution of higher education for which the calculation shall be made;

(B) calculate an estimate of tuition and fees for each year of the normal duration of the program of study at such institution by—

(i) using the tuition and fees for such institution, as reported under subsection (i)(5)(A)(i), for the most recent academic year for which such data are reported; and

(ii) determining an estimated annual percentage change for each year for which the calculation is made, based on the annual percentage change in such institution's tuition and fees, as reported under subsection (i)(5)(A)(iv), for the most recent three-year period for which such data are reported;

(C) calculate an estimate of the total amount of tuition and fees to complete a program of study at such institution, based on the normal duration of such program, using the estimate calculated under subparagraph (B) for each year of the program of study;

(D) provide the individual with the option to replace the estimated annual percentage change described in subparagraph (B)(ii) with an alternative annual percentage change specified by the individual, and calculate an estimate of tuition and fees for each year and an estimate of the total amount of tuition and fees using the alternative percentage change;

(E) in the case of an institution that offers a multi-year tuition guarantee program, allow the individual to have the estimates of tuition and fees described in subparagraphs (B) and (C) calculated based on the provisions of such guarantee program for the tuition and fees charged to a student, or cohort of students, enrolled for the duration of the program of study; and

(F) include any other features or information determined to be appropriate by the Secretary.

(3) AVAILABILITY AND COMPARISON.—The multi-year tuition calculator described in paragraph (1) shall be available on the College Navigator website and shall allow current and prospective students, families of such students, and consumers to compare information and estimates under this subsection for multiple institutions of higher education.

(4) DISCLAIMER.—Each calculation of estimated tuition and fees made using the multi-year tuition calculator described in paragraph (1) shall be accompanied by a clear and conspicuous notice—

(A) stating that the calculation—

(i) is only an estimate and not a guarantee of the actual amount the student may be charged;

(ii) is not binding on the Secretary, the institution of higher education, or the State; and

(iii) may change, subject to the availability of financial assistance, State appropriations, and other factors;

(B) stating that the student must complete the Free Application for Federal Student Aid described in section 483 in order to be eligible for, and receive, an actual financial aid award that includes Federal grant, loan, or work-study assistance under title IV; and

(C) including a link to the website of the Department that allows students to access the Free Application for Federal Student Aid described in section 483.

(k) STUDENT AID RECIPIENT SURVEY.—

(1) SURVEY REQUIRED.—The Secretary, acting through the Commissioner for Education Statistics, shall conduct, on a State-by-State basis, a survey of recipients of Federal student financial aid under title IV—

(A) to identify the population of students receiving such Federal student financial aid;

(B) to describe the income distribution and other socioeconomic characteristics of recipients of such Federal student financial aid;

(C) to describe the combinations of aid from Federal, State, and private sources received by such recipients from all income categories;

(D) to describe the—

(i) debt burden of such loan recipients, and their capacity to repay their education debts; and

(ii) the impact of such debt burden on the recipients' course of study and post-graduation plans;

(E) to describe the impact of the cost of attendance of postsecondary education in the determination by students of what institution of higher education to attend; and

(F) to describe how the costs of textbooks and other instructional materials affect the costs of postsecondary education for students.

(2) FREQUENCY.—The survey shall be conducted on a regular cycle and not less often than once every four years.

(3) SURVEY DESIGN.—The survey shall be representative of students from all types of institutions, including full-time and part-time students, undergraduate, graduate, and professional students, and current and former students.

(4) DISSEMINATION.—The Commissioner for Education Statistics shall disseminate to the public, in printed and electronic form, the information resulting from the survey.

(l) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out this section.

SEC. 133. [20 U.S.C. 1015b] TEXTBOOK INFORMATION.

(a) PURPOSE AND INTENT.—The purpose of this section is to ensure that students have access to affordable course materials by de-

creasing costs to students and enhancing transparency and disclosure with respect to the selection, purchase, sale, and use of course materials. It is the intent of this section to encourage all of the involved parties, including faculty, students, administrators, institutions of higher education, bookstores, distributors, and publishers, to work together to identify ways to decrease the cost of college textbooks and supplemental materials for students while supporting the academic freedom of faculty members to select high quality course materials for students.

(b) DEFINITIONS.—In this section:

(1) BUNDLE.—The term "bundle" means one or more college textbooks or other supplemental materials that may be packaged together to be sold as course materials for one price.

(2) COLLEGE TEXTBOOK.—The term "college textbook" means a textbook or a set of textbooks, used for, or in conjunction with, a course in postsecondary education at an institution of higher education.

(3) COURSE SCHEDULE.—The term "course schedule" means a listing of the courses or classes offered by an institution of higher education for an academic period, as defined by the institution.

(4) CUSTOM TEXTBOOK.—The term "custom textbook"—

(A) means a college textbook that is compiled by a publisher at the direction of a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education; and

(B) may include, alone or in combination, items such as selections from original instructor materials, previously copyrighted publisher materials, copyrighted third-party works, and elements unique to a specific institution, such as commemorative editions.

(5) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 102.

(6) INTEGRATED TEXTBOOK.—The term "integrated textbook" means a college textbook that is—

(A) combined with materials developed by a third party and that, by third-party contractual agreement, may not be offered by publishers separately from the college textbook with which the materials are combined; or

(B) combined with other materials that are so interrelated with the content of the college textbook that the separation of the college textbook from the other materials would render the college textbook unusable for its intended purpose.

(7) PUBLISHER.—The term "publisher" means a publisher of college textbooks or supplemental materials involved in or affecting interstate commerce.

(8) SUBSTANTIAL CONTENT.—The term "substantial content" means parts of a college textbook such as new chapters, new material covering additional eras of time, new themes, or new subject matter.

(9) SUPPLEMENTAL MATERIAL.—The term "supplemental material" means educational material developed to accompany a college textbook that—

(A) may include printed materials, computer disks, website access, and electronically distributed materials; and

(B) is not being used as a component of an integrated textbook.

(c) PUBLISHER REQUIREMENTS.—

(1) COLLEGE TEXTBOOK PRICING INFORMATION.—When a publisher provides a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education receiving Federal financial assistance with information regarding a college textbook or supplemental material, the publisher shall include, with any such information and in writing (which may include electronic communications), the following:

(A) The price at which the publisher would make the college textbook or supplemental material available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes the college textbook or supplemental material available to the public.

(B) The copyright dates of the three previous editions of such college textbook, if any.

(C) A description of the substantial content revisions made between the current edition of the college textbook or supplemental material and the previous edition, if any.

(D)(i) Whether the college textbook or supplemental material is available in any other format, including paperback and unbound; and

(ii) for each other format of the college textbook or supplemental material, the price at which the publisher would make the college textbook or supplemental material in the other format available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes such other format of the college textbook or supplemental material available to the public.

(2) UNBUNDLING OF COLLEGE TEXTBOOKS FROM SUPPLEMENTAL MATERIALS.—A publisher that sells a college textbook and any supplemental material accompanying such college textbook as a single bundle shall also make available the college textbook and each supplemental material as separate and unbundled items, each separately priced.

(3) CUSTOM TEXTBOOKS.—To the maximum extent practicable, a publisher shall provide the information required under this subsection with respect to the development and provision of custom textbooks.

(d) PROVISION OF ISBN COLLEGE TEXTBOOK INFORMATION IN COURSE SCHEDULES.—To the maximum extent practicable, each institution of higher education receiving Federal financial assistance shall—

(1) disclose, on the institution's Internet course schedule and in a manner of the institution's choosing, the International Standard Book Number and retail price information of required and recommended college textbooks and supplemental materials for each course listed in the institution's course schedule used for preregistration and registration purposes, except that—

(A) if the International Standard Book Number is not available for such college textbook or supplemental material, then the institution shall include in the Internet course schedule the author, title, publisher, and copyright date for such college textbook or supplemental material; and

(B) if the institution determines that the disclosure of the information described in this subsection is not practicable for a college textbook or supplemental material, then the institution shall so indicate by placing the designation "To Be Determined" in lieu of the information required under this subsection; and

(2) if applicable, include on the institution's written course schedule a notice that textbook information is available on the institution's Internet course schedule, and the Internet address for such schedule.

(e) AVAILABILITY OF INFORMATION FOR COLLEGE BOOKSTORES.—An institution of higher education receiving Federal financial assistance shall make available to a college bookstore that is operated by, or in a contractual relationship or otherwise affiliated with, the institution, as soon as is practicable upon the request of such college bookstore, the most accurate information available regarding—

(1) the institution's course schedule for the subsequent academic period; and

(2) for each course or class offered by the institution for the subsequent academic period—

(A) the information required by subsection (d)(1) for each college textbook or supplemental material required or recommended for such course or class;

(B) the number of students enrolled in such course or class; and

(C) the maximum student enrollment for such course or class.

(f) ADDITIONAL INFORMATION.—An institution disclosing the information required by subsection (d)(1) is encouraged to disseminate to students information regarding—

(1) available institutional programs for renting textbooks or for purchasing used textbooks;

(2) available institutional guaranteed textbook buy-back programs;

(3) available institutional alternative content delivery programs; or

(4) other available institutional cost-saving strategies.

(g) GAO REPORT.—Not later than July 1, 2013, the Comptroller General of the United States shall report to the authorizing committees on the implementation of this section by institutions of

higher education, college bookstores, and publishers. The report shall particularly examine—

(1) the availability of college textbook information on course schedules;

(2) the provision of pricing information to faculty of institutions of higher education by publishers;

(3) the use of bundled and unbundled material in the college textbook marketplace, including the adoption of unbundled materials by faculty and the use of integrated textbooks by publishers; and

(4) the implementation of this section by institutions of higher education, including the costs and benefits to such institutions and to students.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supercede the institutional autonomy or academic freedom of instructors involved in the selection of college textbooks, supplemental materials, and other classroom materials.

(i) NO REGULATORY AUTHORITY.—The Secretary shall not promulgate regulations with respect to this section.

SEC. 134. [20 U.S.C. 1015c] DATABASE OF STUDENT INFORMATION PROHIBITED.

(a) PROHIBITION.—Except as described in subsection (b), nothing in this Act shall be construed to authorize the development, implementation, or maintenance of a Federal database of personally identifiable information on individuals receiving assistance under this Act, attending institutions receiving assistance under this Act, or otherwise involved in any studies or other collections of data under this Act, including a student unit record system, an education bar code system, or any other system that tracks individual students over time.

(b) EXCEPTION.—The provisions of subsection (a) shall not apply to a system (or a successor system) that—

(1) is necessary for the operation of programs authorized by title II, IV, or VII; and

(2) was in use by the Secretary, directly or through a contractor, as of the day before the date of enactment of theHigher Education Opportunity Act.

(c) STATE DATABASES.—Nothing in this Act shall prohibit a State or a consortium of States from developing, implementing, or maintaining State-developed databases that track individuals over time, including student unit record systems that contain information related to enrollment, attendance, graduation and retention rates, student financial assistance, and graduate employment outcomes.

SEC. 135. [20 U.S.C. 1015d] IN-STATE TUITION RATES FOR MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY, SPOUSES, AND DEPENDENT CHILDREN.

(a) REQUIREMENT.—In the case of a member of the armed forces who is on active duty for a period of more than 30 days and whose domicile or permanent duty station is in a State that receives assistance under this Act, such State shall not charge such member (or the spouse or dependent child of such member) tuition for attendance at a public institution of higher education in the

State at a rate that is greater than the rate charged for residents of the State.

(b) CONTINUATION.—If a member of the armed forces (or the spouse or dependent child of a member) pays tuition at a public institution of higher education in a State at a rate determined by subsection (a), the provisions of subsection (a) shall continue to apply to such member, spouse, or dependent while continuously enrolled at that institution, notwithstanding a subsequent change in the permanent duty station of the member to a location outside the State.

(c) EFFECTIVE DATE.—This section shall take effect at each public institution of higher education in a State that receives assistance under this Act for the first period of enrollment at such institution that begins after July 1, 2009.

(d) DEFINITIONS.—In this section, the terms "armed forces" and "active duty for a period of more than 30 days" have the meanings given those terms insection 101of title 10, United States Code.

SEC. 136. [20 U.S.C. 1015e] STATE HIGHER EDUCATION INFORMATION SYSTEM PILOT PROGRAM.

(a) PURPOSE.—It is the purpose of this section to carry out a pilot program to assist not more than five States to develop State-level postsecondary student data systems to—

(1) improve the capacity of States and institutions of higher education to generate more comprehensive and comparable data, in order to develop better-informed educational policy at the State level and to evaluate the effectiveness of institutional performance while protecting the confidentiality of students' personally identifiable information; and

(2) identify how to best minimize the data-reporting burden placed on institutions of higher education, particularly smaller institutions, and to maximize and improve the information institutions receive from the data systems, in order to assist institutions in improving educational practice and postsecondary outcomes.

(b) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means—

(1) a State higher education system; or

(2) a consortium of State higher education systems, or a consortium of individual institutions of higher education, that is broadly representative of institutions in different sectors and geographic locations.

(c) COMPETITIVE GRANTS.—

(1) GRANTS AUTHORIZED.—The Secretary shall award grants, on a competitive basis, to not more than five eligible entities to enable the eligible entities to—

(A) design, test, and implement systems of postsecondary student data that provide the maximum benefits to States, institutions of higher education, and State policymakers; and

(B) examine the costs and burdens involved in implementing a State-level postsecondary student data system.

(2) DURATION.—A grant awarded under this section shall be for a period of not more than three years.

(d) APPLICATION REQUIREMENTS.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require, including a description of—

(1) how the eligible entity will ensure that student privacy is protected and that individually identifiable information about students, the students' achievements, and the students' families remains confidential in accordance with section 444 of the General Education Provisions Act (commonly known as the "Family Educational Rights and Privacy Act of 1974") (20 U.S.C. 1232g); and

(2) how the activities funded by the grant will be supported after the three-year grant period.

(e) USE OF FUNDS.—A grant awarded under this section shall be used to—

(1) design, develop, and implement the components of a comprehensive postsecondary student data system with the capacity to transmit student information within a State;

(2) improve the capacity of institutions of higher education to analyze and use student data;

(3) select and define common data elements, data quality, and other elements that will enable the data system to—

(A) serve the needs of institutions of higher education for institutional research and improvement;

(B) provide students and the students' families with useful information for decision-making about postsecondary education; and

(C) provide State policymakers with improved information to monitor and guide efforts to improve student outcomes and success in higher education;

(4) estimate costs and burdens at the institutional level for the reporting system for different types of institutions; and

(5) test the feasibility of protocols and standards for maintaining data privacy and data access.

(f) EVALUATION; REPORTS.—Not later than six months after the end of the projects funded by grants awarded under this section, the Secretary shall—

(1) conduct a comprehensive evaluation of the pilot program authorized by this section; and

(2) report the Secretary's findings, as well as recommendations regarding the implementation of State-level postsecondary student data systems, to the authorizing committees.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

SEC. 137. [20 U.S.C. 1015f] STATE COMMITMENT TO AFFORDABLE COLLEGE EDUCATION.

(a) MAINTENANCE OF EFFORT REQUIRED.—A State shall provide—

(1) for public institutions of higher education in such State for any academic year beginning on or after July 1, 2008, an amount which is equal to or greater than the average amount

provided for non-capital and non-direct research and development expenses or costs by such State to such institutions of higher education during the five most recent preceding academic years for which satisfactory data are available; and

(2) for private institutions of higher education in such State for any academic year beginning on or after July 1, 2008, an amount which is equal to or greater than the average amount provided for student financial aid for paying costs associated with postsecondary education by such State to such institutions during the five most recent preceding academic years for which satisfactory data are available.

(b) ADJUSTMENTS FOR BIENNIAL APPROPRIATIONS.—The Secretary shall take into consideration any adjustments to the calculations under subsection (a) that may be required to accurately reflect funding levels for postsecondary education in States with biennial appropriation cycles.

(c) WAIVER.—The Secretary shall waive the requirements of subsection (a), if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforseen decline in the financial resources of a State or State educational agency, as appropriate.

(d) VIOLATION OF MAINTENANCE OF EFFORT.—Notwithstanding any other provision of law, the Secretary shall withhold from any State that violates subsection (a) and does not receive a waiver pursuant to subsection (c) any amount that would otherwise be available to the State under section 781 until such State has made significant efforts to correct such violation.

PART D—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT FINANCIAL ASSISTANCE

SEC. 141. [20 U.S.C. 1018] PERFORMANCE-BASED ORGANIZATION FOR THE DELIVERY OF FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) ESTABLISHMENT AND PURPOSE.—

(1) ESTABLISHMENT.—There is established in the Department a Performance-Based Organization (hereafter referred to as the "PBO") which shall be a discrete management unit responsible for managing the administrative and oversight functions supporting the programs authorized under title IV of this Act, as specified in subsection (b).

(2) PURPOSES.—The purposes of the PBO are—

(A) to improve service to students and other participants in the student financial assistance programs authorized under title IV, including making those programs more understandable to students and their parents;

(B) to reduce the costs of administering those programs;

(C) to increase the accountability of the officials responsible for administering the operational aspects of these programs;

(D) to provide greater flexibility in the management and administration of the Federal student financial assistance programs;

(E) to integrate the information systems supporting the Federal student financial assistance programs;

(F) to implement an open, common, integrated system for the delivery of student financial assistance under title IV; and

(G) to develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity.

(b) GENERAL AUTHORITY.—

(1) AUTHORITY OF SECRETARY.—Notwithstanding any other provision of this part, the Secretary shall maintain responsibility for the development and promulgation of policy and regulations relating to the programs of student financial assistance under title IV. In the exercise of its functions, the PBO shall be subject to the direction of the Secretary. The Secretary shall—

(A) request the advice of, and work in cooperation with, the Chief Operating Officer in developing regulations, policies, administrative guidance, or procedures affecting the Federal student financial assistance programs authorized under title IV;

(B) request cost estimates from the Chief Operating Officer for system changes required by specific policies proposed by the Secretary; and

(C) assist the Chief Operating Officer in identifying goals for—

(i) the administration of the systems used to administer the Federal student financial assistance programs authorized under title IV; and

(ii) the updating of such systems to current technology.

(2) PBO FUNCTIONS.—Subject to paragraph (1), the PBO shall be responsible for the administration of Federal student financial assistance programs authorized under title IV, excluding the development of policy relating to such programs but including the following:

(A) The administrative, accounting, and financial management functions for the Federal student financial assistance programs authorized under title IV, including—

(i) the collection, processing, and transmission of data to students, institutions, lenders, State agencies, and other authorized parties;

(ii) the design and technical specifications for software development and procurement for systems supporting the Federal student financial assistance programs authorized under title IV;

(iii) all software and hardware acquisitions and all information technology contracts related to the administration and management of student financial assistance under title IV;

(iv) all aspects of contracting for the information and financial systems supporting the Federal student financial assistance programs authorized under title IV;

(v) providing all customer service, training, and user support related to the administration of the Federal student financial assistance programs authorized under title IV; and

(vi) ensuring the integrity of the Federal student financial assistance programs authorized under title IV.

(B) Annual development of a budget for the activities and functions of the PBO, in consultation with the Secretary, and for consideration and inclusion in the Department's annual budget submission.

(3) ADDITIONAL FUNCTIONS.—The Secretary may allocate to the PBO such additional functions as the Secretary and the Chief Operating Officer determine are necessary or appropriate to achieve the purposes of the PBO.

(4) INDEPENDENCE.—Subject to paragraph (1), in carrying out its functions, the PBO shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions.

(5) AUDITS AND REVIEW.—The PBO shall be subject to the usual and customary Federal audit procedures and to review by the Inspector General of the Department.

(6) CHANGES.—

(A) IN GENERAL.—The Secretary and the Chief Operating Officer shall consult concerning the effects of policy, market, or other changes on the ability of the PBO to achieve the goals and objectives established in the performance plan described in subsection (c).

(B) REVISIONS TO AGREEMENT.—The Secretary and the Chief Operating Officer may revise the annual performance agreement described in subsection (d)(4) in light of policy, market, or other changes that occur after the Secretary and the Chief Operating Officer enter into the agreement.

(c) PERFORMANCE PLAN, REPORT, AND BRIEFING.—

(1) PERFORMANCE PLAN.—

(A) IN GENERAL.—Each year, the Secretary and Chief Operating Officer shall agree on, and make available to the public, a performance plan for the PBO for the succeeding 5 years that establishes measurable goals and objectives for the organization.

(B) CONSULTATION.—In developing the 5-year performance plan and any revision to the plan, the Secretary and the Chief Operating Officer shall consult with students, institutions of higher education, Congress, lenders, the Advisory Committee on Student Financial Assistance, and other interested parties not less than 30 days prior to the implementation of the performance plan or revision.

(C) AREAS.—The plan shall include a concise statement of the goals for a modernized system for the delivery of student financial assistance under title IV and identify action steps necessary to achieve such goals. The plan shall address the PBO's responsibilities in the following areas:

(i) IMPROVING SERVICE.—Improving service to students and other participants in student financial aid programs authorized under under[2] title IV, including making those programs more understandable to students and their parents.

(ii) REDUCING COSTS.—Reducing the costs of administering those programs.

(iii) IMPROVEMENT AND INTEGRATION OF SUPPORT SYSTEMS.—Improving and integrating the systems that support those programs.

(iv) DELIVERY AND INFORMATION SYSTEM.—Developing open, common, and integrated systems for programs authorized under under[2] title IV.

(v) OTHER AREAS.—Any other areas identified by the Secretary.

(2) ANNUAL REPORT.—Each year, the Chief Operating Officer shall prepare and submit to Congress, through the Secretary, an annual report on the performance of the PBO, including an evaluation of the extent to which the PBO met the goals and objectives contained in the 5-year performance plan described in paragraph (1) for the preceding year. The annual report shall include the following:

(A) An independent financial audit of the expenditures of both the PBO and the programs administered by the PBO.

(B) Financial and performance requirements applicable to the PBO under the Chief Financial Officers Act of 1990 and the Government Performance and Results Act of 1993.

(C) The results achieved by the PBO during the year relative to the goals established in the organization's performance plan.

(D) The evaluation rating of the performance of the Chief Operating Officer and senior managers under subsections (d)(4) and (e)(2), including the amounts of bonus compensation awarded to these individuals.

(E) Recommendations for legislative and regulatory changes to improve service to students and their families, and to improve program efficiency and integrity.

(F) Other such information as the Director of the Office of Management and Budget shall prescribe for performance based organizations.

(3) CONSULTATION WITH STAKEHOLDERS.—The Chief Operating Officer, in preparing the report described in paragraph (2), shall establish appropriate means to consult with students, borrowers, institutions, lenders, guaranty agencies, secondary

[2] So in law. See amendment made by section 117(3)(B)(i) of Public Law 110–315.

markets, and others involved in the delivery system of student aid under title IV—

(A) regarding the degree of satisfaction with the delivery system; and

(B) to seek suggestions on means to improve the delivery system.

(4) BRIEFING ON ENFORCEMENT OF STUDENT LOAN PROVISIONS.—The Secretary shall, upon request, provide a briefing to the members of the authorizing committees on the steps the Department has taken to ensure—

(A) the integrity of the student loan programs; and

(B) that lenders and guaranty agencies are adhering to the requirements of title IV.

(d) CHIEF OPERATING OFFICER.—

(1) APPOINTMENT.—The management of the PBO shall be vested in a Chief Operating Officer who shall be appointed by the Secretary to a term of not less than 3 and not more than 5 years, and compensated without regard to chapters 33, 51, and 53 of title 5, United States Code. The appointment shall be made on the basis of demonstrated management ability and expertise in information technology, including experience with financial systems, and without regard to political affiliation or activity.

(2) REAPPOINTMENT.—The Secretary may reappoint the Chief Operating Officer to subsequent terms of not less than 3 and not more than 5 years, so long as the performance of the Chief Operating Officer, as set forth in the performance agreement described in paragraph (4), is satisfactory.

(3) REMOVAL.—The Chief Operating Officer may be removed by—

(A) the President; or

(B) the Secretary, for misconduct or failure to meet performance goals set forth in the performance agreement in paragraph (4).

The President or Secretary shall communicate the reasons for any such removal to the authorizing committees.

(4) PERFORMANCE AGREEMENT.—

(A) IN GENERAL.—Each year, the Secretary and the Chief Operating Officer shall enter into an annual performance agreement, that shall set forth measurable organization and individual goals for the Chief Operating Officer.

(B) TRANSMITTAL.—The final agreement, and any revision to the final agreement, shall be transmitted to the authorizing committees, and made publicly available.

(5) COMPENSATION.—

(A) IN GENERAL.—The Chief Operating Officer is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(B) of such title. The compensation of the Chief Operating Officer shall be considered for purposes of sec-

tion 207(c)(2)(A) of title 18, United States Code, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

(B) BONUS.—In addition, the Chief Operating Officer may receive a bonus in an amount that does not exceed 50 percent of such annual rate of basic pay, based upon the Secretary's evaluation of the Chief Operating Officer's performance in relation to the goals set forth in the performance agreement described in paragraph (4).

(C) PAYMENT.—Payment of a bonus under subparagraph (B) may be made to the Chief Operating Officer only to the extent that such payment does not cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.

(e) SENIOR MANAGEMENT.—

(1) APPOINTMENT.—

(A) IN GENERAL.—The Chief Operating Officer may appoint such senior managers as that officer determines necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(B) COMPENSATION.—The senior managers described in subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) PERFORMANCE AGREEMENT.—Each year, the Chief Operating Officer and each senior manager appointed under this subsection shall enter into an annual performance agreement that sets forth measurable organization and individual goals. The agreement shall be subject to review and renegotiation at the end of each term.

(3) COMPENSATION.—

(A) IN GENERAL.—A senior manager appointed under this subsection may be paid at an annual rate of basic pay of not more than the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title. The compensation of a senior manager shall be considered for purposes of section 207(c)(2)(A) of title 18, United States Code, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

(B) BONUS.—In addition, a senior manager may receive a bonus in an amount such that the manager's total annual compensation does not exceed 125 percent of the maximum rate of basic pay for the Senior Executive Service, including any applicable locality-based comparability payment, based upon the Chief Operating Officer's evaluation of the manager's performance in relation to the goals

set forth in the performance agreement described in paragraph (2).

(4) REMOVAL.—A senior manager shall be removable by the Chief Operating Officer, or by the Secretary if the position of Chief Operating Officer is vacant.

(f) STUDENT LOAN OMBUDSMAN.—

(1) APPOINTMENT.—The Chief Operating Officer, in consultation with the Secretary, shall appoint a Student Loan Ombudsman to provide timely assistance to borrowers of loans made, insured, or guaranteed under title IV by performing the functions described in paragraph (3).

(2) PUBLIC INFORMATION.—The Chief Operating Officer shall disseminate information about the availability and functions of the Ombudsman to students, borrowers, and potential borrowers, as well as institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in those student loan programs.

(3) FUNCTIONS OF OMBUDSMAN.—The Ombudsman shall—

(A) in accordance with regulations of the Secretary, receive, review, and attempt to resolve informally complaints from borrowers of loans described in paragraph (1), including, as appropriate, attempts to resolve such complaints within the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in the loan programs described in paragraph (1); and

(B) compile and analyze data on borrower complaints and make appropriate recommendations.

(4) REPORT.—Each year, the Ombudsman shall submit a report to the Chief Operating Officer, for inclusion in the annual report under subsection (c)(2), that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.

(g) PERSONNEL FLEXIBILITY.—

(1) PERSONNEL CEILINGS.—The PBO shall not be subject to any ceiling relating to the number or grade of employees.

(2) ADMINISTRATIVE FLEXIBILITY.—The Chief Operating Officer shall work with the Office of Personnel Management to develop and implement personnel flexibilities in staffing, classification, and pay that meet the needs of the PBO, subject to compliance with title 5, United States Code.

(3) EXCEPTED SERVICE.—The Chief Operating Officer may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, technical and professional employees to administer the functions of the PBO. These employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(h) ESTABLISHMENT OF A FAIR AND EQUITABLE SYSTEM FOR MEASURING STAFF PERFORMANCE.—The PBO shall establish an annual performance management system, subject to compliance with title 5, United States Code and consistent with applicable provisions of law and regulations, which strengthens the effectiveness of

the PBO by providing for establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the performance plan of the PBO and its performance planning procedures, including those established under the Government Performance and Results Act of 1993, and communicating such goals or objectives to employees.

(i) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall allocate from funds made available under section 458 such funds as are appropriate to the functions assumed by the PBO. In addition, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this part.

SEC. 142. [20 U.S.C. 1018a] PROCUREMENT FLEXIBILITY.

(a) PROCUREMENT AUTHORITY.—Subject to the authority of the Secretary, the Chief Operating Officer of a PBO may exercise the authority of the Secretary to procure property and services in the performance of functions managed by the PBO. For the purposes of this section, the term "PBO" includes the Chief Operating Officer of the PBO and any employee of the PBO exercising procurement authority under the preceding sentence.

(b) IN GENERAL.—Except as provided in this section, the PBO shall abide by all applicable Federal procurement laws and regulations when procuring property and services. The PBO shall—

(1) enter into contracts to carry out the functions set forth in section 141(b)(2);

(2) obtain the services of experts and consultants without regard to section 3109 of title 5, United States Code and set pay in accordance with such section; and

(3) through the Chief Operating Officer—

(A) to the maximum extent practicable, utilize procurement systems that streamline operations, improve internal controls, and enhance management; and

(B) assess the efficiency of such systems and assess such systems' ability to meet PBO requirements.

(c) SERVICE CONTRACTS.—

(1) PERFORMANCE-BASED SERVICING CONTRACTS.—The Chief Operating Officer shall, to the extent practicable, maximize the use of performance-based servicing contracts, consistent with guidelines for such contracts published by the Office of Federal Procurement Policy, to achieve cost savings and improve service.

(2) FEE FOR SERVICE ARRANGEMENTS.—The Chief Operating Officer shall, when appropriate and consistent with the purposes of the PBO, acquire services related to the functions set forth in section 141(b)(2) from any entity that has the capability and capacity to meet the requirements set by the PBO. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides services that meet the requirements of the PBO, as determined by the Chief Operating Officer.

(d) TWO-PHASE SOURCE-SELECTION PROCEDURES.—

(1) IN GENERAL.—The PBO may use a two-phase process for selecting a source for a procurement of property or services.

(2) FIRST PHASE.—The procedures for the first phase of the process for a procurement are as follows:

(A) PUBLICATION OF NOTICE.—The contracting officer for the procurement shall publish a notice of the procurement in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637), except that the notice shall include only the following:

(i) A general description of the scope or purpose of the procurement that provides sufficient information on the scope or purpose for sources to make informed business decisions regarding whether to participate in the procurement.

(ii) A description of the basis on which potential sources are to be selected to submit offers in the second phase.

(iii) A description of the information that is to be required under subparagraph (B).

(iv) Any additional information that the contracting officer determines appropriate.

(B) INFORMATION SUBMITTED BY OFFERORS.—Each offeror for the procurement shall submit basic information, such as information on the offeror's qualifications, the proposed conceptual approach, costs likely to be associated with the proposed conceptual approach, and past performance of the offeror, together with any additional information that is requested by the contracting officer.

(C) SELECTION FOR SECOND PHASE.—The contracting officer shall select the offerors that are to be eligible to participate in the second phase of the process. The contracting officer shall limit the number of the selected offerors to the number of sources that the contracting officer determines is appropriate and in the best interests of the Federal Government.

(3) SECOND PHASE.—

(A) IN GENERAL.—The contracting officer shall conduct the second phase of the source selection process in accordance with sections 303A and 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a and 253b).

(B) ELIGIBLE PARTICIPANTS.—Only the sources selected in the first phase of the process shall be eligible to participate in the second phase.

(C) SINGLE OR MULTIPLE PROCUREMENTS.—The second phase may include a single procurement or multiple procurements within the scope, or for the purpose, described in the notice pursuant to paragraph (2)(A).

(4) PROCEDURES CONSIDERED COMPETITIVE.—The procedures used for selecting a source for a procurement under this subsection shall be considered competitive procedures for all purposes.

(e) USE OF SIMPLIFIED PROCEDURES FOR COMMERCIAL ITEMS.—Whenever the PBO anticipates that commercial items will be of-

fered for a procurement, the PBO may use (consistent with the special rules for commercial items) the special simplified procedures for the procurement without regard to—

(1) any dollar limitation otherwise applicable to the use of those procedures; and

(2) the expiration of the authority to use special simplified procedures under section 4202(e) of the Clinger-Cohen Act of 1996 (110 Stat. 654; 10 U.S.C. 2304 note).

(f) FLEXIBLE WAIT PERIODS AND DEADLINES FOR SUBMISSION OF OFFERS OF NONCOMMERCIAL ITEMS.—

(1) AUTHORITY.—In carrying out a procurement, the PBO may—

(A) apply a shorter waiting period for the issuance of a solicitation after the publication of a notice under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) than is required under subsection (a)(3)(A) of such section; and

(B) notwithstanding subsection (a)(3) of such section, establish any deadline for the submission of bids or proposals that affords potential offerors a reasonable opportunity to respond to the solicitation.

(2) INAPPLICABILITY TO COMMERCIAL ITEMS.—Paragraph (1) does not apply to a procurement of a commercial item.

(3) CONSISTENCY WITH APPLICABLE INTERNATIONAL AGREEMENTS.—If an international agreement is applicable to the procurement, any exercise of authority under paragraph (1) shall be consistent with the international agreement.

(g) MODULAR CONTRACTING.—

(1) IN GENERAL.—The PBO may satisfy the requirements of the PBO for a system incrementally by carrying out successive procurements of modules of the system. In doing so, the PBO may use procedures authorized under this subsection to procure any such module after the first module.

(2) UTILITY REQUIREMENT.—A module may not be procured for a system under this subsection unless the module is useful independently of the other modules or useful in combination with another module previously procured for the system.

(3) CONDITIONS FOR USE OF AUTHORITY.—The PBO may use procedures authorized under paragraph (4) for the procurement of an additional module for a system if—

(A) competitive procedures were used for awarding the contract for the procurement of the first module for the system; and

(B) the solicitation for the first module included—

(i) a general description of the entire system that was sufficient to provide potential offerors with reasonable notice of the general scope of future modules;

(ii) other information sufficient for potential offerors to make informed business judgments regarding whether to submit offers for the contract for the first module; and

(iii) a statement that procedures authorized under this subsection could be used for awarding subsequent

contracts for the procurement of additional modules for the system.

(4) PROCEDURES.—If the procurement of the first module for a system meets the requirements set forth in paragraph (3), the PBO may award a contract for the procurement of an additional module for the system using any of the following procedures:

(A) SINGLE-SOURCE BASIS.—Award of the contract on a single-source basis to a contractor who was awarded a contract for a module previously procured for the system under competitive procedures or procedures authorized under subparagraph (B).

(B) ADEQUATE COMPETITION.—Award of the contract on the basis of offers made by—

(i) a contractor who was awarded a contract for a module previously procured for the system after having been selected for award of the contract under this subparagraph or other competitive procedures; and

(ii) at least one other offeror that submitted an offer for a module previously procured for the system and is expected, on the basis of the offer for the previously procured module, to submit a competitive offer for the additional module.

(C) OTHER.—Award of the contract under any other procedure authorized by law.

(5) NOTICE REQUIREMENT.—

(A) PUBLICATION.—Not less than 30 days before issuing a solicitation for offers for a contract for a module for a system under procedures authorized under subparagraph (A) or (B) of paragraph (4), the PBO shall publish in the Commerce Business Daily a notice of the intent to use such procedures to enter into the contract.

(B) EXCEPTION.—Publication of a notice is not required under this paragraph with respect to a use of procedures authorized under paragraph (4) if the contractor referred to in that subparagraph (who is to be solicited to submit an offer) has previously provided a module for the system under a contract that contained cost, schedule, and performance goals and the contractor met those goals.

(C) CONTENT OF NOTICE.—A notice published under subparagraph (A) with respect to a use of procedures described in paragraph (4) shall contain the information required under section 18(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(b)), other than paragraph (4) of such section, and shall invite the submission of any assertion that the use of the procedures for the procurement involved is not in the best interest of the Federal Government together with information supporting the assertion.

(6) DOCUMENTATION.—The basis for an award of a contract under this subsection shall be documented. However, a justification pursuant to section 303(f) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)) or

section 8(h) of the Small Business Act (15 U.S.C. 637(h)) is not required.

(7) SIMPLIFIED SOURCE-SELECTION PROCEDURES.—The PBO may award a contract under any other simplified procedures prescribed by the PBO for the selection of sources for the procurement of modules for a system, after the first module, that are not to be procured under a contract awarded on a single-source basis.

(h) USE OF SIMPLIFIED PROCEDURES FOR SMALL BUSINESS SET-ASIDES FOR SERVICES OTHER THAN COMMERCIAL ITEMS.—

(1) AUTHORITY.—The PBO may use special simplified procedures for a procurement of services that are not commercial items if—

(A) the procurement is in an amount not greater than $1,000,000;

(B) the procurement is conducted as a small business set-aside pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)); and

(C) the price charged for supplies associated with the services procured are items of supply expected to be less than 20 percent of the total contract price.

(2) INAPPLICABILITY TO CERTAIN PROCUREMENTS.—The authority set forth in paragraph (1) may not be used for—

(A) an award of a contract on a single-source basis; or

(B) a contract for construction.

(i) GUIDANCE FOR USE OF AUTHORITY.—

(1) ISSUANCE BY PBO.—The Chief Operating Officer of the PBO, in consultation with the Administrator for Federal Procurement Policy, shall issue guidance for the use by PBO personnel of the authority provided in this section.

(2) GUIDANCE FROM OFPP.—As part of the consultation required under paragraph (1), the Administrator for Federal Procurement Policy shall provide the PBO with guidance that is designed to ensure, to the maximum extent practicable, that the authority under this section is exercised by the PBO in a manner that is consistent with the exercise of the authority by the heads of the other performance-based organizations.

(3) COMPLIANCE WITH OFPP GUIDANCE.—The head of the PBO shall ensure that the procurements of the PBO under this section are carried out in a manner that is consistent with the guidance provided for the PBO under paragraph (2).

(j) LIMITATION ON MULTIAGENCY CONTRACTING.—No department or agency of the Federal Government may purchase property or services under contracts entered into or administered by a PBO under this section unless the purchase is approved in advance by the senior procurement official of that department or agency who is responsible for purchasing by the department or agency.

(k) LAWS NOT AFFECTED.—Nothing in this section shall be construed to waive laws for the enforcement of civil rights or for the establishment and enforcement of labor standards that are applicable to contracts of the Federal Government.

(l) DEFINITIONS.—In this section:

(1) COMMERCIAL ITEM.—The term "commercial item" has the meaning given the term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(2) COMPETITIVE PROCEDURES.—The term "competitive procedures" has the meaning given the term in section 309(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(b)).

(3) SINGLE-SOURCE BASIS.—The term "single-source basis", with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only such source (although such source is not the only source in the marketplace capable of meeting the need) because such source is the most advantageous source for purposes of the award.

(4) SPECIAL RULES FOR COMMERCIAL ITEMS.—The term "special rules for commercial items" means the regulations set forth in the Federal Acquisition Regulation pursuant to section 303(g)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)) and section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427).

(5) SPECIAL SIMPLIFIED PROCEDURES.—The term "special simplified procedures" means the procedures applicable to purchases of property and services for amounts not greater than the simplified acquisition threshold that are set forth in the Federal Acquisition Regulation pursuant to section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and section 31(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(1)).

SEC. 143. [20 U.S.C. 1018b] ADMINISTRATIVE SIMPLIFICATION OF STUDENT AID DELIVERY.

(a) IN GENERAL.—In order to improve the efficiency and effectiveness of the student aid delivery system, the Secretary and the Chief Operating Officer shall encourage and participate in the establishment of voluntary consensus standards and requirements for the electronic transmission of information necessary for the administration of programs under title IV.

(b) PARTICIPATION IN STANDARD SETTING ORGANIZATIONS.—

(1) The Chief Operating Officer shall participate in the activities of standard setting organizations in carrying out the provisions of this section.

(2) The Chief Operating Officer shall encourage higher education groups seeking to develop common forms, standards, and procedures in support of the delivery of Federal student financial assistance to conduct these activities within a standard setting organization.

(3) The Chief Operating Officer may pay necessary dues and fees associated with participating in standard setting organizations pursuant to this subsection.

(c) ADOPTION OF VOLUNTARY CONSENSUS STANDARDS.—Except with respect to the common financial reporting form under section 483(a), the Secretary shall consider adopting voluntary consensus standards agreed to by the organization described in subsection (b) for transactions required under title IV, and common data elements for such transactions, to enable information to be exchanged elec-

tronically between systems administered by the Department and among participants in the Federal student aid delivery system.

(d) USE OF CLEARINGHOUSES.—Nothing in this section shall restrict the ability of participating institutions and lenders from using a clearinghouse or servicer to comply with the standards for the exchange of information established under this section.

(e) DATA SECURITY.—Any entity that maintains or transmits information under a transaction covered by this section shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

(1) to ensure the integrity and confidentiality of the information; and

(2) to protect against any reasonably anticipated security threats, or unauthorized uses or disclosures of the information.

(f) DEFINITIONS.—

(1) CLEARINGHOUSE.—The term "clearinghouse" means a public or private entity that processes or facilitates the processing of nonstandard data elements into data elements conforming to standards adopted under this section.

(2) STANDARD SETTING ORGANIZATION.—The term "standard setting organization" means an organization that—

(A) is accredited by the American National Standards Institute;

(B) develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this section; and

(C) is open to the participation of the various entities engaged in the delivery of Federal student financial assistance.

(3) VOLUNTARY CONSENSUS STANDARD.—The term "voluntary consensus standard" means a standard developed or used by a standard setting organization described in paragraph (2).

PART E—LENDER AND INSTITUTION REQUIREMENTS RELATING TO EDUCATION LOANS

SEC. 151. [20 U.S.C. 1019] DEFINITIONS.

In this part:

(1) AGENT.—The term "agent" means an officer or employee of a covered institution or an institution-affiliated organization.

(2) COVERED INSTITUTION.—The term "covered institution" means any institution of higher education, as such term is defined in section 102, that receives any Federal funding or assistance.

(3) EDUCATION LOAN.—The term "education loan" (except when used as part of the term "private education loan") means—

(A) any loan made, insured, or guaranteed under part B of title IV;

(B) any loan made under part D of title IV; or

(C) a private education loan.

(4) ELIGIBLE LENDER.—The term "eligible lender" has the meaning given such term in section 435(d).

(5) INSTITUTION-AFFILIATED ORGANIZATION.—The term "institution-affiliated organization"—

(A) means any organization that—

(i) is directly or indirectly related to a covered institution; and

(ii) is engaged in the practice of recommending, promoting, or endorsing education loans for students attending such covered institution or the families of such students;

(B) may include an alumni organization, athletic organization, foundation, or social, academic, or professional organization, of a covered institution; and

(C) notwithstanding subparagraphs (A) and (B), does not include any lender with respect to any education loan secured, made, or extended by such lender.

(6) LENDER.—The term "lender" (except when used as part of the terms "eligible lender" and "private educational lender")—

(A) means—

(i) in the case of a loan made, insured, or guaranteed under part B of title IV, an eligible lender;

(ii) in the case of any loan issued or provided to a student under part D of title IV, the Secretary; and

(iii) in the case of a private education loan, a private educational lender as defined in section 140 of the Truth in Lending Act; and

(B) includes any other person engaged in the business of securing, making, or extending education loans on behalf of the lender.

(7) OFFICER.—The term "officer" includes a director or trustee of a covered institution or institution-affiliated organization, if such individual is treated as an employee of such covered institution or institution-affiliated organization, respectively.

(8) PREFERRED LENDER ARRANGEMENT.—The term "preferred lender arrangement"—

(A) means an arrangement or agreement between a lender and a covered institution or an institution-affiliated organization of such covered institution—

(i) under which a lender provides or otherwise issues education loans to the students attending such covered institution or the families of such students; and

(ii) that relates to such covered institution or such institution-affiliated organization recommending, promoting, or endorsing the education loan products of the lender; and

(B) does not include—

(i) arrangements or agreements with respect to loans under part D of title IV; or

(ii) arrangements or agreements with respect to loans that originate through the auction pilot program under section 499(b).

(9) PRIVATE EDUCATION LOAN.—The term "private education loan" has the meaning given the term in section 140 of the Truth in Lending Act.

SEC. 152. [20 U.S.C. 1019a] RESPONSIBILITIES OF COVERED INSTITUTIONS, INSTITUTION-AFFILIATED ORGANIZATIONS, AND LENDERS.

(a) RESPONSIBILITIES OF COVERED INSTITUTIONS AND INSTITUTION-AFFILIATED ORGANIZATIONS.—

(1) DISCLOSURES BY COVERED INSTITUTIONS AND INSTITUTION-AFFILIATED ORGANIZATIONS.—

(A) PREFERRED LENDER ARRANGEMENT DISCLOSURES.—In addition to the disclosures required by subsections (a)(27) and (h) of section 487 (if applicable), a covered institution, or an institution-affiliated organization of such covered institution, that participates in a preferred lender arrangement shall disclose—

(i) on such covered institution's or institution-affiliated organization's website and in all informational materials described in subparagraph (C) that describe or discuss education loans—

(I) the maximum amount of Federal grant and loan aid under title IV available to students, in an easy to understand format;

(II) the information required to be disclosed pursuant to section 153(a)(2)(A)(i), for each type of loan described in section 151(3)(A) that is offered pursuant to a preferred lender arrangement of the institution or organization to students of the institution or the families of such students; and

(III) a statement that such institution is required to process the documents required to obtain a loan under part B of title IV from any eligible lender the student selects; and

(ii) on such covered institution's or institution-affiliated organization's website and in all informational materials described in subparagraph (C) that describe or discuss private education loans—

(I) in the case of a covered institution, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(11) of the Truth in Lending Act (15 U.S.C. 1638(e)(11)), for each type of private education loan offered pursuant to a preferred lender arrangement of the institution to students of the institution or the families of such students; and

(II) in the case of an institution-affiliated organization of a covered institution, the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(1) of the Truth in Lending Act (15

U.S.C. 1638(e)(1)), for each type of private education loan offered pursuant to a preferred lender arrangement of the organization to students of such institution or the families of such students.

(B) PRIVATE EDUCATION LOAN DISCLOSURES.—A covered institution, or an institution-affiliated organization of such covered institution, that provides information regarding a private education loan from a lender to a prospective borrower shall—

(i) provide the prospective borrower with the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(1) of the Truth in Lending Act (15 U.S.C. 1638(e)(1)) for such loan;

(ii) inform the prospective borrower that—

(I) the prospective borrower may qualify for loans or other assistance under title IV; and

(II) the terms and conditions of loans made, insured, or guaranteed under title IV may be more favorable than the provisions of private education loans; and

(iii) ensure that information regarding private education loans is presented in such a manner as to be distinct from information regarding loans that are made, insured, or guaranteed under title IV.

(C) INFORMATIONAL MATERIALS.—The informational materials described in this subparagraph are publications, mailings, or electronic messages or materials that—

(i) are distributed to prospective or current students of a covered institution and families of such students; and

(ii) describe or discuss the financial aid opportunities available to students at an institution of higher education.

(2) USE OF INSTITUTION NAME.—A covered institution, or an institution-affiliated organization of such covered institution, that enters into a preferred lender arrangement with a lender regarding private education loans shall not agree to the lender's use of the name, emblem, mascot, or logo of such institution or organization, or other words, pictures, or symbols readily identified with such institution or organization, in the marketing of private education loans to students attending such institution in any way that implies that the loan is offered or made by such institution or organization instead of the lender.

(3) USE OF LENDER NAME.—A covered institution, or an institution-affiliated organization of such covered institution, that enters into a preferred lender arrangement with a lender regarding private education loans shall ensure that the name of the lender is displayed in all information and documentation related to such loans.

(b) LENDER RESPONSIBILITIES.—

(1) DISCLOSURES BY LENDERS.—

(A) DISCLOSURES TO BORROWERS.—

(i) FEDERAL EDUCATION LOANS.—For each education loan that is made, insured, or guaranteed under part B or D of title IV (other than a loan made under section 428C or a Federal Direct Consolidation Loan), at or prior to the time the lender disburses such loan, the lender shall provide the prospective borrower or borrower, in writing (including through electronic means), with the disclosures described in subsections (a) and (c) of section 433.

(ii) PRIVATE EDUCATION LOANS.—For each of a lender's private education loans, the lender shall comply with the disclosure requirements under section 128(e) of the Truth in Lending Act (15 U.S.C. 1638(e)).

(B) DISCLOSURES TO THE SECRETARY.—

(i) IN GENERAL.—Each lender of a loan made, insured, or guaranteed under part B of title IV shall, on an annual basis, report to the Secretary—

(I) any reasonable expenses paid or provided under section 435(d)(5)(D) or paragraph (3)(B) or (7) of section 487(e) to any agent of a covered institution who—

(aa) is employed in the financial aid office of a covered institution; or

(bb) otherwise has responsibilities with respect to education loans or other financial aid of the institution; and

(II) any similar expenses paid or provided to any agent of an institution-affiliated organization who is involved in the practice of recommending, promoting, or endorsing education loans.

(ii) CONTENTS OF REPORTS.—Each report described in clause (i) shall include—

(I) the amount for each specific instance in which the lender provided such expenses;

(II) the name of any agent described in clause (i) to whom the expenses were paid or provided;

(III) the dates of the activity for which the expenses were paid or provided; and

(IV) a brief description of the activity for which the expenses were paid or provided.

(iii) REPORT TO CONGRESS.—The Secretary shall summarize the information received from the lenders under this subparagraph in a report and transmit such report annually to the authorizing committees.

(2) CERTIFICATION BY LENDERS.—Not later than 18 months after the date of enactment of theHigher Education Opportunity Act—

(A) in addition to any other disclosure required under Federal law, each lender of a loan made, insured, or guaranteed under part B of title IV that participates in one or more preferred lender arrangements shall annually certify the lender's compliance with the requirements of this Act; and

(B) if an audit of a lender is required pursuant to section 428(b)(1)(U)(iii), the lender's compliance with the requirements under this section shall be reported on and attested to annually by the auditor of such lender.

SEC. 153. [20 U.S.C. 1019b] LOAN INFORMATION TO BE DISCLOSED AND MODEL DISCLOSURE FORM FOR COVERED INSTITUTIONS, INSTITUTION-AFFILIATED ORGANIZATIONS, AND LENDERS PARTICIPATING IN PREFERRED LENDER ARRANGEMENTS.

(a) DUTIES OF THE SECRETARY.—

(1) DETERMINATION OF MINIMUM DISCLOSURES.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of theHigher Education Opportunity Act, the Secretary, in coordination with the Board of Governors of the Federal Reserve System, shall determine the minimum information that lenders, covered institutions, and institution-affiliated organizations of such covered institutions participating in preferred lender arrangements shall make available regarding education loans described in section 151(3)(A) that are offered to students and the families of such students.

(B) CONSULTATION AND CONTENT OF MINIMUM DISCLOSURES.—In carrying out subparagraph (A), the Secretary shall—

(i) consult with students, the families of such students, representatives of covered institutions (including financial aid administrators, admission officers, and business officers), representatives of institution-affiliated organizations, secondary school guidance counselors, lenders, loan servicers, and guaranty agencies;

(ii) include, in the minimum information under subparagraph (A) that is required to be made available, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(1) of the Truth in Lending Act (15 U.S.C. 1638(e)(1)), modified as necessary to apply to such loans; and

(iii) consider the merits of requiring each covered institution, and each institution-affiliated organization of such covered institution, with a preferred lender arrangement to provide to prospective borrowers and the families of such borrowers the following information for each type of education loan offered pursuant to such preferred lender arrangement:

(I) The interest rate and terms and conditions of the loan for the next award year, including loan forgiveness and deferment.

(II) Information on any charges, such as origination and Federal default fees, that are payable on the loan, and whether those charges will be—

(aa) collected by the lender at or prior to the disbursal of the loan, including whether the charges will be deducted from the pro-

ceeds of the loan or paid separately by the borrower; or

(bb) paid in whole or in part by the lender.

(III) The annual and aggregate maximum amounts that may be borrowed.

(IV) The average amount borrowed from the lender by students who graduated from such institution in the preceding year with certificates, undergraduate degrees, graduate degrees, and professional degrees, as applicable, and who obtained loans of such type from the lender for the preceding year.

(V) The amount the borrower may pay in interest, based on a standard repayment plan and the average amount borrowed from the lender by students who graduated from such institution in the preceding year and who obtained loans of such type from the lender for the preceding year, for—

(aa) borrowers of loans made under section 428;

(bb) borrowers of loans made under section 428B or 428H, who pay the interest while in school; and

(cc) borrowers of loans made under section 428B or 428H, who do not pay the interest while in school.

(VI) The consequences for the borrower of defaulting on a loan, including limitations on the discharge of an education loan in bankruptcy.

(VII) Contact information for the lender.

(VIII) Other information suggested by the persons and entities with whom the Secretary has consulted under clause (i).

(2) REQUIRED DISCLOSURES.—After making the determinations under paragraph (1), the Secretary, in coordination with the Board of Governors of the Federal Reserve System and after consultation with the public, shall—

(A)(i) provide that the information determined under paragraph (1) shall be disclosed by covered institutions, and institution-affiliated organizations of such covered institutions, with preferred lender arrangements to prospective borrowers and the families of such borrowers regarding the education loans described in section 151(3)(A) that are offered pursuant to such preferred lender arrangements; and

(ii) make clear that such covered institutions and institution-affiliated organizations may provide the required information on a form designed by the institution or organization instead of the model disclosure form described in subparagraph (B);

(B) develop a model disclosure form that may be used by covered institutions, institution-affiliated organizations,

and preferred lenders that includes all of the information required under subparagraph (A)(i) in a format that—

(i) is easily usable by students, families, institutions, institution-affiliated organizations, lenders, loan servicers, and guaranty agencies; and

(ii) is similar in format to the form developed by the Board of Governors of the Federal Reserve System under paragraphs (1) and (5)(A) of section 128(e), in order to permit students and the families of students to easily compare private education loans and education loans described in section 151(3)(A); and

(C) update such model disclosure form periodically, as necessary.

(b) DUTIES OF LENDERS.—Each lender that has a preferred lender arrangement with a covered institution, or an institution-affiliated organization of such covered institution, with respect to education loans described in section 151(3)(A) shall annually, by a date determined by the Secretary, provide to such covered institution or such institution-affiliated organization, and to the Secretary, the information the Secretary requires pursuant to subsection (a)(2)(A)(i) for each type of education loan described in section 151(3)(A) that the lender plans to offer pursuant to such preferred lender arrangement to students attending such covered institution, or to the families of such students, for the next award year.

(c) DUTIES OF COVERED INSTITUTIONS AND INSTITUTION-AFFILIATED ORGANIZATIONS.—

(1) PROVIDING INFORMATION TO STUDENTS AND FAMILIES.—

(A) IN GENERAL.—Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement shall provide the following information to students attending such institution, or the families of such students, as applicable:

(i) The information the Secretary requires pursuant to subsection (a)(2)(A)(i), for each type of education loan described in section 151(3)(A) offered pursuant to a preferred lender arrangement to students of such institution or the families of such students.

(ii)(I) In the case of a covered institution, the information that the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(11) of the Truth in Lending Act (15 U.S.C. 1638(e)(11)) to the covered institution, for each type of private education loan offered pursuant to such preferred lender arrangement to students of such institution or the families of such students.

(II) In the case of an institution-affiliated organization, the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(1) of the Truth in Lending Act (15 U.S.C. 1638(e)(1)), for each type of private education loan offered pursuant to such preferred lender arrangement to students of the institution with which

such organization is affiliated or the families of such students.

(B) TIMELY PROVISION OF INFORMATION.—The information described in subparagraph (A) shall be provided in a manner that allows for the students or the families to take such information into account before selecting a lender or applying for an education loan.

(2) ANNUAL REPORT.—Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement, shall—

(A) prepare and submit to the Secretary an annual report, by a date determined by the Secretary, that includes, for each lender that has a preferred lender arrangement with such covered institution or organization—

(i) the information described in clauses (i) and (ii) of paragraph (1)(A); and

(ii) a detailed explanation of why such covered institution or institution-affiliated organization entered into a preferred lender arrangement with the lender, including why the terms, conditions, and provisions of each type of education loan provided pursuant to the preferred lender arrangement are beneficial for students attending such institution, or the families of such students, as applicable; and

(B) ensure that the report required under subparagraph (A) is made available to the public and provided to students attending or planning to attend such covered institution and the families of such students.

(3) CODE OF CONDUCT.—

(A) IN GENERAL.—Each covered institution, and each institution-affiliated organization of such covered institution, that has a preferred lender arrangement, shall comply with the code of conduct requirements of subparagraphs (A) through (C) of section 487(a)(25).

(B) APPLICABLE CODE OF CONDUCT.—For purposes of subparagraph (A), an institution-affiliated organization of a covered institution shall—

(i) comply with the code of conduct developed and published by such covered institution under subparagraphs (A) and (B) of section 487(a)(25);

(ii) if such institution-affiliated organization has a website, publish such code of conduct prominently on the website; and

(iii) administer and enforce such code of conduct by, at a minimum, requiring that all of such organization's agents with responsibilities with respect to education loans be annually informed of the provisions of such code of conduct.

SEC. 154. [20 U.S.C. 1019c] LOAN INFORMATION TO BE DISCLOSED AND MODEL DISCLOSURE FORM FOR INSTITUTIONS PARTICIPATING IN THE WILLIAM. D. FORD FEDERAL DIRECT LOAN PROGRAM.

(a) PROVISION OF DISCLOSURES TO INSTITUTIONS BY THE SECRETARY.—Not later than 180 days after the development of the

model disclosure form under section 153(a)(2)(B), the Secretary shall provide each institution of higher education participating in the William D. Ford Direct Loan Program under part D of title IV with a completed model disclosure form including the same information for Federal Direct Stafford Loans, Federal Direct Unsubsidized Stafford Loans, and Federal Direct PLUS loans made to, or on behalf of, students attending each such institution as is required on such form for loans described in section 151(3)(A).

(b) DUTIES OF INSTITUTIONS.—

(1) IN GENERAL.—Each institution of higher education participating in the William D. Ford Direct Loan Program under part D of title IV shall—

(A) make the information the Secretary provides to the institution under subsection (a) available to students attending or planning to attend the institution, or the families of such students, as applicable; and

(B) if the institution provides information regarding a private education loan to a prospective borrower, concurrently provide such borrower with the information the Secretary provides to the institution under subsection (a).

(2) CHOICE OF FORMS.—In providing the information required under paragraph (1), an institution of higher education may use a comparable form designed by the institution instead of the model disclosure form developed under section 153(a)(2)(B).

SEC. 155. [20 U.S.C. 1019d] SELF-CERTIFICATION FORM FOR PRIVATE EDUCATION LOANS.

(a) IN GENERAL.—The Secretary, in consultation with the Board of Governors of the Federal Reserve System, shall develop the self-certification form for private education loans that shall be used to satisfy the requirements of section 128(e)(3) of the Truth in Lending Act. Such form shall—

(1) be developed in a standardized format;

(2) be made available to the applicant by the relevant institution of higher education, in written or electronic form, upon request of the applicant;

(3) contain only disclosures that—

(A) the applicant may qualify for Federal student financial assistance through a program under title IV of this Act, or State or institutional student financial assistance, in place of, or in addition to, a private education loan;

(B) the applicant is encouraged to discuss the availability of Federal, State, and institutional student financial assistance with financial aid officials at the applicant's institution of higher education;

(C) a private education loan may affect the applicant's eligibility for free or low-cost Federal, State or institutional student financial assistance; and

(D) the information that the applicant is required to provide on the form is available from officials at the financial aid office of the institution of higher education;

(4) include a place to provide information on—

(A) the applicant's cost of attendance at the institution of higher education, as determined by the institution under part F of title IV;

(B) the applicant's estimated financial assistance, including amounts of financial assistance used to replace the expected family contribution, as determined by the institution, in accordance with title IV, for students who have completed the Free Application for Federal Student Aid; and

(C) the difference between the amounts under subparagraphs (A) and (B), as applicable; and

(5) include a place for the applicant's signature, in written or electronic form.

(b) LIMIT ON LIABILITY.—Nothing in this section shall be construed to create a private right of action against an institution of higher education with respect to the form developed under subsection (a).

TITLE II—TEACHER QUALITY ENHANCEMENT

SEC. 200. [20 U.S.C. 1021] DEFINITIONS.

In this title:

(1) ARTS AND SCIENCES.—The term "arts and sciences" means—

(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

(B) when referring to a specific academic subject area, the disciplines or content areas in which academic majors are offered by the arts and sciences organizational unit.

(2) CHILDREN FROM LOW-INCOME FAMILIES.—The term "children from low-income families" means children described in section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965.

(3) CORE ACADEMIC SUBJECTS.—The term "core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(4) EARLY CHILDHOOD EDUCATOR.—The term "early childhood educator" means an individual with primary responsibility for the education of children in an early childhood education program.

(5) EDUCATIONAL SERVICE AGENCY.—The term "educational service agency" has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965.

(6) ELIGIBLE PARTNERSHIP.—Except as otherwise provided in section 251, the term "eligible partnership" means an entity that—

(A) shall include—

(i) a high-need local educational agency;

(ii)(I) a high-need school or a consortium of high-need schools served by the high-need local educational agency; or

(II) as applicable, a high-need early childhood education program;

(iii) a partner institution;

(iv) a school, department, or program of education within such partner institution, which may include an existing teacher professional development program with proven outcomes within a four-year institution of higher education that provides intensive and sustained collaboration between faculty and local educational agencies consistent with the requirements of this title; and

(v) a school or department of arts and sciences within such partner institution; and

(B) may include any of the following:

(i) The Governor of the State.

(ii) The State educational agency.

(iii) The State board of education.

(iv) The State agency for higher education.

(v) A business.

(vi) A public or private nonprofit educational organization.

(vii) An educational service agency.

(viii) A teacher organization.

(ix) A high-performing local educational agency, or a consortium of such local educational agencies, that can serve as a resource to the partnership.

(x) A charter school (as defined in section 4310 of the Elementary and Secondary Education Act of 1965).

(xi) A school or department within the partner institution that focuses on psychology and human development.

(xii) A school or department within the partner institution with comparable expertise in the disciplines of teaching, learning, and child and adolescent development.

(xiii) An entity operating a program that provides alternative routes to State certification of teachers.

(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 as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act.

(8) EXEMPLARY TEACHER.—The term "exemplary teacher" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act.

(9) HIGH-NEED EARLY CHILDHOOD EDUCATION PROGRAM.—The term "high-need early childhood education program" means an early childhood education program serving children

from low-income families that is located within the geographic area served by a high-need local educational agency.

(10) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term "high-need local educational agency" means a local educational agency—

(A)(i) for which not less than 20 percent of the children served by the agency are children from low-income families;

(ii) that serves not fewer than 10,000 children from low-income families;

(iii) that meets the eligibility requirements for funding under the Small, Rural School Achievement Program under section 5211(b) of the Elementary and Secondary Education Act of 1965; or

(iv) that meets the eligibility requirements for funding under the Rural and Low-Income School Program under section 5221(b) of the Elementary and Secondary Education Act of 1965; and

(B)(i) for which there is a high percentage of teachers not teaching in the academic subject areas or grade levels in which the teachers were trained to teach; or

(ii) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

(11) HIGH-NEED SCHOOL.—

(A) IN GENERAL.—The term "high-need school" means a school that, based on the most recent data available, meets one or both of the following:

(i) The school is in the highest quartile of schools in a ranking of all schools served by a local educational agency, ranked in descending order by percentage of students from low-income families enrolled in such schools, as determined by the local educational agency based on one of the following measures of poverty:

(I) The percentage of students aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary.

(II) The percentage of students eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act.

(III) The percentage of students in families receiving assistance under the State program funded under part A of title IV of the Social Security Act.

(IV) The percentage of students eligible to receive medical assistance under the Medicaid program.

(V) A composite of two or more of the measures described in subclauses (I) through (IV).

(ii) In the case of—

(I) an elementary school, the school serves students not less than 60 percent of whom are eligible for a free or reduced price school lunch

under the Richard B. Russell National School Lunch Act; or

(II) any other school that is not an elementary school, the other school serves students not less than 45 percent of whom are eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act.

(B) SPECIAL RULE.—

(i) DESIGNATION BY THE SECRETARY.—The Secretary may, upon approval of an application submitted by an eligible partnership seeking a grant under this title, designate a school that does not qualify as a high-need school under subparagraph (A) as a high-need school for the purpose of this title. The Secretary shall base the approval of an application for designation of a school under this clause on a consideration of the information required under clause (ii), and may also take into account other information submitted by the eligible partnership.

(ii) APPLICATION REQUIREMENTS.—An application for designation of a school under clause (i) shall include—

(I) the number and percentage of students attending such school who are—

(aa) aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary;

(bb) eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act;

(cc) in families receiving assistance under the State program funded under part A of title IV of the Social Security Act; or

(dd) eligible to receive medical assistance under the Medicaid program;

(II) information about the student academic achievement of students at such school; and

(III) for a secondary school, the graduation rate for such school.

(12) HIGHLY COMPETENT.—The term "highly competent", when used with respect to an early childhood educator, means an educator—

(A) with specialized education and training in development and education of young children from birth until entry into kindergarten;

(B) with—

(i) a baccalaureate degree in an academic major in the arts and sciences; or

(ii) an associate's degree in a related educational area; and

(C) who has demonstrated a high level of knowledge and use of content and pedagogy in the relevant areas associated with quality early childhood education.

[Paragraph (13) was struck by section 9214(c)(1)(A) of Public Law 114-95.]

(14) INDUCTION PROGRAM.—The term "induction program" means a formalized program for new teachers during not less than the teachers' first two years of teaching that is designed to provide support for, and improve the professional performance and advance the retention in the teaching field of, beginning teachers. Such program shall promote effective teaching skills and shall include the following components:

(A) High-quality teacher mentoring.

(B) Periodic, structured time for collaboration with teachers in the same department or field, including mentor teachers, as well as time for information-sharing among teachers, principals, administrators, other appropriate instructional staff, and participating faculty in the partner institution.

(C) The application of empirically-based practice and scientifically valid research on instructional practices.

(D) Opportunities for new teachers to draw directly on the expertise of teacher mentors, faculty, and researchers to support the integration of empirically-based practice and scientifically valid research with practice.

(E) The development of skills in instructional and behavioral interventions derived from empirically-based practice and, where applicable, scientifically valid research.

(F) Faculty who—

(i) model the integration hof research and practice in the classroom; and

(ii) assist new teachers with the effective use and integration of technology in the classroom.

(G) Interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other staff who prepare new teachers with respect to the learning process and the assessment of learning.

(H) Assistance with the understanding of data, particularly student achievement data, and the applicability of such data in classroom instruction.

(I) Regular and structured observation and evaluation of new teachers by multiple evaluators, using valid and reliable measures of teaching skills.

(15) LIMITED ENGLISH PROFICIENT.—The term "limited English proficient" has the meaning given the term 'English learner' in section 8101 of the Elementary and Secondary Education Act of 1965.

(16) PARENT.—The term "parent" has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965.

(17) PARTNER INSTITUTION.—The term "partner institution" means an institution of higher education, which may include a two-year institution of higher education offering a dual program with a four-year institution of higher education, partici-

pating in an eligible partnership that has a teacher preparation program—

(A) whose graduates exhibit strong performance on State-determined qualifying assessments for new teachers through—

(i) demonstrating that 80 percent or more of the graduates of the program who intend to enter the field of teaching have passed all of the applicable State qualification assessments for new teachers, which shall include an assessment of each prospective teacher's subject matter knowledge in the content area in which the teacher intends to teach; or

(ii) being ranked among the highest-performing teacher preparation programs in the State as determined by the State—

(I) using criteria consistent with the requirements for the State report card under section 205(b) before the first publication of such report card; and

(II) using the State report card on teacher preparation required under section 205(b), after the first publication of such report card and for every year thereafter; and

(B) that requires—

(i) each student in the program to meet high academic standards or demonstrate a record of success, as determined by the institution (including prior to entering and being accepted into a program), and participate in intensive clinical experience;

(ii) each student in the program preparing to become a teacher who meets the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act; and

(iii) each student in the program preparing to become an early childhood educator to meet degree requirements, as established by the State, and become highly competent.

(18) PRINCIPLES OF SCIENTIFIC RESEARCH.—The term "principles of scientific research" means principles of research that—

(A) apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs;

(B) present findings and make claims that are appropriate to, and supported by, the methods that have been employed; and

(C) include, appropriate to the research being conducted—

(i) use of systematic, empirical methods that draw on observation or experiment;

(ii) use of data analyses that are adequate to support the general findings;

(iii) reliance on measurements or observational methods that provide reliable and generalizable findings;

(iv) strong claims of causal relationships, only with research designs that eliminate plausible competing explanations for observed results, such as, but not limited to, random-assignment experiments;

(v) presentation of studies and methods in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

(vi) acceptance by a peer-reviewed journal or critique by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

(vii) consistency of findings across multiple studies or sites to support the generality of results and conclusions.

(19) PROFESSIONAL DEVELOPMENT.—The term "professional development" has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965.

(20) SCIENTIFICALLY VALID RESEARCH.—The term "scientifically valid research" includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with principles of scientific research.

(21) TEACHER MENTORING.—The term "teacher mentoring" means the mentoring of new or prospective teachers through a program that—

(A) includes clear criteria for the selection of teacher mentors who will provide role model relationships for mentees, which criteria shall be developed by the eligible partnership and based on measures of teacher effectiveness;

(B) provides high-quality training for such mentors, including instructional strategies for literacy instruction and classroom management (including approaches that improve the schoolwide climate for learning, which may include positive behavioral interventions and supports);

(C) provides regular and ongoing opportunities for mentors and mentees to observe each other's teaching methods in classroom settings during the day in a high-need school in the high-need local educational agency in the eligible partnership;

(D) provides paid release time for mentors, as applicable;

(E) provides mentoring to each mentee by a colleague who teaches in the same field, grade, or subject as the mentee;

(F) promotes empirically-based practice of, and scientifically valid research on, where applicable—

(i) teaching and learning;

(ii) assessment of student learning;

(iii) the development of teaching skills through the use of instructional and behavioral interventions; and

(iv) the improvement of the mentees' capacity to measurably advance student learning; and

(G) includes—

(i) common planning time or regularly scheduled collaboration for the mentor and mentee; and

(ii) joint professional development opportunities.

(22) TEACHING RESIDENCY PROGRAM.—The term "teaching residency program" means a school-based teacher preparation program in which a prospective teacher—

(A) for one academic year, teaches alongside a mentor teacher, who is the teacher of record;

(B) receives concurrent instruction during the year described in subparagraph (A) from the partner institution, which courses may be taught by local educational agency personnel or residency program faculty, in the teaching of the content area in which the teacher will become certified or licensed;

(C) acquires effective teaching skills; and

(D) prior to completion of the program—

(i) attains full State certification or licensure and, with respect to special education teachers, meets the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act; and

(ii) acquires a master's degree not later than 18 months after beginning the program.

(23) TEACHING SKILLS.—The term "teaching skills" means skills that enable a teacher to—

(A) increase student learning, achievement, and the ability to apply knowledge;

(B) effectively convey and explain academic subject matter;

(C) effectively teach higher-order analytical, evaluation, problem-solving, and communication skills;

(D) employ strategies grounded in the disciplines of teaching and learning that—

(i) are based on empirically-based practice and scientifically valid research, where applicable, related to teaching and learning;

(ii) are specific to academic subject matter; and

(iii) focus on the identification of students' specific learning needs, particularly students with disabilities, students who are limited English proficient, students who are gifted and talented, and students with low literacy levels, and the tailoring of academic instruction to such needs;

(E) conduct an ongoing assessment of student learning, which may include the use of formative assessments, performance-based assessments, project-based assessments, or portfolio assessments, that measures higher-order thinking skills (including application, analysis, synthesis, and evaluation);

(F) effectively manage a classroom, including the ability to implement positive behavioral interventions and support strategies;

(G) communicate and work with parents, and involve parents in their children's education; and

(H) use, in the case of an early childhood educator, age-appropriate and developmentally appropriate strategies and practices for children in early childhood education programs.

PART A—TEACHER QUALITY PARTNERSHIP GRANTS

SEC. 201. [20 U.S.C. 1022] PURPOSES.

The purposes of this part are to—

(1) improve student achievement;

(2) improve the quality of prospective and new teachers by improving the preparation of prospective teachers and enhancing professional development activities for new teachers;

(3) hold teacher preparation programs at institutions of higher education accountable for preparing teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act; and

(4) recruit highly qualified individuals, including minorities and individuals from other occupations, into the teaching force.

SEC. 202. [20 U.S.C. 1022a] PARTNERSHIP GRANTS.

(a) PROGRAM AUTHORIZED.—From amounts made available under section 209, the Secretary is authorized to award grants, on a competitive basis, to eligible partnerships, to enable the eligible partnerships to carry out the activities described in subsection (c).

(b) APPLICATION.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall contain—

(1) a needs assessment of the partners in the eligible partnership with respect to the preparation, ongoing training, professional development, and retention of general education and special education teachers, principals, and, as applicable, early childhood educators;

(2) a description of the extent to which the program to be carried out with grant funds, as described in subsection (c), will prepare prospective and new teachers with strong teaching skills;

(3) a description of how such program will prepare prospective and new teachers to understand and use research and data to modify and improve classroom instruction;

(4) a description of—

(A) how the eligible partnership will coordinate strategies and activities assisted under the grant with other teacher preparation or professional development programs, including programs funded under the Elementary and Secondary Education Act of 1965 and the Individuals with Disabilities Education Act, and through the National Science Foundation; and

(B) how the activities of the partnership will be consistent with State, local, and other education reform activities that promote teacher quality and student academic achievement;

(5) an assessment that describes the resources available to the eligible partnership, including—

(A) the integration of funds from other related sources;

(B) the intended use of the grant funds; and

(C) the commitment of the resources of the partnership to the activities assisted under this section, including financial support, faculty participation, and time commitments, and to the continuation of the activities when the grant ends;

(6) a description of—

(A) how the eligible partnership will meet the purposes of this part;

(B) how the partnership will carry out the activities required under subsection (d) or (e), based on the needs identified in paragraph (1), with the goal of improving student academic achievement;

(C) if the partnership chooses to use funds under this section for a project or activities under subsection (f) or (g), how the partnership will carry out such project or required activities based on the needs identified in paragraph (1), with the goal of improving student academic achievement;

(D) the partnership's evaluation plan under section 204(a);

(E) how the partnership will align the teacher preparation program under subsection (c) with the—

(i) State early learning standards for early childhood education programs, as appropriate, and with the relevant domains of early childhood development; and

(ii) challenging State academic standards under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, established by the State in which the partnership is located;

(F) how the partnership will prepare general education teachers to teach students with disabilities, including training related to participation as a member of individualized education program teams, as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act;

(G) how the partnership will prepare general education and special education teachers to teach students who are limited English proficient;

(H) how faculty at the partner institution will work, during the term of the grant, with teachers who meet the

applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act, in the classrooms of high-need schools served by the high-need local educational agency in the partnership to—

(i) provide high-quality professional development activities to strengthen the content knowledge and teaching skills of elementary school and secondary school teachers; and

(ii) train other classroom teachers to implement literacy programs that incorporate the essential components of reading instruction;

(I) how the partnership will design, implement, or enhance a year-long and rigorous teaching preservice clinical program component;

(J) how the partnership will support in-service professional development strategies and activities; and

(K) how the partnership will collect, analyze, and use data on the retention of all teachers and early childhood educators in schools and early childhood education programs located in the geographic area served by the partnership to evaluate the effectiveness of the partnership's teacher and educator support system; and

(7) with respect to the induction program required as part of the activities carried out under this section—

(A) a demonstration that the schools and departments within the institution of higher education that are part of the induction program will effectively prepare teachers, including providing content expertise and expertise in teaching, as appropriate;

(B) a demonstration of the eligible partnership's capability and commitment to, and the accessibility to and involvement of faculty in, the use of empirically-based practice and scientifically valid research on teaching and learning;

(C) a description of how the teacher preparation program will design and implement an induction program to support, through not less than the first two years of teaching, all new teachers who are prepared by the teacher preparation program in the partnership and who teach in the high-need local educational agency in the partnership, and, to the extent practicable, all new teachers who teach in such high-need local educational agency, in the further development of the new teachers' teaching skills, including the use of mentors who are trained and compensated by such program for the mentors' work with new teachers; and

(D) a description of how faculty involved in the induction program will be able to substantially participate in an early childhood education program or an elementary school or secondary school classroom setting, as applicable, in-

cluding release time and receiving workload credit for such participation.

(c) USE OF GRANT FUNDS.—An eligible partnership that receives a grant under this section—

(1) shall use grant funds to carry out a program for the preparation of teachers under subsection (d), a teaching residency program under subsection (e), or a combination of such programs; and

(2) may use grant funds to carry out a leadership development program under subsection (f).

(d) PARTNERSHIP GRANTS FOR THE PREPARATION OF TEACHERS.—An eligible partnership that receives a grant to carry out a program for the preparation of teachers shall carry out an effective pre-baccalaureate teacher preparation program or a 5th year initial licensing program that includes all of the following:

(1) REFORMS.—

(A) IN GENERAL.—Implementing reforms, described in subparagraph (B), within each teacher preparation program and, as applicable, each preparation program for early childhood education programs, of the eligible partnership that is assisted under this section, to hold each program accountable for—

(i) preparing—

(I) new or prospective teachers to meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act (including teachers in rural school districts, special educators, and teachers of students who are limited English proficient);

(II) such teachers and, as applicable, early childhood educators, to understand empirically-based practice and scientifically valid research related to teaching and learning and the applicability of such practice and research, including through the effective use of technology, instructional techniques, and strategies consistent with the principles of universal design for learning, and through positive behavioral interventions and support strategies to improve student achievement; and

(III) as applicable, early childhood educators to be highly competent; and

(ii) promoting strong teaching skills and, as applicable, techniques for early childhood educators to improve children's cognitive, social, emotional, and physical development.

(B) REQUIRED REFORMS.—The reforms described in subparagraph (A) shall include—

(i) implementing teacher preparation program curriculum changes that improve, evaluate, and assess

how well all prospective and new teachers develop teaching skills;

(ii) using empirically-based practice and scientifically valid research, where applicable, about teaching and learning so that all prospective teachers and, as applicable, early childhood educators—

(I) understand and can implement research-based teaching practices in classroom instruction;

(II) have knowledge of student learning methods;

(III) possess skills to analyze student academic achievement data and other measures of student learning, and use such data and measures to improve classroom instruction;

(IV) possess teaching skills and an understanding of effective instructional strategies across all applicable content areas that enable general education and special education teachers and early childhood educators to—

(aa) meet the specific learning needs of all students, including students with disabilities, students who are limited English proficient, students who are gifted and talented, students with low literacy levels and, as applicable, children in early childhood education programs; and

(bb) differentiate instruction for such students;

(V) can effectively participate as a member of the individualized education program team, as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act; and

(VI) can successfully employ effective strategies for reading instruction using the essential components of reading instruction;

(iii) ensuring collaboration with departments, programs, or units of a partner institution outside of the teacher preparation program in all academic content areas to ensure that prospective teachers receive training in both teaching and relevant content areas in order to meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act, which may include training in multiple subjects to teach multiple grade levels as may be needed for individuals preparing to teach in rural communities and for individuals preparing to teach students with disabilities;

(iv) developing and implementing an induction program;

(v) developing admissions goals and priorities aligned with the hiring objectives of the high-need local educational agency in the eligible partnership; and

(vi) implementing program and curriculum changes, as applicable, to ensure that prospective teachers have the requisite content knowledge, preparation, and degree to teach Advanced Placement or International Baccalaureate courses successfully.

(2) CLINICAL EXPERIENCE AND INTERACTION.—Developing and improving a sustained and high-quality preservice clinical education program to further develop the teaching skills of all prospective teachers and, as applicable, early childhood educators, involved in the program. Such program shall do the following:

(A) Incorporate year-long opportunities for enrichment, including—

(i) clinical learning in classrooms in high-need schools served by the high-need local educational agency in the eligible partnership, and identified by the eligible partnership; and

(ii) closely supervised interaction between prospective teachers and faculty, experienced teachers, principals, other administrators, and school leaders at early childhood education programs (as applicable), elementary schools, or secondary schools, and providing support for such interaction.

(B) Integrate pedagogy and classroom practice and promote effective teaching skills in academic content areas.

(C) Provide high-quality teacher mentoring.

(D) Be offered over the course of a program of teacher preparation.

(E) Be tightly aligned with course work (and may be developed as a fifth year of a teacher preparation program).

(F) Where feasible, allow prospective teachers to learn to teach in the same local educational agency in which the teachers will work, learning the instructional initiatives and curriculum of that local educational agency.

(G) As applicable, provide training and experience to enhance the teaching skills of prospective teachers to better prepare such teachers to meet the unique needs of teaching in rural or urban communities.

(H) Provide support and training for individuals participating in an activity for prospective or new teachers described in this paragraph or paragraph (1) or (3), and for individuals who serve as mentors for such teachers, based on each individual's experience. Such support may include—

(i) with respect to a prospective teacher or a mentor, release time for such individual's participation;

(ii) with respect to a faculty member, receiving course workload credit and compensation for time teaching in the eligible partnership's activities; and

(iii) with respect to a mentor, a stipend, which may include bonus, differential, incentive, or performance pay, based on the mentor's extra skills and responsibilities.

(3) INDUCTION PROGRAMS FOR NEW TEACHERS.—Creating an induction program for new teachers or, in the case of an early childhood education program, providing mentoring or coaching for new early childhood educators.

(4) SUPPORT AND TRAINING FOR PARTICIPANTS IN EARLY CHILDHOOD EDUCATION PROGRAMS.—In the case of an eligible partnership focusing on early childhood educator preparation, implementing initiatives that increase compensation for early childhood educators who attain associate or baccalaureate degrees in early childhood education.

(5) TEACHER RECRUITMENT.—Developing and implementing effective mechanisms (which may include alternative routes to State certification of teachers) to ensure that the eligible partnership is able to recruit qualified individuals to become teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act through the activities of the eligible partnership, which may include an emphasis on recruiting into the teaching profession—

(A) individuals from under represented populations;

(B) individuals to teach in rural communities and teacher shortage areas, including mathematics, science, special education, and the instruction of limited English proficient students; and

(C) mid-career professionals from other occupations, former military personnel, and recent college graduates with a record of academic distinction.

(6) LITERACY TRAINING.—Strengthening the literacy teaching skills of prospective and, as applicable, new elementary school and secondary school teachers—

(A) to implement literacy programs that incorporate the essential components of reading instruction;

(B) to use screening, diagnostic, formative, and summative assessments to determine students' literacy levels, difficulties, and growth in order to improve classroom instruction and improve student reading and writing skills;

(C) to provide individualized, intensive, and targeted literacy instruction for students with deficiencies in literacy skills; and

(D) to integrate literacy skills in the classroom across subject areas.

(e) PARTNERSHIP GRANTS FOR THE ESTABLISHMENT OF TEACHING RESIDENCY PROGRAMS.—

(1) IN GENERAL.—An eligible partnership receiving a grant to carry out an effective teaching residency program shall carry out a program that includes all of the following activities:

(A) Supporting a teaching residency program described in paragraph (2) for high-need subjects and areas, as determined by the needs of the high-need local educational agency in the partnership.

(B) Placing graduates of the teaching residency program in cohorts that facilitate professional collaboration, both among graduates of the teaching residency program and between such graduates and mentor teachers in the receiving school.

(C) Ensuring that teaching residents who participate in the teaching residency program receive—

(i) effective preservice preparation as described in paragraph (2);

(ii) teacher mentoring;

(iii) support required through the induction program as the teaching residents enter the classroom as new teachers; and

(iv) the preparation described in subparagraphs (A), (B), and (C) of subsection (d)(2).

(2) TEACHING RESIDENCY PROGRAMS.—

(A) ESTABLISHMENT AND DESIGN.—A teaching residency program under this paragraph shall be a program based upon models of successful teaching residencies that serves as a mechanism to prepare teachers for success in the high-need schools in the eligible partnership, and shall be designed to include the following characteristics of successful programs:

(i) The integration of pedagogy, classroom practice, and teacher mentoring.

(ii) Engagement of teaching residents in rigorous graduate-level course work leading to a master's degree while undertaking a guided teaching apprenticeship.

(iii) Experience and learning opportunities alongside a trained and experienced mentor teacher—

(I) whose teaching shall complement the residency program so that classroom clinical practice is tightly aligned with coursework;

(II) who shall have extra responsibilities as a teacher leader of the teaching residency program, as a mentor for residents, and as a teacher coach during the induction program for new teachers, and for establishing, within the program, a learning community in which all individuals are expected to continually improve their capacity to advance student learning; and

(III) who may be relieved from teaching duties as a result of such additional responsibilities.

(iv) The establishment of clear criteria for the selection of mentor teachers based on measures of teacher effectiveness and the appropriate subject area

knowledge. Evaluation of teacher effectiveness shall be based on, but not limited to, observations of the following:

(I) Planning and preparation, including demonstrated knowledge of content, pedagogy, and assessment, including the use of formative and diagnostic assessments to improve student learning.

(II) Appropriate instruction that engages students with different learning styles.

(III) Collaboration with colleagues to improve instruction.

(IV) Analysis of gains in student learning, based on multiple measures that are valid and reliable and that, when feasible, may include valid, reliable, and objective measures of the influence of teachers on the rate of student academic progress.

(V) In the case of mentor candidates who will be mentoring new or prospective literacy and mathematics coaches or instructors, appropriate skills in the essential components of reading instruction, teacher training in literacy instructional strategies across core subject areas, and teacher training in mathematics instructional strategies, as appropriate.

(v) Grouping of teaching residents in cohorts to facilitate professional collaboration among such residents.

(vi) The development of admissions goals and priorities—

(I) that are aligned with the hiring objectives of the local educational agency partnering with the program, as well as the instructional initiatives and curriculum of such agency, in exchange for a commitment by such agency to hire qualified graduates from the teaching residency program; and

(II) which may include consideration of applicants who reflect the communities in which they will teach as well as consideration of individuals from underrepresented populations in the teaching profession.

(vii) Support for residents, once the teaching residents are hired as teachers of record, through an induction program, professional development, and networking opportunities to support the residents through not less than the residents' first two years of teaching.

(B) SELECTION OF INDIVIDUALS AS TEACHER RESIDENTS.—

(i) ELIGIBLE INDIVIDUAL.—In order to be eligible to be a teacher resident in a teaching residency program under this paragraph, an individual shall—

(I) be a recent graduate of a four-year institution of higher education or a mid-career profes-

sional from outside the field of education possessing strong content knowledge or a record of professional accomplishment; and

(II) submit an application to the teaching residency program.

(ii) SELECTION CRITERIA.—An eligible partnership carrying out a teaching residency program under this subsection shall establish criteria for the selection of eligible individuals to participate in the teaching residency program based on the following characteristics:

(I) Strong content knowledge or record of accomplishment in the field or subject area to be taught.

(II) Strong verbal and written communication skills, which may be demonstrated by performance on appropriate tests.

(III) Other attributes linked to effective teaching, which may be determined by interviews or performance assessments, as specified by the eligible partnership.

(C) STIPENDS OR SALARIES; APPLICATIONS; AGREEMENTS; REPAYMENTS.—

(i) STIPENDS OR SALARIES.—A teaching residency program under this subsection shall provide a one-year living stipend or salary to teaching residents during the teaching residency program.

(ii) APPLICATIONS FOR STIPENDS OR SALARIES.—Each teacher residency candidate desiring a stipend or salary during the period of residency shall submit an application to the eligible partnership at such time, and containing such information and assurances, as the eligible partnership may require.

(iii) AGREEMENTS TO SERVE.—Each application submitted under clause (ii) shall contain or be accompanied by an agreement that the applicant will—

(I) serve as a full-time teacher for a total of not less than three academic years immediately after successfully completing the teaching residency program;

(II) fulfill the requirement under subclause (I) by teaching in a high-need school served by the high-need local educational agency in the eligible partnership and teach a subject or area that is designated as high need by the partnership;

(III) provide to the eligible partnership a certificate, from the chief administrative officer of the local educational agency in which the resident is employed, of the employment required in subclauses (I) and (II) at the beginning of, and upon completion of, each year or partial year of service;

(IV) meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to

special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act, when the applicant begins to fulfill the service obligation under this clause; and

(IV) meet the requirements to be a highly qualified teacher, as defined in section 9101 of the Elementary and Secondary Education Act of 1965, or section 602 of the Individuals with Disabilities Education Act, when the applicant begins to fulfill the service obligation under this clause; and

(V) comply with the requirements set by the eligible partnership under clause (iv) if the applicant is unable or unwilling to complete the service obligation required by this clause.

(iv) REPAYMENTS.—

(I) IN GENERAL.—A grantee carrying out a teaching residency program under this paragraph shall require a recipient of a stipend or salary under clause (i) who does not complete, or who notifies the partnership that the recipient intends not to complete, the service obligation required byclause (iii)to repay such stipend or salary to the eligible partnership, together with interest, at a rate specified by the partnership in the agreement, and in accordance with such other terms and conditions specified by the eligible partnership, as necessary.

(II) OTHER TERMS AND CONDITIONS.—Any other terms and conditions specified by the eligible partnership may include reasonable provisions for pro-rata repayment of the stipend or salary described in clause (i) or for deferral of a teaching resident's service obligation required byclause (iii),on grounds of health, incapacitation, inability to secure employment in a school served by the eligible partnership, being called to active duty in the Armed Forces of the United States, or other extraordinary circumstances.

(III) USE OF REPAYMENTS.—An eligible partnership shall use any repayment received under this clause to carry out additional activities that are consistent with the purposes of this subsection.

(f) PARTNERSHIP GRANTS FOR THE DEVELOPMENT OF LEADERSHIP PROGRAMS.—

(1) IN GENERAL.—An eligible partnership that receives a grant under this section may carry out an effective school leadership program, which may be carried out in partnership with a local educational agency located in a rural area and that shall include all of the following activities:

(A) Preparing individuals enrolled or preparing to enroll in school leadership programs for careers as superintendents, principals, early childhood education program

directors, or other school leaders (including individuals preparing to work in local educational agencies located in rural areas who may perform multiple duties in addition to the role of a school leader).

(B) Promoting strong leadership skills and, as applicable, techniques for school leaders to effectively—

(i) create and maintain a data-driven, professional learning community within the leader's school;

(ii) provide a climate conducive to the professional development of teachers, with a focus on improving student academic achievement and the development of effective instructional leadership skills;

(iii) understand the teaching and assessment skills needed to support successful classroom instruction and to use data to evaluate teacher instruction and drive teacher and student learning;

(iv) manage resources and school time to improve student academic achievement and ensure the school environment is safe;

(v) engage and involve parents, community members, the local educational agency, businesses, and other community leaders, to leverage additional resources to improve student academic achievement; and

(vi) understand how students learn and develop in order to increase academic achievement for all students.

(C) Ensuring that individuals who participate in the school leadership program receive—

(i) effective preservice preparation as described in subparagraph (D);

(ii) mentoring; and

(iii) if applicable, full State certification or licensure to become a school leader.

(D) Developing and improving a sustained and high-quality preservice clinical education program to further develop the leadership skills of all prospective school leaders involved in the program. Such clinical education program shall do the following:

(i) Incorporate year-long opportunities for enrichment, including—

(I) clinical learning in high-need schools served by the high-need local educational agency or a local educational agency located in a rural area in the eligible partnership and identified by the eligible partnership; and

(II) closely supervised interaction between prospective school leaders and faculty, new and experienced teachers, and new and experienced school leaders, in such high-need schools.

(ii) Integrate pedagogy and practice and promote effective leadership skills, meeting the unique needs of urban, rural, or geographically isolated communities, as applicable.

(iii) Provide for mentoring of new school leaders.

(E) Creating an induction program for new school leaders.

(F) Developing and implementing effective mechanisms to ensure that the eligible partnership is able to recruit qualified individuals to become school leaders through the activities of the eligible partnership, which may include an emphasis on recruiting into school leadership professions—

(i) individuals from underrepresented populations;

(ii) individuals to serve as superintendents, principals, or other school administrators in rural and geographically isolated communities and school leader shortage areas; and

(iii) mid-career professionals from other occupations, former military personnel, and recent college graduates with a record of academic distinction.

(2) SELECTION OF INDIVIDUALS FOR THE LEADERSHIP PROGRAM.—In order to be eligible for the school leadership program under this subsection, an individual shall be enrolled in or preparing to enroll in an institution of higher education, and shall—

(A) be a—

(i) recent graduate of an institution of higher education;

(ii) mid-career professional from outside the field of education with strong content knowledge or a record of professional accomplishment;

(iii) current teacher who is interested in becoming a school leader; or

(iv) school leader who is interested in becoming a superintendent; and

(B) submit an application to the leadership program.

(g) PARTNERSHIP WITH DIGITAL EDUCATION CONTENT DEVELOPER.—An eligible partnership that receives a grant under this section may use grant funds provided to carry out the activities described in subsection (d) or (e), or both, to partner with a television public broadcast station, as defined in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)), or another entity that develops digital educational content, for the purpose of improving the quality of pre-baccalaureate teacher preparation programs or to enhance the quality of preservice training for prospective teachers.

(h) EVALUATION AND REPORTING.—The Secretary shall—

(1) evaluate the programs assisted under this section; and

(2) make publicly available a report detailing the Secretary's evaluation of each such program.

(i) CONSULTATION.—

(1) IN GENERAL.—Members of an eligible partnership that receives a grant under this section shall engage in regular consultation throughout the development and implementation of programs and activities carried out under this section.

(2) REGULAR COMMUNICATION.—To ensure timely and meaningful consultation as described in paragraph (1), regular communication shall occur among all members of the eligible partnership, including the high-need local educational agency.

Such communication shall continue throughout the implementation of the grant and the assessment of programs and activities under this section.

(3) WRITTEN CONSENT.—The Secretary may approve changes in grant activities of a grant under this section only if the eligible partnership submits to the Secretary a written consent to such changes signed by all members of the eligible partnership.

(j) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an eligible partnership from using grant funds to coordinate with the activities of eligible partnerships in other States or on a regional basis through Governors, State boards of education, State educational agencies, State agencies responsible for early childhood education, local educational agencies, or State agencies for higher education.

(k) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities under this section.

SEC. 203. [20 U.S.C. 1022b] ADMINISTRATIVE PROVISIONS.

(a) DURATION; NUMBER OF AWARDS; PAYMENTS.—

(1) DURATION.—A grant awarded under this part shall be awarded for a period of five years.

(2) NUMBER OF AWARDS.—An eligible partnership may not receive more than one grant during a five-year period. Nothing in this title shall be construed to prohibit an individual member, that can demonstrate need, of an eligible partnership that receives a grant under this title from entering into another eligible partnership consisting of new members and receiving a grant with such other eligible partnership before the five-year period described in the preceding sentence applicable to the eligible partnership with which the individual member has first partnered has expired.

(b) PEER REVIEW.—

(1) PANEL.—The Secretary shall provide the applications submitted under this part to a peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

(2) PRIORITY.—The Secretary, in funding applications under this part, shall give priority—

(A) to eligible partnerships that include an institution of higher education whose teacher preparation program has a rigorous selection process to ensure the highest quality of students entering such program; and

(B)(i) to applications from broad-based eligible partnerships that involve businesses and community organizations; or

(ii) to eligible partnerships so that the awards promote an equitable geographic distribution of grants among rural and urban areas.

(3) SECRETARIAL SELECTION.—The Secretary shall determine, based on the peer review process, which applications

shall receive funding and the amounts of the grants. In determining grant amounts, the Secretary shall take into account the total amount of funds available for all grants under this part and the types of activities proposed to be carried out by the eligible partnership.

(c) MATCHING REQUIREMENTS.—

(1) IN GENERAL.—Each eligible partnership receiving a grant under this part shall provide, from non-Federal sources, an amount equal to 100 percent of the amount of the grant, which may be provided in cash or in-kind, to carry out the activities supported by the grant.

(2) WAIVER.—The Secretary may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible partnership if the Secretary determines that applying the matching requirement to the eligible partnership would result in serious hardship or an inability to carry out the authorized activities described in this part.

(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—An eligible partnership that receives a grant under this part may use not more than two percent of the funds provided to administer the grant.

SEC. 204. [20 U.S.C. 1022c] ACCOUNTABILITY AND EVALUATION.

(a) ELIGIBLE PARTNERSHIP EVALUATION.—Each eligible partnership submitting an application for a grant under this part shall establish, and include in such application, an evaluation plan that includes strong and measurable performance objectives. The plan shall include objectives and measures for increasing—

(1) achievement for all prospective and new teachers, as measured by the eligible partnership;

(2) teacher retention in the first three years of a teacher's career;

(3) improvement in the pass rates and scaled scores for initial State certification or licensure of teachers; and

(4)(A) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)(C)), hired by the high-need local educational agency participating in the eligible partnership;

(B) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education ers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)(C)), hired by the high-need local educational agency who are members of underrepresented groups;

(C) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of

the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)(C)), hired by the high-need local educational agency who teach high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages and critical foreign languages);

(D) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)(C)), hired by the high-need local educational agency who teach in high-need areas (including special education, language instruction educational programs for limited English proficient students, and early childhood education);

(E) the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)(C)), hired by the high-need local educational agency who teach in high-need schools, disaggregated by the elementary school and secondary school levels;

(F) as applicable, the percentage of early childhood education program classes in the geographic area served by the eligible partnership taught by early childhood educators who are highly competent; and

(G) as applicable, the percentage of teachers trained—

(i) to integrate technology effectively into curricula and instruction, including technology consistent with the principles of universal design for learning; and

(ii) to use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of improving student academic achievement.

(b) INFORMATION.—An eligible partnership receiving a grant under this part shall ensure that teachers, principals, school superintendents, faculty, and leadership at institutions of higher education located in the geographic areas served by the eligible partnership are provided information, including through electronic means, about the activities carried out with funds under this part.

(c) REVISED APPLICATION.—If the Secretary determines that an eligible partnership receiving a grant under this part is not making substantial progress in meeting the purposes, goals, objectives, and measures of the grant, as appropriate, by the end of the third year of a grant under this part, then the Secretary—

(1) shall cancel the grant; and

(2) may use any funds returned or available because of such cancellation under paragraph (1) to—

(A) increase other grant awards under this part; or

(B) award new grants to other eligible partnerships under this part.

(d) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate the activities funded under this part and report the find-

ings regarding the evaluation of such activities to the authorizing committees. The Secretary shall broadly disseminate—

(1) successful practices developed by eligible partnerships under this part; and

(2) information regarding such practices that were found to be ineffective.

SEC. 205. [20 U.S.C. 1022d] ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.

(a) INSTITUTIONAL AND PROGRAM REPORT CARDS ON THE QUALITY OF TEACHER PREPARATION.—

(1) REPORT CARD.—Each institution of higher education that conducts a traditional teacher preparation program or alternative routes to State certification or licensure program and that enrolls students receiving Federal assistance under this Act shall report annually to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, the following:

(A) GOALS AND ASSURANCES.—

(i) For the most recent year for which the information is available for the institution—

(I) whether the goals set under section 206 have been met; and

(II) a description of the activities the institution implemented to achieve such goals.

(ii) A description of the steps the institution is taking to improve its performance in meeting the annual goals set under section 206.

(iii) A description of the activities the institution has implemented to meet the assurances provided under section 206.

(B) PASS RATES AND SCALED SCORES.—For the most recent year for which the information is available for those students who took the assessments used for teacher certification or licensure by the State in which the program is located and are enrolled in the traditional teacher preparation program or alternative routes to State certification or licensure program, and for those who have taken such assessments and have completed the traditional teacher preparation program or alternative routes to State certification or licensure program during the two-year period preceding such year, for each of such assessments—

(i) the percentage of students who have completed 100 percent of the nonclinical coursework and taken the assessment who pass such assessment;

(ii) the percentage of all students who passed such assessment;

(iii) the percentage of students who have taken such assessment who enrolled in and completed the traditional teacher preparation program or alternative routes to State certification or licensure program, as applicable;

(iv) the average scaled score for all students who took such assessment;

(v) a comparison of the program's pass rates with the average pass rates for programs in the State; and

(vi) a comparison of the program's average scaled scores with the average scaled scores for programs in the State.

(C) PROGRAM INFORMATION.—A description of—

(i) the criteria for admission into the program;

(ii) the number of students in the program (disaggregated by race, ethnicity, and gender);

(iii) the average number of hours of supervised clinical experience required for those in the program;

(iv) the number of full-time equivalent faculty and students in the supervised clinical experience; and

(v) the total number of students who have been certified or licensed as teachers, disaggregated by subject and area of certification or licensure.

(D) STATEMENT.—In States that require approval or accreditation of teacher preparation programs, a statement of whether the institution's program is so approved or accredited, and by whom.

(E) DESIGNATION AS LOW-PERFORMING.—Whether the program has been designated as low-performing by the State under section 207(a).

(F) USE OF TECHNOLOGY.—A description of the activities, including activities consistent with the principles of universal design for learning, that prepare teachers to integrate technology effectively into curricula and instruction, and to use technology effectively to collect, manage, and analyze data in order to improve teaching and learning for the purpose of increasing student academic achievement.

(G) TEACHER TRAINING.—A description of the activities that prepare general education and special education teachers to teach students with disabilities effectively, including training related to participation as a member of individualized education program teams, as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act, and to effectively teach students who are limited English proficient.

(2) REPORT.—Each eligible partnership receiving a grant under section 202 shall report annually on the progress of the eligible partnership toward meeting the purposes of this part and the objectives and measures described in section 204(a).

(3) FINES.—The Secretary may impose a fine not to exceed $27,500 on an institution of higher education for failure to provide the information described in this subsection in a timely or accurate manner.

(4) SPECIAL RULE.—In the case of an institution of higher education that conducts a traditional teacher preparation program or alternative routes to State certification or licensure program and has fewer than 10 scores reported on any single initial teacher certification or licensure assessment during an academic year, the institution shall collect and publish information, as required under paragraph (1)(B), with respect to an

average pass rate and scaled score on each State certification or licensure assessment taken over a three-year period.

(b) STATE REPORT CARD ON THE QUALITY OF TEACHER PREPARATION.—

(1) IN GENERAL.—Each State that receives funds under this Act shall provide to the Secretary, and make widely available to the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, an annual State report card on the quality of teacher preparation in the State, both for traditional teacher preparation programs and for alternative routes to State certification or licensure programs, which shall include not less than the following:

(A) A description of the reliability and validity of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State.

(B) The standards and criteria that prospective teachers must meet to attain initial teacher certification or licensure and to be certified or licensed to teach particular academic subjects, areas, or grades within the State.

(C) A description of how the assessments and requirements described in subparagraph (A) are aligned with the challenging State academic standards required under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 and, as applicable, State early learning standards for early childhood education programs.

(D) For each of the assessments used by the State for teacher certification or licensure—

(i) for each institution of higher education located in the State and each entity located in the State, including those that offer an alternative route for teacher certification or licensure, the percentage of students at such institution or entity who have completed 100 percent of the nonclinical coursework and taken the assessment who pass such assessment;

(ii) the percentage of all such students at all such institutions and entities who have taken the assessment who pass such assessment;

(iii) the percentage of students who have taken the assessment who enrolled in and completed a teacher preparation program; and

(iv) the average scaled score of individuals participating in such a program, or who have completed such a program during the two-year period preceding the first year for which the annual State report card is provided, who took each such assessment.

(E) A description of alternative routes to teacher certification or licensure in the State (including any such routes operated by entities that are not institutions of higher education), if any, including, for each of the assessments used by the State for teacher certification or licensure—

(i) the percentage of individuals participating in such routes, or who have completed such routes during the two-year period preceding the date for which the determination is made, who passed each such assessment; and

(ii) the average scaled score of individuals participating in such routes, or who have completed such routes during the two-year period preceding the first year for which the annual State report card is provided, who took each such assessment.

(F) A description of the State's criteria for assessing the performance of teacher preparation programs within institutions of higher education in the State. Such criteria shall include indicators of the academic content knowledge and teaching skills of students enrolled in such programs.

(G) For each teacher preparation program in the State—

(i) the criteria for admission into the program;

(ii) the number of students in the program, disaggregated by race, ethnicity, and gender (except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student);

(iii) the average number of hours of supervised clinical experience required for those in the program; and

(iv) the number of full-time equivalent faculty, adjunct faculty, and students in supervised clinical experience.

(H) For the State as a whole, and for each teacher preparation program in the State, the number of teachers prepared, in the aggregate and reported separately by—

(i) area of certification or licensure;

(ii) academic major; and

(iii) subject area for which the teacher has been prepared to teach.

(I) A description of the extent to which teacher preparation programs are addressing shortages of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act, by area of certification or licensure, subject, and specialty, in the State's public schools.

(J) The extent to which teacher preparation programs prepare teachers, including general education and special education teachers, to teach students with disabilities effectively, including training related to participation as a member of individualized education program teams, as de-

fined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act.

(K) A description of the activities that prepare teachers to—

(i) integrate technology effectively into curricula and instruction, including activities consistent with the principles of universal design for learning; and

(ii) use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of increasing student academic achievement.

(L) The extent to which teacher preparation programs prepare teachers, including general education and special education teachers, to effectively teach students who are limited English proficient.

(2) PROHIBITION AGAINST CREATING A NATIONAL LIST.—The Secretary shall not create a national list or ranking of States, institutions, or schools using the scaled scores provided under this subsection.

(c) DATA QUALITY.—The Secretary shall prescribe regulations to ensure the reliability, validity, integrity, and accuracy of the data submitted pursuant to this section.

(d) REPORT OF THE SECRETARY ON THE QUALITY OF TEACHER PREPARATION.—

(1) REPORT CARD.—The Secretary shall annually provide to the authorizing committees, and publish and make widely available, a report card on teacher qualifications and preparation in the United States, including all the information reported in subparagraphs (A) through (L) of subsection (b)(1). Such report shall identify States for which eligible partnerships received a grant under this part.

(2) REPORT TO CONGRESS.—The Secretary shall prepare and submit a report to the authorizing committees that contains the following:

(A) A comparison of States' efforts to improve the quality of the current and future teaching force.

(B) A comparison of eligible partnerships' efforts to improve the quality of the current and future teaching force.

(C) The national mean and median scaled scores and pass rate on any standardized test that is used in more than one State for teacher certification or licensure.

(3) SPECIAL RULE.—In the case of a teacher preparation program with fewer than ten scores reported on any single initial teacher certification or licensure assessment during an academic year, the Secretary shall collect and publish, and make publicly available, information with respect to an average pass rate and scaled score on each State certification or licensure assessment taken over a three-year period.

(e) COORDINATION.—The Secretary, to the extent practicable, shall coordinate the information collected and published under this part among States for individuals who took State teacher certification or licensure assessments in a State other than the State in which the individual received the individual's most recent degree.

SEC. 206. [20 U.S.C. 1022e] TEACHER DEVELOPMENT.

(a) ANNUAL GOALS.—Each institution of higher education that conducts a traditional teacher preparation program (including programs that offer any ongoing professional development programs) or alternative routes to State certification or licensure program, and that enrolls students receiving Federal assistance under this Act, shall set annual quantifiable goals for increasing the number of prospective teachers trained in teacher shortage areas designated by the Secretary or by the State educational agency, including mathematics, science, special education, and instruction of limited English proficient students.

(b) ASSURANCES.—Each institution described in subsection (a)shall provide assurances to the Secretary that—

(1) training provided to prospective teachers responds to the identified needs of the local educational agencies or States where the institution's graduates are likely to teach, based on past hiring and recruitment trends;

(2) training provided to prospective teachers is closely linked with the needs of schools and the instructional decisions new teachers face in the classroom;

(3) prospective special education teachers receive course work in core academic subjects and receive training in providing instruction in core academic subjects;

(4) general education teachers receive training in providing instruction to diverse populations, including children with disabilities, limited English proficient students, and children from low-income families; and

(5) prospective teachers receive training on how to effectively teach in urban and rural schools, as applicable.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an institution to create a new teacher preparation area of concentration or degree program or adopt a specific curriculum in complying with this section.

SEC. 207. [20 U.S.C. 1022f] STATE FUNCTIONS.

(a) STATE ASSESSMENT.—In order to receive funds under this Act, a State shall conduct an assessment to identify low-performing teacher preparation programs in the State and to assist such programs through the provision of technical assistance. Each such State shall provide the Secretary with an annual list of low-performing teacher preparation programs and an identification of those programs at risk of being placed on such list, as applicable. Such assessment shall be described in the report under section 205(b). Levels of performance shall be determined solely by the State and may include criteria based on information collected pursuant to this part, including progress in meeting the goals of—

(1) increasing the percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act, in the State, including increasing professional development opportunities;

(2) improving student academic achievement for elementary and secondary students; and

(3) raising the standards for entry into the teaching profession.

(b) TERMINATION OF ELIGIBILITY.—Any teacher preparation program from which the State has withdrawn the State's approval, or terminated the State's financial support, due to the low performance of the program based upon the State assessment described in subsection (a)—

(1) shall be ineligible for any funding for professional development activities awarded by the Department;

(2) may not be permitted to accept or enroll any student who receives aid under title IV in the institution's teacher preparation program;

(3) shall provide transitional support, including remedial services if necessary, for students enrolled at the institution at the time of termination of financial support or withdrawal of approval; and

(4) shall be reinstated upon demonstration of improved performance, as determined by the State.

(c) NEGOTIATED RULEMAKING.—If the Secretary develops any regulations implementing subsection (b)(2), the Secretary shall submit such proposed regulations to a negotiated rulemaking process, which shall include representatives of States, institutions of higher education, and educational and student organizations.

(d) APPLICATION OF THE REQUIREMENTS.—The requirements of this section shall apply to both traditional teacher preparation programs and alternative routes to State certification and licensure programs.

SEC. 208. [20 U.S.C. 1022g] GENERAL PROVISIONS.

(a) METHODS.—In complying with sections 205 and 206, the Secretary shall ensure that States and institutions of higher education use fair and equitable methods in reporting and that the reporting methods do not reveal personally identifiable information.

(b) SPECIAL RULE.—For each State that does not use content assessments as a means of ensuring that all teachers teaching in core academic subjects within the State meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, in accordance with the State plan submitted or revised under section 1111 of such Act, and that each person employed as a special education teacher in the State who teaches elementary school or secondary school meets the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act, the Secretary shall—

(1) to the extent practicable, collect data comparable to the data required under this part from States, local educational agencies, institutions of higher education, or other entities that administer such assessments to teachers or prospective teachers; and

(2) notwithstanding any other provision of this part, use such data to carry out requirements of this part related to assessments, pass rates, and scaled scores.

(c) RELEASE OF INFORMATION TO TEACHER PREPARATION PROGRAMS.—

(1) IN GENERAL.—For the purpose of improving teacher preparation programs, a State that receives funds under this Act, or that participates as a member of a partnership, consortium, or other entity that receives such funds, shall provide to a teacher preparation program, upon the request of the teacher preparation program, any and all pertinent education-related information that—

(A) may enable the teacher preparation program to evaluate the effectiveness of the program's graduates or the program itself; and

(B) is possessed, controlled, or accessible by the State.

(2) CONTENT OF INFORMATION.—The information described in paragraph (1)—

(A) shall include an identification of specific individuals who graduated from the teacher preparation program to enable the teacher preparation program to evaluate the information provided to the program from the State with the program's own data about the specific courses taken by, and field experiences of, the individual graduates; and

(B) may include—

(i) kindergarten through grade 12 academic achievement and demographic data, without revealing personally identifiable information about an individual student, for students who have been taught by graduates of the teacher preparation program; and

(ii) teacher effectiveness evaluations for teachers who graduated from the teacher preparation program.

SEC. 209. [20 U.S.C. 1022h] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 2009 and such sums as may be necessary for each of the two succeeding fiscal years.

PART B—ENHANCING TEACHER EDUCATION

SEC. 230. [20 U.S.C. 1031] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

Subpart 1—Preparing Teachers for Digital Age Learners

SEC. 231. [20 U.S.C. 1032] PROGRAM AUTHORIZED.

(a) PROGRAM AUTHORITY.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, eligible consortia to pay the Federal share of the costs of projects to—

(1) assist in the graduation of teacher candidates who are prepared to use modern information, communication, and learning tools to—

(A) improve student learning, assessment, and learning management; and

(B) help students develop learning skills to succeed in higher education and to enter the workforce;

(2) strengthen and develop partnerships among the stakeholders in teacher preparation to transform teacher education and ensure technology-rich teaching and learning environments throughout a teacher candidate's preservice education, including clinical experiences; and

(3) assess the effectiveness of departments, schools, and colleges of education at institutions of higher education in preparing teacher candidates for successful implementation of technology-rich teaching and learning environments, including environments consistent with the principles of universal design for learning, that enable kindergarten through grade 12 students to develop learning skills to succeed in higher education and to enter the workforce.

(b) AMOUNT AND DURATION.—A grant, contract, or cooperative agreement under this subpart—

(1) shall be for not more than $2,000,000;

(2) shall be for a three-year period; and

(3) may be renewed for one additional year.

(c) NON-FEDERAL SHARE REQUIREMENT.—The Federal share of the cost of any project funded under this subpart shall not exceed 75 percent. The non-Federal share of the cost of such project may be provided in cash or in kind, fairly evaluated, including services.

(d) DEFINITION OF ELIGIBLE CONSORTIUM.—In this subpart, the term "eligible consortium" means a consortium of members that includes the following:

(1) Not less than one institution of higher education that awards baccalaureate or masters degrees and prepares teachers for initial entry into teaching.

(2) Not less than one State educational agency or local educational agency.

(3) A department, school, or college of education at an institution of higher education.

(4) A department, school, or college of arts and sciences at an institution of higher education.

(5) Not less than one entity with the capacity to contribute to the technology-related reform of teacher preparation programs, which may be a professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity.

SEC. 232. [20 U.S.C. 1032a] USES OF FUNDS.

(a) IN GENERAL.—An eligible consortium that receives a grant or enters into a contract or cooperative agreement under this subpart shall use funds made available under this subpart to carry out a project that—

(1) develops long-term partnerships among members of the consortium that are focused on effective teaching with modern digital tools and content that substantially connect preservice preparation of teacher candidates with high-need schools; or

(2) transforms the way departments, schools, and colleges of education teach classroom technology integration, including the principles of universal design, to teacher candidates.

(b) USES OF FUNDS FOR PARTNERSHIP GRANTS.—In carrying out a project under subsection (a)(1), an eligible consortium shall—

(1) provide teacher candidates, early in their preparation, with field experiences with technology in educational settings;

(2) build the skills of teacher candidates to support technology-rich instruction, assessment and learning management in content areas, technology literacy, an understanding of the principles of universal design, and the development of other skills for entering the workforce;

(3) provide professional development in the use of technology for teachers, administrators, and content specialists who participate in field placement;

(4) provide professional development of technology pedagogical skills for faculty of departments, schools, and colleges of education and arts and sciences;

(5) implement strategies for the mentoring of teacher candidates by members of the consortium with respect to technology implementation;

(6) evaluate teacher candidates during the first years of teaching to fully assess outcomes of the project;

(7) build collaborative learning communities for technology integration within the consortium to sustain meaningful applications of technology in the classroom during teacher preparation and early career practice; and

(8) evaluate the effectiveness of the project.

(c) USES OF FUNDS FOR TRANSFORMATION GRANTS.—In carrying out a project under subsection (a)(2), an eligible consortium shall—

(1) redesign curriculum to require collaboration between the department, school, or college of education faculty and the department, school, or college of arts and sciences faculty who teach content or methods courses for training teacher candidates;

(2) collaborate between the department, school, or college of education faculty and the department, school, or college of arts and science faculty and academic content specialists at the local educational agency to educate preservice teachers who can integrate technology and pedagogical skills in content areas;

(3) collaborate between the department, school, or college of education faculty and the department, school, or college of arts and sciences faculty who teach courses to preservice teachers to—

(A) develop and implement a plan for preservice teachers and continuing educators that demonstrates effective instructional strategies and application of such strategies in the use of digital tools to transform the teaching and learning process; and

(B) better reach underrepresented preservice teacher populations with programs that connect such preservice teacher populations with applications of technology;

(4) collaborate among faculty and students to create and disseminate case studies of technology applications in classroom settings with a goal of improving student academic achievement in high-need schools;

(5) provide additional technology resources for preservice teachers to plan and implement technology applications in classroom settings that provide evidence of student learning; and

(6) bring together expertise from departments, schools, or colleges of education, arts and science faculty, and academic content specialists at the local educational agency to share and disseminate technology applications in the classroom through teacher preparation and into early career practice.

SEC. 233. [20 U.S.C. 1032b] APPLICATION REQUIREMENTS.

To be eligible to receive a grant or enter into a contract or cooperative agreement under this subpart, an eligible consortium shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include the following:

(1) A description of the project to be carried out with the grant, including how the project will—

(A) develop a long-term partnership focused on effective teaching with modern digital tools and content that substantially connects preservice preparation of teacher candidates with high-need schools; or

(B) transform the way departments, schools, and colleges of education teach classroom technology integration, including the principles of universal design, to teacher candidates.

(2) A demonstration of—

(A) the commitment, including the financial commitment, of each of the members of the consortium for the proposed project; and

(B) the support of the leadership of each organization that is a member of the consortium for the proposed project.

(3) A description of how each member of the consortium will participate in the project.

(4) A description of how the State educational agency or local educational agency will incorporate the project into the agency's technology plan, if such a plan already exists.

(5) A description of how the project will be continued after Federal funds are no longer available under this subpart for the project.

(6) A description of how the project will incorporate—

(A) State teacher technology standards; and

(B) State student technology standards.

(7) A plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

SEC. 234. [20 U.S.C. 1032c] EVALUATION.

Not less than ten percent of the funds awarded to an eligible consortium to carry out a project under this subpart shall be used to evaluate the effectiveness of such project.

Subpart 2—Honorable Augustus F. Hawkins Centers of Excellence

SEC. 241. [20 U.S.C. 1033] DEFINITIONS.

In this subpart:

(1) ELIGIBLE INSTITUTION.—The term "eligible institution" means—

(A) an institution of higher education that has a teacher preparation program that is a qualified teacher preparation program and that is—

(i) a part B institution (as defined in section 322);

(ii) a Hispanic-serving institution (as defined in section 502);

(iii) a Tribal College or University (as defined in section 316);

(iv) an Alaska Native-serving institution (as defined in section 317(b));

(v) a Native Hawaiian-serving institution (as defined in section 317(b));

(vi) a Predominantly Black Institution (as defined in section 318);

(vii) an Asian American and Native American Pacific Islander-serving institution (as defined in section 320(b)); or

(viii) a Native American-serving, nontribal institution (as defined in section 319);

(B) a consortium of institutions described in subparagraph (A); or

(C) an institution described in subparagraph (A), or a consortium described in subparagraph (B), in partnership with any other institution of higher education, but only if the center of excellence established under section 242 is located at an institution described in subparagraph (A).

(2) SCIENTIFICALLY BASED READING RESEARCH.—The term "scientifically based reading research"—

(A) means research that applies rigorous, systemic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

(B) includes research that—

(i) employs systemic, empirical methods that draw on observation or experiment;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide valid data across evaluators and

observers and across multiple measurements and observations; and

(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

SEC. 242. [20 U.S.C. 1033a] AUGUSTUS F. HAWKINS CENTERS OF EXCELLENCE.

(a) PROGRAM AUTHORIZED.—From the amounts appropriated to carry out this part, the Secretary is authorized to award competitive grants to eligible institutions to establish centers of excellence.

(b) USE OF FUNDS.—Grants provided by the Secretary under this subpart shall be used to ensure that current and future teachers meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act, by carrying out one or more of the following activities:

(1) Implementing reforms within teacher preparation programs to ensure that such programs are preparing teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act, are able to understand scientifically valid research, and are able to use advanced technology effectively in the classroom, including use of instructional techniques to improve student academic achievement, by—

(A) retraining or recruiting faculty; and

(B) designing (or redesigning) teacher preparation programs that—

(i) prepare teachers to serve in low-performing schools and close student achievement gaps, and that are based on rigorous academic content, scientifically valid research (including scientifically based reading research and mathematics research, as it becomes available), and challenging State academic content standards and student academic achievement standards; and

(ii) promote strong teaching skills.

(2) Providing sustained and high-quality preservice clinical experience, including the mentoring of prospective teachers by exemplary teachers, substantially increasing interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools, and providing support, including preparation time, for such interaction.

(3) Developing and implementing initiatives to promote retention of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals

with Disabilities Education Act, and highly qualified principals, including minority teachers and principals, including programs that provide—

(A) teacher or principal mentoring from exemplary teachers or principals, respectively; or

(B) induction and support for teachers and principals during their first three years of employment as teachers or principals, respectively.

(4) Awarding scholarships based on financial need to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program, not to exceed the cost of attendance.

(5) Disseminating information on effective practices for teacher preparation and successful teacher certification and licensure assessment preparation strategies.

(6) Activities authorized under section 202.

(c) APPLICATION.—Any eligible institution desiring a grant under this subpart shall submit an application to the Secretary at such a time, in such a manner, and accompanied by such information as the Secretary may require.

(d) MINIMUM GRANT AMOUNT.—The minimum amount of each grant under this subpart shall be $500,000.

(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—An eligible institution that receives a grant under this subpart may use not more than two percent of the funds provided to administer the grant.

(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subpart.

Subpart 3—Preparing General Education Teachers to More Effectively Educate Students with Disabilities

SEC. 251. [20 U.S.C. 1034] TEACH TO REACH GRANTS.

(a) AUTHORIZATION OF PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to improve the preparation of general education teacher candidates to ensure that such teacher candidates possess the knowledge and skills necessary to effectively instruct students with disabilities in general education classrooms.

(2) DURATION OF GRANTS.—A grant under this section shall be awarded for a period of not more than five years.

(3) NON-FEDERAL SHARE.—An eligible partnership that receives a grant under this section shall provide not less than 25 percent of the cost of the activities carried out with such grant from non-Federal sources, which may be provided in cash or in kind.

(b) DEFINITION OF ELIGIBLE PARTNERSHIP.—In this section, the term "eligible partnership" means a partnership that—

(1) shall include—

(A) one or more departments or programs at an institution of higher education—

(i) that prepare elementary or secondary general education teachers;

(ii) that have a program of study that leads to an undergraduate degree, a master's degree, or completion of a postbaccalaureate program required for teacher certification; and

(iii) the graduates of which meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act;

(B) a department or program of special education at an institution of higher education;

(C) a department or program at an institution of higher education that provides degrees in core academic subjects; and

(D) a high-need local educational agency; and

(2) may include a department or program of mathematics, earth or physical science, foreign language, or another department at the institution that has a role in preparing teachers.

(c) ACTIVITIES.—An eligible partnership that receives a grant under this section—

(1) shall use the grant funds to—

(A) develop or strengthen an undergraduate, postbaccalaureate, or master's teacher preparation program by integrating special education strategies into the general education curriculum and academic content;

(B) provide teacher candidates participating in the program under subparagraph (A) with skills related to—

(i) response to intervention, positive behavioral interventions and supports, differentiated instruction, and data driven instruction;

(ii) universal design for learning;

(iii) determining and utilizing accommodations for instruction and assessments;

(iv) collaborating with special educators, related services providers, and parents, including participation in individualized education program development and implementation; and

(v) appropriately utilizing technology and assistive technology for students with disabilities; and

(C) provide extensive clinical experience for participants described in subparagraph (B) with mentoring and induction support throughout the program that continues during the first two years of full-time teaching; and

(2) may use grant funds to develop and administer alternate assessments of students with disabilities.

(d) APPLICATION.—An eligible partnership seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include—

(1) a self-assessment by the eligible partnership of the existing teacher preparation program at the institution of higher education and needs related to preparing general education teacher candidates to instruct students with disabilities; and

(2) an assessment of the existing personnel needs for general education teachers who instruct students with disabilities, performed by the local educational agency in which most graduates of the teacher preparation program are likely to teach after completion of the program under subsection (c)(1).

(e) PEER REVIEW.—The Secretary shall convene a peer review committee to review applications for grants under this section and to make recommendations to the Secretary regarding the selection of grantees. Members of the peer review committee shall be recognized experts in the fields of special education, teacher preparation, and general education and shall not be in a position to benefit financially from any grants awarded under this section.

(f) EVALUATIONS.—

(1) BY THE PARTNERSHIP.—

(A) IN GENERAL.—An eligible partnership receiving a grant under this section shall conduct an evaluation at the end of the grant period to determine—

(i) the effectiveness of the general education teachers who completed a program under subsection (c)(1) with respect to instruction of students with disabilities in general education classrooms; and

(ii) the systemic impact of the activities carried out by such grant on how each institution of higher education that is a member of the partnership prepares teachers for instruction in elementary schools and secondary schools.

(B) REPORT TO THE SECRETARY.—Each eligible partnership performing an evaluation under subparagraph (A) shall report the findings of such evaluation to the Secretary.

(2) REPORT BY THE SECRETARY.—Not later than 180 days after the last day of the grant period under this section, the Secretary shall make available to Congress and the public the findings of the evaluations submitted under paragraph (1), and information on best practices related to effective instruction of students with disabilities in general education classrooms.

Subpart 4—Adjunct Teacher Corps

SEC. 255. [20 U.S.C. 1035] ADJUNCT TEACHER CORPS.

(a) PURPOSE.—The purpose of this section is to create opportunities for professionals and other individuals with subject matter expertise in mathematics, science, or critical foreign languages to provide such subject matter expertise to secondary school students on an adjunct basis.

(b) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants on a competitive basis to eligible entities to identify, recruit, and train qualified individuals with subject matter expertise in mathematics, science, or critical foreign languages to serve as adjunct content specialists.

(c) DURATION OF GRANTS.—The Secretary may award grants under this section for a period of not more than five years.

(d) ELIGIBLE ENTITY.—In this section, the term "eligible entity" means—

(1) a local educational agency; or

(2) a partnership consisting of a local educational agency, serving as a fiscal agent, and a public or private educational organization or business.

(e) USES OF FUNDS.—An eligible entity that receives a grant under this section is authorized to use such grant to carry out one or both of the following activities:

(1) To develop the capacity of the eligible entity to identify, recruit, and train individuals with subject matter expertise in mathematics, science, or critical foreign languages who are not employed in the elementary and secondary education system (including individuals in business and government, and individuals who would participate through distance-learning arrangements) to become adjunct content specialists.

(2) To provide preservice training and on-going professional development to adjunct content specialists.

(f) APPLICATIONS.—

(1) APPLICATION REQUIRED.—An eligible entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) CONTENTS.—An application submitted under paragraph (1) shall include—

(A) a description of—

(i) the need for, and expected benefits of using, adjunct content specialists in the schools served by the local educational agency, which may include information on the difficulty the local educational agency faces in recruiting qualified faculty in mathematics, science, and critical foreign language courses;

(ii) measurable objectives for the activities supported by the grant, including the number of adjunct content specialists the eligible entity intends to place in schools and classrooms, and the gains in academic achievement expected as a result of the addition of such specialists;

(iii) how the eligible entity will establish criteria for and recruit the most qualified individuals and public or private organizations and businesses to participate in the activities supported by the grant;

(iv) how the eligible entity will provide preservice training and on-going professional development to adjunct content specialists to ensure that such specialists have the capacity to serve effectively;

(v) how the eligible entity will use funds received under this section, including how the eligible entity will evaluate the success of the activities supported by the grant; and

(vi) how the eligible entity will support and continue the activities supported by the grant after the

grant has expired, including how such entity will seek support from other sources, such as State and local government and the private sector; and

(B) an assurance that the use of adjunct content specialists will not result in the displacement or transfer of currently employed teachers nor a reduction in the number of overall teachers in the district.

(g) PRIORITIES.—In awarding grants under this section, the Secretary shall give priority to eligible entities that demonstrate in the application for such a grant a plan to—

(1) serve the schools served by the local educational agency that have a large number or percentage of students performing below grade level in mathematics, science, or critical foreign language courses;

(2) serve local educational agencies that have a large number or percentage of students from low-income families; and

(3) recruit and train individuals to serve as adjunct content specialists in schools that have an insufficient number of teachers in mathematics, science, or critical foreign languages.

(h) MATCHING REQUIREMENT.—Each eligible entity that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 100 percent of the amount of such grant (in cash or in kind) to carry out the activities supported by such grant.

(i) PERFORMANCE REPORT.—Each eligible entity receiving a grant under this section shall prepare and submit to the Secretary a final report on the results of the activities supported by such grant, which shall contain such information as the Secretary may require, including any improvements in student academic achievement as a result of the use of adjunct content specialists.

(j) EVALUATION.—The Secretary shall evaluate the activities supported by grants under this section, including the impact of such activities on student academic achievement, and shall report the results of such evaluation to the authorizing committees.

(k) DEFINITION.—In this section, the term "adjunct content specialist" means an individual who—

(1) meets the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act;

(2) has demonstrated expertise in mathematics, science, or a critical foreign language, as determined by the local educational agency; and

(3) is not the primary provider of instructional services to a student, unless the adjunct content specialist is under the direct supervision of a teacher who meets the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act.

Subpart 5—Graduate Fellowships to Prepare Faculty in High-Need Areas at Colleges of Education

SEC. 258. [20 U.S.C. 1036] GRADUATE FELLOWSHIPS TO PREPARE FACULTY IN HIGH-NEED AREAS AT COLLEGES OF EDUCATION.

(a) GRANTS BY SECRETARY.—The Secretary shall make grants to eligible institutions to enable such institutions to make graduate fellowship awards to qualified individuals in accordance with the provisions of this section.

(b) ELIGIBLE INSTITUTIONS.—In this section, the term "eligible institution" means an institution of higher education, or a consortium of such institutions, that offers a program of postbaccalaureate study leading to a doctoral degree.

(c) APPLICATIONS.—An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(d) TYPES OF FELLOWSHIPS SUPPORTED.—

(1) IN GENERAL.—An eligible institution that receives a grant under this section shall use the grant funds to provide graduate fellowships to individuals who are preparing for the professorate in order to prepare individuals to become elementary school and secondary school mathematics and science teachers, special education teachers, and teachers who provide instruction for limited English proficient students, who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act.

(2) TYPES OF STUDY.—A graduate fellowship provided under this section shall support an individual in pursuing postbaccalaureate study, which leads to a doctoral degree and may include a master's degree as part of such study, related to teacher preparation and pedagogy in one of the following areas:

(A) Science, technology, engineering, or mathematics, if the individual has completed a master's degree in mathematics or science and is pursuing a doctoral degree in mathematics, science, or education.

(B) Special education.

(C) The instruction of limited English proficient students, including postbaccalaureate study in language instruction educational programs.

(e) FELLOWSHIP TERMS AND CONDITIONS.—

(1) SELECTION OF FELLOWS.—The Secretary shall ensure that an eligible institution that receives a grant under this section—

(A) shall provide graduate fellowship awards to individuals who plan to pursue a career in instruction at an

institution of higher education that has a teacher preparation program; and

(B) may not provide a graduate fellowship to an otherwise eligible individual—

(i) during periods in which such individual is enrolled at an institution of higher education unless such individual is maintaining satisfactory academic progress in, and devoting full-time study or research to, the pursuit of the degree for which the fellowship support was provided; or

(ii) if the individual is engaged in gainful employment, other than part-time employment related to teaching, research, or a similar activity determined by the institution to be consistent with and supportive of the individuals's progress toward the degree for which the fellowship support was provided.

(2) AMOUNT OF FELLOWSHIP AWARDS.—

(A) IN GENERAL.—An eligible institution that receives a grant under this section shall award stipends to individuals who are provided graduate fellowships under this section.

(B) AWARDS BASED ON NEED.—A stipend provided under this section shall be in an amount equal to the level of support provided by the National Science Foundation graduate fellowships, except that such stipend shall be adjusted as necessary so as not to exceed the fellowship recipient's demonstrated need, as determined by the institution of higher education where the fellowship recipient is enrolled.

(3) SERVICE REQUIREMENT.—

(A) TEACHING REQUIRED.—Each individual who receives a graduate fellowship under this section and earns a doctoral degree shall teach for one year at an institution of higher education that has a teacher preparation program for each year of fellowship support received under this section.

(B) INSTITUTIONAL OBLIGATION.—Each eligible institution that receives a grant under this section shall provide an assurance to the Secretary that the institution has inquired of and determined the decision of each individual who has received a graduate fellowship to, within three years of receiving a doctoral degree, begin employment at an institution of higher education that has a teacher preparation program, as required by this section.

(C) AGREEMENT REQUIRED.—Prior to receiving an initial graduate fellowship award, and upon the annual renewal of the graduate fellowship award, an individual selected to receive a graduate fellowship under this section shall sign an agreement with the Secretary agreeing to pursue a career in instruction at an institution of higher education that has a teacher preparation program in accordance with subparagraph (A).

(D) FAILURE TO COMPLY.—If an individual who receives a graduate fellowship award under this section fails

to comply with the agreement signed pursuant to subparagraph (C), the sum of the amounts of any graduate fellowship award received by such recipient shall, upon a determination of such a failure, be treated as a Federal Direct Unsubsidized Stafford Loan under part D of title IV, and shall be subject to repayment, together with interest thereon accruing from the date of the fellowship award, in accordance with terms and conditions specified by the Secretary in regulations under this subpart.

(E) MODIFIED SERVICE REQUIREMENT.—The Secretary may waive or modify the service requirement of this paragraph in accordance with regulations promulgated by the Secretary with respect to the criteria to determine the circumstances under which compliance with such service requirement is inequitable or represents a substantial hardship. The Secretary may waive the service requirement if compliance by the fellowship recipient is determined to be inequitable or represent a substantial hardship—

(i) because the individual is permanently and totally disabled at the time of the waiver request; or

(ii) based on documentation presented to the Secretary of substantial economic or personal hardship.

(f) INSTITUTIONAL SUPPORT FOR FELLOWS.—An eligible institution that receives a grant under this section may reserve not more than ten percent of the grant amount for academic and career transition support for graduate fellowship recipients and for meeting the institutional obligation described in subsection (e)(3)(B).

(g) RESTRICTION ON USE OF FUNDS.—An eligible institution that receives a grant under this section may not use grant funds for general operational overhead of the institution.

PART C—GENERAL PROVISIONS

SEC. 261. [20 U.S.C. 1041] LIMITATIONS.

(a) FEDERAL CONTROL PROHIBITED.—Nothing in this title shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to prohibit private, religious, or home schools from participation in programs or services under this title.

(b) NO CHANGE IN STATE CONTROL ENCOURAGED OR REQUIRED.—Nothing in this title shall be construed to encourage or require any change in a State's treatment of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law.

(c) NATIONAL SYSTEM OF TEACHER CERTIFICATION OR LICENSURE PROHIBITED.—Nothing in this title shall be construed to permit, allow, encourage, or authorize the Secretary to establish or support any national system of teacher certification or licensure.

(d) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to the employees of local educational agencies under Federal, State, or local laws (including applicable regulations or

court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

TITLE III—INSTITUTIONAL AID

SEC. 301. [20 U.S.C. 1051] FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are a significant number of institutions of higher education serving high percentages of minority students and students from low-income backgrounds, that face problems that threaten their ability to survive;

(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning and development activities, including endowment building;

(3) in order to be competitive and provide a high-quality education for all, institutions of higher education should improve their technological capacity and make effective use of technology;

(4) the title III program prior to 1985 did not always meet the specific development needs of historically Black colleges and universities and other institutions with large concentrations of minority, low-income students;

(5) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

(6) providing assistance to eligible institutions will enhance the role of such institutions in providing access and quality education to low-income and minority students;

(7) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent; and

(8) there is a particular national interest in aiding those institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the American system of higher education is in the Nation's interest so that equality of access and quality of postsecondary education opportunities may be enhanced for all students.

(b) PURPOSE.—It is the purpose of this title to assist such institutions in equalizing educational opportunity through a program of Federal assistance.

PART A—STRENGTHENING INSTITUTIONS

SEC. 311. [20 U.S.C. 1057] PROGRAM PURPOSE.

(a) GENERAL AUTHORIZATION.—The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen

their capacity to make a substantial contribution to the higher education resources of the Nation.

(b) GRANTS AWARDED; SPECIAL CONSIDERATION.—(1) From the sums available for this part under section 399(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 391 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

(2) Special consideration shall be given to any eligible institution—

(A) which has endowment funds (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) at similar institutions; or

(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

(A) faculty development;

(B) funds and administrative management;

(C) development and improvement of academic programs;

(D) acquisition of equipment for use in strengthening funds management and academic programs;

(E) joint use of facilities such as libraries and laboratories; and

(F) student services, including services that will assist in the education of special populations.

(c) AUTHORIZED ACTIVITIES.—Grants awarded under this section shall be used for 1 or more of the following activities:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including the integration of computer technology into institutional facilities to create smart buildings.

(3) Support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the field of instruction of the faculty.

(4) Development and improvement of academic programs.

(5) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

(6) Tutoring, counseling, and student service programs designed to improve academic success, including innovative, customized, instruction courses designed to help retain students and move the students rapidly into core courses and through

program completion, which may include remedial education and English language instruction.

(7) Education or counseling services designed to improve the financial literacy and economic literacy of students or the students' families.

(8) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

(9) Joint use of facilities, such as laboratories and libraries.

(10) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(11) Establishing or improving an endowment fund.

(12) Creating or improving facilities for Internet or other distance education technologies, including purchase or rental of telecommunications technology equipment or services.

(13) Other activities proposed in the application submitted pursuant to subsection (b) and section 391 that—

(A) contribute to carrying out the purposes of the program assisted under this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(d) ENDOWMENT FUND.—

(1) IN GENERAL.—An eligible institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at such institution.

(2) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

(3) COMPARABILITY.—The provisions of part C, regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

SEC. 312. [20 U.S.C. 1058] DEFINITIONS; ELIGIBILITY.

(a) EDUCATIONAL AND GENERAL EXPENDITURES.—For the purpose of this part, the term "educational and general expenditures" means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

(b) ELIGIBLE INSTITUTION.—For the purpose of this part, the term "eligible institution" means—

(1) an institution of higher education—

(A) which has an enrollment of needy students as required by subsection (d);

(B) except as provided in section 392(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison

with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(C) which is—

(i) legally authorized to provide, and provides within the State, an educational program for which such institution awards a bachelor's degree;

(ii) a junior or community college; or

(iii) the College of the Marshall Islands, the College of Micronesia/Federated States of Micronesia, and Palau Community College;

(D) which is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or which is, according to such an agency or association, making reasonable progress toward accreditation;

(E) which meets such other requirements as the Secretary may prescribe; and

(F) located in a State; and

(2) any branch of any institution of higher education described under paragraph (1) which by itself satisfies the requirements contained in subparagraphs (A) and (B) of such paragraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under paragraph (1)(A) shall be given twice the weight of the factor described under paragraph (1)(B).

(c) ENDOWMENT FUND.—For the purpose of this part, the term "endowment fund" means a fund that—

(1) is established by State law, by an institution of higher education, or by a foundation that is exempt from Federal income taxation;

(2) is maintained for the purpose of generating income for the support of the institution; and

(3) does not include real estate.

(d) ENROLLMENT OF NEEDY STUDENTS.—Except as provided in section 318(b), for the purpose of this part, the term "enrollment of needy students" means an enrollment at an institution of higher education or a junior or community college which includes—

(1) at least 50 percent of the degree students so enrolled who are receiving need-based assistance under title IV of this Act in the second fiscal year preceding the fiscal year for which the determination is being made (other than loans for which an interest subsidy is paid pursuant to section 428), or

(2) a substantial percentage of students receiving Pell Grants in the second fiscal year preceding the fiscal year for which determination is being made, in comparison with the percentage of students receiving Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this paragraph is waived under section 392(a).

(e) FULL-TIME EQUIVALENT STUDENTS.—For the purpose of this part, the term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the

full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(f) JUNIOR OR COMMUNITY COLLEGE.—For the purpose of this part, the term "junior or community college" means an institution of higher education—

(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

(B) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(g) LOW-INCOME INDIVIDUAL.—For the purpose of this part, the term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(h) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this title is eligible for or may receive funds under this part.

SEC. 313. [20 U.S.C. 1059] DURATION OF GRANT.

(a) AWARD PERIOD.—The Secretary may award a grant to an eligible institution under this part for 5 years.

(b) LIMITATIONS.—In awarding grants under this part the Secretary shall give priority to applicants who are not already receiving a grant under this part, except that for the purpose of this subsection a grant under subsection (c) and a grant under section 394(a)(1) shall not be considered a grant under this part.

(c) PLANNING GRANTS.—Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of preparation of plans and applications for a grant under this part.

(d) WAIT-OUT-PERIOD.—Each eligible institution that received a grant under this part for a 5-year period shall not be eligible to receive an additional grant under this part until 2 years after the date on which the 5-year grant period terminates.

SEC. 314. [20 U.S.C. 1059a] APPLICATIONS.

Each eligible institution desiring to receive assistance under this part shall submit an application in accordance with the requirements of section 391.

SEC. 315. [20 U.S.C. 1059b] GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAM.

(a) GOALS.—Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.

(b) CONTINUATION REQUIREMENTS.—Any continuation application shall demonstrate the progress made toward achievement of the goals described pursuant to subsection (a).

SEC. 316. [20 U.S.C. 1059c] AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.

(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Tribal Colleges and Universities to enable such institutions to improve and expand their capacity to serve Indian students.

(b) DEFINITIONS.—In this section:

(1) INDIAN.—The term "Indian" has the meaning given the term in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978.

(2) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978.

(3) TRIBAL COLLEGE OR UNIVERSITY.—The term "Tribal College or University" means an institution that—

(A) qualifies for funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a note); or

(B) is cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).

(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means an institution of higher education as defined in section 101(a), except that paragraph (2) of such section shall not apply.

(c) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Grants awarded under this section shall be used by Tribal Colleges or Universities to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Indian students.

(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—The activities described in paragraph (1) may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services, and the acquisition of real property adjacent to the campus of the institution on which to construct such facilities;

(C) support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced de-

grees in the faculty's field of instruction or in tribal governance or tribal public policy;

(D) academic instruction in disciplines in which Indians are underrepresented and instruction in tribal governance or tribal public policy;

(E) purchase of library books, periodicals, and other educational materials, including telecommunications program material;

(F) tutoring, counseling, and student service programs designed to improve academic success;

(G) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' families;

(H) funds management, administrative management, and acquisition of equipment for use in strengthening funds management;

(I) joint use of facilities, such as laboratories and libraries;

(J) establishing or improving a development office to strengthen or improve contributions from alumni and the private sector;

(K) establishing or enhancing a program of teacher education designed to qualify students to teach in elementary schools or secondary schools, with a particular emphasis on teaching Indian children and youth, that shall include, as part of such program, preparation for teacher certification;

(L) establishing community outreach programs that encourage Indian elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education;

(M) developing or improving facilities for Internet use or other distance education technologies; and

(N) other activities proposed in the application submitted pursuant to subsection (d) that—

(i) contribute to carrying out the activities described in subparagraphs (A) through (M); and

(ii) are approved by the Secretary as part of the review and acceptance of such application.

(3) ENDOWMENT FUND.—

(A) IN GENERAL.—A Tribal College or University may use not more than 20 percent of the grant funds provided under this section to establish or increase an endowment fund at the institution.

(B) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with subparagraph (A), the Tribal College or University shall provide matching funds, in an amount equal to the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

(C) COMPARABILITY.—The provisions of part C regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with

this paragraph, shall apply to funds used under subparagraph (A).

(d) APPLICATION, PLAN, AND ALLOCATION.—

(1) INSTITUTIONAL ELIGIBILITY.—To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 312(b).

(2) APPLICATION.—

(A) IN GENERAL.—A Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(B) STREAMLINED PROCESS.—The Secretary shall establish application requirements in such a manner as to simplify and streamline the process for applying for grants under this section.

(3) AWARDS AND ALLOCATIONS TO INSTITUTIONS.—

(A) CONSTRUCTION GRANTS.—

(i) IN GENERAL.—Of the amount appropriated to carry out this section for any fiscal year, the Secretary may reserve 30 percent for the purpose of awarding one-year grants of not less than $1,000,000 to address construction, maintenance, and renovation needs at eligible institutions.

(ii) PREFERENCE.—In providing grants under clause (i) for any fiscal year, the Secretary shall give preference to eligible institutions that have not received an award under this section for a previous fiscal year.

(B) ALLOTMENT OF REMAINING FUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall distribute the remaining funds appropriated for any fiscal year to each eligible institution as follows:

(I) 60 percent of the remaining appropriated funds shall be distributed among the eligible Tribal Colleges and Universities on a pro rata basis, based on the respective Indian student counts (as defined in section 2(a) of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801(a)) of the Tribal Colleges and Universities.

(II) The remaining 40 percent shall be distributed in equal shares to the eligible Tribal Colleges and Universities.

(ii) MINIMUM GRANT.—The amount distributed to a Tribal College or University under clause (i) shall not be less than $500,000.

(4) SPECIAL RULES.—

(A) CONCURRENT FUNDING.—No Tribal College or University that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or part A of title V.

(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.

SEC. 317. [20 U.S.C. 1059d] ALASKA NATIVE AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.

(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Alaska Native-serving institutions and Native Hawaiian-serving institutions to enable such institutions to improve and expand their capacity to serve Alaska Natives and Native Hawaiians.

(b) DEFINITIONS.—For the purpose of this section—

(1) the term "Alaska Native" has the meaning given the term in section 6306 of the Elementary and Secondary Education Act of 1965;

(2) the term "Alaska Native-serving institution" means an institution of higher education that—

(A) is an eligible institution under section 312(b); and

(B) at the time of application, has an enrollment of undergraduate students that is at least 20 percent Alaska Native students;

(3) the term "Native Hawaiian" has the meaning given the term in section 6207 of the Elementary and Secondary Education Act of 1965; and

(4) the term "Native Hawaiian-serving institution" means an institution of higher education which—

(A) is an eligible institution under section 312(b); and

(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Native Hawaiian students.

(c) AUTHORIZED ACTIVITIES.—

(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Alaska Native-serving institutions and Native Hawaiian-serving institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Alaska Natives or Native Hawaiians.

(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

(D) curriculum development and academic instruction;

(E) purchase of library books, periodicals, microfilm, and other educational materials;

(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(G) joint use of facilities such as laboratories and libraries;

(H) academic tutoring and counseling programs and student support services; and

(I) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' families.

(d) APPLICATION PROCESS.—

(1) INSTITUTIONAL ELIGIBILITY.—Each Alaska Native-serving institution and Native Hawaiian-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is an Alaska Native-serving institution or a Native Hawaiian-serving institution as defined in subsection (b), along with such other information and data as the Secretary may by regulation require.

(2) APPLICATIONS.—Any institution which is determined by the Secretary to be an Alaska Native-serving institution or a Native Hawaiian-serving institution may submit an application for assistance under this section to the Secretary. The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section. Such application shall include—

(A) a 5-year plan for improving the assistance provided by the Alaska Native-serving institution or the Native Hawaiian-serving institution to Alaska Native or Native Hawaiian students; and

(B) such other information and assurance as the Secretary may require.

(3) SPECIAL RULES.—

(A) ELIGIBILITY.—No Alaskan Native-serving institution or Native Hawaiian-serving institution that receives funds under this section shall concurrently receive funds under other provisions of this part or part B.

(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.

(C) DISTRIBUTION.—In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.

SEC. 318. [20 U.S.C. 1059e] PREDOMINANTLY BLACK INSTITUTIONS.

(a) PURPOSE.—It is the purpose of this section to assist Predominantly Black Institutions in expanding educational opportunity through a program of Federal assistance.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE INSTITUTION.—The term "eligible institution" means an institution of higher education that—

(A) has an enrollment of needy undergraduate students;

(B) has an average educational and general expenditure that is low, per full-time equivalent undergraduate student, in comparison with the average educational and

general expenditure per full-time equivalent undergraduate student of institutions that offer similar instruction, except that the Secretary may apply the waiver requirements described in section 392(b) to this subparagraph in the same manner as the Secretary applies the waiver requirements to section 312(b)(1)(B);

(C) has an enrollment of undergraduate students that is not less than 40 percent Black American students;

(D) is legally authorized to provide, and provides, within the State an educational program for which the institution of higher education awards a baccalaureate degree or, in the case of a junior or community college, an associate's degree;

(E) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation; and

(F) is not receiving assistance under—

(i) part B;

(ii) part A of title V; or

(iii) an annual authorization of appropriations under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123).

(2) ENROLLMENT OF NEEDY STUDENTS.—The term "enrollment of needy students" means the enrollment at an eligible institution with respect to which not less than 50 percent of the undergraduate students enrolled in an academic program leading to a degree—

(A) in the second fiscal year preceding the fiscal year for which the determination is made, were Federal Pell Grant recipients for such year;

(B) come from families that receive benefits under a means-tested Federal benefit program;

(C) attended a public or nonprofit private secondary school that—

(i) is in the school district of a local educational agency that was eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 for any year during which the student attended such secondary school; and

(ii) for the purpose of this paragraph and for such year of attendance, was determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children meeting a measure of poverty under section 1113(a)(5) of such Act exceeds 30 percent of the total enrollment of such school; or

(D) are first-generation college students and a majority of such first-generation college students are low-income individuals.

(3) FIRST-GENERATION COLLEGE STUDENT.—The term "first-generation college student" has the meaning given the term in section 402A(h).

(4) LOW-INCOME INDIVIDUAL.—The term "low-income individual" has the meaning given such term in section 402A(h).

(5) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term "means-tested Federal benefit program" means a program of the Federal Government, other than a program under title IV, in which eligibility for the program's benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking the benefit.

(6) PREDOMINANTLY BLACK INSTITUTION.—The term "Predominantly Black Institution" means an institution of higher education, as defined in section 101(a)—

(A) that is an eligible institution with not less than 1,000 undergraduate students;

(B) at which not less than 50 percent of the undergraduate students enrolled at the eligible institution are low-income individuals or first-generation college students; and

(C) at which not less than 50 percent of the undergraduate students are enrolled in an educational program leading to a bachelor's or associate's degree that the eligible institution is licensed to award by the State in which the eligible institution is located.

(7) STATE.—The term "State" means each of the 50 States and the District of Columbia.

(c) GRANT AUTHORITY.—

(1) IN GENERAL.—The Secretary is authorized to award grants, from allotments under subsection (e), to Predominantly Black Institutions to enable the Predominantly Black Institutions to carry out the authorized activities described in subsection (d).

(2) PRIORITY.—In awarding grants under this section the Secretary shall give priority to Predominantly Black Institutions with large numbers or percentages of students described in subsections (b)(1)(A) or (b)(1)(C). The level of priority given to Predominantly Black Institutions with large numbers or percentages of students described in subsection (b)(1)(A) shall be twice the level of priority given to Predominantly Black Institutions with large numbers or percentages of students described in subsection (b)(1)(C).

(d) AUTHORIZED ACTIVITIES.—

(1) REQUIRED ACTIVITIES.—Grant funds provided under this section shall be used—

(A) to assist the Predominantly Black Institution to plan, develop, undertake, and implement programs to enhance the institution's capacity to serve more low- and middle-income Black American students;

(B) to expand higher education opportunities for students eligible to participate in programs under title IV by encouraging college preparation and student persistence in secondary school and postsecondary education; and

(C) to strengthen the financial ability of the Predominantly Black Institution to serve the academic needs of the students described in subparagraphs (A) and (B).

(2) ADDITIONAL ACTIVITIES.—Grant funds provided under this section shall be used for one or more of the following activities:

(A) The activities described in paragraphs (1) through (12) of section 311(c).

(B) Academic instruction in disciplines in which Black Americans are underrepresented.

(C) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary school or secondary school in the State that shall include, as part of such program, preparation for teacher certification or licensure.

(D) Establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education.

(E) Other activities proposed in the application submitted pursuant to subsection (f) that—

(i) contribute to carrying out the purpose of this section; and

(ii) are approved by the Secretary as part of the review and approval of an application submitted under subsection (f).

(3) ENDOWMENT FUND.—

(A) IN GENERAL.—A Predominantly Black Institution may use not more than 20 percent of the grant funds provided under this section to establish or increase an endowment fund at the institution.

(B) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with subparagraph (A), a Predominantly Black Institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

(C) COMPARABILITY.—The provisions of part C, regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under subparagraph (A).

(4) LIMITATION.—Not more than 50 percent of the grant funds provided to a Predominantly Black Institution under this section may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

(e) ALLOTMENTS TO PREDOMINANTLY BLACK INSTITUTIONS.—

(1) FEDERAL PELL GRANT BASIS.—From the amounts appropriated to carry out this section for any fiscal year, the Secretary shall allot to each Predominantly Black Institution having an application approved under subsection (f) a sum that bears the same ratio to one-half of that amount as the number

of Federal Pell Grant recipients in attendance at such institution at the end of the academic year preceding the beginning of that fiscal year, bears to the total number of Federal Pell Grant recipients at all such institutions at the end of such academic year.

(2) GRADUATES BASIS.—From the amounts appropriated to carry out this section for any fiscal year, the Secretary shall allot to each Predominantly Black Institution having an application approved under subsection (f) a sum that bears the same ratio to one-fourth of that amount as the number of graduates for such academic year at such institution, bears to the total number of graduates for such academic year at all such institutions.

(3) GRADUATES SEEKING A HIGHER DEGREE BASIS.—From the amounts appropriated to carry out this section for any fiscal year, the Secretary shall allot to each Predominantly Black Institution having an application approved under subsection (f) a sum that bears the same ratio to one-fourth of that amount as the percentage of graduates from such institution who are admitted to and in attendance at, not later than two years after graduation with an associate's degree or a baccalaureate degree, a baccalaureate degree-granting institution or a graduate or professional school in a degree program in disciplines in which Black American students are underrepresented, bears to the percentage of such graduates for all such institutions.

(4) MINIMUM ALLOTMENT.—

(A) IN GENERAL.—Notwithstanding paragraphs (1), (2), and (3), the amount allotted to each Predominantly Black Institution under this section may not be less than $250,000.

(B) INSUFFICIENT AMOUNT.—If the amounts appropriated to carry out this section for a fiscal year are not sufficient to pay the minimum allotment provided under subparagraph (A) for the fiscal year, then the amount of such minimum allotment shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allotment shall be increased on the same basis as the allotment was reduced until the amount allotted equals the minimum allotment required under subparagraph (A).

(5) REALLOTMENT.—The amount of a Predominantly Black Institution's allotment under paragraph (1), (2), (3), or (4) for any fiscal year that the Secretary determines will not be needed for such institution for the period for which such allotment is available, shall be available for reallotment to other Predominantly Black Institutions in proportion to the original allotments to such other institutions under this section for such fiscal year. The Secretary shall reallot such amounts from time to time, on such date and during such period as the Secretary determines appropriate.

(f) APPLICATIONS.—Each Predominantly Black Institution desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accom-

panied by such information as the Secretary may reasonably require.

(g) APPLICATION REVIEW PROCESS.—Section 393 shall not apply to applications under this section.

(h) DURATION AND CARRYOVER.—Any grant funds paid to a Predominantly Black Institution under this section that are not expended or used for the purposes for which the funds were paid within ten years following the date on which the grant was awarded, shall be repaid to the Treasury.

(i) SPECIAL RULE ON ELIGIBILITY.—No Predominantly Black Institution that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or part A of title V.

SEC. 319. [20 U.S.C. 1059f] NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTIONS.

(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Native American-serving, nontribal institutions to enable such institutions to improve and expand their capacity to serve Native Americans and low-income individuals.

(b) DEFINITIONS.—In this section:

(1) NATIVE AMERICAN.—The term "Native American" means an individual who is of a tribe, people, or culture that is indigenous to the United States.

(2) NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTION.—The term "Native American-serving, nontribal institution" means an institution of higher education, as defined in section 101(a), that, at the time of application—

(A) is an eligible institution under section 312(b);

(B) has an enrollment of undergraduate students that is not less than 10 percent Native American students; and

(C) is not a Tribal College or University (as defined in section 316).

(c) AUTHORIZED ACTIVITIES.—

(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Native American-serving, nontribal institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Native Americans and low-income individuals.

(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—

(A) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(C) support of faculty exchanges, and faculty development and faculty fellowships to assist faculty in attaining advanced degrees in the faculty's field of instruction;

(D) curriculum development and academic instruction;

(E) the purchase of library books, periodicals, microfilm, and other educational materials;

(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(G) the joint use of facilities such as laboratories and libraries;

(H) academic tutoring and counseling programs and student support services; and

(I) education or counseling services designed to improve the financial and economic literacy of students or the students' families.

(d) APPLICATION PROCESS.—

(1) INSTITUTIONAL ELIGIBILITY.—A Native American-serving, nontribal institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Native American-serving, nontribal institution, along with such other information and data as the Secretary may reasonably require.

(2) APPLICATIONS.—

(A) AUTHORITY TO SUBMIT APPLICATIONS.—Any institution that is determined by the Secretary to be a Native American-serving, nontribal institution may submit an application for assistance under this section to the Secretary.

(B) SIMPLIFIED AND STREAMLINED FORMAT.—The Secretary shall, to the extent possible, continue to prescribe a simplified and streamlined format for applications under this section that takes into account the limited number of institutions that are eligible for assistance under this section.

(C) CONTENT.—An application submitted under subparagraph (A) shall include—

(i) a five-year plan for improving the assistance provided by the Native American-serving, nontribal institution to Native Americans and low-income individuals; and

(ii) such other information and assurances as the Secretary may reasonably require.

(3) SPECIAL RULES.—

(A) ELIGIBILITY.—No Native American-serving, nontribal institution that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or part A of title V.

(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.

(C) DISTRIBUTION.—In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.

(D) MINIMUM GRANT AMOUNT.—The minimum amount of a grant under this section shall be $200,000.

SEC. 320. [20 U.S.C. 1059g] ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTIONS.

(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Asian American and Native American Pacific Islander-serving institutions to enable such institutions to improve and expand their capacity to serve Asian Americans and Native American Pacific Islanders and low-income individuals.

(b) DEFINITIONS.—In this section:

(1) ASIAN AMERICAN.—The term "Asian American" has the meaning given the term "Asian" in the Office of Management and Budget's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as published on October 30, 1997 (62 Fed. Reg. 58789).

(2) ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTION.—The term "Asian American and Native American Pacific Islander-serving institution" means an institution of higher education that—

(A) is an eligible institution under section 312(b); and

(B) at the time of application, has an enrollment of undergraduate students that is not less than 10 percent students who are Asian American or Native American Pacific Islander.

(3) NATIVE AMERICAN PACIFIC ISLANDER.—The term "Native American Pacific Islander" means any descendant of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(c) AUTHORIZED ACTIVITIES.—

(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Asian American and Native American Pacific Islander-serving institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Asian Americans and Native American Pacific Islanders and low-income individuals.

(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

(D) curriculum development and academic instruction;

(E) purchase of library books, periodicals, microfilm, and other educational materials;

(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(G) joint use of facilities such as laboratories and libraries;

(H) academic tutoring and counseling programs and student support services;

(I) establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education;

(J) establishing or improving an endowment fund;

(K) academic instruction in disciplines in which Asian Americans and Native American Pacific Islanders are underrepresented;

(L) conducting research and data collection for Asian American and Native American Pacific Islander populations and subpopulations;

(M) establishing partnerships with community-based organizations serving Asian Americans and Native American Pacific Islanders; and

(N) education or counseling services designed to improve the financial and economic literacy of students or the students' families.

(d) APPLICATION PROCESS.—

(1) INSTITUTIONAL ELIGIBILITY.—Each Asian American and Native American Pacific Islander-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is an Asian American and Native American Pacific Islander-serving institution as defined in subsection (b), along with such other information and data as the Secretary may reasonably require.

(2) APPLICATIONS.—Any institution that is determined by the Secretary to be an Asian American and Native American Pacific Islander-serving institution may submit an application for assistance under this section to the Secretary. Such application shall include—

(A) a five-year plan for improving the assistance provided by the Asian American and Native American Pacific Islander-serving institution to Asian American and Native American Pacific Islander students and low-income individuals; and

(B) such other information and assurances as the Secretary may reasonably require.

(3) SPECIAL RULES.—

(A) ELIGIBILITY.—No Asian American and Native American Pacific Islander-serving institution that receives funds under this section shall concurrently receive funds under any other provision of this part, part B, or title V.

(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.

(C) DISTRIBUTION.—In awarding grants under this section, the Secretary shall—

(i) to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions; and

(ii) give priority consideration to institutions for which not less than 10 percent of such institution's

Asian American and Native American Pacific Islander students are low-income individuals.

PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

SEC. 321. [20 U.S.C. 1060] FINDINGS AND PURPOSES.

The Congress finds that—

(1) the historically Black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for Black, low-income, and educationally disadvantaged Americans;

(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this Act and other Federal programs which benefit institutions of higher education;

(3) the current state of Black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

SEC. 322. [20 U.S.C. 1061] DEFINITIONS.

For the purpose of this part:

(1) The term "graduate" means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years.

(2) The term "part B institution" means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation, except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 321 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from the date of enactment of this exception, be considered a part B institution.

(3) The term "Pell Grant recipient" means a recipient of financial aid under subpart 1 of part A of title IV of this Act.

(4) The term "professional and academic areas in which Blacks are underrepresented" shall be determined by the Secretary, in consultation with the Commissioner for Education Statistics and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of Black Americans who have been educated, trained, and employed is less than the percentage of Blacks in the general population.

(5) The term "school year" means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

SEC. 323. [20 U.S.C. 1062] GRANTS TO INSTITUTIONS.

(a) GENERAL AUTHORIZATION; USES OF FUNDS.—From amounts available under section 399(a)(2) for any fiscal year, the Secretary shall make grants (under section 324) to institutions which have applications approved by the Secretary (under section 325) for any of the following uses:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

(3) Support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

(4) Academic instruction in disciplines in which Black Americans are underrepresented.

(5) Purchase of library books, periodicals, microfilm, and other educational materials, including telecommunications program materials.

(6) Tutoring, counseling, and student service programs designed to improve academic success.

(7) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

(8) Joint use of facilities, such as laboratories and libraries.

(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(10) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary or secondary school in the State that shall include, as part of such program, preparation for teacher certification.

(11) Establishing community outreach programs which will encourage elementary and secondary students to develop the academic skills and the interest to pursue postsecondary education.

(12) Acquisition of real property in connection with the construction, renovation, or addition to or improvement of campus facilities.

(13) Education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under title IV.

(14) Services necessary for the implementation of projects or activities that are described in the grant application and that are approved, in advance, by the Secretary, except that not more than two percent of the grant amount may be used for this purpose.

(15) Other activities proposed in the application submitted pursuant to section 325 that—

(A) contribute to carrying out the purposes of this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(b) ENDOWMENT FUND.—

(1) IN GENERAL.—An institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at the institution.

(2) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

(3) COMPARABILITY.—The provisions of part C regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(c) LIMITATIONS.—(1) No grant may be made under this Act for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For the purpose of this subsection, the term "school or department of divinity" means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(2) Not more than 50 percent of the allotment of any institution may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

SEC. 324. [20 U.S.C. 1063] ALLOTMENTS TO INSTITUTIONS.

(a) ALLOTMENT; PELL GRANT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

(b) ALLOTMENT; GRADUATES BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall

allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

(c) ALLOTMENT; GRADUATE AND PROFESSIONAL STUDENT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth of that amount as the percentage of graduates per institution, who are admitted to and in attendance at, within 5 years of graduation with a baccalaureate degree, a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the percentage of such graduates per institution for all part B institutions.

(d) MINIMUM ALLOTMENT.—(1) Notwithstanding subsections (a) through (c), and subject to subsection (h), if the amount of an award under this section for a part B institution, based on the data provided by the part B institution and the formula under subsections (a) through (c), would be—

(A) an amount that is greater than $250,000 but less than $500,000, the Secretary shall award the part B institution an allotment in the amount of $500,000; and

(B) an amount that is equal to or less than $250,000, the Secretary shall award the part B institution an allotment in the amount of $250,000.

(2) If the amount appropriated pursuant to section 399(a)(2)(A) for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocations shall be increased on the same basis as the basis on which they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1)).

(e) REALLOTMENT.—The amount of any part B institution's allotment under subsection (a), (b), (c), or (d) for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

(f) SPECIAL MERGER RULE.—(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with another institution of higher education which is not so eligible or has merged with an eligible institution.

(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragraph (1) of this subsection.

(g) SPECIAL RULE FOR CERTAIN DISTRICT OF COLUMBIA ELIGIBLE INSTITUTIONS.—In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of

this section which is not in excess of amounts received by Howard University under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123), relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

(h) CONDITIONS FOR ALLOTMENTS.—

(1) STUDENT REQUIREMENTS FOR ALLOTMENT.—Notwithstanding any other provision of this section, a part B institution that would otherwise be eligible for funds under this part shall not receive an allotment under this part for a fiscal year, including the minimum allotment under subsection (d), if the part B institution, in the academic year preceding such fiscal year—

(A) did not have any enrolled students who were Pell Grant recipients;

(B) did not graduate any students; or

(C) where appropriate, did not have any students who, within 5 years of graduation from the part B institution, were admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented.

(2) DATA REQUIREMENTS FOR ALLOTMENTS.—Notwithstanding any other provision of this section, a part B institution shall not receive an allotment under this part for a fiscal year, including the minimum allotment under subsection (d), unless the institution provides the Secretary with the data required by the Secretary and for purposes of the formula described in subsections (a) through (c), including—

(A) the number of Pell Grant recipients enrolled in the part B institution in the academic year preceding such fiscal year;

(B) the number of students who earned an associate or baccalaureate degree from the part B institution in the academic year preceding such fiscal year; and

(C) where appropriate, the percentage of students who, within 5 years of graduation from the part B institution, were admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented in the academic year preceding such fiscal year.

SEC. 325. [20 U.S.C. 1063a] APPLICATIONS.

(a) CONTENTS.—No part B institution shall be entitled to its allotment of Federal funds for any grant under section 324 for any period unless that institution meets the requirements of subparagraphs (C), (D), and (E) of section 312(b)(1) and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this Act will be used for the purposes set forth in section 323; and

(2) provide for making an annual report to the Secretary and provide for—

(A) conducting, except as provided in subparagraph (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(B) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of subparagraph (A) for the period covered by such audit.

(b) APPROVAL.—The Secretary shall approve any application which meets the requirements of subsection (a) and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

(c) GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAMS.—Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs and include a plan of how the applicant intends to achieve those goals.

SEC. 326. [20 U.S.C. 1063b] PROFESSIONAL OR GRADUATE INSTITUTIONS.

(a) GENERAL AUTHORIZATION.—(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities in mathematics, engineering, or the physical or natural sciences for Black Americans.

(2) No grant in excess of $1,000,000 may be made under this section unless the postgraduate institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f), the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.

(b) DURATION.—Grants shall be made for a period not to exceed 5 years. Any funds awarded for such five-year grant period that are obligated during such five-year period may be expended during the 10-year period beginning on the first day of such five-year period.

(c) USES OF FUNDS.—A grant under this section may be used for—

(1) purchase, rental or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

(4) scholarships, fellowships, and other financial assistance for needy graduate and professional students to permit the enrollment of the students in and completion of the doctoral degree in medicine, dentistry, pharmacy, veterinary medicine, law, and the doctorate degree in the physical or natural sciences, engineering, mathematics, or other scientific disciplines in which African Americans are underrepresented;

(5) establishing or improving a development office to strengthen and increase contributions from alumni and the private sector;

(6) assisting in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 331;

(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems;

(8) acquisition of real property that is adjacent to the campus in connection with the construction, renovation, or addition to or improvement of campus facilities;

(9) education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under title IV;

(10) services necessary for the implementation of projects or activities that are described in the grant application and that are approved, in advance, by the Secretary, except that not more than two percent of the grant amount may be used for this purpose;

(11) tutoring, counseling, and student service programs designed to improve academic success; and

(12) other activities proposed in the application submitted under subsection (d) that—

(A) contribute to carrying out the purposes of this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(d) APPLICATION.—Any institution eligible for a grant under this section shall submit an application which—

(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

(2) provides, in the case of applications for grants in excess of $1,000,000, the assurances required by subsection (a)(2) and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(e) ELIGIBILITY.—

(1) IN GENERAL.—Independent professional or graduate institutions and programs eligible for grants under subsection (a) are the following:

(A) Morehouse School of Medicine;

(B) Meharry Medical School;

(C) Charles R. Drew Postgraduate Medical School;

(D) Clark-Atlanta University;

(E) Tuskegee University School of Veterinary Medicine and other qualified graduate programs;

(F) Xavier University School of Pharmacy and other qualified graduate programs;

(G) Southern University School of Law and other qualified graduate programs;

(H) Texas Southern University School of Law and School of Pharmacy and other qualified graduate programs;

(I) Florida A&M University School of Pharmaceutical Sciences and other qualified graduate programs;

(J) North Carolina Central University School of Law and other qualified graduate programs;

(K) Morgan State University qualified graduate program;

(L) Hampton University qualified graduate program;

(M) Alabama A&M qualified graduate program;

(N) North Carolina A&T State University qualified graduate program;

(O) University of Maryland Eastern Shore qualified graduate program;

(P) Jackson State University qualified graduate program;

(Q) Norfolk State University qualified graduate programs;

(R) Tennessee State University qualified graduate programs;

(S) Alabama State University qualified graduate programs;

(T) Prairie View A&M University qualified graduate programs;

(U) Delaware State University qualified graduate programs;

(V) Langston University qualified graduate programs;

(W) Bowie State University qualified graduate programs; and

(X) University of the District of Columbia David A. Clarke School of Law.

(2) QUALIFIED GRADUATE PROGRAM.—(A) For the purposes of this section, the term "qualified graduate program" means a graduate or professional program that provides a program of instruction in law or in the physical or natural sciences, engineering, mathematics, psychometrics, or other scientific discipline in which African Americans are underrepresented and has students enrolled in such program at the time of application for a grant under this section.

(B) Notwithstanding the enrollment requirement contained in subparagraph (A), an institution may use an amount equal to not more than 10 percent of the institution's grant under this section for the development of a new qualified graduate program.

(3) SPECIAL RULE.—Institutions that were awarded grants under this section prior to October 1, 2008, shall continue to receive such grants, subject to the availability of appropriated funds, regardless of the eligibility of the institutions described in subparagraphs (S) through (X) of paragraph (1).

(4) ONE GRANT PER INSTITUTION.—The Secretary shall not award more than 1 grant under this section in any fiscal year to any institution of higher education.

(5) INSTITUTIONAL CHOICE.—The president or chancellor of the institution may decide which graduate or professional school or qualified graduate program will receive funds under the grant in any 1 fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.

(f) FUNDING RULE.—Subject to subsection (g), of the amount appropriated to carry out this section for any fiscal year—

(1) the first $56,900,000 (or any lesser amount appropriated) shall be available only for the purposes of making grants to institutions or programs described in subparagraphs (A) through (R) of subsection (e)(1);

(2) any amount in excess of $56,900,000, but not in excess of $62,900,000, shall be available for the purpose of making grants to institutions or programs described in subparagraphs (S) through (X) of subsection (e)(1); and

(3) any amount in excess of $62,900,000, shall be made available to each of the institutions or programs identified in subparagraphs (A) through (X) pursuant to a formula developed by the Secretary that uses the following elements:

(A) The ability of the institution to match Federal funds with non-Federal funds.

(B) The number of students enrolled in the programs for which the eligible institution received funding under this section in the previous year.

(C) The average cost of education per student, for all full-time graduate or professional students (or the equivalent) enrolled in the eligible professional or graduate school, or for doctoral students enrolled in the qualified graduate programs.

(D) The number of students in the previous year who received their first professional or doctoral degree from the

programs for which the eligible institution received funding under this section in the previous year.

(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving graduate or professional degrees in the professions or disciplines related to the programs for the previous year.

(g) HOLD HARMLESS RULE.—Notwithstanding paragraphs (2) and (3) of subsection (f), no institution or qualified program identified in subsection (e)(1) that received a grant for fiscal year 2008 and that is eligible to receive a grant in a subsequent fiscal year shall receive a grant amount in any such subsequent fiscal year that is less than the grant amount received for fiscal year 2008, unless the amount appropriated is not sufficient to provide such grant amounts to all such institutions and programs, or the institution cannot provide sufficient matching funds to meet the requirements of this section.

(h) INTERACTION WITH OTHER GRANT PROGRAMS.—No institution that is eligible for and receives an award under section 512, 723, or 724 for a fiscal year shall be eligible to apply for a grant, or receive grant funds, under this section for the same fiscal year.

SEC. 327. [20 U.S.C. 1063c] REPORTING AND AUDIT REQUIREMENTS.

(a) RECORDKEEPING.—Each recipient of a grant under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose—

(1) the amount and disposition by such recipient of the proceeds of such assistance;

(2) the cost of the project or undertaking in connection with which such assistance is given or used;

(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

(4) such other records as will facilitate an effective audit.

(b) USE OF UNEXPENDED FUNDS.—Any funds paid to an institution and not expended or used for the purposes for which the funds were paid during the five-year period following the date of the initial grant award, may be carried over and expended during the succeeding five-year period, if such funds were obligated for a purpose for which the funds were paid during the five-year period following the date of the initial grant award.

PART C—ENDOWMENT CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

SEC. 331. [20 U.S.C. 1065] ENDOWMENT CHALLENGE GRANTS.

(a) PURPOSE; DEFINITIONS.—(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

(2) For the purpose of this section:

(A) The term "endowment fund" means a fund established by State law, by an institution of higher education, or by a

foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

(B) The term "endowment fund corpus" means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

(C) The term "endowment fund income" means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

(D)(i) The term "eligible institution" means an institution that is an—

(I) eligible institution under part A or would be considered to be such an institution if section 312(b)(1)(C) referred to a postgraduate degree rather than a bachelor's degree;

(II) institution eligible for assistance under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or

(III) institution of higher education that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

(ii) The Secretary may waive the requirements of subclauses (I) and (II) of clause (i) with respect to a postgraduate degree in the case of any institution otherwise eligible under clause (i) for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

(b) GRANTS AUTHORIZED.—(1) From sums available for this section under section 399, the Secretary is authorized to award endowment challenge grants to eligible institutions to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

(B) The Secretary may make a grant under this part to an eligible institution in any fiscal year if the institution—

(i) applies for a grant in an amount not exceeding $1,000,000; and

(ii) has deposited in the eligible institution's endowment fund established under this section an amount which is equal to ½ of the amount of such grant.

(C) An eligible institution of higher education that is awarded a grant under subparagraph (B) shall not be eligible to receive an additional grant under subparagraph (B) until 10 years after the date on which the grant period terminates.

(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in subsection (a)(2)(D) of this section.

(B) No institution shall be ineligible for an endowment challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

(5) An endowment challenge grant awarded under this section to an eligible institution shall be in an amount which is not less than $100,000 in any fiscal year.

(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

(c) GRANT AGREEMENT; ENDOWMENT FUND PROVISIONS.—(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

(d) REPAYMENT PROVISIONS.—(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

(e) AUDIT INFORMATION.—An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

(f) SELECTION CRITERIA.—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

(1) give priority to an applicant that is receiving assistance under part A or part B or has received a grant under part A or part B of this title within the 5 fiscal years preceding the fiscal year in which the applicant is applying for a grant under this section;

(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution; and

(3) consider—

(A) the effort made by the applicant to build or maintain its existing endowment fund; and

(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

(g) APPLICATION.—Any institution which is eligible for assistance under this section may submit to the Secretary a grant appli-

cation at such time, in such form, and containing such information as the Secretary may prescribe, including a description of the long- and short-term plans for raising and using the funds under this part. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

(h) TERMINATION AND RECOVERY PROVISIONS.—(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

(i) TECHNICAL ASSISTANCE.—The Secretary, directly or by grant or contract, may provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a grant, under this section.

PART D—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

SEC. 341. [20 U.S.C. 1066] FINDINGS.

The Congress finds that—

(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans;

(2) the Nation's historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their academic and technical skills, and honing their social and political skills through higher education;

(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect, deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

(4) due to their small enrollments, limited endowments and other financial factors normally considered by lenders in construction financing, historically Black colleges and univer-

sities often lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

(5) despite their track record of long-standing and remarkable institutional longevity and viability, historically Black colleges and universities often lack the financial resources necessary to gain access to traditional sources of capital financing such as bank loans and bond financing; and

(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education.

SEC. 342. [20 U.S.C. 1066a] DEFINITIONS.

For the purposes of this part:

(1) The term "eligible institution" means a "part B institution" as that term is defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

(2) The term "loan" means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

(3) The term "qualified bond" means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 343(b).

(4) The term "funding" means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 343.

(5) The term "capital project" means, subject to section 344(b), the repair, renovation, or, in exceptional circumstances, the construction or acquisition, of—

(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

(B) a facility for the administration of an educational program, or a student center or student union, except that not more than 5 percent of the loan proceeds provided under this part may be used for the facility, center or union if the facility, center or union is owned, leased, managed, or operated by a private business, that, in return for such use, makes a payment to the eligible institution;

(C) instructional equipment, technology, research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

(D) a maintenance, storage, or utility facility that is essential to the operation of a facility, a library, a dormitory, equipment, instrumentation, a fixture, real property or an interest therein, described in this paragraph;

(E) a facility designed to provide primarily outpatient health care for students or faculty;

(F) physical infrastructure essential to support the projects authorized under this paragraph, including roads, sewer and drainage systems, and water, power, lighting, telecommunications, and other utilities;

(G) any other facility, equipment or fixture which is essential to the maintaining of accreditation of the member institution by an accrediting agency or association recognized by the Secretary under subpart 2 of part H of title IV; and

(H) any real property or interest therein underlying facilities described in subparagraph (A) or (G).

(6) The term "interest" includes accredited value or any other payment constituting interest on an obligation.

(7) The term "outstanding", when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

(8) The term "designated bonding authority" means the private, for-profit corporation selected by the Secretary pursuant to section 345(1) for the purpose of issuing taxable capital project construction bonds in furtherance of the purposes of this part.

(9) The term "Advisory Board" means the Advisory Board established by section 347 of this part.

SEC. 343. [20 U.S.C. 1066b] FEDERAL INSURANCE FOR BONDS.

(a) GENERAL RULE.—Subject to the limitations in section 344, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c) and (d).

(b) RESPONSIBILITIES OF THE DESIGNATED BONDING AUTHORITY.—The Secretary may not enter into an insurance agreement described in subsection (a) unless the Secretary designates a qualified bonding authority in accordance with sections 345(1) and 346 and the designated bonding authority agrees in such agreement to—

(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used—

(A) to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project; or

(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project;

(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely re-

payment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

(8) establish an escrow account—

(A) into which each eligible institution shall deposit 5 percent of the proceeds of any loan made under this part, with each eligible institution required to maintain in the escrow account an amount equal to 5 percent of the outstanding principal of all loans made to such institution under this part; and

(B) the balance of which—

(i) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

(ii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 5 percent deposit of loan proceeds within 120 days following scheduled repayment of such institution's loan;

(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

(10) comply with the limitations set forth in section 344 of this part;

(11) make loans only to eligible institutions under this part in accordance with conditions prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and

scope to significantly contribute to the educational program of the eligible institutions; and

(12) limit loan collateralization, with respect to any loan made under this part, to 100 percent of the loan amount, except as otherwise required by the Secretary.

(c) ADDITIONAL AGREEMENT PROVISIONS.—Any insurance agreement described in subsection (a) of this section shall provide as follows:

(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8).

(3) The Secretary shall create a letter of credit authorizing the Department of the Treasury to disburse funds to the designated bonding authority or its assignee.

(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the escrow account to make a scheduled payment of principal and interest on the bonds.

(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

(6) All funds provided under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (4).

(d) FULL FAITH AND CREDIT PROVISIONS.—Subject to section 343(c)(1) the full faith and credit of the United States is pledged to the payment of all funds which may be required to be paid under the provisions of this section.

(e) SALE OF QUALIFIED BONDS.—Notwithstanding any other provision of law, a qualified bond guaranteed under this part may be sold to any party that offers terms that the Secretary determines are in the best interest of the eligible institution.

SEC. 344. [20 U.S.C. 1066c] LIMITATIONS ON FEDERAL INSURANCE FOR BONDS ISSUED BY THE DESIGNATED BONDING AUTHORITY.

(a) LIMIT ON AMOUNT.—At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $1,100,000,000, of which—

(1) not more than $733,333,333 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

(2) not more than $366,666,667 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

For purposes of paragraphs (1) and (2), Lincoln University of Pennsylvania is an historically Black public institution. No institution of higher education that has received assistance under section 8 of the Act of March 2, 1867 (20 U.S.C. 123) shall be eligible to receive assistance under this part.

(b) LIMITATION ON CREDIT AUTHORITY.—The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

(c) RELIGIOUS ACTIVITY PROHIBITION.—No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

(d) DISCRIMINATION PROHIBITION.—No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or disabling condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

SEC. 345. [20 U.S.C. 1066d] AUTHORITY OF THE SECRETARY.

In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary—

(1) shall, within 120 days of the date of enactment of the Higher Education Opportunity Act, publish in the Federal Register a notice and request for proposals for any private for-profit organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

(A) specify the time and manner for submission of proposals; and

(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

(2) shall ensure that—

(A) the selection process for the designated bonding authority is conducted on a competitive basis; and

(B) the evaluation and selection process is transparent;

(3) shall—

(A) review the performance of the designated bonding authority after the third year of the insurance agreement; and

(B) following the review described in subparagraph (A), implement a revised competitive selection process, if determined necessary by the Secretary in consultation with the Advisory Board established pursuant to section 347;

(4) shall require that the first loans for capital projects authorized under section 343 be made no later than March 31, 1994;

(5) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

(6)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that—

(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(7) may sell, exchange, or lease real or personal property and securities or obligations;

(8) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved;

(9) may, directly or by grant or contract, provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a capital improvement loan, including a loan under this part; and

(10) not later than 120 days after the date of enactment of the Higher Education Opportunity Act, shall submit to the authorizing committees a report on the progress of the Department in implementing the recommendations made by the Government Accountability Office in October 2006 for improving the Historically Black College and Universities Capital Financing Program.

[Section 346 repealed by section 306(d) of P.L. 105–244.]

SEC. 347. [20 U.S.C. 1066f] HBCU CAPITAL FINANCING ADVISORY BOARD.

(a) ESTABLISHMENT AND PURPOSE.—There is established within the Department of Education, the Historically Black College and Universities Capital Financing Advisory Board (hereinafter in this part referred to as the "Advisory Board") which shall provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on African American college campuses, and advise the Congress of the United States regarding the progress made in implementing this part. The Advisory Board shall meet with the Secretary at least twice each year to advise him as to the capital needs of historically Black colleges and universities, how those needs can be met through the program authorized by this part, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

(b) BOARD MEMBERSHIP.—

(1) COMPOSITION.—The Advisory Board shall be appointed by the Secretary and shall be composed of 11 members as follows:

(A) The Secretary or the Secretary's designee.

(B) Three members who are presidents of private historically Black colleges or universities.

(C) Three members who are presidents of public historically Black colleges or universities.

(D) The president of the United Negro College Fund, Inc., or the president's designee.

(E) The president of the National Association for Equal Opportunity in Higher Education, or the designee of the Association.

(F) The executive director of the White House Initiative on historically Black colleges and universities.

(G) The president of the Thurgood Marshall College Fund, or the designee of the president.

(2) TERMS.—The term of office of each member appointed under paragraphs (1)(B) and (1)(C) shall be 3 years, except that—

(A) of the members first appointed pursuant to paragraphs (1)(B) and (1)(C), 2 shall be appointed for terms of 1 year, and 3 shall be appointed for terms of 2 years;

(B) members appointed to fill a vacancy occurring before the expiration of a term of a member shall be appointed to serve the remainder of that term; and

(C) a member may continue to serve after the expiration of a term until a successor is appointed.

(c) ADDITIONAL RECOMMENDATIONS FROM ADVISORY BOARD.—

(1) IN GENERAL.—In addition to the responsibilities of the Advisory Board described in subsection (a), the Advisory Board shall advise the Secretary and the authorizing committees regarding—

(A) the fiscal status and strategic financial condition of not less than ten historically Black colleges and universities that have—

(i) obtained construction financing through the program under this part and seek additional financing or refinancing under such program; or

(ii) applied for construction financing through the program under this part but have not received financing under such program; and

(B) the feasibility of reducing borrowing costs associated with the program under this part, including reducing interest rates.

(2) REPORT.—Not later than six months after the date of enactment of theHigher Education Opportunity Act, the Advisory Board shall prepare and submit a report to the authorizing committees regarding the historically Black colleges and universities described in paragraph (1)(A) that includes administrative and legislative recommendations for addressing the issues related to construction financing facing such historically Black colleges and universities.

SEC. 348. [20 U.S.C. 1066g] MINORITY BUSINESS ENTERPRISE UTILIZATION.

In the performance of and with respect to the Secretary's effectuation of his responsibilities under section 345(1) and to the maximum extent feasible in the implementation of the purposes of this part, minority business persons, including bond underwriters and credit enhancers, bond counsel, marketers, accountants, advisors, construction contractors, and managers should be utilized.

PART E—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SUBPART 1—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SEC. 350. [20 U.S.C. 1067] FINDINGS.

Congress makes the following findings:

(1) It is incumbent on the Federal Government to support the technological and economic competitiveness of the United States by improving and expanding the scientific and technological capacity of the United States. More and better prepared scientists, engineers, and technical experts are needed to improve and expand such capacity.

(2) As the Nation's population becomes more diverse, it is important that the educational and training needs of all Americans are met. Underrepresentation of minorities in science and technological fields diminishes our Nation's competitiveness by impairing the quantity of well prepared scientists, engineers, and technical experts in these fields.

(3) Despite significant limitations in resources, minority institutions provide an important educational opportunity for minority students, particularly in science and engineering fields. Aid to minority institutions is a good way to address the underrepresentation of minorities in science and technological fields.

(4) There is a strong Federal interest in improving science and engineering programs at minority institutions as such pro-

grams lag behind in program offerings and in student enrollment compared to such programs at other institutions of higher education.

SEC. 351. [20 U.S.C. 1067a] PURPOSE; AUTHORITY.

(a) It is the purpose of this subpart to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 3(a)(1) of the National Science Foundation Act of 1950 and transferred to the Department by section 303(a)(1) of the Department of Education Organization Act.

(b) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities, particularly minority women, in scientific and technological careers.

SEC. 352. [20 U.S.C. 1067b] GRANT RECIPIENT SELECTION.

(a) ESTABLISHMENT OF CRITERIA.—Grants under this subpart shall be awarded on the basis of criteria established by the Secretary by regulations.

(b) PRIORITIES TO BE GIVEN IN CRITERIA.—In establishing criteria under subsection (a), the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

(c) REQUIRED CRITERIA.—In establishing criteria under subsection (a), the Secretary may consider the following selection criteria in making grants:

(1) plan of operation;
(2) quality of key personnel;
(3) budget and cost effectiveness;
(4) evaluation plan;
(5) adequacy of resources;
(6) identification of need for the project;
(7) potential institutional impact of the project;
(8) institutional commitment to the project;
(9) expected outcomes; and
(10) scientific and educational value of the proposed project.

SEC. 353. [20 U.S.C. 1067c] USE OF FUNDS.

(a) TYPES OF GRANTS.—Funds appropriated to carry out this subpart may be made available as—

(1) institutional grants (as defined in section 365(6));
(2) cooperative grants (as defined in section 365(7));
(3) design projects (as defined in section 365(8)); or
(4) special projects (as defined in section 365(9)).

(b) AUTHORIZED USES FOR EACH TYPE OF GRANT.—(1) The authorized uses of funds made available as institutional grants include (but are not limited to)—

(A) faculty development programs; or

(B) development of curriculum materials.

(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)—

(A) assisting institutions in sharing facilities and personnel;

(B) disseminating information about established programs in science and engineering;

(C) supporting cooperative efforts to strengthen the institutions' science and engineering programs; or

(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

(3) The authorized uses of funds made available as design projects include (but are not limited to)—

(A) developing planning, management, and evaluation systems; or

(B) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

(4) The authorized uses of funds made available as special projects include (but are not limited to)—

(A) advanced science seminars;

(B) science faculty workshops and conferences;

(C) faculty training to develop specific science research or education skills;

(D) research in science education;

(E) programs for visiting scientists;

(F) preparation of films or audio-visual materials in science;

(G) development of learning experiences in science beyond those normally available to minority undergraduate students;

(H) development of pre-college enrichment activities in science; or

(I) any other activities designed to address specific barriers to the entry of minorities into science.

Subpart 2—Programs in STEM Fields

SEC. 355. [20 U.S.C. 1067e] YES PARTNERSHIPS GRANT PROGRAM.

(a) GRANT PROGRAM AUTHORIZED.—Subject to the availability of appropriations to carry out this subpart, the Secretary shall make grants to eligible partnerships (as described in subsection (f)) to support the engagement of underrepresented minority youth and youth who are low-income individuals (as such term is defined in section 312) in science, technology, engineering, and mathematics through outreach and hands-on, experiential-based learning projects that encourage students in kindergarten through grade 12 who are underrepresented minority youth or low-income individuals to pursue careers in science, technology, engineering, and mathematics.

(b) MINIMUM GRANT AMOUNT.—A grant awarded to a partnership under this subpart shall be for an amount that is not less than $500,000.

(c) DURATION.—A grant awarded under this subpart shall be for a period of five years.

(d) NON-FEDERAL MATCHING SHARE REQUIRED.—A partnership receiving a grant under this subpart shall provide, from non-Federal sources, in cash or in-kind, an amount equal to 50 percent of the costs of the project supported by such grant.

(e) DISTRIBUTION OF GRANTS.—In awarding grants under this subpart, the Secretary shall ensure that, to the maximum extent practicable, the projects funded under this subpart are located in diverse geographic regions of the United States.

(f) ELIGIBLE PARTNERSHIPS.—Notwithstanding the general eligibility provision in section 361, eligibility to receive grants under this subpart is limited to partnerships described in paragraph (5) of such section.

SEC. 356. [20 U.S.C. 1067e–1] PROMOTION OF ENTRY INTO STEM FIELDS.

(a) AUTHORITY TO CONTRACT, SUBJECT TO APPROPRIATIONS.—The Secretary is authorized to enter into a contract with a firm with a demonstrated record of success in advertising to implement a campaign to expand the population of qualified individuals in science, technology, engineering, and mathematics fields (referred to in this section as "STEM fields") by encouraging young Americans to enter such fields.

(b) DESIGN OF CAMPAIGN.—The campaign under this section shall be designed to enhance the image of education and professions in the STEM fields and promote participation in the STEM fields, and may include—

(1) monitoring trends in youths' attitudes toward pursuing education and professions in the STEM fields and their propensity toward entering the STEM fields;

(2) determining what factors contribute to encouraging and discouraging Americans from pursuing study in STEM fields and entering the STEM fields professionally;

(3) determining what specific factors limit the participation of groups currently underrepresented in STEM fields, including Latinos, African-Americans, and women; and

(4) drawing from the market research performed under this section and implementing an advertising campaign to encourage young Americans to take up studies in STEM fields, beginning at an early age.

(c) REQUIRED COMPONENTS.—The campaign under this section shall—

(1) include components that focus tailored messages on appropriate age groups, starting with elementary school students; and

(2) link participation in the STEM fields to the concept of service to one's country, so that young people will be encouraged to enter the STEM fields in order fulfill the obligation to be of service to their country.

(d) PRIORITY.—The campaign under this section shall hold as a high priority making specific appeals to Hispanic Americans, African Americans, Native Americans, students with disabilities, and women, who are currently underrepresented in the STEM fields, in

order to increase their numbers in the STEM fields, and shall tailor recruitment efforts to each specific group.

(e) USE OF VARIETY OF MEDIA.—The campaign under this section shall make use of a variety of media, with an emphasis on television advertising, to reach its intended audience.

(f) TEACHING.—The campaign under this section shall include a narrowly focused effort to attract current professionals in the STEM fields, through advertising in mediums likely to reach that specific group, into teaching in a STEM field in elementary schools and secondary schools.

SEC. 357. [20 U.S.C. 1067e–2] EVALUATION AND ACCOUNTABILITY PLAN.

The Secretary shall develop an evaluation and accountability plan for projects funded under this subpart. Such plan shall include, if the Secretary determines that it is practical, an objective measure of the impact of such projects, such as a measure of whether underrepresented minority student enrollment in courses related to science, technology, engineering, and mathematics increases at the secondary and postsecondary levels.

SUBPART 3—ADMINISTRATIVE AND GENERAL PROVISIONS

SEC. 361. [20 U.S.C. 1067g] ELIGIBILITY FOR GRANTS.

Eligibility to receive grants under this part is limited to—

(1) public and private nonprofit institutions of higher education that—

(A) award baccalaureate degrees; and

(B) are minority institutions;

(2) public or private nonprofit institutions of higher education that—

(A) award associate degrees; and

(B) are minority institutions that—

(i) have a curriculum that includes science or engineering subjects; and

(ii) enter into a partnership with public or private nonprofit institutions of higher education that award baccalaureate degrees in science and engineering;

(3)[3] nonprofit science-oriented organizations, professional scientific societies, and institutions of higher education that award baccalaureate degrees, that—

(A) provide a needed service to a group of minority institutions; or

(B) provide in-service training for project directors, scientists, and engineers from minority institutions;

(4) consortia of organizations, that provide needed services to one or more minority institutions, the membership of which may include—

(A) public and private nonprofit institutions of higher education which have a curriculum in science or engineering;

(B) institutions of higher education that have a graduate or professional program in science or engineering;

[3] This paragraph does not reflect amendments made by section 301(b) or 301(c)(9) of the Higher Education Amendments of 1998 (P.L. 105–244; 112 Stat. 1636) as those amendments were superseded by the amendment made by section 307(b) of that Act (112 Stat. 1636).

(C) research laboratories of, or under contract with, the Department of Energy, the Department of Defense, or the National Institutes of Health;

(D) relevant offices of the National Aeronautics and Space Administration, National Oceanic and Atmospheric Administration, National Science Foundation, and National Institute of Standards and Technology;

(E) quasi-governmental entities that have a significant scientific or engineering mission; or

(F) institutions of higher education that have State-sponsored centers for research in science, technology, engineering, and mathematics; or

(5) only with respect to grants under subpart 2, partnerships of organizations, the membership of which shall include—

(A) at least one institution of higher education eligible for assistance under this title or title V;

(B) at least one high-need local educational agency (as defined in section 200); and

(C) at least two community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, or State agencies.

SEC. 362. [20 U.S.C. 1067h] GRANT APPLICATION.

(a) SUBMISSION AND CONTENTS OF APPLICATIONS.—An eligible applicant (as determined under section 361) that desires to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

(1) a program of activities for carrying out one or more of the purposes described in section 351(b) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) APPROVAL BASED ON LIKELIHOOD OF PROGRESS.—The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part.

SEC. 363. [20 U.S.C. 1067i] CROSS PROGRAM AND CROSS AGENCY COOPERATION.

The Minority Science and Engineering Improvement Programs shall cooperate and consult with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

SEC. 364. [20 U.S.C. 1067j] ADMINISTRATIVE PROVISIONS.

(a) TECHNICAL STAFF.—The Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not less than 2 technical employees with appropriate scientific and educational

background to administer the programs under this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) PROCEDURES FOR GRANT REVIEW.—The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this title may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

SEC. 365. [20 U.S.C. 1067k] DEFINITIONS.

For the purpose of this part—

(1) The term "accredited" means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

(2) The term "minority" means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

(3) The term "minority institution" means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

(4) The term "science" means, for the purpose of this program, the biological, engineering, mathematical, physical, behavioral, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

(5) The term "underrepresented in science and engineering" means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

(6) The term "institutional grant" means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

(7) The term "cooperative grant" means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

(8) The term "design projects" means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

(9) The term "special projects" means—

(A) a special project grant to a minority institution which supports activities that—

(i) improve the quality of training in science and engineering at minority institutions; or

(ii) enhance the minority institutions' general scientific research capabilities; or

(B) a special project grant to any eligible applicant which supports activities that—

(i) provide a needed service to a group of eligible minority institutions; or

(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

PART F—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS

SEC. 371. [20 U.S.C. 1067q] INVESTMENT IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS.

(a) ELIGIBLE INSTITUTION.—An institution of higher education is eligible to receive funds from the amounts made available under this section if such institution is—

(1) a part B institution (as defined in section 322 (20 U.S.C. 1061));

(2) a Hispanic-serving institution (as defined in section 502 (20 U.S.C. 1101a));

(3) a Tribal College or University (as defined in section 316 (20 U.S.C. 1059c));

(4) an Alaska Native-serving institution or a Native Hawaiian-serving institution (as defined in section 317(b) (20 U.S.C. 1059d(b)));

(5) a Predominantly Black Institution (as defined in subsection (c));

(6) an Asian American and Native American Pacific Islander-serving institution (as defined in subsection (c)); or

(7) a Native American-serving nontribal institution (as defined in subsection (c)).

(b) NEW INVESTMENT OF FUNDS.—

(1) IN GENERAL.—

(A) PROVISION OF FUNDS.—There shall be available to the Secretary to carry out this section, from funds in the Treasury not otherwise appropriated, $255,000,000 for each of the fiscal years 2008 through 2019. The authority to award grants under this section shall expire at the end of fiscal year 2019.

(B) AVAILABILITY.—Funds made available under subparagraph (A) for a fiscal year shall remain available for the next succeeding fiscal year.

(2) ALLOCATION AND ALLOTMENT.—

(A) IN GENERAL.—Of the amounts made available under paragraph (1) for each fiscal year—

(i) $100,000,000 shall be available for allocation under subparagraph (B);

(ii) $100,000,000 shall be available for allocation under subparagraph (C); and

(iii) $55,000,000 shall be available for allocation under subparagraph (D).

(B) HSI STEM AND ARTICULATION PROGRAMS.—The amount made available for allocation under this subparagraph by subparagraph (A)(i) for any fiscal year shall be available for Hispanic-serving Institutions for activities described in section 503, with a priority given to applications that propose—

(i) to increase the number of Hispanic and other low income students attaining degrees in the fields of science, technology, engineering, or mathematics; and

(ii) to develop model transfer and articulation agreements between 2-year Hispanic-serving institutions and 4-year institutions in such fields.

(C) ALLOCATION AND ALLOTMENT HBCUS AND PBIS.—From the amount made available for allocation under this subparagraph by subparagraph (A)(ii) for any fiscal year—

(i) 85 percent shall be available to eligible institutions described in subsection (a)(1) and shall be made available as grants under section 323 and allotted among such institutions under section 324, treating such amount, plus the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out part B of this title, as the amount appropriated to carry out part B of this title for purposes of allotments under section 324, for use by such institutions with a priority for—

(I) activities described in paragraphs (1), (2), (4), (5), and (10) of section 323(a); and

(II) other activities, consistent with the institution's comprehensive plan and designed to increase the institution's capacity to prepare students for careers in the physical or natural sciences, mathematics, computer science or information technology or sciences, engineering, language instruction in the less-commonly taught languages or international affairs, or nursing or allied health professions; and

(ii) 15 percent shall be available to eligible institutions described in subsection (a)(5) and shall be available for a competitive grant program to award 25 grants of $600,000 annually for programs in any of the following areas:

(I) science, technology, engineering, or mathematics (STEM);

(II) health education;

(III) internationalization or globalization;

(IV) teacher preparation; or

(V) improving educational outcomes of African American males.

(D) ALLOCATION AND ALLOTMENT TO OTHER MINORITY-SERVING INSTITUTIONS.—From the amount made available for allocation under this subparagraph by subparagraph (A)(iii) for any fiscal year—

(i) $30,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(3) and shall be made available as grants under section 316, treating such $30,000,000 as part of the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out such section, and using such $30,000,000 for purposes described in subsection (c) of such section;

(ii) $15,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(4) and shall be made available as grants under section 317, treating such $15,000,000 as part of the amount appropriated for such fiscal year in a regular or supplemental appropriation Act to carry out such section and using such $15,000,000 for purposes described in subsection (c) of such section;

(iii) $5,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(6) for activities described in section 311(c); and

(iv) $5,000,000 for such fiscal year shall be available to eligible institutions described in subsection (a)(7)—

(I) to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Native Americans, which may include—

(aa) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(bb) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(cc) support of faculty exchanges, faculty development, and faculty fellowships to assist faculty in attaining advanced degrees in the faculty's field of instruction;

(dd) curriculum development and academic instruction;

(ee) the purchase of library books, periodicals, microfilm, and other educational materials;

(ff) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(gg) the joint use of facilities such as laboratories and libraries; and

(hh) academic tutoring and counseling programs and student support services; and

(II) to which the Secretary, to the extent possible and consistent with a competitive process under which such grants are awarded, allocates funds under this clause to ensure maximum and equitable distribution among all such eligible institutions.

(c) DEFINITIONS.—

(1) ASIAN AMERICAN.—The term "Asian American" has the meaning given the term "Asian" in the Office of Management and Budget's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as published on October 30, 1997 (62 Fed. Reg. 58789).

(2) ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTION.—The term "Asian American and Native American Pacific Islander-serving institution" means an institution of higher education that—

(A) is an eligible institution under section 312(b); and

(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Asian American and Native American Pacific Islander students.

(3) ENROLLMENT OF NEEDY STUDENTS.—The term "enrollment of needy students" means the enrollment at an institution of higher education with respect to which not less than 50 percent of the undergraduate students enrolled in an academic program leading to a degree—

(A) in the second fiscal year preceding the fiscal year for which the determination is made, were Federal Pell Grant recipients for such year;

(B) come from families that receive benefits under a means-tested Federal benefit program (as defined in paragraph (5));

(C) attended a public or nonprofit private secondary school—

(i) that is in the school district of a local educational agency that was eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 for any year during which the student attended such secondary school; and

(ii) which for the purpose of this paragraph and for that year was determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under a measure of poverty described in section 1113(a)(5) of such Act exceeds 30 percent of the total enrollment of such school; or

(D) are first-generation college students (as that term is defined in section 402A(h)), and a majority of such first-generation college students are low-income individuals.

(4) LOW-INCOME INDIVIDUAL.—The term "low-income individual" has the meaning given such term in section 402A(h).

(5) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term "means-tested Federal benefit program" means a program of the Federal Government, other than a program under title IV,

in which eligibility for the programs' benefits or the amount of such benefits are determined on the basis of income or resources of the individual or family seeking the benefit.

(6) NATIVE AMERICAN.—The term "Native American" means an individual who is of a tribe, people, or culture that is indigenous to the United States.

(7) NATIVE AMERICAN PACIFIC ISLANDER.—The term "Native American Pacific Islander" means any descendant of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(8) NATIVE AMERICAN-SERVING NONTRIBAL INSTITUTION.—The term "Native American-serving nontribal institution" means an institution of higher education that—

(A) at the time of application—

(i) has an enrollment of undergraduate students that is not less than 10 percent Native American students; and

(ii) is not a Tribal College or University (as defined in section 316); and

(B) submits to the Secretary such enrollment data as may be necessary to demonstrate that the institution is described in subparagraph (A), along with such other information and data as the Secretary may by regulation require.

(9) PREDOMINANTLY BLACK INSTITUTION.—The term "Predominantly Black institution" means an institution of higher education that—

(A) has an enrollment of needy students as defined by paragraph (3);

(B) has an average educational and general expenditure which is low, per full-time equivalent undergraduate student in comparison with the average educational and general expenditure per full-time equivalent undergraduate student of institutions of higher education that offer similar instruction, except that the Secretary may apply the waiver requirements described in section 392(b) to this subparagraph in the same manner as the Secretary applies the waiver requirements to section 312(b)(1)(B);

(C) has an enrollment of undergraduate students—

(i) that is at least 40 percent Black American students;

(ii) that is at least 1,000 undergraduate students;

(iii) of which not less than 50 percent of the undergraduate students enrolled at the institution are low-income individuals or first-generation college students (as that term is defined in section 402A(h)); and

(iv) of which not less than 50 percent of the undergraduate students are enrolled in an educational program leading to a bachelor's or associate's degree that the institution is licensed to award by the State in which the institution is located;

(D) is legally authorized to provide, and provides within the State, an educational program for which the institution of higher education awards a bachelor's degree, or in

the case of a junior or community college, an associate's degree;

(E) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered, or is, according to such an agency or association, making reasonable progress toward accreditation; and

(F) is not receiving assistance under—

(i) part B;

(ii) part A of title V; or

(iii) an annual authorization of appropriations under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123).

PART G—GENERAL PROVISIONS

SEC. 391. [20 U.S.C. 1068] APPLICATIONS FOR ASSISTANCE.

(a) APPLICATIONS.—

(1) APPLICATIONS REQUIRED.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution's need for the assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for assistance under this title only if the Secretary determines that—

(A) the application meets the requirements of subsection (b);

(B) the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought; and

(C) the applicant's performance goals are sufficiently rigorous as to meet the purposes of this title and the performance objectives and indicators for this title established by the Secretary pursuant to the Government Performance and Results Act of 1993 and the amendments made by such Act.

(2) PRELIMINARY APPLICATIONS.—In carrying out paragraph (1), the Secretary may develop a preliminary application for use by eligible institutions applying under part A prior to the submission of the principal application.

(b) CONTENTS.—An institution, in its application for a grant, shall—

(1) set forth, or describe how the institution (other than an institution applying under part C, D or E) will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will

be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 323, and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this title, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the limitations set forth in section 396, except that for purposes of section 316, paragraphs (2) and (3) of section 396 shall not apply;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

(E) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (D); and

(8) include such other information as the Secretary may prescribe.

(c) PRIORITY CRITERIA PUBLICATION REQUIRED.—The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, United States Code, all policies and procedures required to exer-

cise the authority set forth in subsection (a). No other criteria, policies, or procedures shall apply.

(d) ELIGIBILITY DATA.—The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under title IV of this Act in making eligibility determinations under section 312 and shall advance the base-year forward following each annual grant cycle.

(e) TECHNICAL ASSISTANCE.—The Secretary, directly or by grant or contract, may provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a grant, under this title.

SEC. 392. [20 U.S.C. 1068a] WAIVER AUTHORITY AND REPORTING REQUIREMENT.

(a) WAIVER REQUIREMENTS; NEED-BASED ASSISTANCE STUDENTS.—The Secretary may waive the requirements set forth in section 312(b)(1)(A) in the case of an institution—

(1) which is extensively subsidized by the State in which it is located and charges low or no tuition;

(2) which serves a substantial number of low-income students as a percentage of its total student population;

(3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions;

(5) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

(6) that is a tribally controlled college or university as defined in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978; or

(7) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Black Americans, Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians.

(b) WAIVER DETERMINATIONS; EXPENDITURES.—(1) The Secretary may waive the requirements set forth in section 312(b)(1)(B) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A is otherwise consistent with the purposes of such parts.

(2) The Secretary shall submit to the Congress every other year a report concerning the institutions which, although not satisfying the criterion contained in section 312(b)(1)(B), have been determined to be eligible institutions under part A which enroll significant numbers of Black American, Hispanic, Native American, Asian American, or Native Hawaiian students under part A, as the case may be. Such report shall—

(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with subparagraphs (A) and (B) of section 312(b)(1); and

(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

(3) The Secretary may waive the requirement set forth in section 312(b)(1)(E) in the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians.

(c) WAIVER AUTHORITY WITH RESPECT TO INSTITUTIONS LOCATED IN AN AREA AFFECTED BY A GULF HURRICANE DISASTER.—

(1) WAIVER AUTHORITY.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, for any affected institution that was receiving assistance under this title at the time of a Gulf hurricane disaster, the Secretary shall, for each of the fiscal years 2009 through 2011 (and may, for each of the fiscal years 2012 and 2013)—

(A) waive—

(i) the eligibility data requirements set forth in section 391(d);

(ii) the wait-out period set forth in section 313(d);

(iii) the allotment requirements under section 324; and

(iv) the use of the funding formula developed pursuant to section 326(f)(3);

(B) waive or modify any statutory or regulatory provision to ensure that affected institutions that were receiving assistance under this title at the time of a Gulf hurricane disaster are not adversely affected by any formula calculation for fiscal year 2009 or for any of the four succeeding fiscal years, as necessary; and

(C) make available to each affected institution an amount that is not less than the amount made available to such institution under this title for fiscal year 2006, except that for any fiscal year for which the funds appropriated for payments under this title are less than the appropriated level for fiscal year 2006, the amount made available to such institutions shall be ratably reduced among the institutions receiving funds under this title.

(2) DEFINITIONS.—In this subsection:

(A) AFFECTED INSTITUTION.—The term "affected institution" means an institution of higher education that—

(i) is—

(I) a part A institution (which term shall have the meaning given the term "eligible institution" under section 312(b)); or

(II) a part B institution, as such term is defined in section 322(2), or as identified in section 326(e);

(ii) is located in an area affected by a Gulf hurricane disaster; and

(iii) is able to demonstrate that, as a result of the impact of a Gulf hurricane disaster, the institution—

(I) incurred physical damage;

(II) has pursued collateral source compensation from insurance, the Federal Emergency Management Agency, and the Small Business Administration, as appropriate; and

(III) was not able to fully reopen in existing facilities or to fully reopen to the pre-hurricane enrollment levels during the 30-day period beginning on August 29, 2005.

(B) AREA AFFECTED BY A GULF HURRICANE DISASTER; GULF HURRICANE DISASTER.—The terms "area affected by a Gulf hurricane disaster" and "Gulf hurricane disaster" have the meanings given such terms in section 209 of the Higher Education Hurricane Relief Act of 2005 (Public Law 109–148, 119 Stat. 2809).

SEC. 393. [20 U.S.C. 1068b] APPLICATION REVIEW PROCESS.

(a) REVIEW PANEL.—(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Tribal Colleges and Universities, and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians) are included as readers.

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 323 that should receive special consideration for grants awarded under part B;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

(b) RECOMMENDATIONS OF PANEL.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(d) EXCLUSION.—The provisions of this section shall not apply to applications submitted under part D.

SEC. 394. [20 U.S.C. 1068c] COOPERATIVE ARRANGEMENTS.

(a) GENERAL AUTHORITY.—The Secretary may make grants to encourage cooperative arrangements—

(1) with funds available to carry out part A, between institutions eligible for assistance under part A and between such institutions and institutions not receiving assistance under this title; or

(2) with funds available to carry out part B, between institutions eligible for assistance under part B and institutions not receiving assistance under this title;

for the activities described in section 311(b) or section 323, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

(b) PRIORITY.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

(c) DURATION.—Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313 or section 323.

SEC. 395. [20 U.S.C. 1068d] ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS.

(a) ASSISTANCE ELIGIBILITY.—Each institution which the Secretary determines to be an institution eligible under part A or an institution eligible under part B may be eligible for waivers in accordance with subsection (b).

(b) WAIVER APPLICABILITY.—(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) The provisions of this section shall apply to any program authorized by part D or title IV of this Act.

(c) LIMITATION.—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

SEC. 396. [20 U.S.C. 1068e] LIMITATIONS.

The funds appropriated under section 399 may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

SEC. 397. [20 U.S.C. 1068f] PENALTIES.

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

SEC. 398. [20 U.S.C. 1068g] CONTINUATION AWARDS.

The Secretary shall make continuation awards under this title for the second and succeeding years of a grant only after determining that the recipient is making satisfactory progress in carrying out the grant.

SEC. 399. [20 U.S.C. 1068h] AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—

(1) PART A.—(A) There are authorized to be appropriated to carry out part A (other than sections 316 through 320), $135,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 316, $30,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(C) There are authorized to be appropriated to carry out section 317, $15,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(D) There are authorized to be appropriated to carry out section 318, $75,000,000 for fiscal year 2009 and each of the five succeeding fiscal years.

(E) There are authorized to be appropriated to carry out section 319, $25,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(F) There are authorized to be appropriated to carry out section 320, $30,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(2) PART B.—(A) There are authorized to be appropriated to carry out part B (other than section 326), $375,000,000 for

fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 326, $125,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(3) PART C.—There are authorized to be appropriated to carry out part C, $10,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(4) PART D.—(A) There are authorized to be appropriated to carry out part D (other than section 345(9), but including section 347), $185,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 345(9) such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(5) PART E.—(A) There are authorized to be appropriated to carry out subpart 1 of part E, $12,000,000 for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

(B) There are authorized to be appropriated to carry out subpart 2 of part E, such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(b) USE OF MULTIPLE YEAR AWARDS.—In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

TITLE IV—STUDENT ASSISTANCE

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

SEC. 400. [20 U.S.C. 1070] STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION.

(a) PURPOSE.—It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 484) in institutions of higher education by—

(1) providing Federal Pell Grants to all eligible students;

(2) providing supplemental educational opportunity grants to those students who demonstrate financial need;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) SECRETARY REQUIRED TO CARRY OUT PURPOSES.—The Secretary shall, in accordance with subparts 1 through 9, carry out programs to achieve the purposes of this part.

Subpart 1—Federal Pell Grants

SEC. 401. [20 U.S.C. 1070a] FEDERAL PELL GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS.

(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—(1) For each fiscal year through fiscal year 2017, the Secretary shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 484) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a Federal Pell Grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) Grants made under this subpart shall be known as "Federal Pell Grants".

(b) PURPOSE AND AMOUNT OF GRANTS.—(1) The purpose of this subpart is to provide a Federal Pell Grant that in combination with reasonable family and student contribution and supplemented by the programs authorized under subparts 3 and 4 of this part, will meet at least 75 percent of a student's cost of attendance (as defined in section 472), unless the institution determines that a greater amount of assistance would better serve the purposes of this section.

(2)

(A)[4] The amount of the Federal Pell Grant for a student eligible under this part shall be—

(i) the maximum Federal Pell Grant, as specified in the last enacted appropriation Act applicable to that award year, plus

(ii) the amount of the increase calculated under paragraph (7)(B) for that year, less

(iii) an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

[4] Margin so in law of subparagraph (A). See amendment made by section 2101(a)(1) of Public Law 111–152. Subparagraph (A) probably should have been run-in to paragraph (2) designation.

(B) In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the Federal Pell Grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division, computed in accordance with this subpart. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 482 of this Act.

(3) No Federal Pell Grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance (as defined in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a Federal Pell Grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the Federal Pell Grant shall be reduced until the combination of expected family contribution and the amount of the Federal Pell Grant does not exceed the cost of attendance at such institution.

(4) No Federal Pell Grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than ten percent of the maximum amount of a Federal Pell Grant award determined under paragraph (2)(A) for such academic year.

(5) Notwithstanding any other provision of this subpart, the Secretary shall allow the amount of the Federal Pell Grant to be exceeded for students participating in a program of study abroad approved for credit by the institution at which the student is enrolled when the reasonable costs of such program are greater than the cost of attendance at the student's home institution, except that the amount of such Federal Pell Grant in any fiscal year shall not exceed the maximum amount of a Federal Pell Grant award determined under paragraph (2)(A), for which a student is eligible during such award year. If the preceding sentence applies, the financial aid administrator at the home institution may use the cost of the study abroad program, rather than the home institution's cost, to determine the cost of attendance of the student.

(6) No Federal Pell Grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution or who is subject to an involuntary civil commitment upon completion of a period of incarceration for a forcible or nonforcible sexual offense (as determined in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program).

(7) ADDITIONAL FUNDS.—

(A) IN GENERAL.—There are authorized to be appropriated, and there are appropriated (in addition to any other amounts appropriated to carry out this section and out of any money in the Treasury not otherwise appropriated) the following amounts—

(i) $2,030,000,000 for fiscal year 2008;

(ii) $2,090,000,000 for fiscal year 2009;

(iii) to carry out subparagraph (B) of this paragraph, such sums as may be necessary for fiscal year 2010 and each subsequent fiscal year to provide the amount of increase of the maximum Federal Pell Grant required by clauses (ii) and (iii) of subparagraph (B); and

(iv) to carry out this section—

(I) $13,500,000,000 for fiscal year 2011;

(II) $13,795,000,000 for fiscal year 2012;

(III) $7,587,000,000 for fiscal year 2013;

(IV) $588,000,000 for fiscal year 2014;

(V) $0 for fiscal year 2015;

(VI) $0 for fiscal year 2016;

(VII) $1,574,000,000 for fiscal year 2017;

(VIII) $1,382,000,000 for fiscal year 2018;

(IX) $1,409,000,000 for fiscal year 2019;

(X) $1,430,000,000 for fiscal year 2020; and

(XI) $1,145,000,000 for fiscal year 2021 and each succeeding fiscal year.

(B) INCREASE IN FEDERAL PELL GRANTS.—The amounts made available pursuant to clauses (i) through (iii) of subparagraph (A) of this paragraph shall be used to increase the amount of the maximum Federal Pell Grant for which a student shall be eligible during an award year, as specified in the last enacted appropriation Act applicable to that award year, by—

(i) $490 for each of the award years 2008–2009 and 2009–2010;

(ii) $690 for each of the award years 2010–2011, 2011–2012, and 2012–2013; and

(iii) the amount determined under subparagraph (C) for each succeeding award year.

(C) ADJUSTMENT AMOUNTS.—

(i) AWARD YEAR 2013–2014.—For award year 2013–2014, the amount determined under this subparagraph for purposes of subparagraph (B)(iii) shall be equal to—

(I) $5,550 or the total maximum Federal Pell Grant for the preceding award year (as determined under clause (iv)(II)), whichever is greater, increased by a percentage equal to the annual adjustment percentage for award year 2013–2014, reduced by

(II) $4,860 or the maximum Federal Pell Grant for which a student was eligible for the preceding award year, as specified in the last enacted appropriation Act applicable to that year, whichever is greater; and

(III) rounded to the nearest $5.

(ii) AWARD YEARS 2014–2015 THROUGH 2017–2018.—For each of the award years 2014–2015 through 2017–2018, the amount determined under this subparagraph for purposes of subparagraph (B)(iii) shall be equal to—

(I) the total maximum Federal Pell Grant for the preceding award year (as determined under clause (iv)(II)), increased by a percentage equal to the annual adjustment percentage for the award year for which the amount under this subparagraph is being determined, reduced by

(II) $4,860 or the maximum Federal Pell Grant for which a student was eligible for the preceding award year, as specified in the last enacted appropriation Act applicable to that year, whichever is greater; and

(III) rounded to the nearest $5.

(iii) SUBSEQUENT AWARD YEARS.—For award year 2018–2019 and each subsequent award year, the amount determined under this subparagraph for purposes of subparagraph (B)(iii) shall be equal to the amount determined under clause (ii) for award year 2017–2018.

(iv) DEFINITIONS.—For purposes of this subparagraph—

(I) the term "annual adjustment percentage" as applied to an award year, is equal to the estimated percentage change in the Consumer Price Index (as determined by the Secretary, using the definition in section 478(f)) for the most recent calendar year ending prior to the beginning of that award year; and

(II) the term "total maximum Federal Pell Grant" as applied to a preceding award year, is equal to the sum of—

(aa) the maximum Federal Pell Grant for which a student is eligible during an award year, as specified in the last enacted appropriation Act applicable to that preceding award year; and

(bb) the amount of the increase in the maximum Federal Pell Grant required by this paragraph for that preceding award year.

(D) PROGRAM REQUIREMENTS AND OPERATIONS OTHERWISE UNAFFECTED.—Except as provided in subparagraphs (B) and (C), nothing in this paragraph shall be construed to alter the requirements and operations of the Federal Pell Grant Program as authorized under this section, or authorize the imposition of additional requirements or operations for the determination and allocation of Federal Pell Grants under this section.

(E) RATABLE INCREASES AND DECREASES.—The amounts specified in subparagraph (B) shall be ratably increased or decreased to the extent that funds available under subparagraph (A) exceed or are less than (respectively) the amount required to provide the amounts specified in subparagraph (B).

(F) AVAILABILITY OF FUNDS.—The amounts made available by subparagraph (A) for any fiscal year shall be

available beginning on October 1 of that fiscal year, and shall remain available through September 30 of the succeeding fiscal year.

(c) PERIOD OF ELIGIBILITY FOR GRANTS.—(1) The period during which a student may receive Federal Pell Grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance except that any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.

(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills. Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

(3) No student is entitled to receive Pell Grant payments concurrently from more than one institution or from the Secretary and an institution.

(4) Notwithstanding paragraph (1), the Secretary may allow, on a case-by-case basis, a student to receive a basic grant if the student—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education; and

(B) is enrolled or accepted for enrollment in a postbaccalaureate program that does not lead to a graduate degree, and in courses required by a State in order for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State,

except that this paragraph shall not apply to a student who is enrolled in an institution of higher education that offers a baccalaureate degree in education.

(5) The period during which a student may receive Federal Pell Grants shall not exceed 12 semesters, or the equivalent of 12 semesters, as determined by the Secretary by regulation. Such regulations shall provide, with respect to a student who received a Federal Pell Grant for a term but was enrolled at a fraction of full-time, that only that same fraction of such semester or equivalent shall count towards such duration limits.

(d) APPLICATIONS FOR GRANTS.—(1) The Secretary shall from time to time set dates by which students shall file applications for Federal Pell Grants under this subpart.

(2) Each student desiring a Federal Pell Grant for any year shall file an application therefor containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

(f) CALCULATION OF ELIGIBILITY.—(1) Each contractor processing applications for awards under this subpart (including a central processor, if any, designated by the Secretary) shall, in a timely manner, furnish to the student financial aid administrator (at each institution of higher education which a student awarded a Federal Pell Grant under this subpart is attending), as a part of its regular output document, the expected family contribution for each such student. Each such student financial aid administrator shall—

(A) examine and assess the data used to calculate the expected family contribution of the student furnished pursuant to this subsection;

(B) recalculate the expected family contribution of the student if there has been a change in circumstances of the student or in the data submitted;

(C) make the award to the student in the correct amount; and

(D) after making such award report the corrected data to such contractor and to a central processor (if any) designated by the Secretary for a confirmation of the correct computation of amount of the expected family contribution for each such student.

(2) Whenever a student receives an award under this subpart that, due to recalculation errors by the institution of higher education, is in excess of the amount which the student is entitled to receive under this subpart, such institution of higher education shall pay to the Secretary the amount of such excess unless such excess can be resolved in a subsequent disbursement to the institution.

(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986–1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the expected family contribution, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the authorizing committees.

(g) INSUFFICIENT APPROPRIATIONS.—If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) (but at the maximum grant level specified in such appropriation), the Secretary shall promptly transmit a notice of such

insufficiency to each House of the Congress, and identify in such notice the additional amount that would be required to be appropriated to satisfy fully all entitlements (as so calculated at such maximum grant level).

(h) USE OF EXCESS FUNDS.—(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made under this paragraph only with respect to entitlements for that fiscal year.

(i) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of Pell Grants shall not be considered to be individual grantees for purposes of subtitle D of title V of Public Law 100–690.

(j) INSTITUTIONAL INELIGIBILITY BASED ON DEFAULT RATES.—

(1) IN GENERAL.—No institution of higher education shall be an eligible institution for purposes of this subpart if such institution of higher education is ineligible to participate in a loan program under part B or D as a result of a final default rate determination made by the Secretary under part B or D after the final publication of cohort default rates for fiscal year 1996 or a succeeding fiscal year.

(2) SANCTIONS SUBJECT TO APPEAL OPPORTUNITY.—No institution may be subject to the terms of this subsection unless the institution has had the opportunity to appeal the institution's default rate determination under regulations issued by the Secretary for the loan program authorized under part B or D, as applicable. This subsection shall not apply to an institution that was not participating in the loan program authorized under part B or D on the date of enactment of the Higher Education Amendments of 1998, unless the institution subsequently participates in the loan programs.

SEC. 401A. [20 U.S.C. 1070a–1] ACADEMIC COMPETITIVENESS GRANTS.

(a) ACADEMIC COMPETITIVENESS GRANT PROGRAM AUTHORIZED.—The Secretary shall award grants, in the amounts specified in subsection (d)(1), to eligible students to assist the eligible students in paying their college education expenses.

(b) DESIGNATION.—A grant under this section—

(1) for the first or second year of a program of undergraduate education shall be known as an "Academic Competitiveness Grant"; and

(2) for the third, fourth, or fifth year of a program of undergraduate education shall be known as a "National Science and Mathematics Access to Retain Talent Grant" or a "National SMART Grant".

(c) DEFINITION OF ELIGIBLE STUDENT.—In this section the term "eligible student" means a student who, for the award year for which the determination of eligibility is made for a grant under this section—

(1) is eligible for a Federal Pell Grant;

(2) is enrolled or accepted for enrollment in an institution of higher education on not less than a half-time basis; and

(3) in the case of a student enrolled or accepted for enrollment in—

(A) the first year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than one year for which the institution awards a certificate)—

(i)(I) successfully completes, after January 1, 2006, but before July 1, 2009, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; or

(II) successfully completes, on or after July 1, 2009, a rigorous secondary school program of study that prepares students for college—

(aa)(AA) that is recognized as such by the official designated for such recognition consistent with State law; and

(BB) about which the designated official has reported to the Secretary, at such time as the Secretary may reasonably require, in order to assist financial aid administrators to determine that the student is an eligible student under this section; or

(bb) that is recognized as such by the Secretary in regulations promulgated to carry out this section, as such regulations were in effect on May 6, 2008; and

(ii) has not been previously enrolled in a program of undergraduate education, except as part of a secondary school program of study;

(B) the second year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education (including a program of not less than two years for which the institution awards a certificate)—

(i)(I) successfully completes, after January 1, 2005, but before July 1, 2009, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; or

(II) successfully completes, on or after July 1, 2009, a rigorous secondary school program of study that prepares students for college—

(aa)(AA) that is recognized as such by the official designated for such recognition consistent with State law; and

(BB) about which the designated official has reported to the Secretary, at such time as the Secretary may reasonably require, in order to assist financial aid administrators to determine that the student is an eligible student under this section; or

(bb) that is recognized as such by the Secretary in regulations promulgated to carry out this section, as such regulations were in effect on May 6, 2008; and

(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) at the end of the first year of such program of undergraduate education;

(C) the third or fourth year of a program of undergraduate education at a four-year degree-granting institution of higher education—

(i) is certified by the institution to be pursuing a major in—

(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

(II) a critical foreign language; and

(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the coursework required for the major described in clause (i);

(D) the third or fourth year of a program of undergraduate education at an institution of higher education (as defined in section 101(a)), is attending an institution that demonstrates, to the satisfaction of the Secretary, that the institution—

(i) offers a single liberal arts curriculum leading to a baccalaureate degree, under which students are not permitted by the institution to declare a major in a particular subject area, and the student—

(I)(aa) studies, in such years, a subject described in subparagraph (C)(i) that is at least equal to the requirements for an academic major at an institution of higher education that offers a baccalaureate degree in such subject, as certified by an appropriate official from the institution; and

(bb) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as deter-

mined under regulations prescribed by the Secretary) in the relevant coursework; or

(II) is required, as part of the student's degree program, to undertake a rigorous course of study in mathematics, biology, chemistry, and physics, which consists of at least—

(aa) 4 years of study in mathematics; and

(bb) 3 years of study in the sciences, with a laboratory component in each of those years; and

(ii) offered such curriculum prior to February 8, 2006; or

(E) the fifth year of a program of undergraduate education that requires 5 full years of coursework, as certified by the appropriate official of the degree-granting institution of higher education, for which a baccalaureate degree is awarded by a degree-granting institution of higher education—

(i) is certified by the institution of higher education to be pursuing a major in—

(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

(II) a critical foreign language; and

(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent, as determined under regulations prescribed by the Secretary) in the coursework required for the major described in clause (i).

(d) GRANT AWARD.—

(1) AMOUNTS.—

(A) IN GENERAL.—The Secretary shall award a grant under this section in the amount of—

(i) $750 for an eligible student under subsection (c)(3)(A);

(ii) $1,300 for an eligible student under subsection (c)(3)(B);

(iii) $4,000 for an eligible student under subparagraph (C) or (D) of subsection (c)(3), for each of the two years described in such subparagraphs; or

(iv) $4,000 for an eligible student under subsection (c)(3)(E).

(B) LIMITATION; RATABLE REDUCTION.—Notwithstanding subparagraph (A)—

(i) in any case in which a student attends an institution of higher education on less than a full-time basis, the amount of the grant that such student may receive shall be reduced in the same manner as a Federal Pell Grant is reduced under section 401(b)(2)(B);

(ii) the amount of such grant, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, shall not exceed the student's cost of attendance;

(iii) if the amount made available under subsection (e) for any fiscal year is less than the amount required to be provided grants to all eligible students in the amounts determined under subparagraph (A) and clause (i) of this subparagraph, then the amount of the grant to each eligible student shall be ratably reduced; and

(iv) if additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

(2) LIMITATIONS.—

(A) NO GRANTS FOR PREVIOUS CREDIT.—The Secretary may not award a grant under this section to any student for any year of a program of undergraduate education for which the student received credit before the date of enactment of the Higher Education Reconciliation Act of 2005.

(B) NUMBER OF GRANTS.—The Secretary may not award more than one grant to a student described in subsection (c)(3) for each year of study described in such subsection.

(3) CALCULATION OF GRANT PAYMENTS.—An institution of higher education shall make payments of a grant awarded under this section in the same manner, using the same payment periods, as such institution makes payments for Federal Pell Grants under section 401.

(e) FUNDING.—

(1) AUTHORIZATION AND APPROPRIATION OF FUNDS.—There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Education to carry out this section—

(A) $790,000,000 for fiscal year 2006;

(B) $850,000,000 for fiscal year 2007;

(C) $920,000,000 for fiscal year 2008;

(D) $960,000,000 for fiscal year 2009; and

(E) $1,010,000,000 for fiscal year 2010.

(2) AVAILABILITY OF FUNDS.—The amounts made available by paragraph (1) for any fiscal year shall be available from October 1 of that fiscal year and remain available through September 30 of the succeeding fiscal year.

(f) RECOGNITION OF PROGRAMS OF STUDY.—The Secretary shall recognize not less than one rigorous secondary school program of study in each State under subparagraphs (A) and (B) of subsection (c)(3) for the purpose of determining student eligibility under such subsection.

(g) SUNSET PROVISION.—The authority to make grants under this section shall expire at the end of award year 2010–2011.

Subpart 2—Federal Early Outreach and Student Services Programs

CHAPTER 1—FEDERAL TRIO PROGRAMS

SEC. 402A. [20 U.S.C. 1070a–11] PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.

(a) GRANTS AND CONTRACTS AUTHORIZED.—The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, to motivate and prepare students for doctoral programs, and to train individuals serving or preparing for service in programs and projects so designed.

(b) RECIPIENTS, DURATION, AND SIZE.—

(1) RECIPIENTS.—For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, including community-based organizations with experience in serving disadvantaged youth, combinations of such institutions, agencies and organizations, and, as appropriate to the purposes of the program, secondary schools, for planning, developing, or carrying out one or more of the services assisted under this chapter.

(2) DURATION.—Grants or contracts made under this chapter shall be awarded for a period of 5 years, except that—

(A) in order to synchronize the awarding of grants for programs under this chapter, the Secretary may, under such terms as are consistent with the purposes of this chapter, provide a one-time, limited extension of the length of such an award;

(B) grants made under section 402G shall be awarded for a period of 2 years; and

(C) grants under section 402H shall be awarded for a period determined by the Secretary.

(3) MINIMUM GRANTS.—Unless the institution or agency requests a smaller amount, an individual grant authorized under this chapter shall be awarded in an amount that is not less than $200,000, except that an individual grant authorized under section 402G shall be awarded in an amount that is not less than $170,000.

(c) PROCEDURES FOR AWARDING GRANTS AND CONTRACTS.—

(1) APPLICATION REQUIREMENTS.—An eligible entity that desires to receive a grant or contract under this chapter shall submit an application to the Secretary in such manner and form, and containing such information and assurances, as the Secretary may reasonably require.

(2) CONSIDERATIONS.—

(A) PRIOR EXPERIENCE.—In making grants under this chapter, the Secretary shall consider each applicant's prior

experience of high quality service delivery, as determined under subsection (f), under the particular program for which funds are sought. The level of consideration given the factor of prior experience shall not vary from the level of consideration given such factor during fiscal years 1994 through 1997, except that grants made under section 402H shall not be given prior experience consideration.

(B) PARTICIPANT NEED.—In making grants under this chapter, the Secretary shall consider the number, percentages, and needs of eligible participants in the area, institution of higher education, or secondary school to be served to aid such participants in preparing for, enrolling in, or succeeding in postsecondary education, as appropriate to the particular program for which the eligible entity is applying.

(3) ORDER OF AWARDS; PROGRAM FRAUD.—(A) Except with respect to grants made under sections 402G and 402H and as provided in subparagraph (B), the Secretary shall award grants and contracts under this chapter in the order of the scores received by the application for such grant or contract in the peer review process required under paragraph (4) and adjusted for prior experience in accordance with paragraph (2) of this subsection.

(B) The Secretary shall not provide assistance to a program otherwise eligible for assistance under this chapter, if the Secretary has determined that such program has involved the fraudulent use of funds under this chapter.

(4) PEER REVIEW PROCESS.—(A) The Secretary shall ensure that, to the extent practicable, members of groups underrepresented in higher education, including African Americans, Hispanics, Native Americans, Alaska Natives, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians), are represented as readers of applications submitted under this chapter. The Secretary shall also ensure that persons from urban and rural backgrounds are represented as readers.

(B) The Secretary shall ensure that each application submitted under this chapter is read by at least three readers who are not employees of the Federal Government (other than as readers of applications).

(5) NUMBER OF APPLICATIONS FOR GRANTS AND CONTRACTS.—The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this chapter if the additional applications describe programs serving different populations or different campuses.

(6) COORDINATION WITH OTHER PROGRAMS FOR DISADVANTAGED STUDENTS.—The Secretary shall encourage coordination of programs assisted under this chapter with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity's eligibility to receive funds under this chapter because such entity sponsors a program similar to the program to be assisted under this chapter, regardless of the funding source of such program. The

Secretary shall permit the Director of a program receiving funds under this chapter to administer one or more additional programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding sources of such programs. The Secretary shall, as appropriate, require each applicant for funds under the programs authorized by this chapter to identify and make available services under such program, including mentoring, tutoring, and other services provided by such program, to foster care youth (including youth in foster care and youth who have left foster care after reaching age 13) or to homeless children and youths as defined in section 725 of the McKinney-Vento Homeless Assistance Act.

(7) APPLICATION STATUS.—The Secretary shall inform each entity operating programs under this chapter regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this chapter, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of the preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this chapter for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.

(8) REVIEW AND NOTIFICATION BY THE SECRETARY.—

(A) GUIDANCE.—Not later than 180 days after the date of enactment of the Higher Education Opportunity Act, the Secretary shall issue nonregulatory guidance regarding the rights and responsibilities of applicants with respect to the application and evaluation process for programs and projects assisted under this chapter, including applicant access to peer review comments. The guidance shall describe the procedures for the submission, processing, and scoring of applications for grants under this chapter, including—

(i) the responsibility of applicants to submit materials in a timely manner and in accordance with the processes established by the Secretary under the authority of the General Education Provisions Act;

(ii) steps the Secretary will take to ensure that the materials submitted by applicants are processed in a proper and timely manner;

(iii) steps the Secretary will take to ensure that prior experience points for high quality service delivery are awarded in an accurate and transparent manner;

(iv) steps the Secretary will take to ensure the quality and integrity of the peer review process, including assurances that peer reviewers will consider applications for grants under this chapter in a thorough and complete manner consistent with applicable Federal law; and

(v) steps the Secretary will take to ensure that the final score of an application, including prior experience points for high quality service delivery and points awarded through the peer review process, is determined in an accurate and transparent manner.

(B) UPDATED GUIDANCE.—Not later than 45 days before the date of the commencement of each competition for a grant under this chapter that is held after the expiration of the 180-day period described in subparagraph (A), the Secretary shall update and publish the guidance described in such subparagraph.

(C) REVIEW.—

(i) IN GENERAL.—With respect to any competition for a grant under this chapter, an applicant may request a review by the Secretary if the applicant—

(I) has evidence of a specific technical, administrative, or scoring error made by the Department, an agent of the Department, or a peer reviewer, with respect to the scoring or processing of a submitted application; and

(II) has otherwise met all of the requirements for submission of the application.

(ii) TECHNICAL OR ADMINISTRATIVE ERROR.—In the case of evidence of a technical or administrative error listed in clause (i)(I), the Secretary shall review such evidence and provide a timely response to the applicant. If the Secretary determines that a technical or administrative error was made by the Department or an agent of the Department, the application of the applicant shall be reconsidered in the peer review process for the applicable grant competition.

(iii) SCORING ERROR.—In the case of evidence of a scoring error listed in clause (i)(I), when the error relates to either prior experience points for high quality service delivery or to the final score of an application, the Secretary shall—

(I) review such evidence and provide a timely response to the applicant; and

(II) if the Secretary determines that a scoring error was made by the Department or a peer reviewer, adjust the prior experience points or final score of the application appropriately and quickly, so as not to interfere with the timely awarding of grants for the applicable grant competition.

(iv) ERROR IN PEER REVIEW PROCESS.—

(I) REFERRAL TO SECONDARY REVIEW.—In the case of a peer review process error listed in clause (i)(I), if the Secretary determines that points were withheld for criteria not required in Federal statute, regulation, or guidance governing a program assisted under this chapter or the application for a grant for such program, or determines that information pertaining to selection criteria was wrongly determined to be missing from an appli-

cation by a peer reviewer, then the Secretary shall refer the application to a secondary review panel.

(II) TIMELY REVIEW; REPLACEMENT SCORE.—The secondary review panel described in subclause (I) shall conduct a secondary review in a timely fashion, and the score resulting from the secondary review shall replace the score from the initial peer review.

(III) COMPOSITION OF SECONDARY REVIEW PANEL.—The secondary review panel shall be composed of reviewers each of whom—

(aa) did not review the application in the original peer review;

(bb) is a member of the cohort of peer reviewers for the grant program that is the subject of such secondary review; and

(cc) to extent practicable, has conducted peer reviews in not less than two previous competitions for the grant program that is the subject of such secondary review.

(IV) FINAL SCORE.—The final peer review score of an application subject to a secondary review under this clause shall be adjusted appropriately and quickly using the score awarded by the secondary review panel, so as not to interfere with the timely awarding of grants for the applicable grant competition.

(V) QUALIFICATION FOR SECONDARY REVIEW.—To qualify for a secondary review under this clause, an applicant shall have evidence of a scoring error and demonstrate that—

(aa) points were withheld for criteria not required in statute, regulation, or guidance governing the Federal TRIO programs or the application for a grant for such programs; or

(bb) information pertaining to selection criteria was wrongly determined to be missing from the application.

(v) FINALITY.—

(I) IN GENERAL.—A determination by the Secretary under clause (i), (ii), or (iii) shall not be reviewable by any officer or employee of the Department.

(II) SCORING.—The score awarded by a secondary review panel under clause (iv) shall not be reviewable by any officer or employee of the Department other than the Secretary.

(vi) FUNDING OF APPLICATIONS WITH CERTAIN ADJUSTED SCORES.—To the extent feasible based on the availability of appropriations, the Secretary shall fund applications with scores that are adjusted upward under clauses (ii), (iii), and (iv) to equal or exceed the minimum cut off score for the applicable grant competition.

(d) OUTREACH.—

(1) IN GENERAL.—The Secretary shall conduct outreach activities to ensure that entities eligible for assistance under this chapter submit applications proposing programs that serve geographic areas and eligible populations which have been underserved by the programs assisted under this chapter.

(2) NOTICE.—In carrying out the provisions of paragraph (1), the Secretary shall notify the entities described in subsection (b) of the availability of assistance under this subsection not less than 120 days prior to the deadline for submission of applications under this chapter and shall consult national, State, and regional organizations about candidates for notification.

(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical training to applicants for projects and programs authorized under this chapter. The Secretary shall give priority to serving programs and projects that serve geographic areas and eligible populations which have been underserved by the programs assisted under this chapter. Technical training activities shall include the provision of information on authorizing legislation, goals and objectives of the program, required activities, eligibility requirements, the application process and application deadlines, and assistance in the development of program proposals and the completion of program applications. Such training shall be furnished at conferences, seminars, and workshops to be conducted at not less than 10 sites throughout the United States to ensure that all areas of the United States with large concentrations of eligible participants are served.

(4) SPECIAL RULE.—The Secretary may contract with eligible entities to conduct the outreach activities described in this subsection.

(e) DOCUMENTATION OF STATUS AS A LOW-INCOME INDIVIDUAL.—(1) Except in the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (h)(4) shall be made by providing the Secretary with—

(A) a signed statement from the individual's parent or legal guardian;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(2) In the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (h)(4) shall be made by providing the Secretary with—

(A) a signed statement from the individual;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(3) Notwithstanding this subsection and subsection (h)(4), individuals who are foster care youth (including youth in foster care and youth who have left foster care after reaching age 13), or homeless children and youths as defined in section 725 of the

McKinney-Vento Homeless Assistance Act, shall be eligible to participate in programs under sections 402B, 402C, 402D, and 402F.

(f) OUTCOME CRITERIA.—

(1) USE FOR PRIOR EXPERIENCE DETERMINATION.—For competitions for grants under this chapter that begin on or after January 1, 2009, the Secretary shall determine an eligible entity's prior experience of high quality service delivery, as required under subsection (c)(2), based on the outcome criteria described in paragraphs (2) and (3).

(2) DISAGGREGATION OF RELEVANT DATA.—The outcome criteria under this subsection shall be disaggregated by low-income students, first generation college students, and individuals with disabilities, in the schools and institutions of higher education served by the program to be evaluated.

(3) CONTENTS OF OUTCOME CRITERIA.—The outcome criteria under this subsection shall measure, annually and for longer periods, the quality and effectiveness of programs authorized under this chapter and shall include the following:

(A) For programs authorized under section 402B, the extent to which the eligible entity met or exceeded the entity's objectives established in the entity's application for such program regarding—

(i) the delivery of service to a total number of students served by the program;

(ii) the continued secondary school enrollment of such students;

(iii) the graduation of such students from secondary school with a regular secondary school diploma in the standard number of years;

(iv) the completion by such students of a rigorous secondary school program of study that will make such students eligible for programs such as the Academic Competitiveness Grants Program;

(v) the enrollment of such students in an institution of higher education; and

(vi) to the extent practicable, the postsecondary education completion of such students.

(B) For programs authorized under section 402C, the extent to which the eligible entity met or exceeded the entity's objectives for such program regarding—

(i) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period;

(ii) such students' school performance, as measured by the grade point average, or its equivalent;

(iii) such students' academic performance, as measured by standardized tests, including tests required by the students' State;

(iv) the retention in, and graduation from, secondary school of such students;

(v) the completion by such students of a rigorous secondary school program of study that will make such students eligible for programs such as the Academic Competitiveness Grants Program;

(vi) the enrollment of such students in an institution of higher education; and

(vii) to the extent practicable, the postsecondary education completion of such students.

(C) For programs authorized under section 402D—

(i) the extent to which the eligible entity met or exceeded the entity's objectives regarding the retention in postsecondary education of the students served by the program;

(ii)(I) in the case of an entity that is an institution of higher education offering a baccalaureate degree, the extent to which the entity met or exceeded the entity's objectives regarding the percentage of such students' completion of the degree programs in which such students were enrolled; or

(II) in the case of an entity that is an institution of higher education that does not offer a baccalaureate degree, the extent to which such students met or exceeded the entity's objectives regarding—

(aa) the completion of a degree or certificate by such students; and

(bb) the transfer of such students to institutions of higher education that offer baccalaureate degrees;

(iii) the extent to which the entity met or exceeded the entity's objectives regarding the delivery of service to a total number of students, as agreed upon by the entity and the Secretary for the period; and

(iv) the extent to which the entity met or exceeded the entity's objectives regarding the students served under the program who remain in good academic standing.

(D) For programs authorized under section 402E, the extent to which the entity met or exceeded the entity's objectives for such program regarding—

(i) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period;

(ii) the provision of appropriate scholarly and research activities for the students served by the program;

(iii) the acceptance and enrollment of such students in graduate programs; and

(iv) the continued enrollment of such students in graduate study and the attainment of doctoral degrees by former program participants.

(E) For programs authorized under section 402F, the extent to which the entity met or exceeded the entity's objectives for such program regarding—

(i) the enrollment of students without a secondary school diploma or its recognized equivalent, who were served by the program, in programs leading to such diploma or equivalent;

(ii) the enrollment of secondary school graduates who were served by the program in programs of post-secondary education;

(iii) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period; and

(iv) the provision of assistance to students served by the program in completing financial aid applications and college admission applications.

(4) MEASUREMENT OF PROGRESS.—In order to determine the extent to which each outcome criterion described in paragraph (2) or (3) is met or exceeded, the Secretary shall compare the agreed upon target for the criterion, as established in the eligible entity's application approved by the Secretary, with the results for the criterion, measured as of the last day of the applicable time period for the determination for the outcome criterion.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this chapter, there are authorized to be appropriated $900,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years. Of the amount appropriated under this chapter, the Secretary may use no more than ½ of 1 percent of such amount to obtain additional qualified readers and additional staff to review applications, to increase the level of oversight monitoring, to support impact studies, program assessments and reviews, and to provide technical assistance to potential applicants and current grantees. In expending these funds, the Secretary shall give priority to the additional administrative requirements provided in the Higher Education Amendments of 1992, to outreach activities, and to obtaining additional readers.

(h) DEFINITIONS.—For the purpose of this chapter:

(1) DIFFERENT CAMPUS.—The term "different campus" means a site of an institution of higher education that—

(A) is geographically apart from the main campus of the institution;

(B) is permanent in nature; and

(C) offers courses in educational programs leading to a degree, certificate, or other recognized educational credential.

(2) DIFFERENT POPULATION.—The term "different population" means a group of individuals that an eligible entity desires to serve through an application for a grant under this chapter, and that—

(A) is separate and distinct from any other population that the entity has applied for a grant under this chapter to serve; or

(B) while sharing some of the same needs as another population that the eligible entity has applied for a grant under this chapter to serve, has distinct needs for specialized services.

(3) FIRST GENERATION COLLEGE STUDENT.—The term "first generation college student" means—

(A) an individual both of whose parents did not complete a baccalaureate degree; or

(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

(4) LOW-INCOME INDIVIDUAL.—The term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(5) VETERAN ELIGIBILITY.—No veteran shall be deemed ineligible to participate in any program under this chapter by reason of such individual's age who—

(A) served on active duty for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable;

(B) served on active duty and was discharged or released therefrom because of a service connected disability;

(C) was a member of a reserve component of the Armed Forces called to active duty for a period of more than 30 days; or

(D) was a member of a reserve component of the Armed Forces who served on active duty in support of a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code) on or after September 11, 2001.

(6) WAIVER.—The Secretary may waive the service requirements in subparagraph (A), (B), or (C) of paragraph (5) if the Secretary determines the application of the service requirements to a veteran will defeat the purpose of a program under this chapter.

SEC. 402B. [20 U.S.C. 1070a–12] TALENT SEARCH.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as talent search which shall be designed—

(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

(2) to publicize the availability of, and facilitate the application for, student financial assistance available to persons who pursue a program of postsecondary education; and

(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level to enter or reenter, and complete such programs.

(b) REQUIRED SERVICES.—Any project assisted under this section shall provide—

(1) connections to high quality academic tutoring services, to enable students to complete secondary or postsecondary courses;

(2) advice and assistance in secondary course selection and, if applicable, initial postsecondary course selection;

(3) assistance in preparing for college entrance examinations and completing college admission applications;

(4)(A) information on the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

(5) guidance on and assistance in—

(A) secondary school reentry;

(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

(C) entry into general educational development (GED) programs; or

(D) postsecondary education; and

(6) connections to education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents, including financial planning for postsecondary education.

(c) PERMISSIBLE SERVICES.—Any project assisted under this section may provide services such as—

(1) academic tutoring, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(2) personal and career counseling or activities;

(3) information and activities designed to acquaint youth with the range of career options available to the youth;

(4) exposure to the campuses of institutions of higher education, as well as cultural events, academic programs, and other sites or activities not usually available to disadvantaged youth;

(5) workshops and counseling for families of students served;

(6) mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons; and

(7) programs and activities as described in subsection (b) or paragraphs (1) through (6) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(d) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for projects under this section for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the individuals participating in the project proposed to be car-

ried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who either have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 402F;

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 402F; and

(4) require an assurance that the project will be located in a setting accessible to the persons proposed to be served by the project.

SEC. 402C. [20 U.S.C. 1070a–13] UPWARD BOUND.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond secondary school.

(b) REQUIRED SERVICES.—Any project assisted under this section shall provide—

(1) academic tutoring to enable students to complete secondary or postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(2) advice and assistance in secondary and postsecondary course selection;

(3) assistance in preparing for college entrance examinations and completing college admission applications;

(4)(A) information on the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

(5) guidance on and assistance in—

(A) secondary school reentry;

(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

(C) entry into general educational development (GED) programs; or

(D) postsecondary education; and

(6) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents, including financial planning for postsecondary education.

(c) ADDITIONAL REQUIRED SERVICES FOR MULTIPLE-YEAR GRANT RECIPIENTS.—Any project assisted under this section which has received funding for two or more years shall include, as part of the core curriculum in the next and succeeding years, instruction

in mathematics through precalculus, laboratory science, foreign language, composition, and literature.

(d) PERMISSIBLE SERVICES.—Any project assisted under this section may provide such services as—

(1) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(2) information, activities, and instruction designed to acquaint youth participating in the project with the range of career options available to the youth;

(3) on-campus residential programs;

(4) mentoring programs involving elementary school or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons;

(5) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree;

(6) special services, including mathematics and science preparation, to enable veterans to make the transition to postsecondary education; and

(7) programs and activities as described in subsection (b), subsection (c), or paragraphs (1) through (6) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(e) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for projects under this section for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or students who have a high risk for academic failure;

(3) require that there be a determination by the institution, with respect to each participant in such project that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section; and

(5) require an assurance that no student will be denied participation in a project assisted under this section because the student will enter the project after the 9th grade.

(f) MAXIMUM STIPENDS.—Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during the summer school recess, for a period not to exceed three months, except that youth participating in a work-study position under subsection (d)(5) may be paid a stipend of $300 per month during the summer school recess, for a period not to exceed three months. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $40 per month during the remaining period of the year.

(g) ADDITIONAL FUNDS.—

(1) AUTHORIZATION AND APPROPRIATION.—There are authorized to be appropriated, and there are appropriated to the Secretary, from funds not otherwise appropriated, $57,000,000 for each of the fiscal years 2008 through 2011 to carry out paragraph (2), except that any amounts that remain unexpended for such purpose for each of such fiscal years may be available for technical assistance and administration costs for the Upward Bound program. The authority to award grants under this subsection shall expire at the end of fiscal year 2011.

(2) USE OF FUNDS.—The amounts made available by paragraph (1) shall be available to provide assistance to all Upward Bound projects that did not receive assistance in fiscal year 2007 and that have a grant score above 70. Such assistance shall be made available in the form of 4-year grants.

(h) ABSOLUTE PRIORITY PROHIBITED IN UPWARD BOUND PROGRAM.—Upon enactment of this subsection and except as otherwise expressly provided by amendment to this section, the Secretary shall not continue, implement, or enforce the absolute priority for the Upward Bound Program published by the Department of Education in the Federal Register on September 22, 2006 (71 Fed. Reg. 55447 et seq.). This subsection shall not be applied retroactively. In implementing this subsection, the Department shall allow the programs and participants chosen in the grant cycle to which the priority applies to continue their grants and participation without a further recompetition. The entities shall not be required to apply the absolute priority conditions or restrictions to future participants.

SEC. 402D. [20 U.S.C. 1070a–14] STUDENT SUPPORT SERVICES.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as student support services which shall be designed—

(1) to increase college retention and graduation rates for eligible students;

(2) to increase the transfer rates of eligible students from 2-year to 4-year institutions;

(3) to foster an institutional climate supportive of the success of students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42

U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students; and

(4) to improve the financial literacy and economic literacy of students, including—

(A) basic personal income, household money management, and financial planning skills; and

(B) basic economic decisionmaking skills.

(b) REQUIRED SERVICES.—A project assisted under this section shall provide—

(1) academic tutoring, directly or through other services provided by the institution, to enable students to complete postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

(2) advice and assistance in postsecondary course selection;

(3)(A) information on both the full range of Federal student financial aid programs and benefits (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

(4) education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education;

(5) activities designed to assist students participating in the project in applying for admission to, and obtaining financial assistance for enrollment in, graduate and professional programs; and

(6) activities designed to assist students enrolled in two-year institutions of higher education in applying for admission to, and obtaining financial assistance for enrollment in, a four-year program of postsecondary education.

(c) PERMISSIBLE SERVICES.—A project assisted under this section may provide services such as—

(1) individualized counseling for personal, career, and academic matters provided by assigned counselors;

(2) information, activities, and instruction designed to acquaint students participating in the project with the range of career options available to the students;

(3) exposure to cultural events and academic programs not usually available to disadvantaged students;

(4) mentoring programs involving faculty or upper class students, or a combination thereof;

(5) securing temporary housing during breaks in the academic year for—

(A) students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)) or were formerly homeless children and youths; and

(B) students who are in foster care or are aging out of the foster care system; and

(6) programs and activities as described in subsection (b) or paragraphs (1) through (4) of this subsection that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(d) SPECIAL RULE.—

(1) USE FOR STUDENT AID.—A recipient of a grant that undertakes any of the permissible services identified in subsection (c) may, in addition, use such funds to provide grant aid to students. A grant provided under this paragraph shall not exceed the Federal Pell Grant amount, determined under section 401(b)(2)(A), for which a student is eligible, or be less than the minimum Federal Pell Grant amount described in section 401(b)(4), for the current academic year. In making grants to students under this subsection, an institution shall ensure that adequate consultation takes place between the student support service program office and the institution's financial aid office.

(2) ELIGIBLE STUDENTS.—For purposes of receiving grant aid under this subsection, eligible students shall be current participants in the student support services program offered by the institution and be—

(A) students who are in their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1; or

(B) students who have completed their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1 if the institution demonstrates to the satisfaction of the Secretary that—

(i) these students are at high risk of dropping out; and

(ii) it will first meet the needs of all its eligible first- and second-year students for services under this paragraph.

(3) DETERMINATION OF NEED.—A grant provided to a student under paragraph (1) shall not be considered in determining that student's need for grant or work assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed that student's cost of attendance, as defined in section 472.

(4) MATCHING REQUIRED.—A recipient of a grant who uses such funds for the purpose described in paragraph (1) shall match the funds used for such purpose, in cash, from non-Federal funds, in an amount that is not less than 33 percent of the total amount of funds used for that purpose. This paragraph shall not apply to any grant recipient that is an institution of higher education eligible to receive funds under part A or B of title III or title V.

(5) RESERVATION.—In no event may a recipient use more than 20 percent of the funds received under this section for grant aid.

(6) SUPPLEMENT, NOT SUPPLANT.—Funds received by a grant recipient that are used under this subsection shall be used to supplement, and not supplant, non-Federal funds expended for student support services programs.

(e) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for projects under this section for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

(A) be individuals with disabilities; or

(B) be low-income individuals who are first generation college students;

(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or individuals with disabilities;

(3) require an assurance that not less than one-third of the individuals with disabilities participating in the project be low-income individuals;

(4) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(5) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

(6) consider, in addition to such other criteria as the Secretary may prescribe, the institution's effort, and where applicable past history, in—

(A) providing sufficient financial assistance to meet the full financial need of each student in the project; and

(B) maintaining the loan burden of each such student at a manageable level.

SEC. 402E. [20 U.S.C. 1070a–15] POSTBACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as the "Ronald E. McNair Postbaccalaureate Achievement Program" that shall be designed to provide disadvantaged college students with effective preparation for doctoral study.

(b) REQUIRED SERVICES.—A project assisted under this section shall provide—

(1) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

(2) summer internships;

(3) seminars and other educational activities designed to prepare students for doctoral study;

(4) tutoring;

(5) academic counseling; and

(6) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs.

(c) PERMISSIBLE SERVICES.—A project assisted under this section may provide services such as—

(1) education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education;

(2) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

(3) exposure to cultural events and academic programs not usually available to disadvantaged students.

(d) REQUIREMENTS.—In approving applications for projects assisted under this section for any fiscal year, the Secretary shall require—

(1) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education, including—

(A) Alaska Natives, as defined in section 6306 of the Elementary and Secondary Education Act of 1965;

(B) Native Hawaiians, as defined in section 6207 of such Act; and

(C) Native American Pacific Islanders, as defined in section 320;

(3) an assurance that participants be enrolled in a degree program at an eligible institution having an agreement with the Secretary in accordance with the provisions of section 487; and

(4) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education.

(e) AWARD CONSIDERATIONS.—In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this section—

(1) the quality of research and other scholarly activities in which students will be involved;

(2) the level of faculty involvement in the project and the description of the research in which students will be involved; and

(3) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this section.

(f) MAXIMUM STIPENDS.—Students participating in research under a project under this section may receive an award that—

(1) shall include a stipend not to exceed $2,800 per annum; and

(2) may include, in addition, the costs of summer tuition, summer room and board, and transportation to summer programs.

(g) FUNDING.—From amounts appropriated pursuant to the authority of section 402A(g), the Secretary shall, to the extent practicable, allocate funds for projects authorized by this section in an amount which is not less than $11,000,000 for each of the fiscal years 2009 through 2014.

SEC. 402F. [20 U.S.C. 1070a–16] EDUCATIONAL OPPORTUNITY CENTERS.

(a) PROGRAM AUTHORITY; SERVICES PROVIDED.—The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education;

(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers; and

(3) to improve the financial literacy and economic literacy of students, including—

(A) basic personal income, household money management, and financial planning skills; and

(B) basic economic decisionmaking skills.

(b) PERMISSIBLE SERVICES.—An educational opportunity center assisted under this section may provide services such as—

(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

(2) academic advice and assistance in course selection;

(3) assistance in completing college admission and financial aid applications;

(4) assistance in preparing for college entrance examinations;

(5) education or counseling services designed to improve the financial literacy and economic literacy of students;

(6) guidance on secondary school reentry or entry to a general educational development (GED) program or other alternative education programs for secondary school dropouts;

(7) individualized personal, career, and academic counseling;

(8) tutorial services;

(9) career workshops and counseling;

(10) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(11) programs and activities as described in paragraphs (1) through (10) that are specially designed for students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKin-

ney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for educational opportunity centers under this section for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 402B; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 402B.

SEC. 402G. [20 U.S.C. 1070a–17] STAFF DEVELOPMENT ACTIVITIES.

(a) SECRETARY'S AUTHORITY.—For the purpose of improving the operation of the programs and projects authorized by this chapter, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, participating in, or preparing for employment in, such programs and projects.

(b) CONTENTS OF TRAINING PROGRAMS.—Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Such training shall be offered annually for new directors of projects funded under this chapter as well as annually on the following topics and other topics chosen by the Secretary:

(1) Legislative and regulatory requirements for the operation of programs funded under this chapter.

(2) Assisting students in receiving adequate financial aid from programs assisted under this title and other programs.

(3) The design and operation of model programs for projects funded under this chapter.

(4) The use of appropriate educational technology in the operation of projects assisted under this chapter.

(5) Strategies for recruiting and serving hard to reach populations, including students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students.

(c) CONSULTATION.—Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

SEC. 402H. [20 U.S.C. 1070a–18] REPORTS, EVALUATIONS, AND GRANTS FOR PROJECT IMPROVEMENT AND DISSEMINATION.

(a) REPORTS TO THE AUTHORIZING COMMITTEES.—

(1) IN GENERAL.—The Secretary shall submit annually, to the authorizing committees, a report that documents the performance of all programs funded under this chapter. Such report shall—

(A) be submitted not later than 12 months after the eligible entities receiving funds under this chapter are required to report their performance to the Secretary;

(B) focus on the programs' performance on the relevant outcome criteria determined under section 402A(f)(4);

(C) aggregate individual project performance data on the outcome criteria in order to provide national performance data for each program;

(D) include, when appropriate, descriptive data, multi-year data, and multi-cohort data; and

(E) include comparable data on the performance nationally of low-income students, first-generation students, and students with disabilities.

(2) INFORMATION.—The Secretary shall provide, with each report submitted under paragraph (1), information on the impact of the secondary review process described in section 402A(c)(8)(C)(iv), including the number and type of secondary reviews, the disposition of the secondary reviews, the effect on timing of awards, and any other information the Secretary determines is necessary.

(b) EVALUATIONS.—

(1) IN GENERAL.—

(A) AUTHORIZATION OF GRANTS AND CONTRACTS.—For the purpose of improving the effectiveness of the programs and projects assisted under this chapter, the Secretary shall make grants to, or enter into contracts with, institutions of higher education and other public and private institutions and organizations to rigorously evaluate the effectiveness of the programs and projects assisted under this chapter, including a rigorous evaluation of the programs and projects assisted under section 402C. The evaluation of the programs and projects assisted under section 402C shall be implemented not later than June 30, 2010.

(B) CONTENT OF UPWARD BOUND EVALUATION.—The evaluation of the programs and projects assisted under section 402C that is described in subparagraph (A) shall examine the characteristics of the students who benefit most from the Upward Bound program under section 402C and the characteristics of the programs and projects that most benefit students.

(C) IMPLEMENTATION.—Each evaluation described in this paragraph shall be implemented in accordance with the requirements of this section.

(2) PRACTICES.—

(A) IN GENERAL.—The evaluations described in paragraph (1) shall identify institutional, community, and program or project practices that are effective in—

(i) enhancing the access of low-income individuals and first-generation college students to postsecondary education;

(ii) the preparation of such individuals and students for postsecondary education; and

(iii) fostering the success of the individuals and students in postsecondary education.

(B) PRIMARY PURPOSE.—Any evaluation conducted under this chapter shall have as the evaluation's primary purpose the identification of particular practices that further the achievement of the outcome criteria determined under section 402A(f)(4).

(C) DISSEMINATION AND USE OF EVALUATION FINDINGS.—The Secretary shall disseminate to eligible entities and make available to the public the practices identified under subparagraph (B). The practices may be used by eligible entities that receive assistance under this chapter after the dissemination.

(3) SPECIAL RULE RELATED TO EVALUATION PARTICIPATION.—The Secretary shall not require an eligible entity, as a condition for receiving, or that receives, assistance under any program or project under this chapter to participate in an evaluation under this section that—

(A) requires the eligible entity to recruit additional students beyond those the program or project would normally recruit; or

(B) results in the denial of services for an eligible student under the program or project.

(4) CONSIDERATION.—When designing an evaluation under this subsection, the Secretary shall continue to consider—

(A) the burden placed on the program participants or the eligible entity; and

(B) whether the evaluation meets generally accepted standards of institutional review boards.

(c) GRANTS.—The Secretary may award grants to institutions of higher education or other private and public institutions and organizations, that are carrying out a program or project assisted under this chapter prior to the date of enactment of the Higher Education Amendments of 1998, to enable the institutions and organizations to expand and leverage the success of such programs or projects by working in partnership with other institutions, community-based organizations, or combinations of such institutions and organizations, that are not receiving assistance under this chapter and are serving low-income students and first generation college students, in order to—

(1) disseminate and replicate best practices of programs or projects assisted under this chapter; and

(2) provide technical assistance regarding programs and projects assisted under this chapter.

(d) RESULTS.—In order to improve overall program or project effectiveness, the results of evaluations and grants described in this section shall be disseminated by the Secretary to similar programs or projects assisted under this subpart, as well as other individuals concerned with postsecondary access for and retention of low-income individuals and first-generation college students.

CHAPTER 2—GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS

SEC. 404A. [20 U.S.C. 1070a–21] EARLY INTERVENTION AND COLLEGE AWARENESS PROGRAM AUTHORIZED.

(a) PROGRAM AUTHORIZED.—The Secretary is authorized, in accordance with the requirements of this chapter, to establish a program that encourages eligible entities to provide support, and maintain a commitment, to eligible low-income students, including students with disabilities, to assist the students in obtaining a secondary school diploma (or its recognized equivalent) and to prepare for and succeed in postsecondary education, by providing—

(1) financial assistance, academic support, additional counseling, mentoring, outreach, and supportive services to secondary school students, including students with disabilities, to reduce—

(A) the risk of such students dropping out of school; or

(B) the need for remedial education for such students at the postsecondary level; and

(2) information to students and their families about the advantages of obtaining a postsecondary education and, college financing options for the students and their families.

(b) AWARDS.—

(1) IN GENERAL.—From funds appropriated under section 404H for each fiscal year, the Secretary shall make awards to eligible entities described in paragraphs (1) and (2) of subsection (c) to enable the entities to carry out the program authorized under subsection (a).

(2) AWARD PERIOD.—The Secretary may award a grant under this chapter to an eligible entity described in paragraphs (1) and (2) of subsection (c) for—

(A) six years; or

(B) in the case of an eligible entity that applies for a grant under this chapter for seven years to enable the eligible entity to provide services to a student through the student's first year of attendance at an institution of higher education, seven years.

(3) PRIORITY.—In making awards to eligible entities described in subsection (c)(1), the Secretary shall—

(A) give priority to eligible entities that—

(i) on the day before the date of enactment of the Higher Education Opportunity Act, carried out successful educational opportunity programs under this

chapter (as this chapter was in effect on such day); and

(ii) have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies; and

(B) ensure that students served under this chapter on the day before the date of enactment of the Higher Education Opportunity Act continue to receive assistance through the completion of secondary school.

(c) DEFINITION OF ELIGIBLE ENTITY.—For the purposes of this chapter, the term "eligible entity" means—

(1) a State; or

(2) a partnership—

(A) consisting of—

(i) one or more local educational agencies; and

(ii) one or more degree granting institutions of higher education; and

(B) which may include not less than two other community organizations or entities, such as businesses, professional organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.

SEC. 404B. [20 U.S.C. 1070a–22] REQUIREMENTS.

(a) FUNDING RULES.—In awarding grants from the amount appropriated under section 404H for a fiscal year, the Secretary shall make available—

(1) to eligible entities described in section 404A(c)(1), not less than 33 percent of such amount;

(2) to eligible entities described in section 404A(c)(2), not less than 33 percent of such amount; and

(3) to eligible entities described in paragraph (1) or (2) of section 404A(c), the remainder of such amount taking into consideration the number, quality, and promise of the applications for the grants, and, to the extent practicable—

(A) the geographic distribution of such grant awards; and

(B) the distribution of such grant awards between urban and rural applicants.

(b) COORDINATION.—Each eligible entity shall ensure that the activities assisted under this chapter are, to the extent practicable, coordinated with, and complement and enhance—

(1) services under this chapter provided by other eligible entities serving the same school district or State; and

(2) related services under other Federal or non-Federal programs.

(c) DESIGNATION OF FISCAL AGENT.—An eligible entity described in section 404A(c)(2) shall designate an institution of higher education or a local educational agency as the fiscal agent for the eligible entity.

(d) COHORT APPROACH.—

(1) IN GENERAL.—The Secretary shall require that eligible entities described in section 404A(c)(2)—

(A) provide services under this chapter to at least one grade level of students, beginning not later than 7th grade, in a participating school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the Richard B. Russell National School Lunch Act (or, if an eligible entity determines that it would promote the effectiveness of a program, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 3(b)(1) of the United States Housing Act of 1937);

(B) ensure that the services are provided through the 12th grade to students in the participating grade level and provide the option of continued services through the student's first year of attendance at an institution of higher education to the extent the provision of such services was described in the eligible entity's application for assistance under this chapter; and

(C) provide services under this chapter to students who have received services under a previous GEAR UP grant award but have not yet completed the 12th grade.

(2) COORDINATION REQUIREMENT.—In order for the Secretary to require the cohort approach described in paragraph (1), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

(e) SUPPLEMENT, NOT SUPPLANT.—Grant funds awarded under this chapter shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities assisted under this chapter.

SEC. 404C. [20 U.S.C. 1070a–23] APPLICATIONS.

(a) APPLICATION REQUIRED FOR ELIGIBILITY.—

(1) IN GENERAL.—In order for an eligible entity to qualify for a grant under this chapter, the eligible entity shall submit to the Secretary an application for carrying out the program under this chapter.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may reasonably require. Each such application shall, at a minimum—

(A) describe the activities for which assistance under this chapter is sought, including how the eligible entity will carry out the required activities described in section 404D(a);

(B) describe, in the case of an eligible entity described in section 404A(c)(2) that chooses to provide scholarships, or an eligible entity described in section 404A(c)(1), how the eligible entity will meet the requirements of section 404E;

(C) describe, in the case of an eligible entity described in section 404A(c)(2) that requests a reduced match per-

centage under subsection (b)(2), how such reduction will assist the entity to provide the scholarships described in subsection (b)(2)(A)(ii);

(D) provide assurances that adequate administrative and support staff will be responsible for coordinating the activities described in section 404D;

(E) provide assurances that activities assisted under this chapter will not displace an employee or eliminate a position at a school assisted under this chapter, including a partial displacement such as a reduction in hours, wages, or employment benefits;

(F) describe, in the case of an eligible entity described in section 404A(c)(1) that chooses to use a cohort approach, or an eligible entity described in section 404A(c)(2), how the eligible entity will define the cohorts of the students served by the eligible entity pursuant to section 404B(d), and how the eligible entity will serve the cohorts through grade 12, including—

(i) how vacancies in the program under this chapter will be filled; and

(ii) how the eligible entity will serve students attending different secondary schools;

(G) describe how the eligible entity will coordinate programs under this chapter with other existing Federal, State, or local programs to avoid duplication and maximize the number of students served;

(H) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this chapter;

(I) provide information about the activities that will be carried out by the eligible entity to support systemic changes from which future cohorts of students will benefit; and

(J) describe the sources of matching funds that will enable the eligible entity to meet the matching requirement described in subsection (b).

(b) MATCHING REQUIREMENT.—

(1) IN GENERAL.—The Secretary shall not approve an application submitted under subsection (a) unless such application—

(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than 50 percent of the cost of the program, which matching funds may be provided in cash or in kind and may be accrued over the full duration of the grant award period, except that the eligible entity shall make substantial progress towards meeting the matching requirement in each year of the grant award period;

(B) specifies the methods by which matching funds will be paid; and

(C) includes provisions designed to ensure that funds provided under this chapter shall supplement and not supplant funds expended for existing programs.

(2) SPECIAL RULE.—Notwithstanding the matching requirement described in paragraph (1)(A), the Secretary may by regulation modify the percentage requirement described in paragraph (1)(A) for eligible entities described in section 404A(c)(2). The Secretary may approve an eligible entity's request for a reduced match percentage—

(A) at the time of application—

(i) if the eligible entity demonstrates significant economic hardship that precludes the eligible entity from meeting the matching requirement; or

(ii) if the eligible entity is described in section 404A(c)(2) and requests that contributions to the eligible entity's scholarship fund established under section 404E be matched on a two to one basis; or

(B) in response to a petition by an eligible entity subsequent to a grant award under this section if the eligible entity demonstrates that the matching funds described in its application are no longer available and the eligible entity has exhausted all revenues for replacing such matching funds.

(c) METHODS FOR COMPLYING WITH MATCHING REQUIREMENT.—An eligible entity may count toward the matching requirement described in subsection (b)(1)(A)—

(1) the amount of the financial assistance obligated to students from State, local, institutional, or private funds under this chapter, including pre-existing non-Federal financial assistance programs, including—

(A) the amount contributed to a student scholarship fund established under section 404E; and

(B) the amount of the costs of administering the scholarship program under section 404E;

(2) the amount of tuition, fees, room or board waived or reduced for recipients of financial assistance under this chapter;

(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations; and

(4) other resources recognized by the Secretary, including equipment and supplies, cash contributions from non-Federal sources, transportation expenses, in-kind or discounted program services, indirect costs, and facility usage.

(d) PEER REVIEW PANELS.—The Secretary shall convene peer review panels to assist in making determinations regarding the awarding of grants under this chapter.

SEC. 404D. [20 U.S.C. 1070a–24] ACTIVITIES.

(a) REQUIRED ACTIVITIES.—Each eligible entity receiving a grant under this chapter shall provide comprehensive mentoring, outreach, and supportive services to students participating in the programs under this chapter. Such activities shall include the following:

(1) Providing information regarding financial aid for postsecondary education to participating students in the cohort described in section 404B(d)(1)(A) or to priority students described in subsection (d).

(2) Encouraging student enrollment in rigorous and challenging curricula and coursework, in order to reduce the need for remedial coursework at the postsecondary level.

(3) Improving the number of participating students who—

(A) obtain a secondary school diploma; and

(B) complete applications for and enroll in a program of postsecondary education.

(4) In the case of an eligible entity described in section 404A(c)(1), providing for the scholarships described in section 404E.

(b) PERMISSIBLE ACTIVITIES FOR STATES AND PARTNERSHIPS.—An eligible entity that receives a grant under this chapter may use grant funds to carry out one or more of the following activities:

(1) Providing tutors and mentors, who may include adults or former participants of a program under this chapter, for eligible students.

(2) Conducting outreach activities to recruit priority students described in subsection (d) to participate in program activities.

(3) Providing supportive services to eligible students.

(4) Supporting the development or implementation of rigorous academic curricula, which may include college preparatory, Advanced Placement, or International Baccalaureate programs, and providing participating students access to rigorous core academic courses that reflect challenging State academic standards.

(5) Supporting dual or concurrent enrollment programs between the secondary school and institution of higher education partners of an eligible entity described in section 404A(c)(2), and other activities that support participating students in—

(A) meeting challenging State academic standards;

(B) successfully applying for postsecondary education;

(C) successfully applying for student financial aid; and

(D) developing graduation and career plans.

(6) Providing special programs or tutoring in science, technology, engineering, or mathematics.

(7) In the case of an eligible entity described in section 404A(c)(2), providing support for scholarships described in section 404E.

(8) Introducing eligible students to institutions of higher education, through trips and school-based sessions.

(9) Providing an intensive extended school day, school year, or summer program that offers—

(A) additional academic classes; or

(B) assistance with college admission applications.

(10) Providing other activities designed to ensure secondary school completion and postsecondary education enrollment of at-risk children, such as—

(A) the identification of at-risk children;

(B) after-school and summer tutoring;

(C) assistance to at-risk children in obtaining summer jobs;

(D) academic counseling;

(E) financial literacy and economic literacy education or counseling;

(F) volunteer and parent involvement;

(G) encouraging former or current participants of a program under this chapter to serve as peer counselors;

(H) skills assessments;

(I) personal and family counseling, and home visits;

(J) staff development; and

(K) programs and activities described in this subsection that are specially designed for students who are limited English proficient.

(11) Enabling eligible students to enroll in Advanced Placement or International Baccalaureate courses, or college entrance examination preparation courses.

(12) Providing services to eligible students in the participating cohort described in section 404B(d)(1)(A), through the first year of attendance at an institution of higher education.

(13) Fostering and improving parent and family involvement in elementary and secondary education by promoting the advantages of a college education, and emphasizing academic admission requirements and the need to take college preparation courses, through parent engagement and leadership activities.

(14) Disseminating information that promotes the importance of higher education, explains college preparation and admission requirements, and raises awareness of the resources and services provided by the eligible entities to eligible students, their families, and communities.

(15) In the event that matching funds described in the application are no longer available, engaging entities described in section 404A(c)(2) in a collaborative manner to provide matching resources and participate in other activities authorized under this section.

(c) ADDITIONAL PERMISSIBLE ACTIVITIES FOR STATES.—In addition to the required activities described in subsection (a) and the permissible activities described in subsection (b), an eligible entity described in section 404A(c)(1) receiving funds under this chapter may use grant funds to carry out one or more of the following activities:

(1) Providing technical assistance to—

(A) secondary schools that are located within the State; or

(B) partnerships described in section 404A(c)(2) that are located within the State.

(2) Providing professional development opportunities to individuals working with eligible cohorts of students described in section 404B(d)(1)(A).

(3) Providing administrative support to help build the capacity of eligible entities described in section 404A(c)(2) to compete for and manage grants awarded under this chapter.

(4) Providing strategies and activities that align efforts in the State to prepare eligible students to attend and succeed in postsecondary education, which may include the development of graduation and career plans.

(5) Disseminating information on the use of scientifically valid research and best practices to improve services for eligible students.

(6)(A) Disseminating information on effective coursework and support services that assist students in obtaining the goals described in subparagraph (B)(ii).

(B) Identifying and disseminating information on best practices with respect to—

(i) increasing parental involvement; and

(ii) preparing students, including students with disabilities and students who are limited English proficient, to succeed academically in, and prepare financially for, postsecondary education.

(7) Working to align State academic standards and curricula with the expectations of postsecondary institutions and employers.

(8) Developing alternatives to traditional secondary school that give students a head start on attaining a recognized postsecondary credential (including an industry-recognized certificate, an apprenticeship, or an associate's or a bachelor's degree), including school designs that give students early exposure to college-level courses and experiences and allow students to earn transferable college credits or an associate's degree at the same time as a secondary school diploma.

(9) Creating community college programs for drop-outs that are personalized drop-out recovery programs that allow drop-outs to complete a regular secondary school diploma and begin college-level work.

(d) PRIORITY STUDENTS.—For eligible entities not using a cohort approach, the eligible entity shall treat as a priority student any student in secondary school who is—

(1) eligible to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965;

(2) eligible for assistance under a State program funded under part A or E of title IV of the Social Security Act (42 U.S.C. 601 et seq., 670 et seq.);

(3) eligible for assistance under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.); or

(4) otherwise considered by the eligible entity to be a disconnected student.

(e) ALLOWABLE PROVIDERS.—In the case of eligible entities described in section 404A(c)(1), the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4, and other organizations the State determines appropriate.

SEC. 404E. [20 U.S.C. 1070a–25] SCHOLARSHIP COMPONENT.[5]

(a) IN GENERAL.—

(1) STATES.—In order to receive a grant under this chapter, an eligible entity described in section 404A(c)(1) shall establish or maintain a financial assistance program that awards scholarships to students in accordance with the requirements of this section. The Secretary shall encourage the eligible entity to ensure that a scholarship provided pursuant to this section is available to an eligible student for use at any institution of higher education.

(2) PARTNERSHIPS.—An eligible entity described in section 404A(c)(2) may award scholarships to eligible students in accordance with the requirements of this section.

(b) LIMITATION.—

(1) IN GENERAL.—Subject to paragraph (2), each eligible entity described in section 404A(c)(1) that receives a grant under this chapter shall use not less than 25 percent and not more than 50 percent of the grant funds for activities described in section 404D (except for the activity described in subsection (a)(4) of such section), with the remainder of such funds to be used for a scholarship program under this section in accordance with such subsection.

(2) EXCEPTION.—Notwithstanding paragraph (1), the Secretary may allow an eligible entity to use more than 50 percent of grant funds received under this chapter for such activities, if the eligible entity demonstrates that the eligible entity has another means of providing the students with the financial assistance described in this section and describes such means in the application submitted under section 404C.

(c) NOTIFICATION OF ELIGIBILITY.—Each eligible entity providing scholarships under this section shall provide information on the eligibility requirements for the scholarships to all participating students upon the students' entry into the programs assisted under this chapter.

(d) GRANT AMOUNTS.—The maximum amount of a scholarship that an eligible student shall be eligible to receive under this section shall be established by the eligible entity. The minimum amount of the scholarship for each fiscal year shall not be less than the minimum Federal Pell Grant award under section 401 for such award year.

(e) PORTABILITY OF ASSISTANCE.—

(1) IN GENERAL.—Each eligible entity described in section 404A(c)(1) that receives a grant under this chapter shall hold in reserve, for the students served by such grant as described in section 404B(d)(1)(A) or 404D(d), an amount that is not less

[5] Subsection (i) of section 404 of Public Law 110–315 provides as follows:

(i) [20 U.S.C. 1070a–25 note] EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The amendments made by subsection (e) shall apply to grants made under chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–21 et seq.) on or after the date of enactment of this Act, except that a recipient of a grant under such chapter that is made prior to such date may elect to apply the requirements contained in the amendments made by subsection (e) to that grant if the grant recipient informs the Secretary of the election.

(2) SPECIAL RULE.—A grant recipient may make the election described in paragraph (1) only if the election does not decrease the amount of the scholarship promised to an individual student under the grant.

than the minimum scholarship amount described in subsection (d), multiplied by the number of students the eligible entity estimates will meet the requirements of paragraph (2).

(2) REQUIREMENT FOR PORTABILITY.—Funds held in reserve under paragraph (1) shall be made available to an eligible student when the eligible student has—

(A) completed a secondary school diploma, its recognized equivalent, or another recognized alternative standard for individuals with disabilities; and

(B) enrolled in an institution of higher education.

(3) QUALIFIED EDUCATIONAL EXPENSES.—Funds available to an eligible student under this subsection may be used for—

(A) tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the eligible student at an institution of higher education; and

(B) in the case of an eligible student with special needs, expenses for special needs services that are incurred in connection with such enrollment or attendance.

(4) RETURN OF FUNDS.—

(A) REDISTRIBUTION.—

(i) IN GENERAL.—Funds held in reserve under paragraph (1) that are not used by an eligible student within six years of the student's scheduled completion of secondary school may be redistributed by the eligible entity to other eligible students.

(ii) RETURN OF EXCESS TO THE SECRETARY.—If, after meeting the requirements of paragraph (1) and, if applicable, redistributing excess funds in accordance with clause (i) of this subparagraph, an eligible entity has funds held in reserve under paragraph (1) that remain available, the eligible entity shall return such remaining reserved funds to the Secretary for distribution to other grantees under this chapter in accordance with the funding rules described in section 404B(a).

(B) NONPARTICIPATING ENTITY.—Notwithstanding subparagraph (A), in the case of an eligible entity that does not receive assistance under this subpart for six fiscal years, the eligible entity shall return any funds held in reserve under paragraph (1) that are not awarded or obligated to eligible students to the Secretary for distribution to other grantees under this chapter.

(f) RELATION TO OTHER ASSISTANCE.—Scholarships provided under this section shall not be considered for the purpose of awarding Federal grant assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed such student's total cost of attendance.

(g) ELIGIBLE STUDENTS.—A student eligible for assistance under this section is a student who—

(1) is less than 22 years old at time of first scholarship award under this section;

(2) receives a secondary school diploma or its recognized equivalent on or after January 1, 1993;

(3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State's boundaries, except that, at the State's option, an eligible entity may offer scholarship program portability for recipients who attend institutions of higher education outside such State; and

(4) who participated in the activities required under section 404D(a).

SEC. 404F. [20 U.S.C. 1070a–26] 21ST CENTURY SCHOLAR CERTIFICATES.

(a) IN GENERAL.—An eligible entity that receives a grant under this chapter shall provide certificates, to be known as 21st Century Scholar Certificates, to all students served by the eligible entity who are participating in a program under this chapter.

(b) INFORMATION REQUIRED.—A 21st Century Scholar Certificate shall be personalized for each student and indicate the amount of Federal financial aid for college and the estimated amount of any scholarship provided under section 404E, if applicable, that a student may be eligible to receive.

SEC. 404G. [20 U.S.C. 1070a–27] EVALUATION AND REPORT.

(a) EVALUATION.—Each eligible entity receiving a grant under this chapter shall biennially evaluate the activities assisted under this chapter in accordance with the standards described in subsection (b) and shall submit to the Secretary a copy of such evaluation. The evaluation shall permit service providers to track eligible student progress during the period such students are participating in the activities and shall be consistent with the standards developed by the Secretary pursuant to subsection (b).

(b) EVALUATION STANDARDS.—The Secretary shall prescribe standards for the evaluation described in subsection (a). Such standards shall—

(1) provide for input from eligible entities and service providers; and

(2) ensure that data protocols and procedures are consistent and uniform.

(c) FEDERAL EVALUATION.—In order to evaluate and improve the impact of the activities assisted under this chapter, the Secretary shall, from not more than 0.75 percent of the funds appropriated under section 404H for a fiscal year, award one or more grants, contracts, or cooperative agreements to or with public and private institutions and organizations, to enable the institutions and organizations to evaluate the effectiveness of the program and, as appropriate, disseminate the results of the evaluation. Such evaluation shall include a separate analysis of—

(1) the implementation of the scholarship component described in section 404E; and

(2) the use of methods for complying with matching requirements described in paragraphs (1) and (2) of section 404C(c).

(d) REPORT.—The Secretary shall biennially report to Congress regarding the activities assisted under this chapter and the evaluations conducted pursuant to this section.

SEC. 404H. [20 U.S.C. 1070a–28] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter $400,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

[Chapter 3 was repealed by section 405 of P.L. 110–315]

[Chapters 4 through 8 repealed by section 405 of P.L. 105–244]

SUBPART 3—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

SEC. 413A. [20 U.S.C. 1070b] PURPOSE; APPROPRIATIONS AUTHORIZED.

(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of part F of this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(a), for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which such sums were appropriated.

SEC. 413B. [20 U.S.C. 1070b–1] AMOUNT AND DURATION OF GRANTS.

(a) AMOUNT OF GRANT.—(1) Except as provided in paragraph (3), from the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (A) the amount determined by the institution, in accordance with the provisions of part F of this title, to be needed by that student to enable the student to pursue a course of study at the institution or in a program of study abroad that is approved for credit by the institution at which the student is enrolled, or (B) $4,000.

(2) If the amount determined under paragraph (1) with respect to a student for any academic year is less than $100, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

(3) For students participating in study abroad programs, the institution shall consider all reasonable costs associated with such study abroad when determining student eligibility. The amount of grant to be awarded in such cases may exceed the maximum amount of $4,000 by as much as $400 if reasonable study abroad costs exceed the cost of attendance at the home institution.

(b) PERIOD FOR RECEIPT OF GRANTS; CONTINUING ELIGIBILITY.—(1) The period during which a student may receive supple-

mental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to such grant only if the student meets the requirements of section 484, except as provided in section 413C(c).

(c) DISTRIBUTION OF GRANT DURING ACADEMIC YEAR.—Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

SEC. 413C. [20 U.S.C. 1070b–2] AGREEMENTS WITH INSTITUTIONS; SELECTION OF RECIPIENTS.

(a) INSTITUTIONAL ELIGIBILITY.—Assistance may be made available under this subpart only to an institution which—

(1) has, in accordance with section 487, an agreement with the Secretary applicable to this subpart;

(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent of such awards, except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution's own resources, including—

(A) institutional grants and scholarships;

(B) tuition or fee waivers;

(C) State scholarships; and

(D) foundation or other charitable organization funds.

(b) ELIGIBILITY FOR SELECTION.—Awards may be made under this subpart only to a student who—

(1) is an eligible student under section 484; and

(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

(c) SELECTION OF INDIVIDUALS AND DETERMINATION OF AMOUNT OF AWARDS.—(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D, select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 487, assure that the selection procedures—

(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 484.

(B) For the purpose of subparagraph (A), the term "students with exceptional need" means students with the lowest expected family contributions at the institution.

(d) USE OF FUNDS FOR LESS-THAN-FULL-TIME STUDENTS.—If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution on less than a full-time basis, then a reasonable proportion of the allocation shall be made available to such students.

(e) USE AND TRANSFER OF FUNDS FOR ADMINISTRATIVE EXPENSES.—An agreement entered into pursuant to this section shall provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 489 of this title.

SEC. 413D. [20 U.S.C. 1070b–3] ALLOCATION OF FUNDS.

(a) ALLOCATION BASED ON PREVIOUS ALLOCATION[6].—(1) From the amount appropriated pursuant to section 413A(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to 100 percent of the amount such institution received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year).

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this subpart for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this subpart in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

[6] The allocation provisions of section 413D of the Higher Education Act of 1965 were amended by section 406(c) of the Higher Education Amendments of 1998 (P.L. 105–244; 112 Stat. 1665). Paragraph (3) of that section 406(c) contained the following effective date provision:

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to allocations of amounts appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for fiscal year 2000 or any succeeding fiscal year.

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate from or transfer to a 4-year institution of higher education.

(b) ALLOCATION OF EXCESS BASED ON FAIR SHARE.—(1) From the remainder of the amount appropriated pursuant to section 413A(b) for each year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (c)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 413A(b) of the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a).

(c) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's need is equal to—

(A) the sum of the need of the institution's eligible undergraduate students; minus

(B) the sum of grant aid received by students under subparts 1 and 3 of this part.

(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 75 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3)(A) For purposes of paragraph (2), the term "average cost of attendance" means the average of the attendance costs for undergraduate students which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income

protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $600.

(d) REALLOCATION OF EXCESS ALLOCATIONS.—(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.

(e) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

SEC. 413E. [20 U.S.C. 1070b–4] CARRYOVER AND CARRYBACK AUTHORITY.

(a) CARRYOVER AUTHORITY.—Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out the program under this subpart.

(b) CARRYBACK AUTHORITY.—

(1) IN GENERAL.—Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, be used by the institution for expenditure for the fiscal year preceding the fiscal year for which the sums were appropriated.

(2) USE OF CARRIED-BACK FUNDS.—An eligible institution may make grants to students after the end of the academic year, but prior to the beginning of the succeeding fiscal year, from such succeeding fiscal year's appropriations.

SUBPART 4—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

SEC. 415A. [20 U.S.C. 1070c] PURPOSE; APPROPRIATIONS AUTHORIZED.

(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to States to assist States in—

(1) providing grants to—

(A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

(B) eligible students for campus-based community service work-study; and

(2) carrying out the activities described in section 415E.

(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this subpart $200,000,000 for fiscal year 2009 and

such sums as may be necessary for each of the five 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.

(3) AVAILABILITY.—Sums appropriated pursuant to the authority of paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

SEC. 415B. [20 U.S.C. 1070c–1] ALLOTMENT AMONG STATES.

(a) ALLOTMENT BASED ON NUMBER OF ELIGIBLE STUDENTS IN ATTENDANCE.—(1) From the sums appropriated pursuant to section 415A(b)(1) and not reserved under section 415A(b)(2) for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

(b) REALLOTMENT.—The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year for the leveraging educational assistance partnership program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 415A(b)(1) shall be deemed part of its allotment under subsection (a) for such year.

(c) ALLOTMENTS SUBJECT TO CONTINUING COMPLIANCE.—The Secretary shall make payments for continuing incentive grants only to States which continue to meet the requirements of section 415C(b).

SEC. 415C. [20 U.S.C. 1070c–2] APPLICATIONS FOR LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAMS.

(a) SUBMISSION AND CONTENTS OF APPLICATIONS.—A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The applica-

tion shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) PAYMENT OF FEDERAL SHARE OF GRANTS MADE BY QUALIFIED PROGRAM.—From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying up to 50 percent of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not to exceed the lesser of $12,500 or the student's cost of attendance per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

(3) provides that—

(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

(C) grants for such jobs be made in accordance with the provisions of section 443(b)(1);

(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary, except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State;

(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(7) provides that if the State's allocation under this subpart is based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time, a reasonable proportion of the State's allocation shall be made available to such students;

(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expend-

itures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart;

(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through State funds for the program under this subpart; and

(11) provides notification to eligible students that such grants are—

(A) Leveraging Educational Assistance Partnership Grants; and

(B) funded by the Federal Government, the State, and, where applicable, other contributing partners.

(c) RESERVATION AND DISBURSEMENT OF ALLOTMENTS AND REALLOTMENTS.—Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students' incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

SEC. 415D. [20 U.S.C. 1070c–3] ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW.

(a) DISAPPROVAL OF APPLICATIONS; SUSPENSION OF ELIGIBILITY.—(1) The Secretary shall not finally disapprove any application for a State program submitted under section 415C, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this

subpart until he is satisfied that there is no longer any such failure to comply.

(b) REVIEW OF DECISIONS.—(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

SEC. 415E. [20 U.S.C. 1070c–3a] 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, including community-based organizations, in order to—

(A) carry out activities under this section; and

(B) provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend an institution of higher education;

(2) provide need-based grants for access and persistence to eligible low-income students;

(3) provide early notification to low-income students of the students' eligibility for financial aid; and

(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—

(A) AUTHORIZATION.—From sums reserved under section 415A(b)(2) for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share, as described in paragraph (2), of the cost of carrying out the activities under subsection (d).

(B) DETERMINATION OF ALLOTMENT.—In making allotments under subparagraph (A), the Secretary shall consider the following:

(i) CONTINUATION OF AWARD.—Except as provided in clause (ii), if a State continues to meet the specifications established in such State's application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

(ii) SPECIAL CONTINUATION AND TRANSITION RULE.—If a State that applied for and received an allotment under this section for fiscal year 2010 pursuant to subsection (j) meets the specifications established in the State's application under subsection (c) for fiscal year 2011, then the Secretary shall make an allotment to such State for fiscal year 2011 that is not less than the allotment made pursuant to subsection (j) to such State for fiscal year 2010 under this section (as this section was in effect on the day before the date of enactment of the Higher Education Opportunity Act (Public Law 110–315)).

(iii) PRIORITY.—The Secretary shall give priority in making allotments to States that meet the requirements described in 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 shall not exceed 66.66 percent.

(B) DIFFERENT PERCENTAGES.—The Federal share under this section shall be determined in accordance with the following:

(i) The Federal share of the cost of carrying out the activities under subsection (d) shall be 57 percent 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—

(I) philanthropic organizations that are located in, or that provide funding in, the State; or

(II) private corporations that are located in, or that do business in, the State.

(ii) The Federal share of the cost of carrying out the activities under subsection (d) shall be 66.66 percent 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, and—

(I) philanthropic organizations that are located in, or that provide funding in, the State; or

(II) private corporations that are located in, or that do business in, the State.

(C) NON-FEDERAL SHARE.—

(i) IN GENERAL.—The non-Federal share under this section may be provided in cash or in kind, fairly evaluated.

(ii) IN-KIND CONTRIBUTION.—For the purpose of calculating the non-Federal share under this subparagraph, an in-kind contribution is a non-cash contribution that—

(I) has monetary value, such as the provision of—

(aa) room and board; or

(bb) transportation passes; and

(II) helps a student meet the cost of attendance at an institution of higher education.

(iii) EFFECT ON NEED ANALYSIS.—For the purpose of calculating a student's need in accordance with part F, an in-kind contribution described in clause (ii) shall not be considered an asset or income of the student or the student's parent.

(c) APPLICATION FOR ALLOTMENT.—

(1) IN GENERAL.—

(A) SUBMISSION.—A State that desires to receive an allotment under this section on behalf of a partnership described in paragraph (3) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) CONTENT.—An application submitted under subparagraph (A) shall include the following:

(i) A description of the State's plan for using the allotted funds.

(ii) An assurance that the State will provide matching funds, in cash or in kind, 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). The State shall specify the methods by which matching funds will be paid. A State that uses non-Federal funds to create or expand partnerships with entities described in subsection (a)(1), in which such entities match State funds for student scholarships, may apply such matching funds from such entities toward fulfilling the State's matching obligation under this clause.

(iii) An assurance that the State will use funds provided under this section to supplement, and not supplant, Federal and State funds available for carrying out the activities under this title.

(iv) An assurance 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.

(v) A description of the organizational structure that the State has in place to administer the activities

under subsection (d), including a description of how the State will compile information on degree completion of students receiving grants under this section.

(vi) A description of the steps the State will take to ensure that students who receive grants under this section persist to degree completion.

(vii) An assurance that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 479(c), to identify eligible low-income students and award State grant aid to such students.

(viii) An assurance 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, and, where applicable, other contributing partners.

(2) STATE AGENCY.—The State agency that submits an application for a State under section 415C(a) shall be the same State agency that submits an application under paragraph (1) for such State.

(3) PARTNERSHIP.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

(A) not less than one public and one private degree-granting institution of higher education that are located in the State, if applicable;

(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

(C) not less than one—

(i) philanthropic organization located in, or that provides funding in, the State; or

(ii) private corporation located in, or that does business in, the State.

(4) ROLES OF PARTNERS.—

(A) STATE AGENCY.—A State agency that is in a partnership receiving an allotment under this section—

(i) shall—

(I) serve as the primary administrative unit for the partnership;

(II) provide or coordinate non-Federal share funds, and coordinate activities among partners;

(III) encourage each institution of higher education in the State to participate in the partnership;

(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and

(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

(ii) may provide early information and intervention, mentoring, or outreach programs.

(B) DEGREE-GRANTING INSTITUTIONS OF HIGHER EDUCATION.—A degree-granting 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 grants for access and persistence under this section and are enrolled at such institution; and

(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

(C) PROGRAMS.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct 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 grants for access and persistence 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 grants for access and persistence 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 OF GRANTS.—The amount of a grant for access and persistence awarded by a State to a student under this section shall be not less than—

(i) the average undergraduate tuition and mandatory fees at the public institutions of higher education in the State where the student resides that are of the same type of institution as the institution of higher education the student attends; minus

(ii) other Federal and State aid the student receives.

(C) SPECIAL RULES.—

(i) PARTNERSHIP INSTITUTIONS.—A State receiving an allotment under this section may restrict the use of grants for access and persistence under this section by awarding the grants only to students attending institutions of higher education that are participating in the partnership.

(ii) OUT-OF-STATE INSTITUTIONS.—If a State provides grants through another program under this subpart to students attending institutions of higher education located in another State, grants awarded under this section may be used at institutions of higher education located in another State.

(2) EARLY NOTIFICATION.—

(A) IN GENERAL.—Each State receiving an allotment under this section shall annually notify low-income students in grades seven through 12 in the State, and their families, 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 notice 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 eligibility for a grant for access and persistence is enhanced through participation in an early information and intervention, mentoring, or outreach program;

(III) an explanation that student and family eligibility for, and participation in, other Federal means-tested programs may indicate eligibility for a grant for access and persistence and other student aid programs;

(IV) a nonbinding estimate of the total amount of financial aid that a low-income student with a similar income level may expect to receive, including an estimate of the amount of a grant for access and persistence and an estimate of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

(V) an explanation that in order to be eligible for a grant for access and persistence, at a minimum, a student shall—

(aa) meet the requirement under paragraph (3);

(bb) graduate from secondary school; and

(cc) enroll at an institution of higher education—

(AA) that is a partner in the partnership; or

(BB) with respect to which attendance is permitted under subsection (d)(1)(C)(ii);

(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of a grant for access and persistence under this section; and

(VII) instructions on how to apply for a grant for access and persistence and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 483(a) to be eligible for such grant and assistance from other Federal and State financial aid programs; and

(ii) may include a disclaimer that grant awards for access and persistence are contingent on—

(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership or qualifies under subsection (d)(1)(C)(ii);

(II) annual Federal and State spending for higher education; and

(III) other aid received by the student at the time of the student's enrollment at such institution of higher education.

(3) ELIGIBILITY.—In determining which students are eligible to receive grants for access and persistence, the State shall ensure that each such student complies with the following subparagraph (A) or (B):

(A) Meets not less than two 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 determined under part F, or a comparable alternative based upon the State's approved criteria in section 415C(b)(4).

(ii) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b).

(iii) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

(B) Is receiving, or has received, a grant for access and persistence under this section, in accordance with paragraph (5).

(4) GRANT AWARD.—Once a student, including those students who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related State form, and is deter-

mined eligible by the State under paragraph (3), the State shall—

(A) issue the student a preliminary award certificate for a grant for access and persistence with estimated award amounts; and

(B) inform the student that payment of the grant for access and persistence award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

(5) DURATION OF AWARD.—An eligible student who receives a grant for access and persistence under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c), and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to degree completion.

(e) ADMINISTRATIVE COST ALLOWANCE.—A State that receives an allotment under this section may reserve not more than two 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 that 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 with 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 the State's total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

(j) CONTINUATION AND TRANSITION.—For the two-year period that begins on the date of enactment of the Higher Education Opportunity Act, the Secretary shall continue to award grants under section 415E of the Higher Education Act of 1965 as such section existed on the day before the date of enactment of the Higher Edu-

cation Opportunity Act to States that choose to apply for grants under such predecessor section.

(k) REPORTS.—Not later than three years after the date of enactment of the Higher Education Opportunity Act and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the authorizing committees.

SEC. 415F. [20 U.S.C. 1070c–4] DEFINITION.

For the purpose of this subpart, the term "community service" means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which—

(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

SEC. 418A. [20 U.S.C. 1070d–2] MAINTENANCE AND EXPANSION OF EXISTING PROGRAMS.

(a) PROGRAM AUTHORITY.—The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

(b) SERVICES PROVIDED BY HIGH SCHOOL EQUIVALENCY PROGRAM.—The services authorized by this subpart for the high school equivalency program include—

(1) recruitment services to reach persons—

(A)(i) who are 16 years of age and over; or

(ii) who are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school;

(B)(i) who themselves, or whose immediate family, have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork; or

(ii) who are eligible to participate, or have participated within the preceding 2 years, in programs under part C of title I of the Elementary and Secondary Education Act of

1965 or section 167 of the Workforce Investment Act of 1998[7]; and

(C) who lack a high school diploma or its equivalent;

(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

(3) supportive services which include the following:

(A) personal, vocational, and academic counseling;

(B) placement services designed to place students in a university, college, or junior college program (including preparation for college entrance examinations), or in military service or career positions; and

(C) health services;

(4) information concerning, and assistance in obtaining, available student financial aid;

(5) stipends for high school equivalency program participants;

(6) housing for those enrolled in residential programs;

(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth;

(8) other essential supportive services (such as transportation and child care), as needed to ensure the success of eligible students; and

(9) other activities to improve persistence and retention in postsecondary education.

(c) SERVICES PROVIDED BY COLLEGE ASSISTANCE MIGRANT PROGRAM.—(1) Services authorized by this subpart for the college assistance migrant program include—

(A) outreach and recruitment services to reach persons who themselves or whose immediate family have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated or are eligible to participate, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 or section 167 of the Workforce Investment Act of 1998[8], and who meet the minimum qualifications for attendance at a college or university;

(B) supportive and instructional services to improve placement, persistence, and retention in postsecondary education, which include:

(i) personal, academic, career, and economic education or personal finance counseling as an ongoing part of the program;

(ii) tutoring and academic skill building instruction and assistance;

(iii) assistance with special admissions;

(iv) health services; and

[7] Effective on July 1, 2015, section 512(n)(1)(A) of Public Law 113–128 provides for an amendment by striking "section 167 of the Workforce Investment Act of 1998" and inserting "section 167 of the Workforce Innovation and Opportunity Act".

[8] Effective on July 1, 2015, section 512(n)(1)(B) of Public Law 113–128 provides for an amendment by striking "section 167 of the Workforce Investment Act of 1998" and inserting "section 167 of the Workforce Innovation and Opportunity Act".

(v) other services as necessary to assist students in completing program requirements;

(C) assistance in obtaining student financial aid which includes, but is not limited to:

(i) stipends;

(ii) scholarships;

(iii) student travel;

(iv) career oriented work study;

(v) books and supplies;

(vi) tuition and fees;

(vii) room and board; and

(viii) other assistance necessary to assist students in completing their first year of college;

(D) housing support for students living in institutional facilities and commuting students;

(E) exposure to cultural events, academic programs, and other activities not usually available to migrant youth;

(F) internships; and

(G) other essential supportive services (such as transportation and child care) as necessary to ensure the success of eligible students.

(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college;

(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid, and coordinating such services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and aid provided by community-based organizations, which may include mentoring and guidance; and

(C) for students attending two-year institutions of higher education, encouraging the students to transfer to four-year institutions of higher education, where appropriate, and monitoring the rate of transfer of such students.

(d) MANAGEMENT PLAN REQUIRED.—Each project application shall include a management plan which contains assurances that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

(1) staff in-service training;

(2) training and technical assistance;

(3) staff travel;

(4) student travel;

(5) interagency coordination; and

(6) an evaluation plan.

(e) FIVE-YEAR GRANT PERIOD; CONSIDERATION OF PRIOR EXPERIENCE.—Except under extraordinary circumstances, the Secretary shall award grants for a 5-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs in accordance with section 402A(c)(2).

(f) MINIMUM ALLOCATIONS.—The Secretary shall not allocate an amount less than—

(1) $180,000 for each project under the high school equivalency program, and

(2) $180,000 for each project under the college assistance migrant program.

(g) RESERVATION AND ALLOCATION OF FUNDS.—From the amounts made available under subsection (i), the Secretary—

(1) may reserve not more than a total of ½ of one percent for outreach activities, technical assistance, and professional development programs relating to the programs under subsection (a);

(2) for any fiscal year for which the amount appropriated to carry out this section is equal to or greater than $40,000,000, shall, in awarding grants from the remainder of such amounts—

(A) make available not less than 45 percent of such remainder for the high school equivalency programs and not less than 45 percent of such remainder for the college assistance migrant programs;

(B) award the rest of such remainder for high school equivalency programs or college assistance migrant programs based on the number, quality, and promise of the applications; and

(C) consider the need to provide an equitable geographic distribution of such grants; and

(3) for any fiscal year for which the amount appropriated to carry out this section is less than $40,000,000, shall, in awarding grants from the remainder of such amounts make available the same percentage of funds to the high school equivalency program and to the college assistance migrant program as was made available for each such program for the fiscal year preceding the fiscal year for which the grant was made.

(h) DATA COLLECTION.—The Secretary shall—

(1) annually collect data on persons receiving services authorized under this subpart regarding such persons' rates of secondary school graduation, entrance into postsecondary education, and completion of postsecondary education, as applicable;

(2) not less often than once every two years, prepare and submit to the authorizing committees a report based on the most recently available data under paragraph (1); and

(3) make such report available to the public.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this section, there are authorized to be appropriated $75,000,000 for fiscal year 2009 and such sums as may be necessary for the each of the five succeeding fiscal years.

SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

SEC. 419A. [20 U.S.C. 1070d–31] STATEMENT OF PURPOSE.

It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

[Section 419B was repealed by P.L. 102–325, sec. 406(a), 106 Stat. 508.]

SEC. 419C. [20 U.S.C. 1070d–33] SCHOLARSHIPS AUTHORIZED.

(a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) PERIOD OF AWARD.—Scholarships under this section shall be awarded for a period of not less than 1 or more than 4 years during the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this title. The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 419D(b) that are attributable to such excess; and

(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.

(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this subpart may attend any institution of higher education.

(d) BYRD SCHOLARS.—Individuals awarded scholarships under this subpart shall be known as "Byrd Scholars".

SEC. 419D. [20 U.S.C. 1070d–34] ALLOCATION AMONG STATES.

(a) ALLOCATION FORMULA.—From the sums appropriated pursuant to the authority of section 419K for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 419E an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

(b) NUMBER OF SCHOLARSHIPS AVAILABLE.—The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears

to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

(c) USE OF CENSUS DATA.—For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.

(d) CONSOLIDATION BY INSULAR AREAS PROHIBITED.—Notwithstanding section 501 of Public Law 95–134 (48 U.S.C. 1469a), funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government.

(e) FAS ELIGIBILITY.—

(1) FISCAL YEARS 2000 THROUGH 2004.—Notwithstanding any other provision of this subpart, in the case of students from the Freely Associated States who may be selected to receive a scholarship under this subpart for the first time for any of the fiscal years 2000 through 2004—

(A) there shall be 10 scholarships in the aggregate awarded to such students for each of the fiscal years 2000 through 2004; and

(B) the Pacific Regional Educational Laboratory shall administer the program under this subpart in the case of scholarships for students in the Freely Associated States.

(2) TERMINATION OF ELIGIBILITY.—A student from the Freely Associated States shall not be eligible to receive a scholarship under this subpart after September 30, 2004.

SEC. 419E. [20 U.S.C. 1070d–35] AGREEMENTS.

The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart; and

(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart $1,500.

SEC. 419F. [20 U.S.C. 1070d–36] ELIGIBILITY OF SCHOLARS.

(a) HIGH SCHOOL GRADUATION OR EQUIVALENT AND ADMISSION TO INSTITUTION REQUIRED.—Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school (or a home school, whether treated as a home school or a private school under State law) or have the equivalent of a cer-

tificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) SELECTION BASED ON PROMISE OF ACADEMIC ACHIEVEMENT.—Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

SEC. 419G. [20 U.S.C. 1070d–37] SELECTION OF SCHOLARS.

(a) ESTABLISHMENT OF CRITERIA.—The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the Federated States of Micronesia, the Republic of the Marshall Islands, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).

(c) CONSULTATION REQUIREMENT.—In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(d) TIMING OF SELECTION.—The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.

SEC. 419H. [20 U.S.C. 1070d–38] STIPENDS AND SCHOLARSHIP CONDITIONS.

(a) AMOUNT OF AWARD.—Each student awarded a scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded, except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance.

(b) USE OF AWARD.—The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

SEC. 419J. [20 U.S.C. 1070d–40][9] CONSTRUCTION OF NEEDS PROVISIONS.

Except as provided in section 471, nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

SEC. 419K. [20 U.S.C. 1070d–41] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

[9] Section 419I was repealed by P.L. 102–325, sec. 406(g)(1), 106 Stat. 509.

Subpart 7—Child Care Access Means Parents in School

SEC. 419N. [20 U.S.C. 1070e] CHILD CARE ACCESS MEANS PARENTS IN SCHOOL.

(a) PURPOSE.—The purpose of this section is to support the participation of low-income parents in postsecondary education through the provision of campus-based child care services.

(b) PROGRAM AUTHORIZED.—

(1) AUTHORITY.—The Secretary may award grants to institutions of higher education to assist the institutions in providing campus-based child care services to low-income students.

(2) AMOUNT OF GRANTS.—

(A) IN GENERAL.—The amount of a grant awarded to an institution of higher education under this section for a fiscal year shall not exceed 1 percent of the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year.

(B) MINIMUM.—

(i) IN GENERAL.—Except as provided in clause (ii), a grant under this section shall be awarded in an amount that is not less than $10,000.

(ii) INCREASE TRIGGER.—For any fiscal year for which the amount appropriated under the authority of subsection (g) is equal to or greater than $20,000,000, a grant under this section shall be awarded in an amount that is not less than $30,000.

(3) DURATION; RENEWAL; AND PAYMENTS.—

(A) DURATION.—The Secretary shall award a grant under this section for a period of 4 years.

(B) PAYMENTS.—Subject to subsection (e)(2), the Secretary shall make annual grant payments under this section.

(4) ELIGIBLE INSTITUTIONS.—An institution of higher education shall be eligible to receive a grant under this section for a fiscal year if the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year equals or exceeds $350,000, except that for any fiscal year for which the amount appropriated to carry out this section is equal to or greater than $20,000,000, this sentence shall be applied by substituting "$250,000" for "$350,000".

(5) USE OF FUNDS.—Grant funds under this section shall be used by an institution of higher education to support or establish a campus-based child care program primarily serving the needs of low-income students enrolled at the institution of higher education. Grant funds under this section may be used to provide before and after school services to the extent necessary to enable low-income students enrolled at the institution of higher education to pursue postsecondary education.

(6) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an institution of higher education that re-

ceives grant funds under this section from serving the child care needs of the community served by the institution.

(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term "low-income student" means a student—

(A) who is eligible to receive a Federal Pell Grant for the award year for which the determination is made; or

(B) who would otherwise be eligible to receive a Federal Pell Grant for the award year for which the determination is made, except that the student fails to meet the requirements of—

(i) section 401(c)(1) because the student is enrolled in a graduate or first professional course of study; or

(ii) section 484(a)(5) because the student is in the United States for a temporary purpose.

(8) PUBLICITY.—The Secretary shall publicize the availability of grants under this section in appropriate periodicals, in addition to publication in the Federal Register, and shall inform appropriate educational organizations of such availability.

(c) APPLICATIONS.—An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall—

(1) demonstrate that the institution is an eligible institution described in subsection (b)(4);

(2) specify the amount of funds requested;

(3) demonstrate the need of low-income students at the institution for campus-based child care services by including in the application—

(A) information regarding student demographics;

(B) an assessment of child care capacity on or near campus;

(C) information regarding the existence of waiting lists for existing child care;

(D) information regarding additional needs created by concentrations of poverty or by geographic isolation; and

(E) other relevant data;

(4) contain a description of the activities to be assisted, including whether the grant funds will support an existing child care program or a new child care program;

(5) identify the resources, including technical expertise and financial support, the institution will draw upon to support the child care program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of child care, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrate that the use of the resources will not result in increases in student tuition;

(6) contain an assurance that the institution will meet the child care needs of low-income students through the provision of services, or through a contract for the provision of services;

(7) describe the extent to which the child care program will coordinate with the institution's early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the child care program assisted under this section;

(8) in the case of an institution seeking assistance for a new child care program—

(A) provide a timeline, covering the period from receipt of the grant through the provision of the child care services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with child care services;

(B) specify any measures the institution will take to assist low-income students with child care during the period before the institution provides child care services; and

(C) include a plan for identifying resources needed for the child care services, including space in which to provide child care services, and technical assistance if necessary;

(9) contain an assurance that any child care facility assisted under this section will meet the applicable State or local government licensing, certification, approval, or registration requirements; and

(10) contain a plan for any child care facility assisted under this section to become accredited within 3 years of the date the institution first receives assistance under this section.

(d) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education that submit applications describing programs that—

(1) leverage significant local or institutional resources, including in-kind contributions, to support the activities assisted under this section; and

(2) utilize a sliding fee scale for child care services provided under this section in order to support a high number of low-income parents pursuing postsecondary education at the institution.

(e) REPORTING REQUIREMENTS; CONTINUING ELIGIBILITY.—

(1) REPORTING REQUIREMENTS.—

(A) REPORTS.—Each institution of higher education receiving a grant under this section shall report to the Secretary annually.

(B) CONTENTS.—The report shall include—

(i) data on the population served under this section;

(ii) information on campus and community resources and funding used to help low-income students access child care services;

(iii) information on progress made toward accreditation of any child care facility; and

(iv) information on the impact of the grant on the quality, availability, and affordability of campus-based child care services.

(2) CONTINUING ELIGIBILITY.—The Secretary shall make continuation awards under this section to an institution of higher education only if the Secretary determines, on the basis of the reports submitted under paragraph (1), that the institution is making a good faith effort to ensure that low-income students at the institution have access to affordable, quality child care services.

(f) CONSTRUCTION.—No funds provided under this section shall be used for construction, except for minor renovation or repair to meet applicable State or local health or safety requirements.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

[Subpart 8 of part A of title IV was repealed by section 411 of Public Law 110–315.**]**

Subpart 9—TEACH Grants

SEC. 420L. [20 U.S.C. 1070g] DEFINITIONS.

For the purposes of this subpart:

(1) ELIGIBLE INSTITUTION.—The term "eligible institution" means an institution of higher education, as defined in section 102, that the Secretary determines—

(A) provides high quality teacher preparation and professional development services, including extensive clinical experience as a part of pre-service preparation;

(B) is financially responsible;

(C) provides pedagogical course work, or assistance in the provision of such coursework, including the monitoring of student performance, and formal instruction related to the theory and practices of teaching; and

(D) provides supervision and support services to teachers, or assistance in the provision of such services, including mentoring focused on developing effective teaching skills and strategies.

(2) POST-BACCALAUREATE.—The term "post-baccalaureate" means a program of instruction for individuals who have completed a baccalaureate degree, that does not lead to a graduate degree, and that consists of courses required by a State in order for a teacher candidate to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State, except that such term shall not include any program of instruction offered by an eligible institution that offers a baccalaureate degree in education.

(3) TEACHER CANDIDATE.—The term "teacher candidate" means a student or teacher described in subparagraph (A) or (B) of section 420N(a)(2).

SEC. 420M. [20 U.S.C. 1070g–1] PROGRAM ESTABLISHED.

(a) PROGRAM AUTHORITY.—

(1) PAYMENTS REQUIRED.—The Secretary shall pay to each eligible institution such sums as may be necessary to pay to each teacher candidate who files an application and agreement in accordance with section 420N, and who qualifies under paragraph (2) of section 420N(a), a TEACH Grant in the amount of $4,000 for each year during which that teacher candidate is in attendance at the institution.

(2) REFERENCES.—Grants made under paragraph (1) shall be known as "Teacher Education Assistance for College and Higher Education Grants" or "TEACH Grants".

(b) PAYMENT METHODOLOGY.—

(1) PREPAYMENT.—Not less than 85 percent of any funds provided to an eligible institution under subsection (a) shall be advanced to the eligible institution prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay teacher candidates until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

(2) DIRECT PAYMENT.—Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to teacher candidates, in advance of the beginning of the academic term, an amount for which teacher candidates are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) DISTRIBUTION OF GRANTS TO TEACHER CANDIDATES.—Payments under this subpart shall be made, in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this subpart. Any disbursement allowed to be made by crediting the teacher candidate's account shall be limited to tuition and fees and, in the case of institutionally-owned housing, room and board. The teacher candidate may elect to have the institution provide other such goods and services by crediting the teacher candidate's account.

(c) REDUCTIONS IN AMOUNT.—

(1) PART-TIME STUDENTS.—In any case where a teacher candidate attends an eligible institution on less than a full-time basis (including a teacher candidate who attends an eligible institution on less than a half-time basis) during any year, the amount of a grant under this subpart for which that teacher candidate is eligible shall be reduced in proportion to the degree to which that teacher candidate is not attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subpart, computed in accordance with this subpart. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 482 of this Act.

(2) NO EXCEEDING COST.—The amount of a grant awarded under this subpart, in combination with Federal assistance and other assistance the student may receive, shall not exceed the

cost of attendance (as defined in section 472) at the eligible institution at which that teacher candidate is in attendance.

(d) PERIOD OF ELIGIBILITY FOR GRANTS.—

(1) UNDERGRADUATE AND POST-BACCALAUREATE STUDENTS.—The period during which an undergraduate or post-baccalaureate student may receive grants under this subpart shall be the period required for the completion of the first undergraduate baccalaureate or post-baccalaureate course of study being pursued by the teacher candidate at the eligible institution at which the teacher candidate is in attendance, except that—

(A) any period during which the teacher candidate is enrolled in a noncredit or remedial course of study as described in paragraph (3) shall not be counted for the purpose of this paragraph; and

(B) the total amount that a teacher candidate may receive under this subpart for undergraduate or post-baccalaureate study shall not exceed $16,000.

(2) GRADUATE STUDENTS.—The period during which a graduate student may receive grants under this subpart shall be the period required for the completion of a master's degree course of study pursued by the teacher candidate at the eligible institution at which the teacher candidate is in attendance, except that the total amount that a teacher candidate may receive under this subpart for graduate study shall not exceed $8,000.

(3) REMEDIAL COURSE; STUDY ABROAD.—Nothing in this section shall be construed to exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language acquisition) which are determined by the eligible institution to be necessary to help the teacher candidate be prepared for the pursuit of a first undergraduate baccalaureate or post-baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the teacher candidate to utilize already existing knowledge, training, or skills. Nothing in this section shall be construed to exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the teacher candidate is enrolled.

SEC. 420N. [20 U.S.C. 1070g–2] APPLICATIONS; ELIGIBILITY.

(a) APPLICATIONS; DEMONSTRATION OF ELIGIBILITY.—

(1) FILING REQUIRED.—The Secretary shall periodically set dates by which teacher candidates shall file applications for grants under this subpart. Each teacher candidate desiring a grant under this subpart for any year shall file an application containing such information and assurances as the Secretary may determine necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(2) DEMONSTRATION OF TEACH GRANT ELIGIBILITY.—Each application submitted under paragraph (1) shall contain such information as is necessary to demonstrate that—

(A) if the applicant is an enrolled student—

(i) the student is an eligible student for purposes of section 484;

(ii) the student—

(I) has a grade point average that is determined, under standards prescribed by the Secretary, to be comparable to a 3.25 average on a zero to 4.0 scale, except that, if the student is in the first year of a program of undergraduate education, such grade point average shall be determined on the basis of the student's cumulative secondary school grade point average; or

(II) displayed high academic aptitude by receiving a score above the 75th percentile on at least one of the batteries in an undergraduate, post-baccalaureate, or graduate school admissions test; and

(iii) the student is completing coursework and other requirements necessary to begin a career in teaching, or plans to complete such coursework and requirements prior to graduating; or

(B) if the applicant is a current or prospective teacher applying for a grant to obtain a graduate degree—

(i) the applicant is a teacher or a retiree from another occupation with expertise in a field in which there is a shortage of teachers, such as mathematics, science, special education, English language acquisition, or another high-need subject; or

(ii) the applicant is or was a teacher who is using high-quality alternative certification routes, such as Teach for America, to get certified.

(b) AGREEMENTS TO SERVE.—Each application under subsection (a) shall contain or be accompanied by an agreement by the applicant that—

(1) the applicant will—

(A) serve as a full-time teacher for a total of not less than 4 academic years within 8 years after completing the course of study for which the applicant received a TEACH Grant under this subpart;

(B) teach in a school described in section 465(a)(2)(A);

(C) teach in any of the following fields—

(i) mathematics;

(ii) science;

(iii) a foreign language;

(iv) bilingual education;

(v) special education;

(vi) as a reading specialist; or

(vii) another field documented as high-need by the Federal Government, State government, or local educational agency, and approved by the Secretary;

(D) submit evidence of such employment in the form of a certification by the chief administrative officer of the school upon completion of each year of such service; and

(E) comply with the requirements for being a highly qualified teacher as defined in section 9101 of the Elementary and Secondary Education Act of 1965;

(2) in the event that the applicant is determined to have failed or refused to carry out such service obligation, the sum of the amounts of any TEACH Grants received by such applicant will be treated as a loan and collected from the applicant in accordance with subsection (c) and the regulations thereunder; and

(3) contains, or is accompanied by, a plain-language disclosure form developed by the Secretary that clearly describes the nature of the TEACH Grant award, the service obligation, and the loan repayment requirements that are the consequence of the failure to complete the service obligation.

(c) REPAYMENT FOR FAILURE TO COMPLETE SERVICE.—In the event that any recipient of a grant under this subpart fails or refuses to comply with the service obligation in the agreement under subsection (b), the sum of the amounts of any TEACH Grants received by such recipient shall, upon a determination of such a failure or refusal in such service obligation, be treated as a Federal Direct Unsubsidized Stafford Loan under part D of title IV, and shall be subject to repayment, together with interest thereon accruing from the date of the grant award, in accordance with terms and conditions specified by the Secretary in regulations under this subpart.

(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

(1) CHANGE OF HIGH-NEED DESIGNATION.—If a recipient of an initial grant under this subpart has acquired an academic degree, or expertise, in a field that was, at the time of the recipient's application for that grant, designated as high need in accordance with subsection (b)(1)(C)(vii), but is no longer so designated, the grant recipient may fulfill the service obligation described in subsection (b)(1) by teaching in that field.

(2) EXTENUATING CIRCUMSTANCES.—The Secretary shall establish, by regulation, categories of extenuating circumstances under which a recipient of a grant under this subpart who is unable to fulfill all or part of the recipient's service obligation may be excused from fulfilling that portion of the service obligation.

SEC. 420O. [20 U.S.C. 1070g–3] PROGRAM PERIOD AND FUNDING.

Beginning on July 1, 2008, there shall be available to the Secretary to carry out this subpart, from funds not otherwise appropriated, such sums as may be necessary to provide TEACH Grants in accordance with this subpart to each eligible applicant.

SEC. 420P. [20 U.S.C. 1070g–4] PROGRAM REPORT.

Not later than two years after the date of enactment of the Higher Education Opportunity Act and every two years thereafter, the Secretary shall prepare and submit to the authorizing committees a report on TEACH grants with respect to the schools and students served by recipients of such grants. Such report shall take into consideration information related to—

(1) the number of TEACH grant recipients;

(2) the degrees obtained by such recipients;

(3) the location, including the school, local educational agency, and State, where the recipients completed the service agreed to under section 420N(b) and the subject taught;

(4) the duration of such service; and

(5) any other data necessary to conduct such evaluation.

Subpart 10—Scholarships for Veteran's Dependents

SEC. 420R. [20 U.S.C. 1070h] SCHOLARSHIPS FOR VETERAN'S DEPENDENTS.

(a) DEFINITION OF ELIGIBLE VETERAN'S DEPENDENT.—The term "eligible veteran's dependent" means a dependent or an independent student—

(1) whose parent or guardian was a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; and

(2) who, at the time of the parent or guardian's death, was—

(A) less than 24 years of age; or

(B) enrolled at an institution of higher education on a part-time or full-time basis.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary shall award a grant to each eligible veteran's dependent to assist in paying the eligible veteran's dependent's cost of attendance at an institution of higher education.

(2) DESIGNATION.—Grants made under this section shall be known as "Iraq and Afghanistan Service Grants".

(c) PREVENTION OF DOUBLE BENEFITS.—No eligible veteran's dependent may receive a grant under both this section and section 401.

(d) TERMS AND CONDITIONS.—The Secretary shall award grants under this section in the same manner, and with the same terms and conditions, including the length of the period of eligibility, as the Secretary awards Federal Pell Grants under section 401, except that—

(1) the award rules and determination of need applicable to the calculation of Federal Pell Grants, shall not apply to grants made under this section;

(2) the provisions of subsection (a)(3), subsection (b)(1), the matter following subsection (b)(2)(A)(v), subsection (b)(3), and subsection (f), of section 401 shall not apply; and

(3) a grant made under this section to an eligible veteran's dependent for any award year shall equal the maximum Federal Pell Grant available for that award year, except that such a grant under this section—

(A) shall not exceed the cost of attendance of the eligible veteran's dependent for that award year; and

(B) shall be adjusted to reflect the attendance by the eligible veteran's dependent on a less than full-time basis in the same manner as such adjustments are made under section 401.

(e) ESTIMATED FINANCIAL ASSISTANCE.—For purposes of determinations of need under part F, a grant awarded under this section shall not be treated as estimated financial assistance as described in sections 471(3) and 480(j).

(f) AUTHORIZATION AND APPROPRIATIONS OF FUNDS.—There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Secretary to carry out this section, such sums as may be necessary for fiscal year 2010 and each succeeding fiscal year.

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

SEC. 421. [20 U.S.C. 1071] STATEMENT OF PURPOSE; NONDISCRIMINATION; AND APPROPRIATIONS AUTHORIZED.

(a) PURPOSE; DISCRIMINATION PROHIBITED.—

(1) PURPOSE.—The purpose of this part is to enable the Secretary—

(A) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435),

(B) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b),

(C) to pay a portion of the interest on loans to qualified students which are insured under this part, and

(D) to guarantee a portion of each loan insured

under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(B).

(2) DISCRIMINATION BY CREDITORS PROHIBITED.—No agency, organization, institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex, marital status, age, or handicapped status.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for

the reserve funds of State and nonprofit private student loan insurance programs,

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs,

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying a loan processing and issuance fee in accordance with section 428(f) to guaranty agencies, and

(6) there is authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the purpose of carrying out section 422(c)(7).

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended, except that no sums may be expended after June 30, 2010, with respect to loans under this part for which the first disbursement is after such date. No additional sums are authorized to be appropriated under paragraph (3) or (4) of this subsection by reason of the reenactment of such paragraphs by the Higher Education Amendments of 1986.

(c) DESIGNATION.—The program established under this part shall be referred to as the "Robert T. Stafford Federal Student Loan Program". Loans made pursuant to sections 427 and 428 shall be known as "Federal Stafford Loans".

(d) TERMINATION OF AUTHORITY TO MAKE OR INSURE NEW LOANS.—Notwithstanding paragraphs (1) through (6) of subsection (b) or any other provision of law—

(1) no new loans (including consolidation loans) may be made or insured under this part after June 30, 2010; and

(2) no funds are authorized to be appropriated, or may be expended, under this Act or any other Act to make or insure loans under this part (including consolidation loans) for which the first disbursement is after June 30, 2010,

except as expressly authorized by an Act of Congress enacted after the date of enactment of the SAFRA Act.

SEC. 422. [20 U.S.C. 1072] ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS.

(a) PURPOSE OF AND AUTHORITY FOR ADVANCES TO RESERVE FUNDS.—

(1) PURPOSE; ELIGIBLE RECIPIENTS.—From sums appropriated pursuant to paragraphs (3) and (4)(A) of section 421(b), the Secretary is authorized to make advances to any State with which the Secretary has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year,

the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which the Secretary has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 428(b)(1).

(2) MATCHING REQUIREMENT.—No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term "unencumbered non-Federal portion" means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

(A) the sum of—

(i) advances made under this section prior to July 1, 1968;

(ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made; and

(iii) the proceeds of earnings on advances made under this section; or

(B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

Except as provided in section 428(c)(9)(E) or (F), such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary.

(3) TERMS AND CONDITIONS; REPAYMENT.—Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Secretary determines will best carry out the purpose of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b) LIMITATIONS ON TOTAL ADVANCES.—

(1) IN GENERAL.—The total of the advances from the sums appropriated pursuant to paragraph (4)(A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged 18 to 22, inclusive, bears to the popu-

lation of all the States aged 18 to 22 inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(2) CALCULATION OF POPULATION.—For the purpose of this subsection, the population aged 18 to 22, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(c) ADVANCES FOR INSURANCE OBLIGATIONS.—

(1) USE FOR PAYMENT OF INSURANCE OBLIGATIONS.—From sums appropriated pursuant to section 421(b)(4)(B), the Secretary shall advance to each State which has an agreement with the Secretary under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2) AMOUNT OF ADVANCES.—(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 percent of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by—

(i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date; and

(ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a).

Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

(C) For the purpose of subparagraph (B), the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) USE OF EARNINGS FOR INSURANCE OBLIGATIONS.—The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4) REPAYMENT OF ADVANCES.—Advances made by the Secretary under this subsection shall, subject to subsection (d), be repaid within such period as the Secretary may deem to be appropriate and shall be deposited in the fund established by section 431.

(5) LIMITATION ON NUMBER OF ADVANCES.—Except as provided in paragraph (7), advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before October 12, 1976, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 2 succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after October 12, 1976, or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 4 succeeding calendar years after the date so requested of the advance.

(6) PAYMENT OF ADVANCES WHERE NO STATE PROGRAM.—(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

(B) The Secretary may enter into an agreement with a private nonprofit institution or organization for the purpose of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written, electronic, and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State;

(ii) agrees that its insurance will not be denied any student because of his or her choice of eligible institutions; and

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(7) EMERGENCY ADVANCES.—The Secretary is authorized to make advances, on terms and conditions satisfactory to the Secretary, to a guaranty agency—

(A) in accordance with section 428(j), in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort; or

(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 428(c)(9)(F)(v), in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A).

(d) RECOVERY OF ADVANCES DURING FISCAL YEARS 1988 AND 1989.—

(1) AMOUNT AND USE OF RECOVERED FUNDS.—Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this subsection and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988 and an amount equal to $35,000,000 for fiscal year 1989.

(2) DETERMINATION OF GUARANTY AGENCY OBLIGATIONS.—In determining the amount of advances which shall be repaid by a guaranty agency under paragraph (1), the Secretary—

(A) shall consider the solvency and maturity of the reserve and insurance funds of the guaranty agency assisted by such advances, as determined by the Comptroller General taking into account the requirements of State law as in effect on the date of enactment of the Higher Education Amendments of 1986;

(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection; and

(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund

requirement of State law as in effect on such date of enactment.

(e) CORRECTION FOR ERRORS UNDER REDUCTION OF EXCESS CASH RESERVES.—

(1) IN GENERAL.—The Secretary shall pay any guaranty agency the amount of reimbursement of claims under section 428(c)(1), filed between September 1, 1988, and December 31, 1989, which were previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986, if such maximum cash reserve was miscalculated because of erroneous financial information provided by such agency to the Secretary and if (A) such erroneous information is verified by an audited financial statement of the reserve fund, signed by a certified public accountant, and (B) such audited financial statement is provided to the Secretary prior to January 1, 1993.

(2) AMOUNT.—The amount of reimbursement for claims shall be equal to the amount of reimbursement for claims withheld or canceled in order to be applied to such agency's obligation to eliminate excess cash reserves which exceeds the amount of that which would have been withheld or canceled if the maximum excess cash reserves had been accurately calculated.

(f) REFUND OF CASH RESERVE PAYMENTS.—The Secretary shall, within 30 days after the date of enactment of the Higher Education Amendments of 1992, pay the full amount of payments withheld or canceled under paragraph (3) of this subsection to any guaranty agency which—

(1) was required to eliminate excess cash reserves, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986;

(2) appealed the Secretary's demand that such agency should eliminate such excess cash reserves and received a waiver of a portion of the amount of such excess cash reserves to be eliminated;

(3) had payments under section 428(c)(1) or section 428(f) previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986; and

(4) according to a Department of Education review that was completed and forwarded to such guaranty agency prior to January 1, 1992, is expected to become insolvent during or before 1996 and the payments withheld or canceled under paragraph (3) of this subsection are a factor in such agency's impending insolvency.

(g) PRESERVATION AND RECOVERY OF GUARANTY AGENCY RESERVES.—

(1) AUTHORITY TO RECOVER FUNDS.—Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part. However, the Secretary may not require the return of all reserve funds of a guaranty agency to the Secretary unless the Secretary determines that such return is in the best interest of the operation of the program authorized by this part, or to ensure the proper maintenance of such agency's funds or assets or the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that—

(A) the Secretary may direct a guaranty agency to return to the Secretary a portion of its reserve fund which the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the guaranty agency;

(B) the Secretary may direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets;

(C) the Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activities involving expenditure, use or transfer of the guaranty agency's reserve funds or assets which the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets; and

(D) any such determination under subparagraph (A) or (B) shall be based on standards prescribed by regulations that are developed through negotiated rulemaking and that include procedures for administrative due process.

(2) TERMINATION PROVISIONS IN CONTRACTS.—(A) To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of this subsection shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.

(B) The Secretary may direct a guaranty agency to suspend or cease activities under any contract entered into by or

on behalf of such agency after January 1, 1993, if the Secretary determines that the misuse or improper expenditure of such guaranty agency's funds or assets or such contract provides unnecessary or improper benefits to such agency's officers or directors.

(3) PENALTIES.—Violation of any direction issued by the Secretary under this subsection may be subject to the penalties described in section 490 of this Act.

(4) AVAILABILITY OF FUNDS.—Any funds that are returned or otherwise recovered by the Secretary pursuant to this subsection shall be available for expenditure for expenses pursuant to section 458 of this Act.

(h) RECALL OF RESERVES; LIMITATIONS ON USE OF RESERVE FUNDS AND ASSETS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,000,000,000 from the reserve funds held by guaranty agencies on September 1, 2002.

(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

(3) REQUIRED SHARE.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on the agency's required share of recalled reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's required share of recalled reserve funds shall be determined as follows:

(A) The Secretary shall compute each guaranty agency's reserve ratio by dividing (i) the amount held in the agency's reserve funds as of September 30, 1996 (but reflecting later accounting or auditing adjustments approved by the Secretary), by (ii) the original principal amount of all loans for which the agency has an outstanding insurance obligation as of such date, including amounts of outstanding loans transferred to the agency from another guaranty agency.

(B) If the reserve ratio of any guaranty agency as computed under subparagraph (A) exceeds 2.0 percent, the agency's required share shall include so much of the amounts held in the agency's reserve funds as exceed a reserve ratio of 2.0 percent.

(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)), such additional amount shall be obtained by imposing on each guaranty agency an equal percentage reduction in the amount of the agency's reserve funds remaining after deduction of the amount recalled under subparagraph (B), except that such percentage reduction under this subparagraph shall not result in the agency's reserve ratio being reduced below 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

(i) the additional amount required to be recalled (after deducting the total of the required shares calculated under subparagraph (B)), by

(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraph).

(D) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraphs (B) and (C)), such additional amount shall be obtained by imposing on each guaranty agency with a reserve ratio (after deducting the required shares calculated under such subparagraphs) in excess of 0.58 percent an equal percentage reduction in the amount of the agency's reserve funds remaining (after such deduction) that exceed a reserve ratio of 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

(i) the additional amount to be recalled under paragraph (1) (after deducting the amount recalled under subparagraphs (B) and (C)), by

(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraphs) that exceed a reserve ratio of 0.58 percent.

(4) RESTRICTED ACCOUNTS REQUIRED.—

(A) IN GENERAL.—Within 90 days after the beginning of each of the fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of the agency's required share determined under paragraph (3) to a restricted account established by the agency that is of a type selected by the agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities.

(B) REQUIREMENT.—A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for default reduction activities.

(C) INSTALLMENTS.—In each of fiscal years 1998 through 2002, each guaranty agency shall transfer the agency's required share to such restricted account in 5 equal annual installments, except that—

(i) a guaranty agency that has a reserve ratio (as computed under subparagraph (3)(A)) equal to or less than 1.10 percent may transfer the agency's required share to such account in 4 equal installments beginning in fiscal year 1999; and

(ii) a guaranty agency may transfer such required share to such account in accordance with such other payment schedules as are approved by the Secretary.

(5) SHORTAGE.—If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary.

The Secretary shall first attempt to obtain the amount of such shortage from each guaranty agency that failed to transfer the agency's required share to the agency's restricted account in accordance with paragraph (4).

(6) ENFORCEMENT.—

(A) IN GENERAL.—The Secretary may take such reasonable measures, and require such information, as may be necessary to ensure that guaranty agencies comply with the requirements of this subsection.

(B) PROHIBITION.—If the Secretary determines that a guaranty agency has failed to transfer to a restricted account any portion of the agency's required share under this subsection, the agency may not receive any other funds under this part until the Secretary determines that the agency has so transferred the agency's required share.

(C) WAIVER.—The Secretary may waive the requirements of subparagraph (B) for a guaranty agency described in such subparagraph if the Secretary determines that there are extenuating circumstances beyond the control of the agency that justify such waiver.

(7) LIMITATION.—

(A) RESTRICTION ON OTHER AUTHORITY.—The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) during the period from the date of enactment of the Balanced Budget Act of 1997 through September 30, 2002.

(B) USE OF TERMINATION COLLECTIONS.—Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(B) during such period that do not exceed a guaranty agency's required share of recalled reserve funds under paragraph (3)—

(i) shall be used to satisfy the agency's required share of recalled reserve funds; and

(ii) shall be deposited in the restricted account established by the agency under paragraph (4), without regard to whether such funds exceed the next installment required under such paragraph.

(C) USE OF SANCTIONS COLLECTIONS.—Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(C) during such period that do not exceed a guaranty agency's next installment under paragraph (4)—

(i) shall be used to satisfy the agency's next installment; and

(ii) shall be deposited in the restricted account established by the agency under paragraph (4).

(D) BALANCE AVAILABLE TO SECRETARY.—Any reserve funds directed by the Secretary to be returned to the Secretary under subparagraph (B) or (C) of subsection (g)(1) that remain after satisfaction of the requirements of subparagraphs (B) and (C) of this paragraph shall be deposited in the Treasury.

(8) DEFINITIONS.—For the purposes of this subsection:

(A) DEFAULT REDUCTION ACTIVITIES.—The term "default reduction activities" means activities to reduce student loan defaults that improve, strengthen, and expand default prevention activities, such as—

(i) establishing a program of partial loan cancellation to reward disadvantaged borrowers for good repayment histories with their lenders;

(ii) establishing a financial and debt management counseling program for high-risk borrowers that provides long-term training (beginning prior to the first disbursement of the borrower's first student loan and continuing through the completion of the borrower's program of education or training) in budgeting and other aspects of financial management, including debt management;

(iii) establishing a program of placement counseling to assist high-risk borrowers in identifying employment or additional training opportunities; and

(iv) developing public service announcements that would detail consequences of student loan default and provide information regarding a toll-free telephone number established by the guaranty agency for use by borrowers seeking assistance in avoiding default.

(B) RESERVE FUNDS.—The term "reserve funds" when used with respect to a guaranty agency—

(i) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

(ii) does not include buildings, equipment, or other nonliquid assets.

(i) ADDITIONAL RECALL OF RESERVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to paragraph (4), the Secretary shall recall, from reserve funds held in the Federal Student Loan Reserve Funds established under section 422A by guaranty agencies—

(A) $85,000,000 in fiscal year 2002;

(B) $82,500,000 in fiscal year 2006; and

(C) $82,500,000 in fiscal year 2007.

(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

(3) REQUIRED SHARE.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) on the basis of the agency's required share. For purposes of this paragraph, a guaranty agency's required share shall be determined as follows:

(A) EQUAL PERCENTAGE.—The Secretary shall require each guaranty agency to return an amount representing an equal percentage reduction in the amount of reserve funds held by the agency on September 30, 1996.

(B) CALCULATION.—The equal percentage reduction shall be the percentage obtained by dividing—

(i) $250,000,000, by

(ii) the total amount of all guaranty agencies' reserve funds held on September 30, 1996, less any amounts subject to recall under subsection (h).

(C) SPECIAL RULE.—Notwithstanding subparagraphs (A) and (B), the percentage reduction under subparagraph (B) shall not result in the depletion of the reserve funds of any agency which charges the 1.0 percent insurance premium pursuant to section 428(b)(1)(H) below an amount equal to the amount of lender claim payments paid during the 90 days prior to the date of the return under this subsection. If any additional amount is required to be returned after deducting the total of the required shares under subparagraph (B) and as a result of the preceding sentence, such additional amount shall be obtained by imposing on each guaranty agency to which the preceding sentence does not apply, an equal percentage reduction in the amount of the agency's remaining reserve funds.

(4) OFFSET OF REQUIRED SHARES.—If any guaranty agency returns to the Secretary any reserve funds in excess of the amount required under this subsection or subsection (h), the total amount required to be returned under paragraph (1) shall be reduced by the amount of such excess reserve funds returned.

(5)[10] DEFINITION OF RESERVE FUNDS.—The term "reserve funds" when used with respect to a guaranty agency—

(A) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

(B) does not include buildings, equipment, or other nonliquid assets.

SEC. 422A. [20 U.S.C. 1072a] FEDERAL STUDENT LOAN RESERVE FUND.

(a) ESTABLISHMENT.—Each guaranty agency shall, not later than 60 days after the date of enactment of this section, deposit all funds, securities, and other liquid assets contained in the reserve fund established pursuant to section 422 into a Federal Student Loan Reserve Fund (in this section and section 422B referred to as the "Federal Fund"), which shall be an account of a type selected by the agency, with the approval of the Secretary.

(b) INVESTMENT OF FUNDS.—Funds transferred to the Federal Fund shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary. Earnings from the Federal Fund shall be the sole property of the Federal Government.

(c) ADDITIONAL DEPOSITS.—After the establishment of the Federal Fund, a guaranty agency shall deposit into the Federal Fund—

(1) all amounts received from the Secretary as payment of reinsurance on loans pursuant to section 428(c)(1);

(2) from amounts collected on behalf of the obligation of a defaulted borrower, a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made—

[10] Identical definition of reserve funds appears in section 422(h)(8)(B).

(A) with respect to the defaulted loan pursuant to sections 428(c)(6)(A) and 428F(a)(1)(B); and

(B) with respect to a loan that the Secretary has repaid or discharged under section 437;

(3) insurance premiums collected from borrowers pursuant to sections 428(b)(1)(H) and 428H(h);

(4) all amounts received from the Secretary as payment for supplemental preclaims activity performed prior to the date of enactment of this section;

(5) 70 percent of amounts received after such date of enactment from the Secretary as payment for administrative cost allowances for loans upon which insurance was issued prior to such date of enactment; and

(6) other receipts as specified in regulations of the Secretary.

(d) USES OF FUNDS.—Subject to subsection (f), the Federal Fund may only be used by a guaranty agency—

(1) to pay lender claims pursuant to sections 428(b)(1)(G), 428(j), and 437; and

(2) to pay into the Agency Operating Fund established pursuant to section 422B (in this section and section 422B referred to as the "Operating Fund") a default aversion fee in accordance with section 428(l).

(e) OWNERSHIP OF FEDERAL FUND.—The Federal Fund, and any nonliquid asset (such as a building or equipment) developed or purchased by the guaranty agency in whole or in part with Federal reserve funds, regardless of who holds or controls the Federal reserve funds or such asset, shall be considered to be the property of the United States, prorated based on the percentage of such asset developed or purchased with Federal reserve funds, which property shall be used in the operation of the program authorized by this part, as provided in subsection (d). The Secretary may restrict or regulate the use of such asset only to the extent necessary to reasonably protect the Secretary's prorated share of the value of such asset. The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditures, use, or transfer of the Federal Fund administered by the guaranty agency that the Secretary determines is a misapplication, misuse, or improper expenditure of the Federal Fund or the Secretary's share of such asset.

(f) TRANSITION.—

(1) IN GENERAL.—In order to establish the Operating Fund, each guaranty agency may transfer not more than 180 days' cash expenses for normal operating expenses (not including claim payments) as a working capital reserve as defined in Office of Management and Budget Circular A–87 (Cost Accounting Standards) from the Federal Fund for deposit into the Operating Fund for use in the performance of the guaranty agency's duties under this part. Such transfers may occur during the first 3 years following the establishment of the Operating Fund. However, no agency may transfer in excess of 45 percent of the balance, as of September 30, 1998, of the agency's Federal Fund to the agency's Operating Fund during such 3-year period. In determining the amount that may be transferred,

the agency shall ensure that sufficient funds remain in the Federal Fund to pay lender claims within the required time periods and to meet the reserve recall requirements of this section and subsections (h) and (i) of section 422.

(2) SPECIAL RULE.—A limited number of guaranty agencies may transfer interest earned on the Federal Fund to the Operating Fund during the first 3 years after the date of enactment of this section if the guaranty agency demonstrates to the Secretary that—

(A) the cash flow in the Operating Fund will be negative without the transfer of such interest; and

(B) the transfer of such interest will substantially improve the financial circumstances of the guaranty agency.

(3) REPAYMENT PROVISIONS.—Each guaranty agency shall begin repayment of sums transferred pursuant to this subsection not later than the start of the fourth year after the establishment of the Operating Fund, and shall repay all amounts transferred not later than 5 years from the date of the establishment of the Operating Fund. With respect to amounts transferred from the Federal Fund, the guaranty agency shall not be required to repay any interest on the funds transferred and subsequently repaid. The guaranty agency shall provide to the Secretary a reasonable schedule for repayment of the sums transferred and an annual financial analysis demonstrating the agency's ability to comply with the schedule and repay all outstanding sums transferred.

(4) PROHIBITION.—If a guaranty agency transfers funds from the Federal Fund in accordance with this section, and fails to make scheduled repayments to the Federal Fund, the agency may not receive any other funds under this part until the Secretary determines that the agency has made such repayments. The Secretary shall pay to the guaranty agency any funds withheld in accordance with this paragraph immediately upon making the determination that the guaranty agency has made all such repayments.

(5) WAIVER.—The Secretary may—

(A) waive the requirements of paragraph (3), but only with respect to repayment of interest that was transferred in accordance with paragraph (2); and

(B) waive paragraph (4);

for a guaranty agency, if the Secretary determines that there are extenuating circumstances (such as State constitutional prohibitions) beyond the control of the agency that justify such a waiver.

(6) EXTENSION OF REPAYMENT PERIOD FOR INTEREST.—

(A) EXTENSION PERMITTED.—The Secretary shall extend the period for repayment of interest that was transferred in accordance with paragraph (2) from 2 years to 5 years if the Secretary determines that—

(i) the cash flow of the Operating Fund will be negative as a result of repayment as required by paragraph (3);

(ii) the repayment of the interest transferred will substantially diminish the financial circumstances of the guaranty agency; and

(iii) the guaranty agency has demonstrated—

(I) that the agency is able to repay all transferred funds by the end of the 8th year following the date of establishment of the Operating Fund; and

(II) that the agency will be financially sound on the completion of repayment.

(B) REPAYMENT OF INCOME ON TRANSFERRED FUNDS.—All repayments made to the Federal Fund during the 6th, 7th, and 8th years following the establishment of the Operating Fund of interest that was transferred shall include the sums transferred plus any income earned from the investment of the sums transferred after the 5th year.

(7) INVESTMENT OF FEDERAL FUNDS.—Funds transferred from the Federal Fund to the Operating Fund for operating expenses shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary.

(8) SPECIAL RULE.—In calculating the minimum reserve level required by section 428(c)(9)(A), the Secretary shall include all amounts owed to the Federal Fund by the guaranty agency in the calculation.

SEC. 422B. [20 U.S.C. 1072b] AGENCY OPERATING FUND.

(a) ESTABLISHMENT.—Each guaranty agency shall, not later than 60 days after the date of enactment of this section, establish a fund designated as the Operating Fund.

(b) INVESTMENT OF FUNDS.—Funds deposited into the Operating Fund shall be invested at the discretion of the guaranty agency in accordance with prudent investor standards.

(c) ADDITIONAL DEPOSITS.—After the establishment of the Operating Fund, the guaranty agency shall deposit into the Operating Fund—

(1) the loan processing and issuance fee paid by the Secretary pursuant to section 428(f);

(2) 30 percent of amounts received after the date of enactment of this section from the Secretary as payment for administrative cost allowances for loans upon which insurance was issued prior to such date of enactment;

(3) the account maintenance fee paid by the Secretary in accordance with section 458;

(4) the default aversion fee paid in accordance with section 428(l);

(5) amounts remaining pursuant to section 428(c)(6)(B) from collection on defaulted loans held by the agency, after payment of the Secretary's equitable share, excluding amounts deposited in the Federal Fund pursuant to section 422A(c)(2); and

(6) other receipts as specified in regulations of the Secretary.

(d) USES OF FUNDS.—

(1) IN GENERAL.—Funds in the Operating Fund shall be used for application processing, loan disbursement, enrollment and repayment status management, default aversion activities (including those described in section 422(h)(8)), default collection activities, school and lender training, financial aid awareness and related outreach activities, compliance monitoring, and other student financial aid related activities, as selected by the guaranty agency.

(2) SPECIAL RULE.—The guaranty agency may, in the agency's discretion, transfer funds from the Operating Fund to the Federal Fund for use pursuant to section 422A. Such transfer shall be irrevocable, and any funds so transferred shall become the sole property of the United States.

(3) DEFINITIONS.—For purposes of this subsection:

(A) DEFAULT COLLECTION ACTIVITIES.—The term "default collection activities" means activities of a guaranty agency that are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the due diligence activities required pursuant to regulations of the Secretary.

(B) DEFAULT AVERSION ACTIVITIES.—The term "default aversion activities" means activities of a guaranty agency that are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including due diligence activities required pursuant to regulations of the Secretary.

(C) ENROLLMENT AND REPAYMENT STATUS MANAGEMENT.—The term "enrollment and repayment status management" means activities of a guaranty agency that are directly related to ascertaining the student's enrollment status, including prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part.

(e) OWNERSHIP AND REGULATION OF OPERATING FUND.—

(1) OWNERSHIP.—The Operating Fund, with the exception of funds transferred from the Federal Fund in accordance with section 422A(f), shall be considered to be the property of the guaranty agency.

(2) REGULATION.—Except as provided in paragraph (3), the Secretary may not regulate the uses or expenditure of moneys in the Operating Fund, but the Secretary may require such necessary reports and audits as provided in section 428(b)(2).

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), during any period in which funds are owed to the Federal Fund as a result of transfer under section 422A(f)—

(A) moneys in the Operating Fund may only be used for expenses related to the student loan programs authorized under this part; and

(B) the Secretary may regulate the uses or expenditure of moneys in the Operating Fund.

SEC. 423. [20 U.S.C. 1073] EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS.

(a) FEDERAL INSURANCE BARRED TO LENDERS WITH ACCESS TO STATE OR PRIVATE INSURANCE.—Except as provided in subsection (b), the Secretary shall not issue certificates of insurance under section 429 to lenders in a State if the Secretary determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

(b) EXCEPTIONS.—The Secretary may issue certificates of insurance under section 429 to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of the borrower's residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State);

(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers; or

(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

SEC. 424. [20 U.S.C. 1074] SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.

(a) LIMITATIONS ON AMOUNTS OF LOANS COVERED BY FEDERAL INSURANCE.—The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, for each of the succeeding fiscal years ending prior to October 1, 2009, and for the period from October 1, 2009, to June 30, 2010, for loans first disbursed on or before June 30, 2010.

(b) APPORTIONMENT OF AMOUNTS.—The Secretary may, if he or she finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

SEC. 425. [20 U.S.C. 1075] LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE.

(a) ANNUAL AND AGGREGATE LIMITS.—

(1) ANNUAL LIMITS.—(A) The total of loans made to a student in any academic year or its equivalent (as determined by

the Secretary) which may be covered by Federal loan insurance under this part may not exceed—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481); and

(II) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

(I) $4,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) $5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year; and

(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500.

(B) The annual insurable limits contained in subparagraph (A) shall not apply in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(C) For the purpose of subparagraph (A), the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.

(2) AGGREGATE LIMITS.—(A) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary) and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student), but (II) excluding loans made under section 428A or 428B,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(B) The Secretary may increase the aggregate insurable limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(b) LEVEL OF INSURANCE COVERAGE BASED ON DEFAULT RATE.—

(1) REDUCTION FOR DEFAULTS IN EXCESS OF 5 OR 9 PERCENT.—(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest, except that—

(i) if, for any fiscal year, the total amount of payments under section 430 by the Secretary to any eligible lender as described in section 435(d)(1)(D) exceeds 5 percent of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 percent of the amount of such portion; or

(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 percent of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 80 percent of the amount of such portion.

(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) of such subparagraph shall not apply to an eligible lender as described in section 435(d)(1)(D) for the fiscal

year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the 4 succeeding fiscal years.

(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(d)(1)(D) shall be—

(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1976, or

(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

(2) COMPUTATION OF AMOUNTS IN REPAYMENT.—For the purpose of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by—

(A) the amount the Secretary has been required to pay to discharge his or her insurance obligations under this part;

(B) the original principal amount of loans insured by the Secretary which have been fully repaid;

(C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2)(C); and

(D) the original principal amount of loans repaid by the Secretary under section 437.

(3) PAYMENTS TO ASSIGNEES.—For the purpose of this subsection, payments by the Secretary under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

(4) PLEDGE OF FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

SEC. 426. [20 U.S.C. 1076] SOURCES OF FUNDS.

Loans made by eligible lenders in accordance with this part shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

SEC. 427. [20 U.S.C. 1077] ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS.

(a) LIST OF REQUIREMENTS.—Except as provided in section 428C, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) made to a student who (A) is an eligible student under section 484, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at

least one-half the normal full-time academic workload for the course of study the student is pursuing (as determined by the institution); and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement;

(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than 5 years (unless sooner repaid or unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in subparagraph (C);

(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made; and

(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a borrower has requested and obtained a repayment period of less than 5 years, the borrower may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than 5 years;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 428B or 428C), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 435(o), has caused or will cause the borrower to have an economic hardship;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (B);

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed in section 427A, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purpose of section 437;

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan;

(G)(i) contains a notice of the system, of disclosure of information concerning such loan to consumer reporting agencies under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such consumer reporting agencies;

(H) provides that, no more than 6 months prior to the date on which the borrower's first payment on a loan is due, the lender shall offer the borrower the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with the regulations of the Secretary; and

(I) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan;

(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except—

(A) that nothing in this title shall be interpreted—

(i) to allow the Secretary to require checks to be made copayable to the institution and the borrower; or

(ii) to prohibit the disbursement of loan proceeds by means other than by check; and

(B) in the case of any student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney; and

(4) the funds borrowed by a student are disbursed in accordance with section 428G.

(b) SPECIAL RULES FOR MULTIPLE DISBURSEMENT.—For the purpose of subsection (a)(4)—

(1) all loans issued for the same period of enrollment shall be considered as a single loan; and

(2) the requirements of such subsection shall not apply in the case of a loan made under section 428B or 428C, or made to a student to cover the cost of attendance at an eligible institution outside the United States.

(c) SPECIAL REPAYMENT RULES.—Except as provided in subsection (a)(2)(H), the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable).

SEC. 427A. [20 U.S.C. 1077a] APPLICABLE INTEREST RATES.

(a) RATES TO BE CONSISTENT FOR BORROWER'S ENTIRE DEBT.—With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) in the case of any borrower who, on the date of entering into the note

or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

(b) REDUCTION FOR NEW BORROWERS AFTER DECLINE IN TREASURY BILL RATES.—If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

(c) RATES FOR SUPPLEMENTAL LOANS FOR STUDENTS AND LOANS FOR PARENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 428A or 428B on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

(2) REDUCTION OF RATE AFTER DECLINE IN TREASURY BILL RATES.—If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 428A or 428B on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

(3) INCREASE OF RATE AFTER INCREASE IN TREASURY BILL RATES.—If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 428A or 428B on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

(4) AVAILABILITY OF VARIABLE RATES.—(A) For any loan made pursuant to section 428A or 428B and disbursed on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 428A(d) or 428B(d), the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

(B)(i) For any 12-month period beginning on July 1 and ending on or before June 30, 2001, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

(I) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

(II) 3.25 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the rate determined under this subparagraph is determined on the preceding June 26 and is equal to—

(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

(II) 3.25 percent.

(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(D) Notwithstanding subparagraph (A)—

(i) for any loan made pursuant to section 428A for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and

(II) the interest rate shall not exceed 11 percent; and

(ii) for any loan made pursuant to section 428B for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and

(II) the interest rate shall not exceed 10 percent.

(E) Notwithstanding subparagraphs (A) and (D) for any loan made pursuant to section 428B for which the first disbursement is made on or after July 1, 1994—

(i) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and

(ii) the interest rate shall not exceed 9 percent.

(d) INTEREST RATES FOR NEW BORROWERS AFTER JULY 1, 1988.—Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 428A, 428B, and 428C) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

(e) INTEREST RATES FOR NEW BORROWERS AFTER OCTOBER 1, 1992.—

(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (d) of this section, with respect to any loan (other than a loan made pursuant to sections 428A, 428B and 428C) for which the first disbursement is made on or after October 1, 1992, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under section 427, 428, or 428H of this part, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.10 percent,

except that such rate shall not exceed 9 percent.

(2) CONSULTATION.—The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(f) INTEREST RATES FOR NEW LOANS AFTER JULY 1, 1994.—

(1) IN GENERAL.—Notwithstanding subsections (a), (b), (d), and (e) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.10 percent,

except that such rate shall not exceed 8.25 percent.

(2) CONSULTATION.—The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(g) IN SCHOOL AND GRACE PERIOD RULES.—

(1) GENERAL RULE.—Notwithstanding the provisions of subsection (f), but subject to subsection (h), with respect to any loan under section 428 or 428H of this part for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall not exceed the rate determined under paragraph (2).

(2) RATE DETERMINATION.—For purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(B) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(h) INTEREST RATES FOR NEW LOANS AFTER JULY 1, 1998.—

(1) IN GENERAL.—Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to sections 428B and 428C) for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the securities with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(2) INTEREST RATES FOR NEW PLUS LOANS AFTER JULY 1, 1998.—Notwithstanding subsections (a), (b), (d), (e), (f), and (g), with respect to any loan made under section 428B for which the first disbursement is made on or after July 1, 1998, paragraph (1) shall be applied—

(A) by substituting "2.1 percent" for "1.0 percent" in subparagraph (B); and

(B) by substituting "9.0 percent" for "8.25 percent" in the matter following such subparagraph.

(3) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(i) TREATMENT OF EXCESS INTEREST PAYMENTS ON NEW BORROWER ACCOUNTS RESULTING FROM DECLINE IN TREASURY BILL RATES.—

(1) EXCESS INTEREST ON 10 PERCENT LOANS.—If, with respect to a loan for which the applicable interest rate is 10 percent under subsection (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.25 percent is less than 10 percent, then an adjustment shall be made to a borrower's account—

(A) by calculating excess interest in the amount computed under paragraph (2) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 428(a), by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(2) AMOUNT OF ADJUSTMENT FOR 10 PERCENT LOANS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) 10 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(3) EXCESS INTEREST ON LOANS AFTER 1992 AMENDMENTS, TO BORROWERS WITH OUTSTANDING BALANCES.—If, with respect to a loan made on or after the date of enactment of the Higher Education Amendments of 1992 to a borrower, who on the date of entering into the note or other written evidence of the loan, has an outstanding balance of principal or interest on any other loan made, insured, or guaranteed under this part, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.1 percent is less than the applicable interest rate, then an adjustment shall be made—

(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 428(a), by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(4) AMOUNT OF ADJUSTMENT.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) the applicable interest rate minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.1 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(5) ANNUAL ADJUSTMENT OF INTEREST AND BORROWER ELIGIBILITY FOR CREDIT.—Any adjustment amount computed pursuant to paragraphs (2) and (4) of this subsection for any quarter shall be credited, by the holder of the loan on the last day of the calendar year in which such quarter falls, to the loan ac-

count of the borrower so as to reduce the principal balance of such account. No such credit shall be made to the loan account of a borrower who on the last day of the calendar year is delinquent for more than 30 days in making a required payment on the loan, but the excess interest shall be calculated and credited to the Secretary. Any credit which is to be made to a borrower's account pursuant to this subsection shall be made effective commencing no later than 30 days following the last day of the calendar year in which the quarter falls for which the credit is being made. Nothing in this subsection shall be construed to require refunding any repayment of a loan. At the option of the lender, the amount of such adjustment may be distributed to the borrower either by reduction in the amount of the periodic payment on the loan, by reducing the number of payments that shall be made with respect to the loan, or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 433(b).

(6) PUBLICATION OF TREASURY BILL RATE.—For the purpose of enabling holders of loans to make the determinations and adjustments provided for in this subsection, the Secretary shall for each calendar quarter commencing with the quarter beginning on July 1, 1987, publish a notice of the average of the bond equivalent rates of 91-day Treasury bills auctioned for such quarter. Such notice shall be published not later than 7 days after the end of the quarter to which the notice relates.

(7) CONVERSION TO VARIABLE RATE.—(A) Subject to subparagraphs (C) and (D), a lender or holder shall convert the interest rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. Such conversion shall occur not later than January 1, 1995, and, commencing on the date of conversion, the applicable interest rate for each 12-month period beginning on July 1 and ending on June 30 shall be determined by the Secretary on the June 1 preceding each such 12-month period and be equal to the sum of (i) the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction prior to such June 1; and (ii) 3.25 percent in the case of loans described in paragraph (1), or 3.10 percent in the case of loans described in paragraph (3).

(B) In connection with the conversion specified in subparagraph (A) for any period prior to such conversion, and subject to paragraphs (C) and (D), a lender or holder shall convert the interest rate to a variable rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. The interest rates for such period shall be reset on a quarterly basis and the applicable interest rate for any quarter or portion thereof shall equal the sum of (i) the average of the bond equivalent rates of 91-Treasury bills auctioned for the preceding 3-month period, and (ii) 3.25 percent in the case of loans described in paragraph (1) or 3.10 percent in the case of loans described in paragraph (3). The rebate of excess interest derived through this conversion shall be provided to the borrower as specified in paragraph (5) for loans

described in paragraph (1) or to the Government and borrower as specified in paragraph (3).

(C) A lender or holder of a loan being converted pursuant to this paragraph shall complete such conversion on or before January 1, 1995. The lender or holder shall notify the borrower that the loan shall be converted to a variable interest rate and provide a description of the rate to the borrower not later than 30 days prior to the conversion. The notice shall advise the borrower that such rate shall be calculated in accordance with the procedures set forth in this paragraph and shall provide the borrower with a substantially equivalent benefit as the adjustment otherwise provided for under this subsection. Such notice may be incorporated into the disclosure required under section 433(b) if such disclosure has not been previously made.

(D) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.

(E) Loans on which the interest rate is converted in accordance with subparagraph (A) or (B) shall not be subject to any other provisions of this subsection.

(j) INTEREST RATES FOR NEW LOANS BETWEEN JULY 1, 1998 AND OCTOBER 1, 1998.—

(1) IN GENERAL.—Notwithstanding subsection (h), but subject to paragraph (2), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(2) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding subsection (h), with respect to any loan under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under paragraph (1) by substituting "1.7 percent" for "2.3 percent".

(3) PLUS LOANS.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be

determined on the preceding June 1 and be equal to the lesser of—

(A)(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 3.1 percent; or

(B) 9.0 percent.

(4) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(k) INTEREST RATES FOR NEW LOANS ON OR AFTER OCTOBER 1, 1998, AND BEFORE JULY 1, 2006.—

(1) IN GENERAL.—Notwithstanding subsection (h) and subject to paragraph (2) of this subsection, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(2) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding subsection (h), with respect to any loan under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 427(a)(2)(C) or 428(b)(1)(M),

shall be determined under paragraph (1) by substituting "1.7 percent" for "2.3 percent".

(3) PLUS LOANS.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be determined under paragraph (1)—

(A) by substituting "3.1 percent" for "2.3 percent"; and

(B) by substituting "9.0 percent" for "8.25 percent".

(4) CONSOLIDATION LOANS.—With respect to any consolidation loan under section 428C for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

(B) 8.25 percent.

(5) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(l) INTEREST RATES FOR NEW LOANS ON OR AFTER JULY 1, 2006 and Before July 1, 2010.—

(1) IN GENERAL.—Notwithstanding subsection (h), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

(2) PLUS LOANS.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, the applicable rate of interest shall be 8.5 percent on the unpaid principal balance of the loan.

(3) CONSOLIDATION LOANS.—With respect to any consolidation loan under section 428C for which the application is received by an eligible lender on or after July 1, 2006, and that was disbursed before July 1, 2010, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

(B) 8.25 percent.

(4) REDUCED RATES FOR UNDERGRADUATE SUBSIDIZED LOANS.—Notwithstanding subsection (h) and paragraph (1) of this subsection, with respect to any loan to an undergraduate student made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B, 428C, or 428H) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, the applicable rate of interest shall be as follows:

(A) For a loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2008, 6.8 percent on the unpaid principal balance of the loan.

(B) For a loan for which the first disbursement is made on or after July 1, 2008, and before July 1, 2009, 6.0 percent on the unpaid principal balance of the loan.

(C) For a loan for which the first disbursement is made on or after July 1, 2009, and before July 1, 2010, 5.6 percent on the unpaid principal balance of the loan.

(m) LESSER RATES PERMITTED.—Nothing in this section or section 428C shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

(n) DEFINITIONS.—For the purpose of subsections (a) and (d) of this section—

(1) the term "period of instruction" shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

(2) the term "period of enrollment" shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

SEC. 428. [20 U.S.C. 1078] FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

(a) FEDERAL INTEREST SUBSIDIES.—

(1) TYPES OF LOANS THAT QUALIFY.—Each student who has received a loan for study at an eligible institution for which the first disbursement is made before July 1, 2010, and—

(A) which is insured by the Secretary under this part; or

(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2) ADDITIONAL REQUIREMENTS TO RECEIVE SUBSIDY.—(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth the loan amount for which the student shows financial need; and

(II) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G;

(ii) meet the requirements of subparagraph (B); and

(iii)[11] have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's driver's number, if any.

(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has determined and documented the student's amount of need for a loan based on the student's estimated cost of attendance, estimated financial assistance, and, for the purpose of an interest payment pursuant to this section, expected family contribution (as determined under part F), subject to the provisions of subparagraph (D).

(C) For the purpose of this paragraph—

(i) a student's cost of attendance shall be determined under section 472;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought—

(I) the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 3 of part A, and parts C and E; plus

(II) other scholarship, grant, or loan assistance, but excluding—

(aa) any national service education award or post-service benefit under title I of the National and Community Service Act of 1990; and

(bb) any veterans' education benefits as defined in section 480(c); and

(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part F.

(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which certifies the eligibility of any student to receive any loan under this part in excess of the maximum amount applicable to such loan.

(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 428A or 428H or a parent under section 428B of this Act or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year.

(3) AMOUNT OF INTEREST SUBSIDY.—(A)(i) Subject to section 438(c), the portion of the interest on a loan which a student is entitled to have paid, on behalf of and for the account of the student, to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan—

[11] Margin so in law. Margin should be 2 ems to the left.

(I)[12] which accrues prior to the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution), or

(II) which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C).

(ii) Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program.

(iii) The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4).

(iv) The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(v) A lender may not receive interest on a loan for any period that precedes the date that is—

(I) in the case of a loan disbursed by check, 10 days before the first disbursement of the loan;

(II) in the case of a loan disbursed by electronic funds transfer, 3 days before the first disbursement of the loan; or

(III) in the case of a loan disbursed through an escrow agent, 3 days before the first disbursement of the loan.

(B) If—

(i) a State student loan insurance program is covered by an agreement under subsection (b),

(ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and

(iii) the Secretary determines that subsection (d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purpose of this part,

[12] Subclause (I) of section 428(a)(3)(A)(i) was amended "to read as follows:" by section 309(d)(1) of division F of Public Law 112–74, which has been carried out above. Paragraph (2) of such section 309(d) reads: "The amendment made by paragraph (1) shall apply to new Federal Direct Stafford Loans made on or after July 1, 2012 and before July 1, 2014". For loans made before July 1, 2012, the applicable provision of law is as follows:

"(I) which accrues prior to the beginning of the repayment period of the loan, or"

Margin of new subclause (I) (as added by such Public Law is so in law.

then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the 60th day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

(4) SUBMISSION OF STATEMENTS BY HOLDERS ON AMOUNT OF PAYMENT.—Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

(5) DURATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS.—The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of June 30, 2010.

(6) ASSESSMENT OF BORROWER'S FINANCIAL CONDITION NOT PROHIBITED OR REQUIRED.—Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(7) LOANS THAT HAVE NOT BEEN CONSUMMATED.—Lenders may not charge interest or receive interest subsidies or special allowance payments for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(b) INSURANCE PROGRAM AGREEMENTS TO QUALIFY LOANS FOR INTEREST SUBSIDIES.—

(1) REQUIREMENTS OF INSURANCE PROGRAM.—Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance in any academic year, as defined in section 481(a)(2), or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled at least one-half the normal full-time academic workload (as determined by the institution) in any amount up to a maximum of—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length; and

(II) if such student is enrolled in a program of undergraduate education which is less than 1 academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to 1 academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

(I) $4,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) $5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree;

(v) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500; and

(vi) in the case of a student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B)—

(I) $2,625 for coursework necessary for enrollment in an undergraduate degree or certificate program, and, in the case of a student who has obtained a baccalaureate degree, $5,500 for coursework necessary for enrollment in a graduate or professional degree or certification program; and

(II) in the case of a student who has obtained a baccalaureate degree, $5,500 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary school or secondary school;

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount up to a maximum of—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary), and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student, but (II) excluding loans made under section 428A or 428B,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

(C) authorizes the insurance of loans to any individual student for at least 6 academic years of study or their equivalent (as determined under regulations of the Secretary);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) the student borrower may annually change the selection of a repayment plan under this part, and (iii) the note, or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be au-

thorized by regulations of the Secretary in effect at the time such note or written evidence was executed, and shall contain a notice that repayment may, following a default by the borrower, be subject to income contingent repayment in accordance with subsection (m);

(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 428H, the option of repaying the loan in accordance with a standard, graduated, income-sensitive, or extended repayment schedule (as described in paragraph (9)) established by the lender in accordance with regulations of the Secretary; and

(ii) repayment of loans shall be in installments in accordance with the repayment plan selected under paragraph (9) and commencing at the beginning of the repayment period determined under paragraph (7);

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess (exclusive of any premium for insurance which may be passed on to the borrower) of the rate required by section 427A;

(G) insures 98 percent of the unpaid principal of loans insured under the program, except that—

(i) such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to section 428(j);

(ii) for any loan for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2010, the preceding provisions of this subparagraph shall be applied by substituting "97 percent" for "98 percent"; and

(iii) notwithstanding the preceding provisions of this subparagraph, such program shall insure 100 percent of the unpaid principal amount of exempt claims as defined in subsection (c)(1)(G);

(H) provides—

(i) for loans for which the date of guarantee of principal is before July 1, 2006, for the collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and ensures that the proceeds of the premium will not be used for incentive payments to lenders; or

(ii) for loans for which the date of guarantee of principal is on or after July 1, 2006, and that are first disbursed before July 1, 2010, for the collection, and the deposit into the Federal Student Loan Reserve Fund under section 422A of a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by de-

duction from the proceeds of the loan or by payment from other non-Federal sources, and ensures that the proceeds of the Federal default fee will not be used for incentive payments to lenders;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a) (1) and (2);

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

(L) provides that the total of the payments by a borrower—

(i) except as otherwise provided by a repayment plan selected by the borrower under clause (ii), (iii), or (v) of paragraph (9)(A), during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable, notwithstanding any payment plan under paragraph (9)(A)); and

(ii) for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution, except that no borrower, notwithstanding the provisions of the promissory note, shall be required to borrow an additional loan under this title in order to be eligible to receive a deferment under this clause; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under section 428B or 428C), while serving in a medical internship or residency program;

(ii) during which the borrower is seeking and unable to find full-time employment, except that no borrower who provides evidence of eligibility for unemployment benefits shall be required to provide additional paperwork for a deferment under this clause;

(iii) during which the borrower—

(I) is serving on active duty during a war or other military operation or national emergency; or

(II) is performing qualifying National Guard duty during a war or other military operation or national emergency,

and for the 180-day period following the demobilization date for the service described in subclause (I) or (II); or

(iv) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 435(o), has caused or will cause the borrower to have an economic hardship;

(N) provides that funds borrowed by a student—

(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student;

(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, and only after verification of the student's enrollment by the lender or guaranty agency, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer be authorized, pursuant to an authorized power-of-attorney; or

(iii) in the case of a student who is studying outside the United States in a program of study at an eligible foreign institution, are, at the request of the foreign institution, disbursed directly to the student, only after verification of the student's enrollment by the lender or guaranty agency by the means described in clause (i).

(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 428G;

(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency, concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;

(Q) provides for the guarantee of loans made to students and parents under sections 428A and 428B;

(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

(T) authorizes (i) the limitation of the total number of loans or volume of loans, made under this part to students attending a particular eligible institution during any academic year; and (ii) the emergency action, limitation, suspension, or termination of the eligibility of an eligible institution if—

(I) such institution is ineligible for the emergency action, limitation, suspension, or termination of eligible institutions under regulations issued by the Secretary or is ineligible pursuant to criteria, rules, or regulations issued under the student loan insurance program which are substantially the same as regulations with respect to emergency action, limitation, suspension, or termination of such eligibility issued by the Secretary;

(II) there is a State constitutional prohibition affecting the eligibility of such an institution;

(III) such institution fails to make timely refunds to students as required by regulations issued by the Secretary or has not satisfied within 30 days of issuance a final judgment obtained by a student seeking such a refund;

(IV) such institution or an owner, director, or officer of such institution is found guilty in any criminal, civil, or administrative proceeding, or such institution or an owner, director, or officer of such institution is found liable in any civil or administrative proceeding, regarding the obtaining, maintenance, or disbursement of State or Federal grant, loan, or work assistance funds; or

(V) such institution or an owner, director, or officer of such institution has unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal financial assistance funds;

except that, if a guaranty agency limits, suspends, or terminates the participation of an eligible institution, the Secretary shall apply that limitation, suspension, or termination to all locations of such institution, unless the Secretary finds, within 30 days of notification of the action by

the guaranty agency, that the guaranty agency's action did not comply with the requirements of this section;

(U) provides (i) for the eligibility of all lenders described in section 435(d)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the emergency action, limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders, and (iii) for (I) a compliance audit of each lender that originates or holds more than $5,000,000 in loans made under this title for any lender fiscal year (except that each lender described in section 435(d)(1)(A)(ii)(III) shall annually submit the results of an audit required by this clause), at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary, or (II) with regard to a lender that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of subclause (I) for the period covered by such audit, except that the Secretary may waive the requirements of this clause (iii) if the lender submits to the Secretary the results of an audit conducted for other purposes that the Secretary determines provides the same information as the audits required by this clause;

(V) provides authority for the guaranty agency to require a participation agreement between the guaranty agency and each eligible institution within the State in which it is designated, as a condition for guaranteeing loans made on behalf of students attending the institution;

(W) provides assurances that the agency will implement all requirements of the Secretary for uniform claims and procedures pursuant to section 432(l);

(X) provides information to the Secretary in accordance with section 428(c)(9) and maintains reserve funds determined by the Secretary to be sufficient in relation to such agency's guarantee obligations; and

(Y) provides that—

(i) the lender shall determine the eligibility of a borrower for a deferment described in subparagraph (M)(i) based on—

(I) receipt of a request for deferment from the borrower and documentation of the borrower's eligibility for the deferment;

(II) receipt of a newly completed loan application that documents the borrower's eligibility for a deferment;

(III) receipt of student status information documenting that the borrower is enrolled on at least a half-time basis; or

(IV) the lender's confirmation of the borrower's half-time enrollment status through use of the National Student Loan Data System, if the confirmation is requested by the institution of higher education;

(ii) the lender will notify the borrower of the granting of any deferment under clause (i)(II) or (III) of this subparagraph and of the option to continue paying on the loan; and

(iii) the lender shall, at the time the lender grants a deferment to a borrower who received a loan under section 428H and is eligible for a deferment under subparagraph (M) of this paragraph, provide information to the borrower to assist the borrower in understanding the impact of the capitalization of interest on the borrower's loan principal and on the total amount of interest to be paid during the life of the loan.

(2) CONTENTS OF INSURANCE PROGRAM AGREEMENT.—Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purpose of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

(C) provide for making such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(D) provide for—

(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency on at least an annual basis and covering the period since the most recent audit, conducted by a qualified,

independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit;

(E)(i) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency; and

(ii) provide that the lender (or the holder of the loan) shall, not later than 120 days after the borrower has left the eligible institution, notify the borrower of the date on which the repayment period begins; and

(F) provide that, if the sale, other transfer, or assignment of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

(i) the transferor and the transferee will be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

(I) the sale or other transfer;

(II) the identity of the transferee;

(III) the name and address of the party to whom subsequent payments or communications must be sent;

(IV) the telephone numbers of both the transferor and the transferee;

(V) the effective date of the transfer;

(VI) the date on which the current servicer (as of the date of the notice) will stop accepting payments; and

(VII) the date on which the new servicer will begin accepting payments; and

(ii) the transferee will be required to notify the guaranty agency, and, upon the request of an institution of higher education, the guaranty agency shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

(I) any sale or other transfer of the loan; and

(II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan,

except that this subparagraph (F) shall only apply if the borrower is in the grace period described in section 427(a)(2)(B) or 428(b)(7) or is in repayment status.

(3) RESTRICTIONS ON INDUCEMENTS, PAYMENTS, MAILINGS, AND ADVERTISING.—A guaranty agency shall not—

(A) offer, directly or indirectly, premiums, payments, stock or other securities, prizes, travel, entertainment expenses, tuition payment or reimbursement, or other inducements to—

(i) any institution of higher education, any employee of an institution of higher education, or any individual or entity in order to secure applicants for loans made under this part; or

(ii) any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made as part of the guaranty agency's lender-of-last-resort program pursuant to section 428(j)), for the purpose of securing the designation of the guaranty agency as the insurer of such loans;

(B) conduct unsolicited mailings, by postal or electronic means, of student loan application forms to students enrolled in secondary schools or postsecondary educational institutions, or to the families of such students, except that applications may be mailed, by postal or electronic means, to students or borrowers who have previously received loans guaranteed under this part by the guaranty agency;

(C) perform, for an institution of higher education participating in a program under this title, any function that such institution is required to perform under this title, except that the guaranty agency may perform functions on behalf of such institution in accordance with section 485(b) or 485(l);

(D) pay, on behalf of an institution of higher education, another person to perform any function that such institution is required to perform under this title, except that the guaranty agency may perform functions on behalf of such institution in accordance with section 485(b) or 485(l); or

(E) conduct fraudulent or misleading advertising concerning loan availability, terms, or conditions.

It shall not be a violation of this paragraph for a guaranty agency to provide technical assistance to institutions of higher education comparable to the technical assistance provided to institutions of higher education by the Department.

(4) SPECIAL RULE.—With respect to the graduate fellowship program referred to in paragraph (1)(M)(i)(II), the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program. Requests for deferment of repayment of loans under this part by students engaged in graduate or postgraduate fellowship-supported study (such as pursuant to a Fulbright grant) outside

the United States shall be approved until completion of the period of the fellowship.

(5) GUARANTY AGENCY INFORMATION TRANSFERS.—(A) Until such time as the Secretary has implemented section 485B and is able to provide to guaranty agencies the information required by such section, any guaranty agency may request information regarding loans made after January 1, 1987, to students who are residents of the State for which the agency is the designated guarantor, from any other guaranty agency insuring loans to such students.

(B) Upon a request pursuant to subparagraph (A), a guaranty agency shall provide—

(i) the name and the social security number of the borrower; and

(ii) the amount borrowed and the cumulative amount borrowed.

(C) Any costs associated with fulfilling the request of a guaranty agency for information on students shall be paid by the guaranty agency requesting the information.

(6) STATE GUARANTY AGENCY INFORMATION REQUEST OF STATE LICENSING BOARDS.—Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.

(7) REPAYMENT PERIOD.—(A) In the case of a loan made under section 427 or 428, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).

(B) In the case of a loan made under section 428H, the repayment period shall exclude any period of authorized deferment or forbearance, and shall begin as described in subparagraph (A), but interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed.

(C) In the case of a loan made under section 428B or 428C, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

(D) There shall be excluded from the 6-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in subparagraph (A) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code, is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period.

(8) MEANS OF DISBURSEMENT OF LOAN PROCEEDS.—Nothing in this title shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.

(9) REPAYMENT PLANS.—

(A) DESIGN AND SELECTION.—In accordance with regulations promulgated by the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than 5 years unless the borrower, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over of a shorter period. The borrower may choose from—

(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed 10 years;

(ii) a graduated repayment plan paid over a fixed period of time, not to exceed 10 years;

(iii) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed 10 years, except that the borrower's scheduled payments shall not be less than the amount of interest due;

(iv) for new borrowers on or after the date of enactment of the Higher Education Amendments of 1998 who accumulate (after such date) outstanding loans under this part totaling more than $30,000, an extended repayment plan, with a fixed annual or graduated repayment amount paid over an extended period of time, not to exceed 25 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (1)(L)(i); and

(v) beginning July 1, 2009, an income-based repayment plan that enables a borrower who has a partial financial hardship to make a lower monthly payment in accordance with section 493C, except that the plan described in this clause shall not be available to a borrower for a loan under section 428B made on behalf of a dependent student or for a consolidation loan under section 428C, if the proceeds of such loan were used to discharge the liability of a loan under section 428B made on behalf of a dependent student.

(B) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this part does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

(c) GUARANTY AGREEMENTS FOR REIMBURSING LOSSES.—

(1) AUTHORITY TO ENTER INTO AGREEMENTS.—(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reim-

burse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan. The guaranty agency shall, be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 100 percent[13] of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 30 days after the guaranty agency discharges its insurance obligation on the loan.

(B) Notwithstanding subparagraph (A)—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 85[14] percent of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 75[14] percent of the amount of such excess.

(C) For the purpose of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

(ii) the original principal amount of loans insured by it which have been fully repaid; and

(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

[13] Section 311 of division H of Public 114–113 provides for an amendment to strike "95 percent" and insert "100 percent" in paragraph (1). Paragraph (1) has several references to "95 percent". Such amendment was carried out to the first occurrence of that phrase in order to reflect the probable intent of Congress.

[14] The amendments made by section 417(c)(1) of P.L. 105–244, changing the reimbursement percentages, apply to loans for which the first disbursement is made on or after October 1, 1998.

(D) Notwithstanding any other provisions of this section, in the case of a loan made pursuant to a lender-of-last-resort program, the Secretary shall apply the provisions of—

(i) the fourth sentence of subparagraph (A) by substituting "100 percent" for "95 percent";

(ii) subparagraph (B)(i) by substituting "100 percent" for "85 percent"; and

(iii) subparagraph (B)(ii) by substituting "100 percent" for "75 percent".

(E)[15] Notwithstanding any other provisions of this section, in the case of an outstanding loan transferred to a guaranty agency from another guaranty agency pursuant to a plan approved by the Secretary in response to the insolvency of the latter such guarantee agency, the Secretary shall apply the provision of—

(i) the fourth sentence of subparagraph (A) by substituting "100 percent" for "95 percent";

(ii) subparagraph (B)(i) by substituting "90 percent" for "85 percent"; and

(iii) subparagraph (B)(ii) by substituting "80 percent" for "75 percent".

(F)(i) Notwithstanding any other provisions of this section, in the case of exempt claims, the Secretary shall apply the provisions of—

(I) the fourth sentence of subparagraph (A) by substituting "100 percent" for "95 percent";

(II) subparagraph (B)(i) by substituting "100 percent" for "85 percent"; and

(III) subparagraph (B)(ii) by substituting "100 percent" for "75 percent".

(ii) For purposes of clause (i) of this subparagraph, the term "exempt claims" means claims with respect to loans for which it is determined that the borrower (or the student on whose behalf a parent has borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits thereon.

(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).

(2) CONTENTS OF GUARANTY AGREEMENTS.—The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to ensure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including (i) a requirement that each beneficiary of insurance on the loan submit proof that the institution was con-

[15] See footnote to subparagraph (B) of this paragraph.

tacted and other reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known) and (ii) requirements establishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recoveries on defaulted loans under this part;

(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)(A)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for the purpose of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for the purpose of section 422(c);

(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school;

(G) shall prohibit the Secretary from making any reimbursement under this subsection to a guaranty agency when a default claim is based on an inability to locate the

borrower, unless the guaranty agency, at the time of filing for reimbursement, certifies to the Secretary that diligent attempts, including contact with the institution, have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary; and

(H) set forth assurances that—

(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made, insured, or guaranteed under this part for attendance at the eligible institution and for whom default aversion assistance activities have been requested under subsection (l);

(ii) the guaranty agency shall not require the payment from the institution of any fee for such information; and

(iii) the guaranty agency will require the institution to use such information only to assist the institution in reminding students of their obligation to repay student loans and shall prohibit the institution from disseminating the information for any other purpose.

(I) may include such other provisions as may be necessary to promote the purpose of this part.

(3) FORBEARANCE.—A guaranty agreement under this subsection—

(A) shall contain provisions providing that—

(i) upon request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to by the parties to the loan with the approval of the insurer and documented in accordance with paragraph (10), and otherwise consistent with the regulations of the Secretary, if the borrower—

(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training, provided that if the borrower qualifies for a deferment under section 427(a)(2)(C)(vii) or subsection (b)(1)(M)(vii) of this section as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 427(a)(2)(C) or subsection (b)(1)(M) of this section as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment;

(II) has a debt burden under this title that equals or exceeds 20 percent of income;

(III) is serving in a national service position for which the borrower receives a national service

educational award under the National and Community Service Trust Act of 1993; or

(IV) is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, United States Code, and, pursuant to that eligibility, the interest is being paid on such loan under subsection (o);

(ii) the length of the forbearance granted by the lender—

(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted the borrower's eligibility for such deferment;

(II) under clause (i)(II) or (IV) shall not exceed 3 years; or

(III) under clause (i)(III) shall not exceed the period for which the borrower is serving in a position described in such clause; and

(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a consumer reporting agency solely because of the granting of such forbearance;

(B) may, to the extent provided in regulations of the Secretary, contain provisions that permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer;

(C) shall contain provisions that specify that—

(i) the form of forbearance granted by the lender pursuant to this paragraph, other than subparagraph (A)(i)(IV), shall be temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled;

(ii) the form of forbearance granted by the lender pursuant to subparagraph (A)(i)(IV) shall be the temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (o);

(iii) the lender shall, at the time of granting a borrower forbearance, provide information to the borrower to assist the borrower in understanding the impact of capitalization of interest on the borrower's loan principal and total amount of interest to be paid during the life of the loan; and

(iv) the lender shall contact the borrower not less often than once every 180 days during the period of forbearance to inform the borrower of—

(I) the amount of unpaid principal and the amount of interest that has accrued since the last statement of such amounts provided to the borrower by the lender;

(II) the fact that interest will accrue on the loan for the period of forbearance;

(III) the amount of interest that will be capitalized, and the date on which capitalization will occur;

(IV) the option of the borrower to pay the interest that has accrued before the interest is capitalized; and

(V) the borrower's option to discontinue the forbearance at any time; and

(D) shall contain provisions that specify that—

(i) forbearance for a period not to exceed 60 days may be granted if the lender reasonably determines that such a suspension of collection activity is warranted following a borrower's request for deferment, forbearance, a change in repayment plan, or a request to consolidate loans, in order to collect or process appropriate supporting documentation related to the request, and

(ii) during such period interest shall accrue but not be capitalized.

Guaranty agencies shall not be precluded from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default. The Secretary shall permit lenders to exercise administrative forbearances that do not require the agreement of the borrower, under conditions authorized by the Secretary. Such forbearances shall include (i) forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under section 428(b)(1)(M) or 427(a)(2)(C), and (ii) if the borrower is less than 60 days delinquent on such loans at the time of sale or transfer, forbearances for borrowers on loans which are sold or transferred.

(4) DEFINITIONS.—For the purpose of this subsection, the terms "insurance beneficiary" and "default" have the meanings assigned to them by section 435.

(5) APPLICABILITY TO EXISTING LOANS.—In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6) SECRETARY'S EQUITABLE SHARE.—(A) For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

(i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(ii)[16] an amount equal to 24 percent of such payments for use in accordance with section 422B, except that—

(I) beginning October 1, 2003 and ending September 30, 2007, this clause shall be applied by substituting "23 percent" for "24 percent"; and

(II) beginning October 1, 2007, this clause shall be applied by substituting "16 percent" for "24 percent".

(B) A guaranty agency shall—

(i) on or after October 1, 2006—

(I) not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off through consolidation by the borrower under this title; and

(II) remit to the Secretary a portion of the collection charge under subclause (I) equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and

(ii) on and after October 1, 2009, remit to the Secretary the entire amount charged under clause (i)(I) with respect to each defaulted loan that is paid off with excess consolidation proceeds.

(C) For purposes of subparagraph (B), the term "excess consolidation proceeds" means, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation of defaulted loans under this title that exceed 45 percent of the agency's total collections on defaulted loans in such Federal fiscal year.

(7) NEW PROGRAMS ELIGIBLE FOR 100 PERCENT REINSURANCE.—(A) Notwithstanding paragraph (1)(C), the amount to be paid a guaranty agency for any fiscal year—

(i) which begins on or after October 1, 1977 and ends before October 1, 1991; and

(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the 4 succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

(B) Notwithstanding the provisions of paragraph (1)(C), the Secretary may pay a guaranty agency 100 percent of the amount expended by such agency in discharge of such agency's insurance obligation for any fiscal year which—

(i) begins on or after October 1, 1991; and

[16] Margins of clause (ii) so in law.

(ii) is the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) or is one of the 4 succeeding fiscal years.

(C) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) or (B) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

(8) ASSIGNMENT TO PROTECT FEDERAL FISCAL INTEREST.—If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

(9) GUARANTY AGENCY RESERVE LEVEL.—(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain in the agency's Federal Student Loan Reserve Fund established under section 422A a current minimum reserve level of at least 0.25 percent of the total attributable amount of all outstanding loans guaranteed by such agency. For purposes of this paragraph, such total attributable amount does not include amounts of outstanding loans transferred to the guaranty agency from another guaranty agency pursuant to a plan of the Secretary in response to the insolvency of the latter such guaranty agency.

(B) The Secretary shall collect, on an annual basis, information from each guaranty agency having an agreement under this subsection to enable the Secretary to evaluate the financial solvency of each such agency. The information collected shall include the level of such agency's current reserves, cash disbursements and accounts receivable.

(C) If (i) any guaranty agency falls below the required minimum reserve level in any 2 consecutive years, (ii) any guaranty agency's Federal reimbursement payments are reduced to 85 percent pursuant to paragraph (1)(B)(i), or (iii) the Secretary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency's continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require the guaranty agency to submit and implement a management plan acceptable to the Secretary within 45 working days of any such event.

(D)(i) If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the guaranty agency will improve its financial and administrative condition to the required level within 18 months.

(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the

means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets, of the guaranty agency.

(E) The Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

(i) a guaranty agency required to submit a management plan under this paragraph fails to submit a plan that is acceptable to the Secretary;

(ii) the Secretary determines that a guaranty agency has failed to improve substantially its administrative and financial condition;

(iii) the Secretary determines that the guaranty agency is in danger of financial collapse;

(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest; or

(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers.

(F) If a guaranty agency's agreement under this subsection is terminated pursuant to subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to—

(i) permit the transfer of guarantees to another guaranty agency;

(ii) revoke the reinsurance agreement of the guaranty agency at a specified date, so as to require the merger, consolidation, or termination of the guaranty agency;

(iii) transfer guarantees to the Department of Education for the purpose of payment of such claims and process such claims using the claims standards of the guaranty agency, if such standards are determined by the Secretary to be in compliance with this Act;

(iv) design and implement a plan to restore the guaranty agency's viability;

(v) provide the guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

(I) meet the immediate cash needs of the guaranty agency;

(II) ensure the uninterrupted payment of claims; or

(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j);

(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or

(vii) take any other action the Secretary determines necessary to ensure the continued availability of loans

made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and to avoid disruption of the student loan program.

(G) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

(ii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of this subparagraph shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs.

(I) The Secretary shall not take any action under subparagraph (E) or (F) without giving the guaranty agency notice and the opportunity for a hearing that, if commenced after September 24, 1998, shall be on the record.

(J) Notwithstanding any other provision of law, the information transmitted to the Secretary pursuant to this paragraph shall be confidential and exempt from disclosure under section 552 of title 5, United States Code, relating to freedom of information, or any other Federal law.

(K) The Secretary, within 6 months after the end of each fiscal year, shall submit to the authorizing committees a report specifying the Secretary's assessment of the fiscal soundness of the guaranty agency system.

(10) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—For the purposes of paragraph (3), the terms of forbearance agreed to by the parties shall be documented by confirming the agree-

ment of the borrower by notice to the borrower from the lender, and by recording the terms in the borrower's file.

(d) USURY LAWS INAPPLICABLE.—No provision of any law of the United States (other than this Act and section 207 of the Servicemembers Civil Relief Act (50 U.S.C. App. 527)) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

(2) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

(f)[17] PAYMENTS OF CERTAIN COSTS.—

(1) PAYMENT FOR CERTAIN ACTIVITIES.—

(A) IN GENERAL.—The Secretary—

(i) for loans originated during fiscal years beginning on or after October 1, 1998, and before October 1, 2003, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.65 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency; and

(ii) for loans originated on or after October 1, 2003, and first disbursed before July 1, 2010, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.40 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency.

(B) PAYMENT.—The payment required by subparagraph (A) shall be paid on a quarterly basis. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this paragraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application under this subparagraph.

(C) REQUIREMENT FOR PAYMENT.—No payment may be made under this paragraph for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(g) ACTION ON INSURANCE PROGRAM AND GUARANTY AGREEMENTS.—If a nonprofit private institution or organization—

(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the

[17] So in law. Subsection (e) was repealed by section 422(h) of Public Law 110–315.

Secretary does not have an agreement under subsection (b), and

(2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B) (i), (ii), and (iii),

the Secretary shall consider and act upon such application within 180 days, and shall forthwith notify the authorizing committees of his actions.

(i)[18] MULTIPLE DISBURSEMENT OF LOANS.—

(1) ESCROW ACCOUNTS ADMINISTERED BY ESCROW AGENT.—Any guaranty agency or eligible lender (hereafter in this subsection referred to as the "escrow agent") may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the "lender") for the purpose of authorizing disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 10 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

(2) AUTHORITY OF ESCROW AGENT.—Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

(A) make the disbursements in accordance with the note evidencing the loan;

(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(D) retain interest or other earnings on such investment; and

(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

(j) LENDERS-OF-LAST-RESORT.—

(1) GENERAL REQUIREMENT.—In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall, before July 1, 2010, make loans directly, or through an agreement with an eligible lender or lenders, to eligible students and parents who are otherwise unable to obtain loans under this part (except for consolidation loans under section 428C) or who attend an institution of high-

[18] So in law. Subsection (h) was repealed by section 438(a)(2)(B) of Public Law 110–315.

er education in the State that is designated under paragraph (4). Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than $200. No loan under section 428, 428B, or 428H that is made pursuant to this subsection shall be made with interest rates, origination or default fees, or other terms and conditions that are more favorable to the borrower than the maximum interest rates, origination or default fees, or other terms and conditions applicable to that type of loan under this part. The guaranty agency shall consider the request of any eligible lender, as defined under section 435(d)(1)(A) of this Act, to serve as the lender-of-last-resort pursuant to this subsection.

(2) RULES AND OPERATING PROCEDURES.—The guaranty agency shall develop rules and operating procedures for the lender-of-last-resort program designed to ensure that—

(A) the program establishes operating hours and methods of application designed to facilitate application by students and ensure a response within 60 days after the student's original complete application is filed under this subsection;

(B) consistent with standards established by the Secretary, students applying for loans under this subsection shall not be subject to additional eligibility requirements or requests for additional information beyond what is required under this title in order to receive a loan under this part from an eligible lender, nor, in the case of students and parents applying for loans under this subsection because of an inability to otherwise obtain loans under this part (except for consolidation loans under section 428C), be required to receive more than two rejections from eligible lenders in order to obtain a loan under this subsection;

(C) information about the availability of loans under the program is made available to institutions of higher education in the State; and

(D) appropriate steps are taken to ensure that borrowers receiving loans under the program are appropriately counseled on their loan obligation.

(3) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST-RESORT SERVICES.—(A) In order to ensure the availability of loan capital, the Secretary is authorized to provide a guaranty agency designated for a State with additional advance funds in accordance with subparagraph (C) and section 422(c)(7), with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

(B) Notwithstanding any other provision in this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of

the advance represented by the loans assigned shall be considered repaid by such guaranty agency.

(C) The Secretary shall exercise the authority described in subparagraph (A) only if the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part or designates an institution of higher education for participation in the program under this subsection under paragraph (4), and that the guaranty agency designated for that State has the capability to provide lender-of-last-resort loans in a timely manner, in accordance with the guaranty agency's obligations under paragraph (1), but cannot do so without advances provided by the Secretary under this paragraph. If the Secretary makes the determinations described in the preceding sentence and determines that it would be cost-effective to do so, the Secretary may provide advances under this paragraph to such guaranty agency. If the Secretary determines that such guaranty agency does not have such capability, or will not provide such loans in a timely fashion, the Secretary may provide such advances to enable another guaranty agency, that the Secretary determines to have such capability, to make lender-of-last-resort loans to eligible borrowers in that State who are experiencing loan access problems or to eligible borrowers who attend an institution in the State that is designated under paragraph (4).

(4) INSTITUTION-WIDE STUDENT QUALIFICATION.—Upon the request of an institution of higher education and pursuant to standards developed by the Secretary, the Secretary shall designate such institution for participation in the lender-of-last-resort program under this paragraph. If the Secretary designates an institution under this paragraph, the guaranty agency designated for the State in which the institution is located shall make loans, in the same manner as such loans are made under paragraph (1), to students and parent borrowers of the designated institution, regardless of whether the students or parent borrowers are otherwise unable to obtain loans under this part (other than a consolidation loan under section 428C).

(5) STANDARDS DEVELOPED BY THE SECRETARY.—In developing standards with respect to paragraph (4), the Secretary may require—

(A) an institution of higher education to demonstrate that, despite due diligence on the part of the institution, the institution has been unable to secure the commitment of eligible lenders willing to make loans under this part to a significant number of students attending the institution;

(B) that, prior to making a request under such paragraph for designation for participation in the lender-of-last-resort program, an institution of higher education shall demonstrate that the institution has met a minimum threshold, as determined by the Secretary, for the number or percentage of students at such institution who have received rejections from eligible lenders for loans under this part; and

(C) any other standards and guidelines the Secretary determines to be appropriate.

(6) EXPIRATION OF AUTHORITY.—The Secretary's authority under paragraph (4) to designate institutions of higher education for participation in the program under this subsection shall expire on June 30, 2010.

(7) EXPIRATION OF DESIGNATION.—The eligibility of an institution of higher education, or borrowers from such institution, to participate in the program under this subsection pursuant to a designation of the institution by the Secretary under paragraph (4) shall expire on June 30, 2010. After such date, borrowers from an institution designated under paragraph (4) shall be eligible to participate in the program under this subsection as such program existed on the day before the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008.

(8) PROHIBITION ON INDUCEMENTS AND MARKETING.—Each guaranty agency or eligible lender that serves as a lender-of-last-resort under this subsection—

(A) shall be subject to the prohibitions on inducements contained in subsection (b)(3) and the requirements of section 435(d)(5); and

(B) shall not advertise, market, or otherwise promote loans under this subsection, except that nothing in this paragraph shall prohibit a guaranty agency from fulfilling its responsibilities under paragraph (2)(C).

(9) DISSEMINATION AND REPORTING.—

(A) IN GENERAL.—The Secretary shall—

(i) broadly disseminate information regarding the availability of loans made under this subsection;

(ii) during the period beginning July 1, 2008 and ending June 30, 2011, provide to the authorizing committees and make available to the public—

(I) copies of any new or revised plans or agreements made by guaranty agencies or the Department related to the authorities under this subsection;

(II) quarterly reports on—

(aa) the number and amounts of loans originated or approved pursuant to this subsection by each guaranty agency and eligible lender; and

(bb) any related payments by the Department, a guaranty agency, or an eligible lender; and

(III) a budget estimate of the costs to the Federal Government (including subsidy and administrative costs) for each 100 dollars loaned, of loans made pursuant to this subsection between the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008 and June 30, 2010, disaggregated by type of loan, compared to such costs to the Federal Government during such time period of comparable loans under this part and part D, disaggregated by part and by type of loan; and

(iii) beginning July 1, 2011, provide to the authorizing committees and make available to the public—

(I) copies of any new or revised plans or agreements made by guaranty agencies or the Department related to the authorities under this subsection; and

(II) annual reports on—

(aa) the number and amounts of loans originated or approved pursuant to this subsection by each guaranty agency and eligible lender; and

(bb) any related payments by the Department, a guaranty agency, or an eligible lender.

(B) SEPARATE REPORTING.—The information required to be reported under subparagraph (A)(ii)(II) shall be reported separately for loans originated or approved pursuant to paragraph (4), or payments related to such loans, for the time period in which the Secretary is authorized to make designations under paragraph (4).

(k) INFORMATION ON DEFAULTS.—

(1) PROVISION OF INFORMATION TO ELIGIBLE INSTITUTIONS.—Notwithstanding any other provision of law, in order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency shall, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection shall include the names and addresses of such students.

(2) PUBLIC DISSEMINATION NOT AUTHORIZED.—Nothing in paragraph (1) of this subsection shall be construed to authorize public dissemination of the information described in paragraph (1).

(3) BORROWER LOCATION INFORMATION.—Any information provided by the institution relating to borrower location shall be used by the guaranty agency in conducting required skip-tracing activities.

(4) PROVISION OF INFORMATION TO BORROWERS IN DEFAULT.—Each guaranty agency that has received a default claim from a lender regarding a borrower, shall provide the borrower in default, on not less than two separate occasions, with a notice, in simple and understandable terms, of not less than the following information:

(A) The options available to the borrower to remove the borrower's loan from default.

(B) The relevant fees and conditions associated with each option.

(l) DEFAULT AVERSION ASSISTANCE.—

(1) ASSISTANCE REQUIRED.—Upon receipt of a complete request from a lender received not earlier than the 60th day of delinquency, a guaranty agency having an agreement with the

Secretary under subsection (c) shall engage in default aversion activities designed to prevent the default by a borrower on a loan covered by such agreement.

(2) REIMBURSEMENT.—

(A) IN GENERAL.—A guaranty agency, in accordance with the provisions of this paragraph, may transfer from the Federal Student Loan Reserve Fund under section 422A to the Agency Operating Fund under section 422B a default aversion fee. Such fee shall be paid for any loan on which a claim for default has not been paid as a result of the loan being brought into current repayment status by the guaranty agency on or before the 300th day after the loan becomes 60 days delinquent.

(B) AMOUNT.—The default aversion fee shall be equal to 1 percent of the total unpaid principal and accrued interest on the loan at the time the request is submitted by the lender. A guaranty agency may transfer such fees earned under this subsection not more frequently than monthly. Such a fee shall not be paid more than once on any loan for which the guaranty agency averts the default unless—

(i) at least 18 months has elapsed between the date the borrower entered current repayment status and the date the lender filed a subsequent default aversion assistance request; and

(ii) during the period between such dates, the borrower was not more than 30 days past due on any payment of principal and interest on the loan.

(C) DEFINITION.—For the purpose of earning the default aversion fee, the term "current repayment status" means that the borrower is not delinquent in the payment of any principal or interest on the loan.

(m) INCOME CONTINGENT AND INCOME-BASED REPAYMENT.—

(1) AUTHORITY OF SECRETARY TO REQUIRE.—The Secretary may require borrowers who have defaulted on loans made under this part that are assigned to the Secretary under subsection (c)(8) to repay those loans under an income contingent repayment plan or income-based repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, an income contingent repayment plan established for purposes of part D of this title or an income-based repayment plan under section 493C, as the case may be.

(2) LOANS FOR WHICH INCOME CONTINGENT OR INCOME-BASED REPAYMENT MAY BE REQUIRED.—A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8).

(n) BLANKET CERTIFICATE OF LOAN GUARANTY.—

(1) IN GENERAL.—Subject to paragraph (3), any guaranty agency that has entered into or enters into any insurance program agreement with the Secretary under this part may—

(A) offer eligible lenders participating in the agency's guaranty program a blanket certificate of loan guaranty

that permits the lender to make loans without receiving prior approval from the guaranty agency of individual loans for eligible borrowers enrolled in eligible programs at eligible institutions; and

(B) provide eligible lenders with the ability to transmit electronically data to the agency concerning loans the lender has elected to make under the agency's insurance program via standard reporting formats, with such reporting to occur at reasonable and standard intervals.

(2) LIMITATIONS ON BLANKET CERTIFICATE OF GUARANTY.—(A) An eligible lender may not make a loan to a borrower under this section after such lender receives a notification from the guaranty agency that the borrower is not an eligible borrower.

(B) A guaranty agency may establish limitations or restrictions on the number or volume of loans issued by a lender under the blanket certificate of guaranty.

(3) PARTICIPATION LEVEL.—During fiscal years 1999 and 2000, the Secretary may permit, on a pilot basis, a limited number of guaranty agencies to offer blanket certificates of guaranty under this subsection. Beginning in fiscal year 2001, any guaranty agency that has an insurance program agreement with the Secretary may offer blanket certificates of guaranty under this subsection.

(4) REPORT REQUIRED.—The Secretary shall, at the conclusion of the pilot program under paragraph (3), provide a report to the authorizing committees on the impact of the blanket certificates of guaranty on program efficiency and integrity.

(o) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest and any special allowance on a loan to a member of the Armed Forces that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV).

(3) SPECIAL ALLOWANCE DEFINED.—For the purposes of this subsection, the term "special allowance", means a special allowance that is payable with respect to a loan under section 438.

SEC. 428A. [20 U.S.C. 1078–1] VOLUNTARY FLEXIBLE AGREEMENTS WITH GUARANTY AGENCIES.

(a) VOLUNTARY AGREEMENTS.—

(1) AUTHORITY.—Subject to paragraph (2), the Secretary may enter into a voluntary, flexible agreement with a guaranty agency under this section, in lieu of agreements with a guaranty agency under subsections (b) and (c) of section 428. The

Secretary may waive or modify any requirement under such subsections, except that the Secretary may not waive—

(A) any statutory requirement pertaining to the terms and conditions attached to student loans or default claim payments made to lenders;

(B) the prohibitions on inducements contained in section 428(b)(3); or

(C) the Federal default fee required by section 428(b)(1)(H) and the second sentence of section 428H(h).

(2) ELIGIBILITY.—During fiscal years 1999, 2000, and 2001, the Secretary may enter into a voluntary, flexible agreement with not more than 6 guaranty agencies that had 1 or more agreements with the Secretary under subsections (b) and (c) of section 428 as of the day before the date of enactment of the Higher Education Amendments of 1998. Beginning in fiscal year 2002, any guaranty agency or consortium thereof may enter into a voluntary flexible agreement with the Secretary.

(3) REPORT REQUIRED.—

(A) IN GENERAL.—The Secretary, in consultation with the guaranty agencies operating under voluntary flexible agreements, shall report on an annual basis to the authorizing committees regarding the program outcomes that the voluntary flexible agreements have had with respect to—

(i) program integrity and program and cost efficiencies, delinquency prevention, and default aversion, including a comparison of such outcomes to such outcomes for each guaranty agency operating under an agreement under subsection (b) or (c) of section 428;

(ii) consumer education programs described in section 433A; and

(iii) the availability and delivery of student financial aid.

(B) CONTENTS.—Each report described in subparagraph (A) shall include—

(i) a description of each voluntary flexible agreement and the performance goals established by the Secretary for each agreement;

(ii) a list of—

(I) guaranty agencies operating under voluntary flexible agreements;

(II) the specific statutory or regulatory waivers provided to each such guaranty agency; and

(III) any other waivers provided to other guaranty agencies under paragraph (1);

(iii) a description of the standards by which each guaranty agency's performance under the guaranty agency's voluntary flexible agreement was assessed and the degree to which each guaranty agency achieved the performance standards;

(iv) an analysis of the fees paid by the Secretary, and the costs and efficiencies achieved under each voluntary flexible agreement; and

(v) an identification of promising practices for program improvement that could be replicated by other guaranty agencies.

(b) TERMS OF AGREEMENT.—An agreement between the Secretary and a guaranty agency under this section—

(1) shall be developed by the Secretary, in consultation with the guaranty agency, on a case-by-case basis;

(2) may only include provisions—

(A) specifying the responsibilities of the guaranty agency under the agreement, with respect to—

(i) administering the issuance of insurance on loans made under this part on behalf of the Secretary;

(ii) monitoring insurance commitments made under this part;

(iii) default aversion activities;

(iv) review of default claims made by lenders;

(v) payment of default claims;

(vi) collection of defaulted loans;

(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary in a timely manner, and on an accurate, and auditable basis;

(viii) timely and accurate collection and reporting of such other data as the Secretary may require to carry out the purposes of the programs under this title;

(ix) monitoring of institutions and lenders participating in the program under this part; and

(x) informational outreach to schools and students in support of access to higher education;

(B) regarding the fees the Secretary shall pay, in lieu of revenues that the guaranty agency may otherwise receive under this part, to the guaranty agency under the agreement, and other funds that the guaranty agency may receive or retain under the agreement, except that in no case may the cost to the Secretary of the agreement, as reasonably projected by the Secretary, exceed the cost to the Secretary, as similarly projected, in the absence of the agreement;

(C) regarding the use of net revenues, as described in the agreement under this section, for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;

(D) regarding the standards by which the guaranty agency's performance of the agency's responsibilities under the agreement will be assessed, and the consequences for a guaranty agency's failure to achieve a specified level of performance on 1 or more performance standards;

(E) regarding the circumstances in which a guaranty agency's agreement under this section may be ended in advance of the agreement's expiration date;

(F) regarding such other businesses, previously purchased or developed with reserve funds, that relate to the

program under this part and in which the Secretary permits the guaranty agency to engage; and

(G) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part;

(3) shall provide for uniform lender participation with the guaranty agency under the terms of the agreement; and

(4) shall not prohibit or restrict borrowers from selecting a lender of the borrower's choosing, subject to the prohibitions and restrictions applicable to the selection under this Act.

(c) PUBLIC NOTICE.—

(1) IN GENERAL.—The Secretary shall publish in the Federal Register a notice to all guaranty agencies that sets forth—

(A) an invitation for the guaranty agencies to enter into agreements under this section; and

(B) the criteria that the Secretary will use for selecting the guaranty agencies with which the Secretary will enter into agreements under this section.

(2) AGREEMENT NOTICE.—The Secretary shall notify the members of the authorizing committees not later than 30 days prior to concluding an agreement under this section. The notice shall contain—

(A) a description of the voluntary flexible agreement and the performance goals established by the Secretary for the agreement;

(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency;

(C) a description of the standards by which each guaranty agency's performance under the agreement will be assessed; and

(D) a description of the fees that will be paid to each participating guaranty agency.

(3) WAIVER NOTICE.—The Secretary shall notify the members of the authorizing committees not later than 30 days prior to the granting of a waiver pursuant to subsection (a)(2) to a guaranty agency that is not a party to a voluntary flexible agreement.

(4) PUBLIC AVAILABILITY.—The text of any voluntary flexible agreement, and any subsequent revisions, and any waivers related to section 428(b)(3) that are not part of such an agreement, shall be readily available to the public.

(5) MODIFICATION NOTICE.—The Secretary shall notify the members of the authorizing committees 30 days prior to any modifications to an agreement under this section.

(d) TERMINATION.—At the expiration or early termination of an agreement under this section, the Secretary shall reinstate the guaranty agency's prior agreements under subsections (b) and (c) of section 428, subject only to such additional requirements as the Secretary determines to be necessary in order to ensure the efficient transfer of responsibilities between the agreement under this section and the agreements under subsections (b) and (c) of section

428, and including the guaranty agency's compliance with reserve requirements under sections 422 and 428.

SEC. 428B. [20 U.S.C. 1078–2] FEDERAL PLUS LOANS.

(a) AUTHORITY TO BORROW.—

(1) AUTHORITY AND ELIGIBILITY.—Prior to July 1, 2010, a graduate or professional student or the parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b), if—

(A) the graduate or professional student or the parents do not have an adverse credit history as determined pursuant to regulations promulgated by the Secretary;

(B) in the case of a graduate or professional student or parent who has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, such graduate or professional student or parent has completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud; and

(C) the graduate or professional student or the parents meet such other eligibility criteria as the Secretary may establish by regulation, after consultation with guaranty agencies, eligible lenders, and other organizations involved in student financial assistance.

(2) TERMS, CONDITIONS, AND BENEFITS.—Except as provided in subsections (c), (d), and (e), loans made under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

(3) SPECIAL RULES.—

(A) PARENT BORROWERS.—Whenever necessary to carry out the provisions of this section, the terms "student" and "borrower" as used in this part shall include a parent borrower under this section.

(B)(i) EXTENUATING CIRCUMSTANCES.—An eligible lender may determine that extenuating circumstances exist under the regulations promulgated pursuant to paragraph (1)(A) if, during the period beginning January 1, 2007, and ending December 31, 2009, an applicant for a loan under this section—

(I) is or has been delinquent for 180 days or fewer on mortgage loan payments or on medical bill payments during such period; and

(II) does not otherwise have an adverse credit history, as determined by the lender in accordance with the regulations promulgated pursuant to paragraph (1)(A), as such regulations were in effect on the day before the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008.

(ii) DEFINITION OF MORTGAGE LOAN.—In this subparagraph, the term "mortgage loan" means an extension of credit to a borrower that is secured by the primary residence of the borrower.

(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to limit an eligible lender's

authority under the regulations promulgated pursuant to paragraph (1)(A) to determine that extenuating circumstances exist.

(b) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any graduate or professional student or any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A). The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

(c) PLUS LOAN DISBURSEMENT.—All loans made under this section shall be disbursed in accordance with the requirements of section 428G and shall be disbursed by—

(1) an electronic transfer of funds from the lender to the eligible institution; or

(2) a check copayable to the eligible institution and the graduate or professional student or parent borrower.

(d) PAYMENT OF PRINCIPAL AND INTEREST.—

(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral—

(A)(i) during any period during which the parent borrower or the graduate or professional student borrower meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M); and

(ii) upon the request of the parent borrower, during any period during which the student on whose behalf the loan was borrowed by the parent borrower meets the conditions required for a deferral under section 427(a)(2)(C)(i)(I) or 428(b)(1)(M)(i)(I); and

(B)(i) in the case of a parent borrower, upon the request of the parent borrower, during the 6-month period beginning on the later of—

(I) the day after the date the student on whose behalf the loan was borrowed ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

(II) if the parent borrower is also a student, the day after the date such parent borrower ceases to carry at least one-half such a workload; and

(ii) in the case of a graduate or professional student borrower, during the 6-month period beginning on the day after the date such student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).

(2) CAPITALIZATION OF INTEREST.—

(A) IN GENERAL.—Interest on loans made under this section for which payments of principal are deferred pursu-

ant to paragraph (1) shall, if agreed upon by the borrower and the lender—

(i) be paid monthly or quarterly; or

(ii) be added to the principal amount of the loan not more frequently than quarterly by the lender.

(B) INSURABLE LIMITS.—Capitalization of interest under this paragraph shall not be deemed to exceed the annual insurable limit on account of the borrower.

(3) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

(4) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A for loans made under this section. [19]

(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually, or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

(e) REFINANCING.—

(1) REFINANCING TO SECURE COMBINED PAYMENT.—An eligible lender may at any time consolidate loans held by it which are made under this section to a borrower, including loans which were made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by them) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but

[19] Section 416(a)(2) of the Higher Education Amendments of 1998 (P.L. 105–244; 112 Stat. 1680) contained an amendment that could not be executed and was redundant because of an earlier amendment in section 8301(a)(2) of the Transportation Equity Act for the 21st Century (P.L. 105–178; 112 Stat. 497).

shall be treated as an administrative forbearance of the repayment terms of the included loan.

(2) REFINANCING TO SECURE VARIABLE INTEREST RATE.—An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest rate provided under section 427A(c)(4). A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to cover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

(3) REFINANCING BY DISCHARGE OF PREVIOUS LOAN.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (d)(5)(B));

(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

(4) CERTIFICATION IN LIEU OF PROMISSORY NOTE PRESENTATION.—Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

(f) VERIFICATION OF IMMIGRATION STATUS AND SOCIAL SECURITY NUMBER.—A parent who wishes to borrow funds under this section shall be subject to verification of the parent's—

(1) immigration status in the same manner as immigration status is verified for students under section 484(g); and

(2) social security number in the same manner as social security numbers are verified for students under section 484(p).

SEC. 428C. [20 U.S.C. 1078–3] FEDERAL CONSOLIDATION LOANS.

(a) AGREEMENTS WITH ELIGIBLE LENDERS.—

(1) AGREEMENT REQUIRED FOR INSURANCE COVERAGE.—For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

(A) the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440;

(B) State agencies described in subparagraphs (D) and (F) of section 435(d)(1); and

(C) other eligible lenders described in subparagraphs (A), (B), (C), (E), and (J) of such section.

(2) INSURANCE COVERAGE OF CONSOLIDATION LOANS.—Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such agency.

(3) DEFINITION OF ELIGIBLE BORROWER.—(A) For the purpose of this section, the term "eligible borrower" means a borrower who—

(i) is not subject to a judgment secured through litigation with respect to a loan under this title or to an order for wage garnishment under section 488A; and

(ii) at the time of application for a consolidation loan—

(I) is in repayment status as determined under section 428(b)(7)(A);

(II) is in a grace period preceding repayment; or

(III) is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans.

(B)(i) An individual's status as an eligible borrower under this section or under section 455(g) terminates under both sections upon receipt of a consolidation loan under this section or under section 455(g), except that—

(I) an individual who receives eligible student loans after the date of receipt of the consolidation loan may receive a subsequent consolidation loan;

(II) loans received prior to the date of the consolidation loan may be added during the 180-day period following the making of the consolidation loan;

(III) loans received following the making of the consolidation loan may be added during the 180-day period following the making of the consolidation loan;

(IV) loans received prior to the date of the first consolidation loan may be added to a subsequent consolidation loan; and

(V)[20] an individual may obtain a subsequent consolidation loan under section 455(g) only—

(aa) for the purposes of obtaining income contingent repayment or income-based repay-

[20] Margins of subclause (V) so in law.

ment, and only if the loan has been submitted to the guaranty agency for default aversion or if the loan is already in default;

(bb) for the purposes of using the public service loan forgiveness program under section 455(m); or

(cc)[21] for the purpose of using the no accrual of interest for active duty service members benefit offered under section 455(o).

(4) DEFINITION OF ELIGIBLE STUDENT LOANS.—For the purpose of paragraph (1), the term "eligible student loans" means loans—

(A) made, insured, or guaranteed under this part, and first disbursed before July 1, 2010, including loans on which the borrower has defaulted (but has made arrangements to repay the obligation on the defaulted loans satisfactory to the Secretary or guaranty agency, whichever insured the loans);

(B) made under part E of this title;

(C) made under part D of this title;

(D) made under subpart II of part A of title VII of the Public Health Service Act; or

(E) made under part E of title VIII of the Public Health Service Act.

(b) CONTENTS OF AGREEMENTS, CERTIFICATES OF INSURANCE, AND LOAN NOTES.—

(1) AGREEMENTS WITH LENDERS.—Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

(A) that, in the case of all lenders described in subsection (a)(1), the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that the borrower has no other application pending for a loan under this section;

(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the annual or aggregate principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3), and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all eligible student loans received by the eligible borrower which are selected by the borrower for consolidation;

(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

[21] Margin so in law.

(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations promulgated by the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994, and before July 1, 2010;

(F) that the lender shall disclose to a prospective borrower, in simple and understandable terms, at the time the lender provides an application for a consolidation loan—

(i) whether consolidation would result in a loss of loan benefits under this part or part D, including loan forgiveness, cancellation, and deferment;

(ii) with respect to Federal Perkins Loans under part E—

(I) that if a borrower includes a Federal Perkins Loan under part E in the consolidation loan, the borrower will lose all interest-free periods that would have been available for the Federal Perkins Loan, such as—

(aa) the periods during which no interest accrues on such loan while the borrower is enrolled in school at least half-time;

(bb) the grace period under section 464(c)(1)(A); and

(cc) the periods during which the borrower's student loan repayments are deferred under section 464(c)(2);

(II) that if a borrower includes a Federal Perkins Loan in the consolidation loan, the borrower will no longer be eligible for cancellation of part or all of the Federal Perkins Loan under section 465(a); and

(III) the occupations listed in section 465 that qualify for Federal Perkins Loan cancellation under section 465(a);

(iii) the repayment plans that are available to the borrower;

(iv) the options of the borrower to prepay the consolidation loan, to pay such loan on a shorter schedule, and to change repayment plans;

(v) that borrower benefit programs for a consolidation loan may vary among different lenders;

(vi) the consequences of default on the consolidation loan; and

(vii) that by applying for a consolidation loan, the borrower is not obligated to agree to take the consolidation loan; and

(G) such other terms and conditions as the Secretary or the guaranty agency may specifically require of the lender to carry out this section.

(2) ISSUANCE OF CERTIFICATE OF COMPREHENSIVE INSURANCE COVERAGE.—The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary

under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) unless the Secretary determines that such lender has first applied to, and has been denied a certificate of insurance by, the guaranty agency which insures the preponderance of its loans (by value).

(3) CONTENTS OF CERTIFICATE.—A certificate issued under paragraph (2) shall, at a minimum, provide—

(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated—

(i) that the loan is a legal, valid, and binding obligation of the borrower;

(ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and

(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

(C) the effective date and expiration date of the certificate;

(D) the aggregate amount to which the certificate applies;

(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guaranty agency which will process claims and perform other related administrative functions;

(F) the alternative repayment terms which will be offered to borrowers by the lender;

(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

(4) TERMS AND CONDITIONS OF LOANS.—A consolidation loan made pursuant to this section shall be insurable by the Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note

or other written agreement executed by him or her would not, under applicable law, create a binding obligation, endorsement may be required;

(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 428(b)(1)(M), and that any such period shall not be included in determining the repayment schedule pursuant to subsection (c)(2) of this section; and

(ii) provides that interest shall accrue and be paid during any such period—

(I) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender before the date of enactment of the Emergency Student Loan Consolidation Act of 1997 that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 428;

(II) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender on or after the date of enactment of the Emergency Student Loan Consolidation Act of 1997 except that the Secretary shall pay such interest only on that portion of the loan that repays Federal Stafford Loans for which the student borrower received an interest subsidy under section 428 or Federal Direct Stafford Loans for which the borrower received an interest subsidy under section 455; or

(III) by the borrower, or capitalized, in the case of a consolidation loan other than a loan described in subclause (I) or (II);

(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

(E)(i) contains a notice of the system of disclosure concerning such loan to consumer reporting agencies under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such consumer reporting agencies.

(5) DIRECT LOANS.—If, before July 1, 2010, a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), or is unable to obtain a consolidation loan with income-sensitive repayment terms or income-based repayment terms acceptable to the borrower from such a lender, or chooses to obtain a consolidation loan for the purposes of using the public service loan forgiveness program offered under section 455(m), the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. In addition, in the event that a borrower chooses to obtain a consolidation loan for the purposes of using the no accrual of interest for active duty service members program of-

fered under section 455(o), the Secretary shall offer a Federal Direct Consolidation loan to any such borrower who applies for participation in such program. A direct consolidation loan offered under this paragraph shall, as requested by the borrower, be repaid either pursuant to income contingent repayment under part D of this title, pursuant to income-based repayment under section 493C, or pursuant to any other repayment provision under this section, except that if a borrower intends to be eligible to use the public service loan forgiveness program under section 455(m), such loan shall be repaid using one of the repayment options described in section 455(m)(1)(A). The Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans.

(6) NONDISCRIMINATION IN LOAN CONSOLIDATION.—An eligible lender that makes consolidation loans under this section shall not discriminate against any borrower seeking such a loan—

(A) based on the number or type of eligible student loans the borrower seeks to consolidate, except that a lender is not required to consolidate loans described in subparagraph (D) or (E) of subsection (a)(4) or subsection (d)(1)(C)(ii);

(B) based on the type or category of institution of higher education that the borrower attended;

(C) based on the interest rate to be charged to the borrower with respect to the consolidation loan; or

(D) with respect to the types of repayment schedules offered to such borrower.

(c) PAYMENT OF PRINCIPAL AND INTEREST.—

(1) INTEREST RATE.—(A) Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender—

(i) on or after October 1, 1998, and before July 1, 2006, the applicable interest rate shall be determined under section 427A(k)(4); or

(ii) on or after July 1, 2006, and that is disbursed before July 1, 2010, the applicable interest rate shall be determined under section 427A(l)(3).

(B) A consolidation loan made before July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the greater of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent; or

(ii) 9 percent.

(C) A consolidation loan made on or after July 1, 1994, and disbursed before July 1, 2010, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.

(D) A consolidation loan for which the application is received by an eligible lender on or after the date of enactment

of the Emergency Student Loan Consolidation Act of 1997 and before October 1, 1998, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the rate specified in section 427A(f), except that the eligible lender may continue to calculate interest on such a loan at the rate previously in effect and defer, until not later than April 1, 1998, the recalculation of the interest on such a loan at the rate required by this subparagraph if the recalculation is applied retroactively to the date on which the loan is made.

(2) REPAYMENT SCHEDULES.—(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2) and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, which shall include the establishment of graduated, income-sensitive, or income-based repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive or income-based repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5), such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

(iv) is equal to or greater than $20,000 but less than $40,000, then such consolidation loan shall be repaid in not more than 20 years;

(v) is equal to or greater than $40,000 but less than $60,000, then such consolidation loan shall be repaid in not more than 25 years; or

(vi) is equal to or greater than $60,000, then such consolidation loan shall be repaid in not more than 30 years.

(B) The amount outstanding on other student loans which may be counted for the purpose of subparagraph (A) may not exceed the amount of the consolidation loan.

(3) ADDITIONAL REPAYMENT REQUIREMENTS.—Notwithstanding paragraph (2)—

(A) except in the case of an income-based repayment schedule under section 493C, a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment be an amount equal to not less than the accrued unpaid interest;

(B) except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5), the lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment on the loan

is not a multiple of $5, round the payment to the next highest whole dollar amount that is a multiple of $5; and

(C) an income-based repayment schedule under section 493C shall not be available to a consolidation loan borrower who used the proceeds of the loan to discharge the liability on a loan under section 428B, or a Federal Direct PLUS loan, made on behalf of a dependent student.

(4) COMMENCEMENT OF REPAYMENT.—Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

(5) INSURANCE PREMIUMS PROHIBITED.—No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan, but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan.

(d) SPECIAL PROGRAM AUTHORIZED.—

(1) GENERAL RULE AND DEFINITION OF ELIGIBLE STUDENT LOAN.—

(A) IN GENERAL.—Subject to the provisions of this subsection, the Secretary or a guaranty agency shall enter into agreements with eligible lenders described in subparagraphs (A), (B), and (C) of subsection (a)(1) for the consolidation of eligible student loans.

(B) APPLICABILITY RULE.—Unless otherwise provided in this subsection, the agreements entered into under subparagraph (A) and the loans made under such agreements for the consolidation of eligible student loans under this subsection shall have the same terms, conditions, and benefits as all other agreements and loans made under this section.

(C) DEFINITION.—For the purpose of this subsection, the term "eligible student loans" means loans—

(i) of the type described in subparagraphs (A), (B), and (C) of subsection (a)(4); and

(ii) made under subpart I of part A of title VII of the Public Health Service Act.

(2) INTEREST RATE RULE.—

(A) IN GENERAL.—The portion of each consolidated loan that is attributable to an eligible student loan described in paragraph (1)(C)(ii) shall bear interest at a rate not to exceed the rate determined under subparagraph (B).

(B) DETERMINATION OF THE MAXIMUM INTEREST RATE.—For the 12-month period beginning after July 1, 1992, and for each 12-month period thereafter, beginning on July 1 and ending on June 30, the interest rate applicable under subparagraph (A) shall be equal to the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1, for each 12-month period for which the determination is made, plus 3 percent.

(C) PUBLICATION OF MAXIMUM INTEREST RATE.—The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of such determination.

(3) SPECIAL RULES.—

(A) NO SPECIAL ALLOWANCE RULE.—No special allowance under section 438 shall be paid with respect to the portion of any consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(B) NO INTEREST SUBSIDY RULE.—No interest subsidy under section 428(a) shall be paid on behalf of any eligible borrower for any portion of a consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(C) ADDITIONAL RESERVE RULE.—Notwithstanding any other provision of this Act, additional reserves shall not be required for any guaranty agency with respect to a loan made under this subsection.

(D) INSURANCE RULE.—Any insurance premium paid by the borrower under subpart I of part A of title VII of the Public Health Service Act with respect to a loan made under that subpart and consolidated under this subsection shall be retained by the student loan insurance account established under section 710 of the Public Health Service Act.

(4) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be necessary to facilitate carrying out the provisions of this subsection.

(e) TERMINATION OF AUTHORITY.—The authority to make loans under this section expires at the close of June 30, 2010. No loan may be made under this section for which the disbursement is on or after July 1, 2010. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 424(a).

(f) INTEREST PAYMENT REBATE FEE.—

(1) IN GENERAL.—For any month beginning on or after October 1, 1993, each holder of a consolidation loan under this section for which the first disbursement was made on or after October 1, 1993, shall pay to the Secretary, on a monthly basis and in such manner as the Secretary shall prescribe, a rebate fee calculated on an annual basis equal to 1.05 percent of the principal plus accrued unpaid interest on such loan.

(2) SPECIAL RULE.—For consolidation loans based on applications received during the period from October 1, 1998 through January 31, 1999, inclusive, the rebate described in paragraph (1) shall be equal to 0.62 percent of the principal plus accrued unpaid interest on such loan.

(3) DEPOSIT.—The Secretary shall deposit all fees collected pursuant to this subsection into the insurance fund established in section 431.

SEC. 428D. [20 U.S.C. 1078–4] COMMINGLING OF FUNDS.

Notwithstanding any other provision of this part regarding permissible uses of funds from any source, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that—

(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

[Section 428E was repealed by section 605(b) of Public Law 102–164; 105 Stat. 1068.]

SEC. 428F. [20 U.S.C. 1078–6] DEFAULT REDUCTION PROGRAM.

(a) OTHER REPAYMENT INCENTIVES.—

(1) SALE OR ASSIGNMENT OF LOAN.—

(A) IN GENERAL.—Each guaranty agency, upon securing 9 payments made within 20 days of the due date during 10 consecutive months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 428(c), shall—

(i) if practicable, sell the loan to an eligible lender; or

(ii)[22] on or before September 30, 2011, assign the loan to the Secretary if—

(I) the Secretary has determined that market conditions unduly limit a guaranty agency's ability to sell loans under clause (i); and

(II) the guaranty agency has been unable to sell loans under clause (i).

[Note: Effective on July 1, 2014, section 501(1) of division A of Public Law 113–67 amends clause (ii) of section 428F(a)(1)(A) in its entirety. Upon such date, clause (ii) is amended to read as follows:]

(ii) beginning July 1, 2014, assign the loan to the Secretary if the guaranty agency has been unable to sell the loan under clause (i).

(B) MONTHLY PAYMENTS.—Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts described in subparagraph (A) more than is reasonable and affordable based on the borrower's total financial circumstances.

[22] For version of law for clause (ii) (as amended by section 501(1) of division A of Public Law 113–67) see note set out at the end this clause.

(C) CONSUMER REPORTING AGENCIES.—Upon the sale or assignment of the loan, the Secretary, guaranty agency or other holder of the loan shall request any consumer reporting agency to which the Secretary, guaranty agency or holder, as applicable, reported the default of the loan, to remove the record of the default from the borrower's credit history.

(D) DUTIES UPON SALE.—With respect to a loan sold under subparagraph (A)(i)—

(i) the guaranty agency—

(I) shall repay the Secretary 81.5 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(II) may, in order to defray collection costs—

(aa) charge to the borrower an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of the loan sale; and

(bb) retain such amount from the proceeds of the loan sale; and

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[Note: Effective on July 1, 2014, section 501(2) of division A of Public Law 113–67 amends clause (i) of section 428F(a)(1)(D) in its entirety. Upon such date, clause (i) is amended to read as follows:]

(i) the guaranty agency—

(I) shall, in the case of a sale made on or after July 1, 2014, repay the Secretary 100 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(II) may, in the case of a sale made on or after July 1, 2014, in order to defray collection costs—

(aa) charge to the borrower an amount not to exceed 16 percent of the outstanding principal and interest at the time of the loan sale; and

(bb) retain such amount from the proceeds of the loan sale; and

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(ii) the Secretary shall reinstate the Secretary's obligation to—

(I) reimburse the guaranty agency for the amount that the agency may, in the future, expend to discharge the guaranty agency's insurance obligation; and

(II) pay to the holder of such loan a special allowance pursuant to section 438.

(E) DUTIES UPON ASSIGNMENT.—With respect to a loan assigned under subparagraph (A)(ii)—

(i) the guaranty agency shall add to the principal and interest outstanding at the time of the assignment of such loan an amount equal to the amount described in subparagraph (D)(i)(II)(aa); and

(ii) the Secretary shall pay the guaranty agency, for deposit in the agency's Operating Fund established pursuant to section 422B, an amount equal to the amount added to the principal and interest outstanding at the time of the assignment in accordance with clause (i).

(F) ELIGIBLE LENDER LIMITATION.—A loan shall not be sold to an eligible lender under subparagraph (A)(i) if such lender has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part.

(G) DEFAULT DUE TO ERROR.—A loan that does not meet the requirements of subparagraph (A) may also be eligible for sale or assignment under this paragraph upon a determination that the loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status.

(2) USE OF PROCEEDS OF SALES.—Amounts received by the Secretary pursuant to the sale of such loans by a guaranty agency under paragraph (1)(A)(i) shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(D)(ii)(I) for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

(3) BORROWER ELIGIBILITY.—Any borrower whose loan is sold or assigned under paragraph (1)(A) shall not be precluded by section 484 from receiving additional loans or grants under this title (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to such loan sale or assignment.

(4) APPLICABILITY OF GENERAL LOAN CONDITIONS.—A loan that is sold or assigned under paragraph (1) shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.

(5) LIMITATION.—A borrower may obtain the benefits available under this subsection with respect to rehabilitating a loan (whether by loan sale or assignment) only one time per loan.

(b) SATISFACTORY REPAYMENT ARRANGEMENTS TO RENEW ELIGIBILITY.—Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew eligibility for all title IV student financial assistance (regardless of whether the defaulted loan has been sold to an eligible lender or assigned to the Secretary) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's

total financial circumstances. A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.

(c) FINANCIAL AND ECONOMIC LITERACY.—Each program described in subsection (b) shall include making available financial and economic education materials for a borrower who has rehabilitated a loan.

SEC. 428G. [20 U.S.C. 1078–7] REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.

(a) MULTIPLE DISBURSEMENT REQUIRED.—

(1) TWO DISBURSEMENTS REQUIRED.—The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

(2) MINIMUM INTERVAL REQUIRED.—The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

(3)[23] SPECIAL RULE.—An institution whose cohort default rate (as determined under section 435(m)) for each of the 3 most recent fiscal years for which data are available is less than 10 percent may disburse any loan made, insured, or guaranteed under this part in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months. Notwithstanding section 422(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning on the date of enactment of the Higher Education Reconciliation Act of 2005.

(4) AMENDMENT TO SPECIAL RULE.—Beginning on October 1, 2011, the special rule under paragraph (3) shall be applied by substituting "15 percent" for "10 percent".

(b) DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.—

(1) FIRST YEAR STUDENTS.—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period. An institution whose cohort default rate (as determined under section 435(m)) for each of the three most recent fiscal years for which data are available is less than 10 percent shall be exempt from the requirements of this paragraph.[24] Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the sec-

[23] Section 422(a) of Public Law 105–244 added paragraph (3). Section 422(d) of such Act states the amendments made by subsections (a) and (b) of section 422 shall be effective during the period beginning on October 1, 1998, and ending on September 30, 2002.

[24] Section 422(b) of Public Law 105–244 added a new sentence at the end. Section 422(d) of such Act states the amendments made by subsections (a) and (b) shall be effective during the period beginning on October 1, 1998, and ending on September 30, 2002.

ond sentence of this paragraph shall be effective beginning on the date of enactment of the Higher Education Reconciliation Act of 2005.

(2) OTHER STUDENTS.—The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of enrollment for which the loan is made.

(3) AMENDMENT TO COHORT DEFAULT RATE EXEMPTION.—Beginning on October 1, 2011, the exemption to the requirements of paragraph (1) in the second sentence of such paragraph shall be applied by substituting "15 percent" for "10 percent".

(c) METHOD OF MULTIPLE DISBURSEMENT.—Disbursements under subsection (a)—

(1) shall be made in accordance with a schedule provided by the institution (under section 428(a)(2)(A)(i)(II)) that complies with the requirements of this section;

(2) may be made directly by the lender or, in the case of a loan under sections 428 and 428A, may be disbursed pursuant to the escrow provisions of section 428(i); and

(3) notwithstanding subsection (a)(2), may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed by the lender in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.

(d) WITHHOLDING OF SECOND DISBURSEMENT.—

(1) WITHDRAWING STUDENTS.—A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled before the disbursement of the second or any succeeding installment shall withhold such disbursement. Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.

(2) STUDENTS RECEIVING OVER-AWARDS.—If the sum of a disbursement for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this title, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount, except that overawards permitted pursuant to section 443(b)(4) of the Act shall not be construed to be overawards for purposes of this paragraph. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.

(e) EXCLUSION OF CONSOLIDATION AND FOREIGN STUDY LOANS.—The provisions of this section shall not apply in the case of a loan made under section 428C, or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 435(m)) of less than 5 percent.

(f) BEGINNING OF PERIOD OF ENROLLMENT.—For purposes of this section, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.

(g) SALES PRIOR TO DISBURSEMENT PROHIBITED.—An eligible lender shall not sell or transfer a promissory note for any loan made, insured, or guaranteed under this part until the final disbursement of such loan has been made, except that the prohibition of this subsection shall not apply if—

(1) the sale of the loan does not result in a change in the identity of the party to whom payments will be made for the loan; and

(2) the first disbursement of such loan has been made.

SEC. 428H. [20 U.S.C. 1078–8] UNSUBSIDIZED STAFFORD LOANS FOR MIDDLE-INCOME BORROWERS.

(a) IN GENERAL.—It is the purpose of this section to authorize insured loans under this part that are first disbursed before July 1, 2010, for borrowers who do not qualify for Federal interest subsidy payments under section 428 of this Act. Except as provided in this section, all terms and conditions for Federal Stafford loans established under section 428 shall apply to loans made pursuant to this section.

(b) ELIGIBLE BORROWERS.—Prior to July 1, 2010, any student meeting the requirements for student eligibility under section 484 (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Federal Stafford Loan for which the first disbursement is made before such date if the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, has—

(1) determined and documented the student's need for the loan based on the student's estimated cost of attendance (as determined under section 472) and the student's estimated financial assistance, including a loan which qualifies for interest subsidy payments under section 428; and

(2) provided the lender a statement—

(A) certifying the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c); and

(B) setting forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G.

(c) DETERMINATION OF AMOUNT OF LOAN.—The determination of the amount of a loan by an eligible institution under subsection (b) shall be calculated by subtracting from the estimated cost of attendance at the eligible institution any estimated financial assistance reasonably available to such student. An eligible institution may not, in carrying out the provisions of subsection (b) of this section, provide a statement which certifies the eligibility of any student to receive any loan under this section in excess of the amount calculated under the preceding sentence.

(d) LOAN LIMITS.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), the annual and aggregate limits for loans under this

section shall be the same as those established under section 428(b)(1), less any amount received by such student pursuant to the subsidized loan program established under section 428.

(2) LIMITS FOR GRADUATE, PROFESSIONAL, AND INDEPENDENT POSTBACCALAUREATE STUDENTS.—

(A) ANNUAL LIMITS.—The maximum annual amount of loans under this section a graduate or professional student, or a student described in clause (ii), may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the amount determined under paragraph (1), plus—

(i) in the case of such a student who is a graduate or professional student attending an eligible institution, $12,000; and

(ii) notwithstanding paragraph (4), in the case of an independent student, or a dependent student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program, who has obtained a baccalaureate degree and who is enrolled in coursework specified in paragraph (3)(B) or (4)(B) of section 484(b)—

(I) $7,000 for coursework necessary for enrollment in a graduate or professional program; and

(II) $7,000 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school,

except in cases where the Secretary determines that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

(B) AGGREGATE LIMIT.—The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased annual limits described in subparagraph (A), as prescribed by the Secretary by regulation.

(3) LIMITS FOR UNDERGRADUATE DEPENDENT STUDENTS.—

(A) ANNUAL LIMITS.—The maximum annual amount of loans under this section an undergraduate dependent student (except an undergraduate dependent student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program) may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the sum of the amount determined under paragraph (1), plus $2,000.

(B) AGGREGATE LIMITS.—The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be $31,000.

(4) LIMITS FOR UNDERGRADUATE INDEPENDENT STUDENTS.—

(A) ANNUAL LIMITS.—The maximum annual amount of loans under this section an undergraduate independent student, or an undergraduate dependent student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program, may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the sum of the amount determined under paragraph (1), plus—

(i) in the case of such a student attending an eligible institution who has not completed such student's first 2 years of undergraduate study—

(I) $6,000, if such student is enrolled in a program whose length is at least one academic year in length; or

(II) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

(ii) in the case of such a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

(I) $7,000; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year; and

(iii) in the case of such a student enrolled in coursework specified in—

(I) section 484(b)(3)(B), $6,000; or

(II) section 484(b)(4)(B), $7,000.

(B) AGGREGATE LIMITS.—The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be $57,500.

(5) CAPITALIZED INTEREST.—Interest capitalized shall not be deemed to exceed a maximum aggregate amount determined under subparagraph (B) of paragraph (2), (3), or (4).

(e) PAYMENT OF PRINCIPAL AND INTEREST.—

(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall begin at the beginning of the repayment period described in section 428(b)(7). Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repay-

ment begins and of the borrower's option to begin loan repayment at an earlier date.

(2) CAPITALIZATION OF INTEREST.—(A) Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 427(a)(2)(C) and 428(b)(1)(M) shall, if agreed upon by the borrower and the lender—

(i) be paid monthly or quarterly; or

(ii) be added to the principal amount of the loan by the lender only—

(I) when the loan enters repayment;

(II) at the expiration of a grace period, in the case of a loan that qualifies for a grace period;

(III) at the expiration of a period of deferment or forbearance; or

(IV) when the borrower defaults.

(B) The capitalization of interest described in subparagraph (A) shall not be deemed to exceed the annual insurable limit on account of the student.

(3) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

(4) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A.

(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually; or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

(6) REPAYMENT PERIOD.—For purposes of calculating the repayment period under section 428(b)(9), such period shall commence at the time the first payment of principal is due from the borrower.

(7) QUALIFICATION FOR FORBEARANCE.—A lender may grant the borrower of a loan under this section a forbearance for a period not to exceed 60 days if the lender reasonably determines that such a forbearance from collection activity is warranted following a borrower's request for forbearance, deferment, or a change in repayment plan, or a request to consolidate loans in order to collect or process appropriate supporting documentation related to the request. During any such period, interest on the loan shall accrue but not be capitalized.

[(f) Repealed]

(g) SINGLE APPLICATION FORM AND LOAN REPAYMENT SCHEDULE.—A guaranty agency shall use a single application form and a single repayment schedule for subsidized Federal Stafford loans made pursuant to section 428 and for unsubsidized Federal Stafford loans made pursuant to this section.

(h) INSURANCE PREMIUM.—Each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) may charge a borrower under this section an insurance premium equal to not more than 1.0 percent of the principal amount of the loan, if such premium will not be used for incentive payments to lenders. Effective for loans for which the date of guarantee of principal is on or after July 1, 2006, and that are first disbursed before July 1, 2010, in lieu of the insurance premium authorized under the preceding sentence, each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) shall collect and deposit into the Federal Student Loan Reserve Fund under section 422A, a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources. The Federal default fee shall not be used for incentive payments to lenders.

SEC. 428J.[25] [20 U.S.C. 1078–10] LOAN FORGIVENESS FOR TEACHERS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

(b) PROGRAM AUTHORIZED.—The Secretary shall carry out a program, through the holder of the loan, of assuming the obligation to repay a qualified loan amount for a loan made under section 428 or 428H, in accordance with subsection (c), for any new borrower on or after October 1, 1998, who—

(1) has been employed as a full-time teacher for 5 consecutive complete school years—

(A) in a school or location that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools or locations; and

(B) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary Secondary Education Act of 1965, or meets the requirements of subsection (g)(3); and

(2) is not in default on a loan for which the borrower seeks forgiveness.

(c) QUALIFIED LOANS AMOUNT.—

(1) IN GENERAL.—The Secretary shall repay not more than $5,000 in the aggregate of the loan obligation on a loan made under section 428 or 428H that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1). No borrower may receive a reduction of loan obligations under both this section and section 460.

(2) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a loan made under section 428C may be a qualified loan amount for the purposes of this subsection only to the extent

[25] Section 428I was repealed by section 302(a) of Public Law 110–84 (121 Stat. 796).

that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 428 or 428H for a borrower who meets the requirements of subsection (b), as determined in accordance with regulations prescribed by the Secretary.

(3) ADDITIONAL AMOUNTS FOR TEACHERS IN MATHEMATICS, SCIENCE, OR SPECIAL EDUCATION.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall repay under this section shall be not more than $17,500 in the case of—

(A) a secondary school teacher—

(i) who meets the requirements of subsection (b); and

(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

(B) an elementary school or secondary school teacher—

(i) who meets the requirements of subsection (b);

(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 602 of the Individuals with Disabilities Education Act); and

(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, or, in the case of a teacher who is employed by an educational service agency, as certified by the chief administrative officer of such agency, is teaching children with disabilities that correspond with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.

(d) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(e) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

(f) LIST.—If the list of schools in which a teacher may perform service pursuant to subsection (b) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(g) ADDITIONAL ELIGIBILITY PROVISIONS.—

(1) CONTINUED ELIGIBILITY.—Any teacher who performs service in a school that—

(A) meets the requirements of subsection (b)(1)(A) in any year during such service; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan forgiveness pursuant to subsection (b).

(2) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same service, receive a benefit under both this section and—

(A) section 428K;

(B) section 455(m); or

(C) subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(3) PRIVATE SCHOOL TEACHERS.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(B), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.

(h) DEFINITION.—For purposes of this section, the term "year", where applied to service as a teacher, means an academic year as defined by the Secretary.

SEC. 428K. [20 U.S.C. 1078–11] LOAN FORGIVENESS FOR SERVICE IN AREAS OF NATIONAL NEED.

(a) PROGRAM AUTHORIZED.—

(1) LOAN FORGIVENESS AUTHORIZED.—The Secretary shall forgive, in accordance with this section, the qualified loan amount described in subsection (c) of the student loan obligation of a borrower who—

(A) is employed full-time in an area of national need, as described in subsection (b); and

(B) is not in default on a loan for which the borrower seeks forgiveness.

(2) METHOD OF LOAN FORGIVENESS.—To provide loan forgiveness under paragraph (1), the Secretary is authorized to carry out a program—

(A) through the holder of the loan, to assume the obligation to repay a qualified loan amount for a loan made, insured, or guaranteed under this part (other than an excepted PLUS loan or an excepted consolidation loan (as such terms are defined in section 493C(a))); and

(B) to cancel a qualified loan amount for a loan made under part D of this title (other than an excepted PLUS loan or an excepted consolidation loan).

(3) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out this section.

(b) AREAS OF NATIONAL NEED.—For purposes of this section, an individual is employed in an area of national need if the individual meets the requirements of one of the following:

(1) EARLY CHILDHOOD EDUCATORS.—The individual is employed full-time as an early childhood educator.

(2) NURSES.—The individual is employed full-time—

(A) as a nurse in a clinical setting; or

(B) as a member of the nursing faculty at an accredited school of nursing (as those terms are defined in section 801 of the Public Health Service Act (42 U.S.C. 296)).

(3) FOREIGN LANGUAGE SPECIALISTS.—The individual—

(A) has obtained a baccalaureate or advanced degree in a critical foreign language; and

(B) is employed full-time—

(i) in an elementary school or secondary school as a teacher of a critical foreign language;

(ii) in an agency of the United States Government in a position that regularly requires the use of such critical foreign language; or

(iii) in an institution of higher education as a faculty member or instructor teaching a critical foreign language.

(4) LIBRARIANS.—The individual is employed full-time as a librarian in—

(A) a public library that serves a geographic area within which the public schools have a combined average of 30 percent or more of the schools' total student enrollments composed of children meeting a measure of poverty under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965; or

(B) a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.

(5) HIGHLY QUALIFIED TEACHERS SERVING STUDENTS WHO ARE LIMITED ENGLISH PROFICIENT, LOW-INCOME COMMUNITIES, AND UNDERREPRESENTED POPULATIONS.—The individual—

(A) is highly qualified, as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965; and

(B) is employed full-time—

(i) as a teacher educating students who are limited English proficient;

(ii) as a teacher in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school;

(iii) as a teacher and is an individual from an underrepresented population in the teaching profession, as determined by the Secretary; or

(iv) as a teacher in an educational service agency, as such term is defined in section 8101 of the Elementary and Secondary Education Act of 1965.

(6) CHILD WELFARE WORKERS.—The individual—

(A) has obtained a degree in social work or a related field with a focus on serving children and families; and

(B) is employed full-time in public or private child welfare services.

(7) SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.—The individual—

(A) is employed full-time as a speech-language pathologist or audiologist in an eligible preschool program or a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; and

(B) has, at a minimum, a graduate degree in speech-language pathology, audiology, or communication sciences and disorders.

(8) SCHOOL COUNSELORS.—The individual—

(A) is employed full-time as a school counselor who has documented competence in counseling children and adolescents in a school setting and who—

(i) is licensed by the State or certified by an independent professional regulatory authority;

(ii) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

(iii) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent; and

(B) is so employed in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.

(9) PUBLIC SECTOR EMPLOYEES.—The individual is employed full-time in—

(A) public safety (including as a first responder, firefighter, police officer, or other law enforcement or public safety officer);

(B) emergency management (including as an emergency medical technician);

(C) public health (including full-time professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined by the Bureau of Labor Statistics); or

(D) public interest legal services (including prosecution, public defense, or legal advocacy in low-income communities at a nonprofit organization).

(10) NUTRITION PROFESSIONALS.—The individual—

(A) is a licensed, certified, or registered dietician who has completed a degree in a relevant field; and

(B) is employed full-time as a dietician with an agency of the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(11) MEDICAL SPECIALISTS.—The individual—

(A) has received a degree from a medical school at an institution of higher education; and

(B) has been accepted to, or currently participates in, a full-time graduate medical education training program or fellowship (or both) to provide health care services (as recognized by the Accreditation Council for Graduate Medical Education) that—

(i) requires more than five years of total graduate medical training; and

(ii) has fewer United States medical school graduate applicants than the total number of positions available in such program or fellowship.

(12) MENTAL HEALTH PROFESSIONALS.—The individual—

(A) has not less than a master's degree in social work, psychology, or psychiatry; and

(B) is employed full-time providing mental health services to children, adolescents, or veterans.

(13) DENTISTS.—The individual—

(A)(i) has received a degree from an accredited dental school (as accredited by the Commission on Dental Accreditation);

(ii) has completed residency training in pediatric dentistry, general dentistry, or dental public health; and

(iii) is employed full-time as a dentist; or

(B) is employed full-time as a member of the faculty at a program or school accredited by the Commission on Dental Accreditation.

(14) STEM EMPLOYEES.—The individual is employed full-time in applied sciences, technology, engineering, or mathematics.

(15) PHYSICAL THERAPISTS.—The individual—

(A) is a physical therapist; and

(B) is employed full-time providing physical therapy services to children, adolescents, or veterans.

(16) SUPERINTENDENTS, PRINCIPALS, AND OTHER ADMINISTRATORS.—The individual is employed full-time as a school superintendent, principal, or other administrator in a local educational agency, including in an educational service agency, in which 30 percent or more of the schools are schools that qualify under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.

(17) OCCUPATIONAL THERAPISTS.—The individual is an occupational therapist and is employed full-time providing occupational therapy services to children, adolescents, or veterans.

(18) ALLIED HEALTH PROFESSIONALS.—The individual is employed full-time as an allied health professional—

(A) in a Federal, State, local, or tribal public health agency; or

(B) in a setting where patients might require health care services, including acute care facilities, ambulatory care facilities, personal residences and other settings located in health professional shortage areas, medically underserved areas, or medically underserved populations, as recognized by the Secretary of Health and Human Services.

(c) QUALIFIED LOAN AMOUNT.—

(1) IN GENERAL.—Subject to paragraph (2), for each school, academic, or calendar year of full-time employment in an area of national need described in subsection (b) that a borrower completes on or after the date of enactment of the Higher Education Opportunity Act, the Secretary shall forgive not more

than $2,000 of the student loan obligation of the borrower that is outstanding after the completion of each such school, academic, or calendar year of employment, respectively.

(2) MAXIMUM AMOUNT.—The Secretary shall not forgive more than $10,000 in the aggregate for any borrower under this section, and no borrower shall receive loan forgiveness under this section for more than five years of service.

(d) PRIORITY.—The Secretary shall grant loan forgiveness under this section on a first-come, first-served basis, and subject to the availability of appropriations.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the refunding of any repayment of a loan.

(f) INELIGIBILITY FOR DOUBLE BENEFITS.—No borrower may, for the same service, receive a reduction of loan obligations under both this section and section 428J, 428L, 455(m), or 460.

(g) DEFINITIONS.—In this section:

(1) ALLIED HEALTH PROFESSIONAL.—The term "allied health professional" means an allied health professional as defined in section 799B(5) of the Public Heath Service Act (42 U.S.C. 295p(5)) who—

(A) has graduated and received an allied health professions degree or certificate from an institution of higher education; and

(B) is employed with a Federal, State, local or tribal public health agency, or in a setting where patients might require health care services, including acute care facilities, ambulatory care facilities, personal residences and other settings located in health professional shortage areas, medically underserved areas, or medically underserved populations, as recognized by the Secretary of Health and Human Services.

(2) AUDIOLOGIST.—The term "audiologist" means an individual who—

(A) has received, at a minimum, a graduate degree in audiology from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 496(a); and

(B)(i) provides audiology services under subsection (ll)(2) of section 1861 of the Social Security Act (42 U.S.C. 1395x(ll)(2)); or

(ii) meets or exceeds the qualifications for a qualified audiologist under subsection (ll)(4) of such section (42 U.S.C. 1395x(ll)(4)).

(3) EARLY CHILDHOOD EDUCATOR.—The term "early childhood educator" means an individual who—

(A) works directly with children in an eligible preschool program or eligible early childhood education program in a low-income community;

(B) is involved directly in the care, development, and education of infants, toddlers, or young children age five and under; and

(C) has completed a baccalaureate or advanced degree in early childhood development or early childhood education, or in a field related to early childhood education.

(4) ELIGIBLE PRESCHOOL PROGRAM.—The term "eligible preschool program" means a program that—

(A) provides for the care, development, and education of infants, toddlers, or young children age five and under;

(B) meets any applicable State or local government licensing, certification, approval, and registration requirements, and

(C) is operated by—

(i) a public or private school that is supported, sponsored, supervised, or administered by a local educational agency;

(ii) a Head Start agency serving as a grantee designated under the Head Start Act (42 U.S.C. 9831 et seq.);

(iii) a nonprofit or community based organization; or

(iv) a child care program, including a home.

(5) ELIGIBLE EARLY CHILDHOOD EDUCATION PROGRAM.—The term "eligible early childhood education program" means—

(A) a family child care program, center-based child care program, State prekindergarten program, school program, or other out-of-home early childhood development care program, that—

(i) is licensed or regulated by the State; and

(ii) serves two or more unrelated children who are not old enough to attend kindergarten;

(B) a Head Start Program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); or

(C) an Early Head Start Program carried out under section 645A of the Head Start Act (42 U.S.C. 9840a).

(6) LOW-INCOME COMMUNITY.—The term "low-income community" means a school attendance area (as defined in section 1113(a)(2)(A) of the Elementary and Secondary Education Act of 1965)—

(A) in which 70 percent of households earn less than 85 percent of the State median household income; or

(B) that includes a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school.

(7) NURSE.—The term "nurse" means a nurse who meets all of the following:

(A) The nurse graduated from—

(i) an accredited school of nursing (as those terms are defined in section 801 of the Public Health Service Act (42 U.S.C. 296));

(ii) a nursing center; or

(iii) an academic health center that provides nurse training.

(B) The nurse holds a valid and unrestricted license to practice nursing in the State in which the nurse practices in a clinical setting.

(C) The nurse holds one or more of the following:

(i) A graduate degree in nursing, or an equivalent degree.

(ii) A nursing degree from a collegiate school of nursing (as defined in section 801 of the Public Health Service Act (42 U.S.C. 296)).

(iii) A nursing degree from an associate degree school of nursing (as defined in such section).

(iv) A nursing degree from a diploma school of nursing (as defined in such section).

(8) OCCUPATIONAL THERAPIST.—The term "occupational therapist" means an individual who—

(A) has received, at a minimum, a baccalaureate degree in occupational therapy from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 496(a); and

(B)(i) provides occupational therapy services under section 1861(g) of the Social Security Act (42 U.S.C. 1395x(g)); or

(ii) meets or exceeds the qualifications for a qualified occupational therapist, as determined by State law.

(9) PHYSICAL THERAPIST.—The term "physical therapist" means an individual who—

(A) has received, at a minimum, a graduate degree in physical therapy from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 496(a); and

(B)(i) provides physical therapy services under section 1861(p) of the Social Security Act (42 U.S.C. 1395x(p)); or

(ii) meets or exceeds the qualifications for a qualified physical therapist, as determined by State law.

(10) SPEECH-LANGUAGE PATHOLOGIST.—The term "speech-language pathologist" means a speech-language pathologist who—

(A) has received, at a minimum, a graduate degree in speech-language pathology or communication sciences and disorders from an institution of higher education accredited by an agency or association recognized by the Secretary pursuant to section 496(a); and

(B) provides speech-language pathology services under section 1861(ll)(1) of the Social Security Act (42 U.S.C. 1395x(ll)(1)), or meets or exceeds the qualifications for a qualified speech-language pathologist under subsection (ll)(4) of such section (42 U.S.C. 1395x(ll)(4)).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years to provide loan forgiveness in accordance with this section.

SEC. 428L. [20 U.S.C. 1078–12] LOAN REPAYMENT FOR CIVIL LEGAL ASSISTANCE ATTORNEYS.

(a) PURPOSE.—The purpose of this section is to encourage qualified individuals to enter and continue employment as civil legal assistance attorneys.

(b) DEFINITIONS.—In this section:

(1) CIVIL LEGAL ASSISTANCE ATTORNEY.—The term "civil legal assistance attorney" means an attorney who—

(A) is a full-time employee of—

(i) a nonprofit organization that provides legal assistance with respect to civil matters to low-income individuals without a fee; or

(ii) a protection and advocacy system or client assistance program that provides legal assistance with respect to civil matters and receives funding under—

(I) subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.);

(II) section 112 or 509 of the Rehabilitation Act of 1973 (29 U.S.C. 732, 794e);

(III) part A of title I of the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.);

(IV) section 5 of the Assistive Technology Act of 1998 (29 U.S.C. 3004);

(V) section 1150 of the Social Security Act (42 U.S.C. 1320b–21);

(VI) section 1253 of the Public Health Service Act (42 U.S.C. 300d–53); or

(VII) section 291 of the Help America Vote Act of 2002 (42 U.S.C. 15461);

(B) as such employee, provides civil legal assistance as described in subparagraph (A) on a full-time basis; and

(C) is continually licensed to practice law.

(2) STUDENT LOAN.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "student loan" means—

(i) subject to clause (ii), a loan made, insured, or guaranteed under this part, part D, or part E; and

(ii) a loan made under section 428C or 455(g), to the extent that such loan was used to repay—

(I) a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct PLUS Loan;

(II) a loan made under section 428, 428B, or 428H; or

(III) a loan made under part E.

(B) EXCLUSION OF PARENT PLUS LOANS.—The term "student loan" does not include any of the following loans:

(i) A loan made to the parents of a dependent student under section 428B.

(ii) A Federal Direct PLUS Loan made to the parents of a dependent student.

(iii) A loan made under section 428C or 455(g), to the extent that such loan was used to repay—

(I) a loan made to the parents of a dependent student under section 428B; or

(II) a Federal Direct PLUS Loan made to the parents of a dependent student.

(c) PROGRAM AUTHORIZED.—From amounts appropriated under subsection (i) for a fiscal year, the Secretary shall carry out a program of assuming the obligation to repay a student loan, by direct

payments on behalf of a borrower to the holder of such loan, in accordance with subsection (d), for any borrower who—

(1) is employed as a civil legal assistance attorney; and

(2) is not in default on a loan for which the borrower seeks repayment.

(d) TERMS OF AGREEMENT.—

(1) IN GENERAL.—To be eligible to receive repayment benefits under subsection (c), a borrower shall enter into a written agreement with the Secretary that specifies that—

(A) the borrower will remain employed as a civil legal assistance attorney for a required period of service of not less than three years, unless involuntarily separated from that employment;

(B) if the borrower is involuntarily separated from employment on account of misconduct, or voluntarily separates from employment, before the end of the period specified in the agreement, the borrower will repay the Secretary the amount of any benefits received by such employee under this agreement;

(C) if the borrower is required to repay an amount to the Secretary under subparagraph (B) and fails to repay such amount, a sum equal to that amount shall be recoverable by the Federal Government from the employee by such methods as are provided by law for the recovery of amounts owed to the Federal Government;

(D) the Secretary may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be contrary to the public interest; and

(E) the Secretary shall make student loan payments under this section for the period of the agreement, subject to the availability of appropriations.

(2) REPAYMENTS.—

(A) IN GENERAL.—Any amount repaid by, or recovered from, an individual under this subsection shall be credited to the appropriation account from which the amount involved was originally paid.

(B) MERGER.—Any amount credited under subparagraph (A) shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations, if any, as the sums with which the amount was merged.

(3) LIMITATIONS.—

(A) STUDENT LOAN PAYMENT AMOUNT.—Student loan repayments made by the Secretary under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed upon by the borrower and the Secretary in an agreement under paragraph (1), except that the amount paid by the Secretary under this section shall not exceed—

(i) $6,000 for any borrower in any calendar year; or

(ii) an aggregate total of $40,000 in the case of any borrower.

(B) BEGINNING OF PAYMENTS.—Nothing in this section shall authorize the Secretary to pay any amount to reimburse a borrower for any repayments made by such borrower prior to the date on which the Secretary entered into an agreement with the borrower under this subsection.

(e) ADDITIONAL AGREEMENTS.—

(1) IN GENERAL.—On completion of the required period of service under an agreement under subsection (d), the borrower and the Secretary may, subject to paragraph (2), enter into an additional agreement in accordance with subsection (d).

(2) TERM.—An agreement entered into under paragraph (1) may require the borrower to remain employed as a civil legal assistance attorney for less than three years.

(f) AWARD BASIS; PRIORITY.—

(1) AWARD BASIS.—Subject to paragraph (2), the Secretary shall provide repayment benefits under this section on a first-come, first-served basis, and subject to the availability of appropriations.

(2) PRIORITY.—The Secretary shall give priority in providing repayment benefits under this section in any fiscal year to a borrower who—

(A) has practiced law for five years or less and, for not less than 90 percent of the time in such practice, has served as a civil legal assistance attorney;

(B) received repayment benefits under this section during the preceding fiscal year; and

(C) has completed less than three years of the first required period of service specified for the borrower in an agreement entered into under subsection (d).

(g) INELIGIBILITY FOR DOUBLE BENEFITS.—No borrower may, for the same service, receive a reduction of loan obligations under both this section and section 428K or 455(m).

(h) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

SEC. 429. [20 U.S.C. 1079] CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE.

(a) LOAN-BY-LOAN INSURANCE.—

(1) AUTHORITY TO ISSUE CERTIFICATES ON APPLICATION.—If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) EFFECTIVENESS OF CERTIFICATE.—Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regu-

lations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

(3) CONTENTS OF APPLICATIONS.—An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b) COMPREHENSIVE INSURANCE COVERAGE CERTIFICATE.—

(1) ESTABLISHMENT OF SYSTEM BY REGULATION.—In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the United States from the risk of unreasonable loss and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) UNCOVERED LOANS.—If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but,

subject to the limitations of section 424, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

(c) CHARGES FOR FEDERAL INSURANCE.—The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 430(a).

(d) ASSIGNABILITY OF INSURANCE.—The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

(e) CONSOLIDATION NOT TO AFFECT INSURANCE.—The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

SEC. 430. [20 U.S.C. 1080] DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM.

(a) NOTICE TO SECRETARY AND PAYMENT OF LOSS.—Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on the Secretary's own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by

the Secretary, reduced to the extent required by section 425(b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan and shall be required to submit proof that the institution was contacted and other reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known). The Secretary shall make the determination required to carry out the provisions of this section not later than 90 days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of the due diligence investigation.

(b) EFFECT OF PAYMENT OF LOSS.—Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs and collection costs, to the extent set forth in regulations issued by the Secretary) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

(c) FORBEARANCE NOT PRECLUDED.—Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan, including a forbearance during default, shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

(d) CARE AND DILIGENCE REQUIRED OF HOLDERS.—Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, the Secretary shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until the Secretary is

satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e) DEFAULT RATE OF LENDERS, HOLDERS, AND GUARANTY AGENCIES.—

(1) IN GENERAL.—The Secretary shall annually publish a list indicating the cohort default rate (determined in accordance with section 435(m)) for each originating lender, subsequent holder, and guaranty agency participating in the program assisted under this part and an average cohort default rate for all institutions of higher education within each State.

(2) REGULATIONS.—The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(3) RATE ESTABLISHMENT AND CORRECTION.—The Secretary shall establish a cohort default rate for lenders, holders, and guaranty agencies (determined consistent with section 435(m)), except that the rate for lenders, holders, and guaranty agencies shall not reflect any loans issued in accordance with section 428(j).The Secretary shall allow institutions, lenders, holders, and guaranty agencies the opportunity to correct such cohort default rate information.

SEC. 430A. [20 U.S.C. 1080A] REPORTS TO CONSUMER REPORTING AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION.

(a) AGREEMENTS TO EXCHANGE INFORMATION.—For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary and each guaranty agency, eligible lender, and subsequent holder shall enter into an agreement with each consumer reporting agency to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such consumer reporting agencies in complying with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance) or by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from such consumer reporting agencies for responses to objections raised by borrowers. Subject to the requirements of subsection (c), such agreements shall require the Secretary or the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to such consumer reporting agencies, with respect to any loan under this part that has not been repaid by the borrower—

(1) that the loan is an education loan (as such term is defined in section 151);

(2) the total amount of loans made to any borrower under this part and the remaining balance of the loans;

(3) information concerning the repayment status of the loan for inclusion in the file of the borrower, except that nothing in this subsection shall be construed to affect any other-

wise applicable provision of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(4) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

(5) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

(b) ADDITIONAL INFORMATION.—Such agreements may also provide for the disclosure by such consumer reporting agencies to the Secretary or a guaranty agency, whichever insures or guarantees a loan, upon receipt of a notice under subsection (a)(4) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

(c) CONTENTS OF AGREEMENTS.—Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

(1) no information is disclosed by the Secretary or the guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purpose of this section;

(2) as to any information so disclosed, such consumer reporting agencies will be promptly notified of, and will promptly record, any change submitted by the Secretary, the guaranty agency, eligible lender, or subsequent holder with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

(4) with regard to notices of default under subsection (a)(4) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, eligible lender, or subsequent holder whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to consumer reporting agencies unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than 30 days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

(d) CONTRACTOR STATUS OF PARTICIPANTS.—A guaranty agency, eligible lender, or subsequent holder or consumer reporting agency which discloses or receives information under this section

shall not be considered a Government contractor within the meaning of section 552a of title 5, United States Code.

(e) DISCLOSURE TO INSTITUTIONS.—The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended. To further the purpose of this section, an eligible institution may enter into an arrangement with any or all of the holders of delinquent loans made to borrowers who attend or previously attended such institution for the purpose of providing current information regarding the borrower's location or employment or for the purpose of assisting the holder in contacting and influencing borrowers to avoid default.

(f) DURATION OF AUTHORITY.—Notwithstanding paragraphs (4) and (5) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c (a)(4), (a)(5)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's defaulted account on a loan guaranteed under this part until—

(1) 7 years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty;

(2) 7 years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to the consumer reporting agency; or

(3) in the case of a borrower who reenters repayment after defaulting on a loan and subsequently goes into default on such loan, 7 years from the date the loan entered default such subsequent time.

SEC. 431. [20 U.S.C. 1081] INSURANCE FUND.

(a) ESTABLISHMENT.—There is hereby established a student loan insurance fund (hereinafter in this section called the "fund") which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by the Secretary under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with operations under this part, any excess advances under section 422, and any other moneys, property, or assets derived by the Secretary from operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) BORROWING AUTHORITY.—If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 428(c), the Secretary is authorized, to the extent provided in ad-

vance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

SEC. 432. [20 U.S.C. 1082] LEGAL POWERS AND RESPONSIBILITIES.

(a) GENERAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part, including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed against the United States for the actions or inactions of such servicers;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the Secretary's control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to the Secretary's obli-

gations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this paragraph or pursuant to any other provision of this part may be modified by the Secretary, after notice and opportunity for a hearing, if the Secretary finds that the modification is necessary to protect the United States from the risk of unreasonable loss;

(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guaranty agreement under section 428(c); and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) FINANCIAL OPERATIONS RESPONSIBILITIES.—The Secretary shall, with respect to the financial operations arising by reason of this part prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code. The transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government. The Secretary may not enter into any settlement of any claim under this title that exceeds $1,000,000 unless—

(1) the Secretary requests a review of the proposed settlement of such claim by the Attorney General; and

(2) the Attorney General responds to such request, which may include, at the Attorney General's discretion, a written opinion related to such proposed settlement.

(c) DATA COLLECTION.—

(1) COLLECTION BY CATEGORY OF LOAN.—(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) of this paragraph as the Secretary deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2) COLLECTION AND REPORTING REQUIREMENTS.—(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) INSTITUTIONAL, PUBLIC, OR NONPROFIT LENDERS.—For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

(d) DELEGATION.—

(1) REGIONAL OFFICES.—The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Department.

(2) DELEGABLE FUNCTIONS.—The functions which may be delegated pursuant to this subsection are—

(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under section 432(a)), and recommending litigation with respect to any such claim.

(e) USE OF INFORMATION ON BORROWERS.—Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any guaranty agency having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is

available to the Secretary, from whatever source such information may be derived.

(f) AUDIT OF FINANCIAL TRANSACTIONS.—

(1) COMPTROLLER GENERAL AND INSPECTOR GENERAL AUTHORITY.—The Comptroller General and the Inspector General of the Department of Education shall each have the authority to conduct an audit of the financial transactions of—

(A) any guaranty agency operating under an agreement with the Secretary pursuant to section 428(b);

(B) any eligible lender as defined in section 435(d)(1); and

(C) a representative sample of eligible lenders under this part, upon the request of either of the authorizing committees, with respect to the payment of the special allowance under section 438 in order to evaluate the program authorized by this part.

(2) ACCESS TO RECORDS.—For the purpose of carrying out this subsection, the records of any entity described in subparagraph (A), (B), (C), or (D) of paragraph (1) shall be available to the Comptroller General and the Inspector General of the Department of Education. For the purpose of section 716(c) of title 31, United States Code, such records shall be considered to be records to which the Comptroller General has access by law, and for the purpose of section 6(a)(4) of the Inspector General Act of 1978, such records shall be considered to be records necessary in the performance of functions assigned by that Act to the Inspector General.

(3) DEFINITION OF RECORDS.—For the purpose of this subsection, the term "record" includes any information, document, report, answer, account, paper, or other data or documentary evidence.

(4) AUDIT PROCEDURES.—In conducting audits pursuant to this subsection, the Comptroller General and the Inspector General of the Department of Education shall audit the records to determine the extent to which they, at a minimum, comply with Federal statutes, and rules and regulations prescribed by the Secretary, in effect at the time that the record was made, and in no case shall the Comptroller General or the Inspector General apply subsequently determined standards, procedures, or regulations to the records of such agency, lender, or Authority.

(g) CIVIL PENALTIES.—

(1) AUTHORITY TO IMPOSE PENALTIES.—Upon determination, after reasonable notice and opportunity for a hearing, that a lender or a guaranty agency—

(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

(2) LIMITATIONS.—No civil penalty may be imposed under paragraph (1) of this subsection unless the Secretary determines that—

(A) the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from a violation, failure, or misrepresentation that is material; and

(B) the lender or guaranty agency knew or should have known that its actions violated or failed to carry out the provisions of this part or the regulations thereunder.

(3) CORRECTION OF FAILURE.—A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the notification by the Secretary under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

(4) CONSIDERATION AS SINGLE VIOLATION.—For the purpose of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency, and occurring prior to notification by the Secretary under that paragraph, shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both. The Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

(5) ASSIGNEES NOT LIABLE FOR VIOLATIONS BY OTHERS.—If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

(6) COMPROMISE.—Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged, unless the lender or agency has, in the case of a final agency determination, commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding.

(h) AUTHORITY OF THE SECRETARY TO IMPOSE AND ENFORCE LIMITATIONS, SUSPENSIONS, AND TERMINATIONS.—

(1) IMPOSITION OF SANCTIONS.—(A) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

(i) has substantially failed—

(I) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

(II) to make the reports or statements under section 428(a)(4), or

(III) to pay the required loan insurance premiums to any guaranty agency, or

(ii) has engaged in—

(I) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

(II) the practice of making loans that violate the certification for eligibility provided in section 428,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part.

(B) The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under subparagraph (A)(i) of this paragraph or practice under subparagraph (A)(ii) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

(i) exercise the necessary care and diligence,

(ii) comply with the requirements described in subparagraph (A)(i), or

(iii) cease to engage in the practices described in subparagraph (A)(ii),

as the case may be.

(2) REVIEW OF SANCTIONS ON LENDERS.—(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(U) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(U) shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(U) and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the lender has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(3) REVIEW OF SANCTIONS ON ELIGIBLE INSTITUTIONS.—(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(T) within 60 days after receipt by the Secretary of a notice from the guaranty of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(T) shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(T) and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the institution has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(i) AUTHORITY TO SELL DEFAULTED LOANS.—In the event that all other collection efforts have failed, the Secretary is authorized to sell defaulted student loans assigned to the United States under this part to collection agencies, eligible lenders, guaranty agencies, or other qualified purchaser on such terms as the Secretary determines are in the best financial interests of the United States. A loan may not be sold pursuant to this subsection if such loan is in repayment status.

(j) AUTHORITY OF THE SECRETARY TO TAKE EMERGENCY ACTIONS AGAINST LENDERS.—

(1) IMPOSITION OF SANCTIONS.—If the Secretary—

(A) receives information, determined by the Secretary to be reliable, that a lender is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation;

(B) determines that immediate action is necessary to prevent misuse of Federal funds; and

(C) determines that the likelihood of loss outweighs the importance of following the limitation, suspension, or termination procedures authorized in subsection (h);

the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the lender (by registered mail, return receipt requested), take emergency action to stop the issuance of guarantee commitments and the payment of interest benefits and special allowance to the lender.

(2) LENGTH OF EMERGENCY ACTION.—An emergency action under this subsection may not exceed 30 days unless a limitation, suspension, or termination proceeding is initiated against the lender under subsection (h) before the expiration of that period.

(3) OPPORTUNITY TO SHOW CAUSE.—The Secretary shall provide the lender, if it so requests, an opportunity to show cause that the emergency action is unwarranted.

(k) PROGRAM OF ASSISTANCE FOR BORROWERS.—

(1) IN GENERAL.—The Secretary shall undertake a program to encourage corporations and other private and public employers, including the Federal Government, to assist borrowers in repaying loans received under this title, including providing employers with options for payroll deduction of loan payments and offering loan repayment matching provisions as part of employee benefit packages.

(2) PUBLICATION.—The Secretary shall publicize models for providing the repayment assistance described in paragraph (1) and each year select entities that deserve recognition, through means devised by the Secretary, for the development of innovative plans for providing such assistance to employees.

(3) RECOMMENDATION.—The Secretary shall recommend to the appropriate committees in the Senate and House of Representatives changes to statutes that could be made in order to further encourage such efforts.

(l) UNIFORM ADMINISTRATIVE AND CLAIMS PROCEDURES.—

(1) IN GENERAL.—The Secretary shall, by regulation developed in consultation with guaranty agencies, lenders, institutions of higher education, secondary markets, students, third party servicers and other organizations involved in providing loans under this part, prescribe standardized forms and procedures regarding—

(A) origination of loans;

(B) electronic funds transfer;

(C) guaranty of loans;

(D) deferments;

(E) forbearance;

(F) servicing;

(G) claims filing;

(H) borrower status change and anticipated graduation date; and

(I) cures.

(2) SPECIAL RULES.—(A) The forms and procedures described in paragraph (1) shall include all aspects of the loan process as such process involves eligible lenders and guaranty agencies and shall be designed to minimize administrative costs and burdens (other than the costs and burdens involved in the transition to new forms and procedures) involved in exchanges of data to and from borrowers, schools, lenders, secondary markets, and the Department.

(B) Nothing in this paragraph shall be construed to limit the development of electronic forms and procedures.

(3) SIMPLIFICATION REQUIREMENTS.—Such regulations shall include—

(A) standardization of computer formats, forms design, and guaranty agency procedures relating to the origination, servicing, and collection of loans made under this part;

(B) authorization of alternate means of document retention, including the use of microfilm, microfiche, laser disc, compact disc, and other methods allowing the production of a facsimile of the original documents;

(C) authorization of the use of computer or similar electronic methods of maintaining records relating to the performance of servicing, collection, and other regulatory requirements under this Act; and

(D) authorization and implementation of electronic data linkages for the exchange of information to and from lenders, guarantors, institutions of higher education, third party servicers, and the Department of Education for student status confirmation reports, claim filing, interest and special allowance billing, deferment processing, and all other administrative steps relating to loans made pursuant to this part where using electronic data linkage is feasible.

(4) ADDITIONAL RECOMMENDATIONS.—The Secretary shall review regulations prescribed pursuant to paragraph (1) and seek additional recommendations from guaranty agencies, lenders, institutions of higher education, students, secondary markets, third party servicers and other organizations involved in providing loans under this part, not less frequently than annually, for additional methods of simplifying and standardizing the administration of the programs authorized by this part.

(m) COMMON FORMS AND FORMATS.—

(1) COMMON GUARANTEED STUDENT LOAN APPLICATION FORM AND PROMISSORY NOTE.—

(A) IN GENERAL.—The Secretary, in cooperation with representatives of guaranty agencies, eligible lenders, and organizations involved in student financial assistance, shall prescribe common application forms and promissory notes, or master promissory notes, to be used for applying for loans under part B of this title.

(B) REQUIREMENTS.—The forms prescribed by the Secretary shall—

(i) use clear, concise, and simple language to facilitate understanding of loan terms and conditions by applicants; and

(ii) be formatted to require the applicant to clearly indicate a choice of lender.

(C) FREE APPLICATION FORM.—For academic year 1999–2000 and succeeding academic years, the Secretary shall prescribe the form developed under section 483 as the application form under this part, other than for loans under sections 428B and 428C.

(D) MASTER PROMISSORY NOTE.—

(i) IN GENERAL.—The Secretary shall develop and require the use of master promissory note forms for loans made under this part and part D. Such forms shall be available for periods of enrollment beginning not later than July 1, 2000. Each form shall allow eligible borrowers to receive, in addition to initial loans, additional loans for the same or subsequent periods of enrollment through a student confirmation process approved by the Secretary. Such forms shall be used for loans made under this part or part D as directed by the Secretary. Unless otherwise notified by the Secretary, each institution of higher education that participates in the program under this part or part D may use a master promissory note for loans under this part and part D.

(ii) CONSULTATION.—In developing the master promissory note under this subsection, the Secretary shall consult with representatives of guaranty agencies, eligible lenders, institutions of higher education, students, and organizations involved in student financial assistance.

(iii) SALE; ASSIGNMENT; ENFORCEABILITY.—Notwithstanding any other provision of law, each loan made under a master promissory note under this subsection may be sold or assigned independently of any other loan made under the same promissory note and each such loan shall be separately enforceable in all Federal and State courts on the basis of an original or copy of the master promissory note in accordance with the terms of the master promissory note.

(E) PERFECTION OF SECURITY INTERESTS IN STUDENT LOANS.—

(i) IN GENERAL.—Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in loans made under this part, on behalf of any eligible lender (as defined in section 435(d)) shall attach, be perfected, and be assigned priority in the manner provided by the applicable State's law for perfection of security interests in accounts, as such law may be amended from time to time (including applicable transition provisions). If any such State's law provides for a statutory lien to be created in such

loans, such statutory lien may be created by the entity or entities governed by such State law in accordance with the applicable statutory provisions that created such a statutory lien.

(ii) COLLATERAL DESCRIPTION.—In addition to any other method for describing collateral in a legally sufficient manner permitted under the laws of the State, the description of collateral in any financing statement filed pursuant to this subparagraph shall be deemed legally sufficient if it lists such loans, or refers to records (identifying such loans) retained by the secured party or any designee of the secured party identified in such financing statement, including the debtor or any loan servicer.

(iii) SALES.—Notwithstanding clauses (i) and (ii) and any provisions of any State law to the contrary, other than any such State's law providing for creation of a statutory lien, an outright sale of loans made under this part shall be effective and perfected automatically upon attachment as defined in the Uniform Commercial Code of such State.

(2) COMMON DEFERMENT FORM.—The Secretary, in cooperation with representatives of guaranty agencies, institutions of higher education, and lenders involved in loans made under part B of this title, shall prescribe a common deferment reporting form to be used for the processing of deferments of loans made under this title.

(3) COMMON REPORTING FORMATS.—The Secretary shall promulgate standards including necessary rules, regulations (including the definitions of all relevant terms), and procedures so as to require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats, so as to permit the direct comparison of data submitted by individual lenders, servicers, or guaranty agencies.

(4) ELECTRONIC FORMS.—Nothing in this section shall be construed to limit the development and use of electronic forms and procedures.

(n) DEFAULT REDUCTION MANAGEMENT.—

(1) AUTHORIZATION.—There are authorized to be appropriated $25,000,000 for fiscal year 1999 and each of the four succeeding fiscal years, for the Secretary to expend for default reduction management activities for the purposes of establishing a performance measure that will reduce defaults by 5 percent relative to the prior fiscal year. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

(2) ALLOWABLE ACTIVITIES.—Allowable activities for which such funds shall be expended by the Secretary shall include the following: (A) program reviews; (B) audits; (C) debt management programs; (D) training activities; and (E) such other management improvement activities approved by the Secretary.

(3) PLAN FOR USE REQUIRED.—The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section to accomplish the 5 percent reduction in defaults. At the conclusion of the fiscal year, the Secretary shall report the Secretary's findings and activities concerning the expenditure of funds and whether the performance measure was met. If the performance measure was not met, the Secretary shall report the following:

(A) why the goal was not met, including an indication of any managerial deficiencies or of any legal obstacles;

(B) plans and a schedule for achieving the established performance goal;

(C) recommended legislative or regulatory changes necessary to achieve the goal; and

(D) if the performance standard or goal is impractical or infeasible, why that is the case and what action is recommended, including whether the goal should be changed or the program altered or eliminated.

This report shall be submitted to the Appropriations Committees of the House of Representatives and the Senate and to the authorizing committees.

(o) CONSEQUENCES OF GUARANTY AGENCY INSOLVENCY.—In the event that the Secretary has determined that a guaranty agency is unable to meet its insurance obligations under this part, the holder of loans insured by the guaranty agency may submit insurance claims directly to the Secretary and the Secretary shall pay to the holder the full insurance obligation of the guaranty agency, in accordance with insurance requirements no more stringent than those of the guaranty agency. Such arrangements shall continue until the Secretary is satisfied that the insurance obligations have been transferred to another guarantor who can meet those obligations or a successor will assume the outstanding insurance obligations.

(p) REPORTING REQUIREMENT.—All officers and directors, and those employees and paid consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State licensing agencies or boards, and entities acting as secondary markets (including the Student Loan Marketing Association), who are engaged in making decisions as to the administration of any program or funds under this title or as to the eligibility of any entity or individual to participate under this title, shall report to the Secretary, in such manner and at such time as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this title.

SEC. 433. [20 U.S.C. 1083] STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.

(a) REQUIRED DISCLOSURE BEFORE DISBURSEMENT.—Each eligible lender, at or prior to the time such lender disburses a loan that is insured or guaranteed under this part (other than a loan made under section 428C), shall provide thorough and accurate loan information on such loan to the borrower in simple and understandable terms. Any disclosure required by this subsection may be

made by an eligible lender by written or electronic means, including as part of the application material provided to the borrower, as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. Each lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. The disclosure shall include—

(1) a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid;

(2) the name of the eligible lender, and the address to which communications and payments should be sent;

(3) the principal amount of the loan;

(4) the amount of any charges, such as the origination fee and Federal default fee, and whether those fees will be—

(A) collected by the lender at or prior to the disbursal of the loan;

(B) deducted from the proceeds of the loan;

(C) paid separately by the borrower; or

(D) paid by the lender;

(5) the stated interest rate on the loan;

(6) for loans made under section 428H or to a student borrower under section 428B, an explanation—

(A) that the borrower has the option to pay the interest that accrues on the loan while the borrower is a student at an institution of higher education; and

(B) if the borrower does not pay such interest while attending an institution, when and how often interest on the loan will be capitalized;

(7) for loans made to a parent borrower on behalf of a student under section 428B, an explanation—

(A) that the parent has the option to defer payment on the loan while the student is enrolled on at least a half-time basis in an institution of higher education;

(B) if the parent does not pay the interest on the loan while the student is enrolled in an institution, when and how often interest on the loan will be capitalized; and

(C) that the parent may be eligible for a deferment on the loan if the parent is enrolled on at least a half-time basis in an institution of higher education;

(8) the yearly and cumulative maximum amounts that may be borrowed;

(9) a statement of the total cumulative balance, including the loan being disbursed, owed by the borrower to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(10) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(11) a description of the types of repayment plans that are available for the loan;

(12) a statement as to the minimum and maximum repayment terms which the lender may impose, and the minimum annual payment required by law;

(13) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(14) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty;

(15) a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred;

(16) a statement summarizing the circumstances in which a borrower may obtain forbearance on the loan;

(17) a description of the options available for forgiveness of the loan, and the requirements to obtain loan forgiveness;

(18) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default will be reported to a consumer reporting agency; and

(19) an explanation of any cost the borrower may incur during repayment or in the collection of the loan, including fees that the borrower may be charged, such as late payment fees and collection costs.

(b) REQUIRED DISCLOSURE BEFORE REPAYMENT.—Each eligible lender shall, at or prior to the start of the repayment period on a loan made, insured, or guaranteed under section 428, 428B, or 428H, disclose to the borrower by written or electronic means the information required under this subsection in simple and understandable terms. Each eligible lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. The disclosure required by this subsection shall be made not less than 30 days nor more than 150 days before the first payment on the loan is due from the borrower. The disclosure shall include—

(1) the name of the eligible lender or loan servicer, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin or the deferment period under section 428B(d)(1) is to end, as applicable;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure (including, if applicable, the estimated amount of interest to be capitalized) as of the scheduled date on which the repayment period is to begin or the deferment period under 428B(d)(1) is to end, as applicable;

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) information on loan repayment benefits offered for the loan or loans, including—

(A) whether the lender offers any benefits that are contingent on the repayment behavior of the borrower, such as—

(i) a reduction in interest rate if the borrower repays the loan by automatic payroll or checking account deduction;

(ii) a reduction in interest rate if the borrower makes a specified number of on-time payments; and

(iii) other loan repayment benefits for which the borrower could be eligible that would reduce the amount of repayment or the length of the repayment period;

(B) if the lender provides a loan repayment benefit—

(i) any limitations on such benefit;

(ii) explicit information on the reasons a borrower may lose eligibility for such benefit;

(iii) for a loan repayment benefit that reduces the borrower's interest rate—

(I) examples of the impact the interest rate reduction would have on the length of the borrower's repayment period and the amount of repayment; and

(II) upon the request of the borrower, the effect the reduction in interest rate would have with respect to the borrower's payoff amount and time for repayment; and

(iv) whether and how the borrower can regain eligibility for a benefit if a borrower loses a benefit;

(6) a description of all the repayment plans that are available to the borrower and a statement that the borrower may change from one plan to another during the period of repayment;

(7) the repayment schedule for all loans covered by the disclosure, including—

(A) the date the first installment is due; and

(B) the number, amount, and frequency of required payments, which shall be based on a standard repayment plan or, in the case of a borrower who has selected another repayment plan, on the repayment plan selected by the borrower;

(8) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and of the availability and terms of such other options;

(9) except as provided in subsection (d)—

(A) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(B) if the borrower has already paid interest on the loan or loans, the amount of interest paid;

(10) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(11) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty;

(12) a description of the options by which the borrower may avoid or be removed from default, including any relevant fees associated with such options; and

(13) additional resources, including nonprofit organizations, advocates, and counselors (including the Student Loan

Ombudsman of the Department) of which the lender is aware, where borrowers may receive advice and assistance on loan repayment.

(c) SEPARATE NOTIFICATION.—Each eligible lender shall, at the time such lender notifies a borrower of approval of a loan which is insured or guaranteed under this part, provide the borrower with a separate notification which summarizes, in simple and understandable terms, the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a consumer reporting agency. The requirement of this subsection shall be in addition to the information required by subsection (a) of this section.

(d) SPECIAL DISCLOSURE RULES ON PLUS LOANS, AND UNSUBSIDIZED LOANS.—Loans made under sections 428B and 428H shall not be subject to the disclosure of projected monthly payment amounts required under subsection (b)(7) if the lender, in lieu of such disclosure, provides the borrower with sample projections of monthly repayment amounts, assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower, or the student on whose behalf the loan is made, is in school, in simple and understandable terms. Such sample projections shall disclose the cost to the borrower of—

(1) capitalizing the interest; and

(2) paying the interest as the interest accrues.

(e) REQUIRED DISCLOSURES DURING REPAYMENT.—

(1) PERTINENT INFORMATION ABOUT A LOAN PROVIDED ON A PERIODIC BASIS.—Each eligible lender shall provide the borrower of a loan made, insured, or guaranteed under this part with a bill or statement (as applicable) that corresponds to each payment installment time period in which a payment is due and that includes, in simple and understandable terms—

(A) the original principal amount of the borrower's loan;

(B) the borrower's current balance, as of the time of the bill or statement, as applicable;

(C) the interest rate on such loan;

(D) the total amount the borrower has paid in interest on the loan;

(E) the aggregate amount the borrower has paid for the loan, including the amount the borrower has paid in interest, the amount the borrower has paid in fees, and the amount the borrower has paid against the balance;

(F) a description of each fee the borrower has been charged for the most recently preceding installment time period;

(G) the date by which the borrower needs to make a payment in order to avoid additional fees and the amount of such payment and the amount of such fees;

(H) the lender's or loan servicer's address and toll-free phone number for payment and billing error purposes; and

(I) a reminder that the borrower has the option to change repayment plans, a list of the names of the repayment plans available to the borrower, a link to the appro-

priate page of the Department's website to obtain a more detailed description of the repayment plans, and directions for the borrower to request a change in repayment plan.

(2) INFORMATION PROVIDED TO A BORROWER HAVING DIFFICULTY MAKING PAYMENTS.—Each eligible lender shall provide to a borrower who has notified the lender that the borrower is having difficulty making payments on a loan made, insured, or guaranteed under this part with the following information in simple and understandable terms:

(A) A description of the repayment plans available to the borrower, including how the borrower should request a change in repayment plan.

(B) A description of the requirements for obtaining forbearance on a loan, including expected costs associated with forbearance.

(C) A description of the options available to the borrower to avoid defaulting on the loan, and any relevant fees or costs associated with such options.

(3) REQUIRED DISCLOSURES DURING DELINQUENCY.—Each eligible lender shall provide to a borrower who is 60 days delinquent in making payments on a loan made, insured, or guaranteed under this part with a notice, in simple and understandable terms, of the following:

(A) The date on which the loan will default if no payment is made.

(B) The minimum payment the borrower must make to avoid default.

(C) A description of the options available to the borrower to avoid default, and any relevant fees or costs associated with such options, including a description of deferment and forbearance and the requirements to obtain each.

(D) Discharge options to which the borrower may be entitled.

(E) Additional resources, including nonprofit organizations, advocates, and counselors (including the Student Loan Ombudsman of the Department), of which the lender is aware, where the borrower can receive advice and assistance on loan repayment.

(f) COST OF DISCLOSURE AND CONSEQUENCES OF NONDISCLOSURE.—

(1) NO COST TO BORROWERS.—The information required under this section shall be available without cost to the borrower.

(2) CONSEQUENCES OF NONDISCLOSURE.—The failure of an eligible lender to provide information as required by this section shall not—

(A) relieve a borrower of the obligation to repay a loan in accordance with the loan's terms; or

(B) provide a basis for a claim for civil damages.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act with regard to loans made under this part.

(4) ACTIONS BY THE SECRETARY.—The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

SEC. 433A. [20 U.S.C. 1083a] CONSUMER EDUCATION INFORMATION.

(a) IN GENERAL.—Each guaranty agency participating in a program under this part, working with the institutions of higher education served by such guaranty agency, shall develop and make available high-quality educational programs and materials to provide training for students and families in budgeting and financial management, including debt management and other aspects of financial literacy, such as the cost of using high interest loans to pay for postsecondary education, particularly as budgeting and financial management relates to student loan programs authorized by this title. Such programs and materials shall be in formats that are simple and understandable to students and families, and shall be provided before, during, and after the students' enrollment in an institution of higher education. The activities described in this section shall be considered default reduction activities for the purposes of section 422.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit—

(1) a guaranty agency from using existing activities, programs, and materials in meeting the requirements of this section;

(2) a guaranty agency from providing programs or materials similar to the programs or materials described in subsection (a) to an institution of higher education that provides loans exclusively through part D; or

(3) a lender or loan servicer from providing outreach or financial aid literacy information in accordance with subsection (a).

SEC. 434. [20 U.S.C. 1084] PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS.

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(B).

SEC. 435. [20 U.S.C. 1085] DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM.

As used in this part:

(a) ELIGIBLE INSTITUTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the term "eligible institution" means an institution of higher education, as defined in section 102, except that, for the purposes of sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i), an eligible institution includes any institution that is within this definition without regard to whether such institution is participating in any program under this title and includes any institution ineli-

gible for participation in any program under this part pursuant to paragraph (2) of this subsection.

(2) INELIGIBILITY BASED ON HIGH DEFAULT RATES.—(A) An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and for the two succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after its submission. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B);

(ii) there are exceptional mitigating circumstances within the meaning of paragraph (5); or

(iii) there are, in the judgment of the Secretary, other exceptional mitigating circumstances that would make the application of this paragraph inequitable.

If an institution continues to participate in a program under this part, and the institution's appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal. During such appeal, the Secretary may permit the institution to continue to participate in a program under this part.

(B) For purposes of determinations under subparagraph (A), the threshold percentage is—

(i) 35 percent for fiscal year 1991 and 1992;

(ii) 30 percent for fiscal year 1993;

(iii)[26] 25 percent for fiscal year 1994 through fiscal year 2011; and

(iv)[26] 30 percent for fiscal year 2012 and any succeeding fiscal year.

(C) Until July 1, 1999, this paragraph shall not apply to any institution that is—

(i) a part B institution within the meaning of section 322(2) of this Act;

(ii) a tribally controlled college or university, as defined in section 2(a)(4) of the Tribally Controlled Colleges and Universities Assistance Act of 1978; or

[26] Margin so in law.

(iii) a Navajo Community College under the Navajo Community College Act.

(D)[27] Notwithstanding the first sentence of subparagraph (A), the Secretary shall restore the eligibility to participate in a program under subpart 1 of part A, part B, or part D of an institution that did not appeal its loss of eligibility within 30 days of receiving notification if the Secretary determines, on a case-by-case basis, that the institution's failure to appeal was substantially justified under the circumstances, and that—

(i) the institution made a timely request that the appropriate guaranty agency correct errors in the draft data used to calculate the institution's cohort default rate;

(ii) the guaranty agency did not correct the erroneous data in a timely fashion; and

(iii) the institution would have been eligible if the erroneous data had been corrected by the guaranty agency.

(3) APPEALS FOR REGULATORY RELIEF.—An institution whose cohort default rate, calculated in accordance with subsection (m), is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) for any two consecutive fiscal years may, not later than 30 days after the date the institution receives notification from the Secretary, file an appeal demonstrating exceptional mitigating circumstances, as defined in paragraph (5). The Secretary shall issue a decision on any such appeal not later than 45 days after the date of submission of the appeal. If the Secretary determines that the institution demonstrates exceptional mitigating circumstances, the Secretary may not subject the institution to provisional certification based solely on the institution's cohort default rate.

(4) APPEALS BASED UPON ALLEGATIONS OF IMPROPER LOAN SERVICING.—An institution that—

(A) is subject to loss of eligibility for the Federal Family Education Loan Program pursuant to paragraph (2)(A) of this subsection;

(B) is subject to loss of eligibility for the Federal Supplemental Loans for Students pursuant to section 428A(a)(2); or

(C) is an institution whose cohort default rate equals or exceeds 20 percent for the most recent year for which data are available;

may include in its appeal of such loss or rate a defense based on improper loan servicing (in addition to other defenses). In any such appeal, the Secretary shall take whatever steps are necessary to ensure that such institution has access for a reasonable period of time, not to exceed 30 days, to a representative sample (as determined by the Secretary) of the relevant loan servicing and collection records used by a guaranty agency in determining whether to pay a claim on a defaulted loan or by the Department in determining an institution's default rate in the loan program under part D of this title. The Secretary shall reduce the institution's cohort default rate to reflect the

[27] Margin so in law.

percentage of defaulted loans in the representative sample that are required to be excluded pursuant to subsection (m)(1)(B).

(5) DEFINITION OF MITIGATING CIRCUMSTANCES.—(A) For purposes of this subsection, an institution of higher education shall be treated as having exceptional mitigating circumstances that make application of paragraph (2) inequitable, and that provide for regulatory relief under paragraph (3), if such institution, in the opinion of an independent auditor, meets the following criteria:

(i) For a 12-month period that ended during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's cohort default rate is determined, at least two-thirds of the students enrolled on at least a half-time basis at the institution—

(I) are eligible to receive a Federal Pell Grant award that is at least equal to one-half the Federal Pell Grant amount, determined under section 401(b)(2)(A), for which a student would be eligible based on the student's enrollment status; or

(II) have an adjusted gross income that when added with the adjusted gross income of the student's parents (unless the student is an independent student), of less than the poverty level, as determined by the Department of Health and Human Services.

(ii) In the case of an institution of higher education that offers an associate, baccalaureate, graduate or professional degree, 70 percent or more of the institution's regular students who were initially enrolled on a full-time basis and were scheduled to complete their programs during the same 12-month period described in clause (i)—

(I) completed the educational programs in which the students were enrolled;

(II) transferred from the institution to a higher level educational program;

(III) at the end of the 12-month period, remained enrolled and making satisfactory progress toward completion of the student's educational programs; or

(IV) entered active duty in the Armed Forces of the United States.

(iii)(I) In the case of an institution of higher education that does not award a degree described in clause (ii), had a placement rate of 44 percent or more with respect to the institution's former regular students who—

(aa) remained in the program beyond the point the students would have received a 100 percent tuition refund from the institution;

(bb) were initially enrolled on at least a half-time basis; and

(cc) were originally scheduled, at the time of enrollment, to complete their educational programs during the same 12-month period described in clause (i).

(II) The placement rate shall not include students who are still enrolled and making satisfactory progress in the

educational programs in which the students were originally enrolled on the date following 12 months after the date of the student's last date of attendance at the institution.

(III) The placement rate is calculated by determining the percentage of all those former regular students who—

(aa) are employed, in an occupation for which the institution provided training, on the date following 12 months after the date of their last day of attendance at the institution;

(bb) were employed, in an occupation for which the institution provided training, for at least 13 weeks before the date following 12 months after the date of their last day of attendance at the institution; or

(cc) entered active duty in the Armed Forces of the United States.

(IV) The placement rate shall not include as placements a student or former student for whom the institution is the employer.

(B) For purposes of determining a rate of completion and a placement rate under this paragraph, a student is originally scheduled, at the time of enrollment, to complete the educational program on the date when the student will have been enrolled in the program for the amount of time normally required to complete the program. The amount of time normally required to complete the program for a student who is initially enrolled full-time is the period of time specified in the institution's enrollment contract, catalog, or other materials, for completion of the program by a full-time student. For a student who is initially enrolled less than full-time, the period is the amount of time it would take the student to complete the program if the student remained enrolled at that level of enrollment throughout the program.

(6) REDUCTION OF DEFAULT RATES AT CERTAIN MINORITY INSTITUTIONS.—

(A) BENEFICIARIES OF EXCEPTION REQUIRED TO ESTABLISH MANAGEMENT PLAN.—After July 1, 1999, any institution that has a cohort default rate that equals or exceeds 25 percent for each of the three most recent fiscal years for which data are available and that relies on the exception in subparagraph (B) to continue to be an eligible institution shall—

(i) submit to the Secretary a default management plan which the Secretary, in the Secretary's discretion, after consideration of the institution's history, resources, dollars in default, and targets for default reduction, determines is acceptable and provides reasonable assurance that the institution will, by July 1, 2004, have a cohort default rate that is less than 25 percent;

(ii) engage an independent third party (which may be paid with funds received under section 317 or part B of title III) to provide technical assistance in implementing such default management plan; and

(iii) provide to the Secretary, on an annual basis or at such other intervals as the Secretary may require, evidence of cohort default rate improvement and successful implementation of such default management plan.

(B) DISCRETIONARY ELIGIBILITY CONDITIONED ON IMPROVEMENT.—Notwithstanding the expiration of the exception in paragraph (2)(C), the Secretary may, in the Secretary's discretion, continue to treat an institution described in subparagraph (A) of this paragraph as an eligible institution for each of the 1-year periods beginning on July 1 of 1999 through 2003, only if the institution submits by the beginning of such period evidence satisfactory to the Secretary that—

(i) such institution has complied and is continuing to comply with the requirements of subparagraph (A); and

(ii) such institution has made substantial improvement, during each of the preceding 1-year periods, in the institution's cohort default rate.

(7) DEFAULT PREVENTION AND ASSESSMENT OF ELIGIBILITY BASED ON HIGH DEFAULT RATES.—

(A) FIRST YEAR.—

(i) IN GENERAL.—An institution whose cohort default rate is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) in any fiscal year shall establish a default prevention task force to prepare a plan to—

(I) identify the factors causing the institution's cohort default rate to exceed such threshold;

(II) establish measurable objectives and the steps to be taken to improve the institution's cohort default rate; and

(III) specify actions that the institution can take to improve student loan repayment, including appropriate counseling regarding loan repayment options.

(ii) TECHNICAL ASSISTANCE.—Each institution subject to this subparagraph shall submit the plan under clause (i) to the Secretary, who shall review the plan and offer technical assistance to the institution to promote improved student loan repayment.

(B) SECOND CONSECUTIVE YEAR.—

(i) IN GENERAL.—An institution whose cohort default rate is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) for two consecutive fiscal years, shall require the institution's default prevention task force established under subparagraph (A) to review and revise the plan required under such subparagraph, and shall submit such revised plan to the Secretary.

(ii) REVIEW BY THE SECRETARY.—The Secretary shall review each revised plan submitted in accordance with this subparagraph, and may direct that

such plan be amended to include actions, with measurable objectives, that the Secretary determines, based on available data and analyses of student loan defaults, will promote student loan repayment.

(8) PARTICIPATION RATE INDEX.—

(A) IN GENERAL.—An institution that demonstrates to the Secretary that the institution's participation rate index is equal to or less than 0.0375[28] for any of the 3 most recent fiscal years for which data is available shall not be subject to paragraph (2). The participation rate index shall be determined by multiplying the institution's cohort default rate for loans under part B or D, or weighted average cohort default rate for loans under parts B and D, by the percentage of the institution's regular students, enrolled on at least a half-time basis, who received a loan made under part B or D for a 12-month period ending during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's cohort default rate is determined.

(B) DATA.—An institution shall provide the Secretary with sufficient data to determine the institution's participation rate index within 30 days after receiving an initial notification of the institution's draft cohort default rate.

(C) NOTIFICATION.—Prior to publication of a final cohort default rate for an institution that provides the data described in subparagraph (B), the Secretary shall notify the institution of the institution's compliance or noncompliance with subparagraph (A).

(d)[29] ELIGIBLE LENDER.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (6), the term "eligible lender" means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless (I) it is a bank which is wholly owned by a State, or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to the enactment of the Higher Education Amendments of 1992, (II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part, (III) it is a

[28] Effective October 1, 2011, subparagraph (F) of section 436(a)(1) of Public Law 110–315 amends paragraph (8)(A) by striking "0.0375" and inserting "0.0625".

[29] Subsections (b) and (c) were repealed by P.L. 102–325, sec. 427(b)(1) and (2), 106 Stat. 549.

bank (as defined in section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(1)) that is a wholly owned subsidiary of a nonprofit foundation, the foundation is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code, and the bank makes loans under this part only to undergraduate students who are age 22 or younger and has a portfolio of such loans that is not more than $5,000,000, or (IV) it is a National or State chartered bank, or a credit union, with assets of less than $1,000,000,000;

(B) a pension fund as defined in the Employee Retirement Income Security Act;

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

(E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440, or an agency of any State functioning as a secondary market;

(G) for purposes of making loans under sections 428B(d) and 428C, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440;

(H) for purposes of making loans under sections 428(h) and 428(j), a guaranty agency;

(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950));

(J) for purpose of making loans under section 428C, any nonprofit private agency functioning in any State as a secondary market; and

(K) a consumer finance company subsidiary of a national bank which, as of the date of enactment of this subparagraph, through one or more subsidiaries: (i) acts as a small business lending company, as determined under regulations of the Small Business Administration under section 120.470 of title 13, Code of Federal Regulations (as such section is in effect on the date of enactment of this subparagraph); and (ii) participates in the program authorized by this part pursuant to subparagraph (C), provided the national bank and all of the bank's direct and indirect subsidiaries taken together as a whole, do not have, as their primary consumer credit function, the making or holding of loans made to students under this part.

(2) REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—

(A) IN GENERAL.—To be an eligible lender under this part, an eligible institution—

(i) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

(ii) shall not be a home study school;

(iii) shall not—

(I) make a loan to any undergraduate student;

(II) make a loan other than a loan under section 428 or 428H to a graduate or professional student; or

(III) make a loan to a borrower who is not enrolled at that institution;

(iv) shall award any contract for financing, servicing, or administration of loans under this title on a competitive basis;

(v) shall offer loans that carry an origination fee or an interest rate, or both, that are less than such fee or rate authorized under the provisions of this title;

(vi) shall not have a cohort default rate (as defined in subsection (m)) greater than 10 percent;

(vii) shall, for any year for which the institution engages in activities as an eligible lender, provide for a compliance audit conducted in accordance with section 428(b)(1)(U)(iii)(I), and the regulations thereunder, and submit the results of such audit to the Secretary;

(viii) shall use any proceeds from special allowance payments and interest payments from borrowers, interest subsidies received from the Department of Education, and any proceeds from the sale or other disposition of loans, for need-based grant programs; and

(ix) shall have met the requirements of subparagraphs (A) through (F) of this paragraph as in effect on the day before the date of enactment of the Higher Education Reconciliation Act of 2005, and made loans under this part, on or before April 1, 2006.

(B) ADMINISTRATIVE EXPENSES.—An eligible lender under subparagraph (A) shall be permitted to use a portion of the proceeds described in subparagraph (A)(viii) for reasonable and direct administrative expenses.

(C) SUPPLEMENT, NOT SUPPLANT.—An eligible lender under subparagraph (A) shall ensure that the proceeds described in subparagraph (A)(viii) are used to supplement, and not to supplant, non-Federal funds that would otherwise be used for need-based grant programs.

(3) DISQUALIFICATION FOR HIGH DEFAULT RATES.—The term "eligible lender" does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of 2 consecutive years, 15 percent or more of the total amount of such loans as are described in section 428(a)(1)

made by the institution with respect to students at that institution and repayable in each such year, are in default, as defined in subsection (m).

(4) WAIVER OF DISQUALIFICATION.—Whenever the Secretary determines that—

(A) there is reasonable possibility that an eligible institution may, within 1 year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph, the Secretary shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

(5) DISQUALIFICATION FOR USE OF CERTAIN INCENTIVES.—The term "eligible lender" does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has—

(A) offered, directly or indirectly, points, premiums, payments (including payments for referrals and for processing or finder fees), prizes, stock or other securities, travel, entertainment expenses, tuition payment or reimbursement, the provision of information technology equipment at below-market value, additional financial aid funds, or other inducements, to any institution of higher education, any employee of an institution of higher education, or any individual or entity in order to secure applicants for loans under this part;

(B) conducted unsolicited mailings, by postal or electronic means, of student loan application forms to students enrolled in secondary schools or postsecondary institutions, or to family members of such students, except that applications may be mailed, by postal or electronic means, to students or borrowers who have previously received loans under this part from such lender;

(C) entered into any type of consulting arrangement, or other contract to provide services to a lender, with an employee who is employed in the financial aid office of an institution of higher education, or who otherwise has responsibilities with respect to student loans or other financial aid of the institution;

(D) compensated an employee who is employed in the financial aid office of an institution of higher education, or

who otherwise has responsibilities with respect to student loans or other financial aid of the institution, and who is serving on an advisory board, commission, or group established by a lender or group of lenders for providing such service, except that the eligible lender may reimburse such employee for reasonable expenses incurred in providing such service;

(E) performed for an institution of higher education any function that such institution of higher education is required to perform under this title, except that a lender shall be permitted to perform functions on behalf of such institution in accordance with section 485(b) or 485(l);

(F) paid, on behalf of an institution of higher education, another person to perform any function that such institution of higher education is required to perform under this title, except that a lender shall be permitted to perform functions on behalf of such institution in accordance with section 485(b) or 485(l);

(G) provided payments or other benefits to a student at an institution of higher education to act as the lender's representative to secure applications under this title from individual prospective borrowers, unless such student—

(i) is also employed by the lender for other purposes; and

(ii) made all appropriate disclosures regarding such employment;

(H) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

(I) engaged in fraudulent or misleading advertising.

It shall not be a violation of this paragraph for a lender to provide technical assistance to institutions of higher education comparable to the kinds of technical assistance provided to institutions of higher education by the Department.

(6) REBATE FEE REQUIREMENT.—To be an eligible lender under this part, an eligible lender shall pay rebate fees in accordance with section 428C(f).

(7)[30] ELIGIBLE LENDER TRUSTEES.—Notwithstanding any other provision of this subsection, an eligible lender may not make or hold a loan under this part as trustee for an institution of higher education, or for an organization affiliated with an institution of higher education, unless—

(A) the eligible lender is serving as trustee for that institution or organization as of the date of enactment of the Third Higher Education Extension Act of 2006 under a contract that was originally entered into before the date of enactment of such Act and that continues in effect or is renewed after such date; and

(B) the institution or organization, and the eligible lender, with respect to its duties as trustee, each comply

[30] Effective Date: Section 3(b) of Public Law 109–292 (120 Stat. 1345), states that the amendment made by subsection (a) of such section (which adds paragraph (7)) "shall not apply with respect to any loan under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) disbursed before January 1, 2007.".

on and after January 1, 2007, with the requirements of paragraph (2), except that—

(i) the requirements of clauses (i), (ii), (vi), and (viii) of paragraph (2)(A) shall, subject to clause (ii) of this subparagraph, only apply to the institution (including both an institution for which the lender serves as trustee and an institution affiliated with an organization for which the lender serves as trustee);

(ii) in the case of an organization affiliated with an institution—

(I) the requirements of clauses (iii) and (v) of paragraph (2)(A) shall apply to the organization; and

(II) the requirements of clause (viii) of paragraph (2)(A) shall apply to the institution or the organization (or both), if the institution or organization receives (directly or indirectly) the proceeds described in such clause;

(iii) the requirements of clauses (iv) and (ix) of paragraph (2)(A) shall not apply to the eligible lender, institution, or organization; and

(iv) the eligible lender, institution, and organization shall ensure that the loans made or held by the eligible lender as trustee for the institution or organization, as the case may be, are included in a compliance audit in accordance with clause (vii) of paragraph (2)(A).

(8) SCHOOL AS LENDER PROGRAM AUDIT.—Each institution serving as an eligible lender under paragraph (1)(E), and each eligible lender serving as a trustee for an institution of higher education or an organization affiliated with an institution of higher education, shall annually complete and submit to the Secretary a compliance audit to determine whether—

(A) the institution or lender is using all proceeds from special allowance payments and interest payments from borrowers, interest subsidies received from the Department, and any proceeds from the sale or other disposition of loans, for need-based grant programs, in accordance with paragraph (2)(A)(viii);

(B) the institution or lender is using not more than a reasonable portion of the proceeds described in paragraph (2)(A)(viii) for direct administrative expenses; and

(C) the institution or lender is ensuring that the proceeds described in paragraph (2)(A)(viii) are being used to supplement, and not to supplant, Federal and non-Federal funds that would otherwise be used for need-based grant programs.

(e) LINE OF CREDIT.—The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(f) DUE DILIGENCE.—The term "due diligence" requires the utilization by a lender, in the servicing and collection of loans insured

under this part, of servicing and collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

(i)[31] HOLDER.—The term "holder" means an eligible lender who owns a loan.

(j) GUARANTY AGENCY.—The term "guaranty agency" means any State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b).

(k) INSURANCE BENEFICIARY.—The term "insurance beneficiary" means the insured or its authorized representative assigned in accordance with section 429(d).

(l) DEFAULT.—Except as provided in subsection (m), the term "default" includes only such defaults as have existed for (1) 270 days in the case of a loan which is repayable in monthly installments, or (2) 330 days in the case of a loan which is repayable in less frequent installments.[32]

(m) COHORT DEFAULT RATE.—

(1) IN GENERAL.—(A) Except as provided in paragraph (2), the term "cohort default rate" means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under section 428, 428A, or 428H, received for attendance at the institution, the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 428C that is used to repay any such loans) received for attendance at that institution in that fiscal year who default before the end of the second fiscal year following the fiscal year in which the students entered repayment. The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.

(B) In determining the number of students who default before the end of such second fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance. In considering appeals with respect to cohort default rates pursuant to subsection (a)(3), the Secretary shall exclude, from the calculation of the number of students who entered repayment and from the calculation of the number of students who default, any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal

[31] Section 427(f) of the Higher Education Amendments of 1992 (P.L. 102–325; 106 Stat. 550) amended section 435 of the Higher Education Act of 1965 by striking subsections (g), (h), and (n), but did not to redesignate remaining subsections.

[32] Section 429(c)(2) of the Higher Education Amendments of 1998 (P.L. 105–244; 112 Stat. 1708) amended subsection (l) of the Higher Education Act of 1965 by striking "180 days" and "240 days" and inserting "270 days" and "330 days", respectively, with respect to loans for which the first day of delinquency occurred on or after the date of enactment of that Act.

to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.

(C) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment, the term "cohort default rate" means the percentage of such current and former students who entered repayment on such loans (or on the portion of a loan made under section 428C that is used to repay any such loans) in any of the three most recent fiscal years, who default before the end of the second fiscal year following the year in which they entered repayment.

(2) SPECIAL RULES.—(A) In the case of a student who has attended and borrowed at more than one school, the student (and such student's subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year.

(B) A loan on which a payment is made by the school, such school's owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection.

(C) Any loan which has been rehabilitated before the end of the second fiscal year following the year in which the loan entered repayment is not considered as in default for purposes of this subsection. The Secretary may require guaranty agencies to collect data with respect to defaulted loans in a manner that will permit the identification of any defaulted loan for which (i) the borrower is currently making payments and has made not less than 6 consecutive on-time payments by the end of such second fiscal year, and (ii) a guaranty agency has renewed the borrower's title IV eligibility as provided in section 428F(b).

(D) For the purposes of this subsection, a loan made in accordance with section 428A (or the portion of a loan made under section 428C that is used to repay a loan made under section 428A) shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of forbearance based on such enrollment. Each eligible lender of a loan made under section 428A (or a loan made under section 428C a portion of which is used to repay a loan made under section 428A) shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.

(3) REGULATIONS TO PREVENT EVASIONS.—The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(4) COLLECTION AND REPORTING OF COHORT DEFAULT RATES AND LIFE OF COHORT DEFAULT RATES.—(A) The Secretary shall

publish not less often than once every fiscal year a report showing cohort default data and life of cohort default rates for each category of institution, including: (i) four-year public institutions; (ii) four-year private nonprofit institutions; (iii) two-year public institutions; (iv) two-year private nonprofit institutions; (v) four-year proprietary institutions; (vi) two-year proprietary institutions; and (vii) less than two-year proprietary institutions. For purposes of this subparagraph, for any fiscal year in which one or more current and former students at an institution enter repayment on loans under section 428, 428B, or 428H, received for attendance at the institution, the Secretary shall publish the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 428C that is used to repay any such loans) received for attendance at the institution in that fiscal year who default before the end of each succeeding fiscal year.

(B) The Secretary may designate such additional subcategories within the categories specified in subparagraph (A) as the Secretary deems appropriate.

(C) The Secretary shall publish not less often than once every fiscal year a report showing default data for each institution for which a cohort default rate is calculated under this subsection.

(D) The Secretary shall publish the report described in subparagraph (C) by September 30 of each year.

(o)[33] ECONOMIC HARDSHIP.—

(1) IN GENERAL.—For purposes of this part and part E, a borrower shall be considered to have an economic hardship if—

(A) such borrower is working full-time and is earning an amount which does not exceed the greater of—

(i) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

(ii) an amount equal to 150 percent of the poverty line applicable to the borrower's family size as determined in accordance with section 673(2) of the Community Services Block Grant Act; or

(B) such borrower meets such other criteria as are established by the Secretary by regulation in accordance with paragraph (2).

(2) CONSIDERATIONS.—In establishing criteria for purposes of paragraph (1)(B), the Secretary shall consider the borrower's income and debt-to-income ratio as primary factors.

(p) ELIGIBLE NOT-FOR-PROFIT HOLDER.—

(1) DEFINITION.—Subject to the limitations in paragraph (2) and the prohibition in paragraph (3), the term "eligible not-for-profit holder" means an eligible lender under subsection (d) (except for an eligible lender described in subsection (d)(1)(E)) that requests a special allowance payment under section 438(b)(2)(I)(vi)(II) or a payment under section 781 and that is—

(A) a State, or a political subdivision, authority, agency, or other instrumentality thereof, including such entities

[33] Subsection (n) repealed by sec. 427(f) of P.L. 102–325. See footnote to subsection (i).

that are eligible to issue bonds described in section 1.103–1 of title 26, Code of Federal Regulations, or section 144(b) of the Internal Revenue Code of 1986;

(B) an entity described in section 150(d)(2) of such Code that has not made the election described in section 150(d)(3) of such Code;

(C) an entity described in section 501(c)(3) of such Code; or

(D) acting as a trustee on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d).

(2) LIMITATIONS.—

(A) EXISTING ON DATE OF ENACTMENT.—

(i) IN GENERAL.—An eligible lender shall not be an eligible not-for-profit holder under this Act unless such lender—

(I) was a State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) that was, on the date of the enactment of the College Cost Reduction and Access Act, acting as an eligible lender under subsection (d) (other than an eligible lender described in subsection (d)(1)(E)); or

(II) is acting as a trustee on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), and such State, political subdivision, authority, agency, instrumentality, or other entity, on the date of enactment of the College Cost Reduction and Access Act, was the sole beneficial owner of a loan eligible for any special allowance payment under section 438.

(ii) EXCEPTION.—Notwithstanding clause (i), a State may elect, in accordance with regulations of the Secretary, to waive the requirements of this subparagraph for a new not-for-profit holder determined by the State to be necessary to carry out a public purpose of such State, except that a State may not make such election with respect the requirements of clause (i)(II).

(B) NO FOR-PROFIT OWNERSHIP OR CONTROL.—

(i) IN GENERAL.—No State, political subdivision, authority, agency, instrumentality, or other entity described in paragraph (1)(A), (B), or (C) shall be an eligible not-for-profit holder under this Act if such State, political subdivision, authority, agency, instrumentality, or other entity is owned or controlled, in whole or in part, by a for-profit entity.

(ii) TRUSTEES.—A trustee described in paragraph (1)(D) shall not be an eligible not-for-profit holder under this Act with respect to a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), if such State, political subdivision, authority, agency, instrumentality, or other entity is owned or controlled, in whole or in part, by a for-profit entity.

(C) SOLE OWNERSHIP OF LOANS AND INCOME.—No State, political subdivision, authority, agency, instrumentality, trustee, or other entity described in paragraph (1)(A), (B), (C), or (D) shall be an eligible not-for-profit holder under this Act with respect to any loan, or income from any loan, unless—

(i) such State, political subdivision, authority, agency, instrumentality, or other entity is the sole beneficial owner of such loan and the income from such loan; or

(ii) such trustee holds the loan on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), and such State, political subdivision, authority, agency, instrumentality, or other entity is the sole beneficial owner of such loan and the income from such loan.

(D) TRUSTEE COMPENSATION LIMITATIONS.—A trustee described in paragraph (1)(D) shall not receive compensation as consideration for acting as an eligible lender on behalf of a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), in excess of reasonable and customary fees.

(E) RULE OF CONSTRUCTION.—For purposes of subparagraphs (A), (B), (C), and (D) of this paragraph, a State, political subdivision, authority, agency, instrumentality, or other entity described in subparagraph (A), (B), or (C) of paragraph (1), regardless of whether such State, political subdivision, authority, agency, instrumentality, or other entity is an eligible lender under subsection (d), shall not—

(i) be deemed to be owned or controlled, in whole or in part, by a for-profit entity; or

(ii) lose its status as the sole owner of a beneficial interest in a loan and the income from a loan,

by such State, political subdivision, authority, agency, instrumentality, or other entity, or by the trustee described

in paragraph (1)(D), granting a security interest in, or otherwise pledging as collateral, such loan, or the income from such loan, to secure a debt obligation for which such State, political subdivision, authority, agency, instrumentality, or other entity is the issuer of the debt obligation.

(3) PROHIBITION.—In the case of a loan for which the special allowance payment is calculated under section 438(b)(2)(I)(vi)(II) and that is sold by the eligible not-for-profit holder holding the loan to an entity that is not an eligible not-for-profit holder under this Act, the special allowance payment for such loan shall, beginning on the date of the sale, no longer be calculated under section 438(b)(2)(I)(vi)(II) and shall be calculated under section 438(b)(2)(I)(vi)(I) instead.

(4) REGULATIONS.—Not later than 1 year after the date of enactment of the College Cost Reduction and Access Act, the Secretary shall promulgate regulations in accordance with the provisions of this subsection.

SEC. 436. [20 U.S.C. 1086] DELEGATION OF FUNCTIONS.

(a) IN GENERAL.—An eligible lender or guaranty agency that contracts with another entity to perform any of the lender's or agency's functions under this title, or otherwise delegates the performance of such functions to such other entity—

(1) shall not be relieved of the lender's or agency's duty to comply with the requirements of this title; and

(2) shall monitor the activities of such other entity for compliance with such requirements.

(b) SPECIAL RULE.—A lender that holds a loan made under part B in the lender's capacity as a trustee is responsible for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part.

SEC. 437. [20 U.S.C. 1087] REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW.

(a) REPAYMENT IN FULL FOR DEATH AND DISABILITY.—

(1) IN GENERAL.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), or if a student borrower who has received such a loan is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan. The Secretary may develop such safeguards as the Secretary determines necessary to prevent fraud and abuse in the discharge of liability under this subsection. Notwithstanding any other provision of this subsection, the Secretary may promulgate regulations to reinstate

the obligation of, and resume collection on, loans discharged under this subsection in any case in which—

(A) a borrower received a discharge of liability under this subsection and after the discharge the borrower—

(i) receives a loan made, insured, or guaranteed under this title; or

(ii) has earned income in excess of the poverty line; or

(B) the Secretary determines the reinstatement and resumption to be necessary.

(2) DISABILITY DETERMINATIONS.—A borrower who has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected condition and who provides documentation of such determination to the Secretary of Education, shall be considered permanently and totally disabled for the purpose of discharging such borrower's loans under this subsection, and such borrower shall not be required to present additional documentation for purposes of this subsection.

(b) PAYMENT OF CLAIMS ON LOANS IN BANKRUPTCY.—The Secretary shall pay to the holder of a loan described in section 428(a)(1) (A) or (B), 428A, 428B, 428C, or 428H, the amount of the unpaid balance of principal and interest owed on such loan—

(1) when the borrower files for relief under chapter 12 or 13 of title 11, United States Code;

(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.

(c) DISCHARGE.—

(1) IN GENERAL.—If a borrower who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable to complete the program in which such student is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution or was falsely certified as a result of a crime of identity theft, or if the institution failed to make a refund of loan proceeds which the institution owed to such student's lender, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part H. In the case of a discharge based upon a failure to refund, the amount of the discharge shall not exceed that portion of the loan which should have been refunded. The Secretary shall report to the authorizing committees annually as to the dollar amount of loan discharges attributable to failures to make refunds.

(2) ASSIGNMENT.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution and its affiliates and principals.

(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE.—The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title.

(4) SPECIAL RULE.—A borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this title for which the borrower would be otherwise eligible (but for the default on such discharged loan). The amount discharged under this subsection shall be treated the same as loans under section 465(a)(5) of this title.

(5) REPORTING.—The Secretary shall report to consumer reporting agencies with respect to loans which have been discharged pursuant to this subsection.

(d) REPAYMENT OF LOANS TO PARENTS.—If a student on whose behalf a parent has received a loan described in section 428B dies, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

[Section 437A repealed by P.L. 105–244, sec. 432, 112 Stat. 1710.]

SEC. 438. [20 U.S.C. 1087–1] SPECIAL ALLOWANCES.

(a) FINDINGS.—In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious, and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

(b) COMPUTATION AND PAYMENT.—

(1) QUARTERLY PAYMENT BASED ON UNPAID BALANCE.—A special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2) RATE OF SPECIAL ALLOWANCE.—(A) Subject to subparagraphs (B), (C), (D), (E), (F), (G), (H), and (I) and paragraph (4), the special allowance paid pursuant to this subsection on

loans shall be computed (i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.10 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 427A(i).

(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1986 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), except that, in determining the rate for the purpose of this clause, subparagraph (A)(iii) shall be applied by substituting "3.5 percent" for "3.10 percent". Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

(ii) The quarterly rate of the special allowance set under clause (i) of this subparagraph shall not be less than 9.5 percent minus the applicable interest rate on such loans, divided by 4.

(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (d) of this section.

(iv) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance for holders of loans which are financed with funds obtained by the holder from the issuance of obligations originally issued on or after October 1, 1993, or refunded after September 30, 2004, the income from which is excluded from gross income under the Internal Revenue Code of 1986, shall be the quarterly rate of the special allowance established under subparagraph (A), (E), (F), (G), (H), or (I) as the case may be. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

(v) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, or paragraph (4), as the case may be, for a holder of loans that—

(I) were made or purchased with funds—

(aa) obtained from the issuance of obligations the income from which is excluded from gross income under the Internal Revenue Code of 1986 and which obligations were originally issued before October 1, 1993; or

(bb) obtained from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in division (aa), or from income on the investment of such funds; and

(II) are—

(aa) financed by such an obligation that, after September 30, 2004, has matured or been retired or defeased;

(bb) refinanced after September 30, 2004, with funds obtained from a source other than funds described in subclause (I) of this clause; or

(cc) sold or transferred to any other holder after September 30, 2004.

(vi) Notwithstanding clauses (i), (ii), and (v), but subject to clause (vii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, as the case may be, for a holder of loans—

(I) that were made or purchased on or after the date of enactment of the Higher Education Reconciliation Act of 2005; or

(II) that were not earning a quarterly rate of special allowance determined under clauses (i) or (ii) of subparagraph (B) of this paragraph (20 U.S.C. 1087–1(b)(2)(b)) as of the date of enactment of the Higher Education Reconciliation Act of 2005.

(vii) Clause (vi) shall be applied by substituting "December 31, 2010" for "the date of enactment of the Higher Education Reconciliation Act of 2005" in the case of a holder of loans that—

(I) was, as of the date of enactment of the Higher Education Reconciliation Act of 2005, and during the quarter for which the special allowance is paid, a unit of State or local government or a nonprofit private entity;

(II) was, as of such date of enactment, and during such quarter, not owned or controlled by, or under common ownership or control with, a for-profit entity; and

(III) held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than $100,000,000 on loans for which special allowances were paid under this subparagraph in the most recent quarterly payment prior to September 30, 2005.

(C)(i) In the case of loans made before October 1, 1992, pursuant to section 428A or 428B for which the interest rate is determined under section 427A(c)(4), a special allowance shall not be paid unless the rate determined for any 12-month period under subparagraph (B) of such section exceeds 12 percent.

(ii) Subject to subparagraphs (G), (H), and (I), in the case of loans disbursed on or after October 1, 1992, pursuant to section 428A or 428B for which the interest rate is determined under section 427A(c)(4), a special allowance shall not be paid

unless the rate determined for any 12-month period under section 427A(c)(4)(B) exceeds—

(I) 11 percent in the case of a loan under section 428A; or

(II) 10 percent in the case of a loan under section 428B.

(D)(i) In the case of loans made or purchased directly from funds loaned or advanced pursuant to a qualified State obligation, subparagraph (A)(iii) shall be applied by substituting "3.5 percent" for "3.10 percent".

(ii) For the purpose of division (i) of this subparagraph, the term "qualified State obligation" means—

(I) an obligation of the Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

(II) an obligation of the South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

(E) In the case of any loan for which the applicable rate of interest is described in section 427A(g)(2), subparagraph (A)(iii) shall be applied by substituting "2.5 percent" for "3.10 percent".

(F) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable rate of interest is determined under section 427A(h) shall be computed (i) by determining the applicable bond equivalent rate of the security with a comparable maturity, as established by the Secretary, (ii) by subtracting the applicable interest rates on such loans from such applicable bond equivalent rate, (iii) by adding 1.0 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 427A(i).

(G) LOANS DISBURSED BETWEEN JULY 1, 1998, AND OCTOBER 1, 1998.—

(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, shall be computed—

(I) by determining the average of the bond equivalent rates of 91-day T

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.8 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section

427A(j)(2), clause (i)(III) of this subparagraph shall be applied by substituting "2.2 percent" for "2.8 percent".

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 427A(j)(3), clause (i)(III) of this subparagraph shall be applied by substituting "3.1 percent" for "2.8 percent", subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—This subparagraph shall not apply in the case of any consolidation loan.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 428B and disbursed on or after July 1, 1998, and before October 1, 1998, for which the interest rate is determined under 427A(j)(3), a special allowance shall not be paid for such loan for such[34] unless the rate determined under subparagraph (A) of such section (without regard to subparagraph (B) of such section) exceeds 9.0 percent.

(H)[35] LOANS DISBURSED ON OR AFTER OCTOBER 1, 1998, AND BEFORE JANUARY 1, 2000.—

(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, shall be computed—

(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.8 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, and for which the applicable rate of interest is described in section 427A(k)(2), clause (i)(III) of this subparagraph shall be applied by substituting "2.2 percent" for "2.8 percent".

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, and for which the applicable rate of interest is described in section 427A(k)(3), clause (i)(III) of this subparagraph shall be applied by substituting "3.1 percent" for "2.8 percent", subject to clause (v) of this subparagraph.

[34] So in original.
[35] Margin so in law.

(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after October 1, 1998, and before January 1, 2000, and for which the applicable interest rate is determined under section 427A(k)(4), clause (i)(III) of this subparagraph shall be applied by substituting "3.1 percent" for "2.8 percent", subject to clause (vi) of this subparagraph.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 428B and first disbursed on or after October 1, 1998, and before January 1, 2000, for which the interest rate is determined under section 427A(k)(3), a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

(II) 3.1 percent,

exceeds 9.0 percent.

(vi) LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.—In the case of consolidation loans made under section 428C and for which the application is received on or after October 1, 1998, and before January 1, 2000, for which the interest rate is determined under section 427A(k)(4), a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

(I) the average of the bond equivalent rate of 91-day Treasury bills auctioned for such 3-month period; plus

(II) 3.1 percent,

exceeds the rate determined under section 427A(k)(4).

(I)[36] LOANS DISBURSED ON OR AFTER JANUARY 1, 2000, AND BEFORE JULY 1, 2010.—

(i) IN GENERAL.—Notwithstanding subparagraphs (G) and (H), but subject to paragraph (4) and the following clauses of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after January 1, 2000, and before July 1, 2010, shall be computed—

(I) by determining the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period;

[36] Margin so in law.

(II) by subtracting the applicable interest rates on such loans from the rate determined under subclause (I) (in accordance with clause (vii));

(III) by adding 2.34 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan—

(I) for which the first disbursement is made on or after January 1, 2000, and before July 1, 2006, and for which the applicable rate of interest is described in section 427A(k)(2); or

(II) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, and for which the applicable rate of interest is described in section section 427A(l)(1) or (l)(4), but only with respect to (aa) periods prior to the beginning of the repayment period of the loan; or (bb) during the periods in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 427(a)(2)(C) or 428(b)(1)(M);

clause (i)(III) of this subparagraph shall be applied by substituting "1.74 percent" for "2.34 percent".

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2010, and for which the applicable rate of interest is described in section 427A(k)(3) or (l)(2), clause (i)(III) of this subparagraph shall be applied by substituting "2.64 percent" for "2.34 percent".

(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after January 1, 2000, and that is disbursed before July 1, 2010, and for which the applicable interest rate is determined under section 427A(k)(4) or (l)(3), clause (i)(III) of this subparagraph shall be applied by substituting "2.64 percent" for "2.34 percent".

(v) RECAPTURE OF EXCESS INTEREST.—

(I) EXCESS CREDITED.—With respect to a loan on which the applicable interest rate is determined under subsection (k) or (l) of section 427A and for which the first disbursement of principal is made on or after April 1, 2006, and before July 1, 2010, if the applicable interest rate for any 3-month period exceeds the special allowance support level applicable to such loan under this subparagraph for such period, then an adjustment shall be made by calculating the excess interest in the amount computed under subclause (II) of this clause, and by crediting the excess interest to the Government not less often than annually.

(II) CALCULATION OF EXCESS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(aa) the applicable interest rate minus the special allowance support level determined under this subparagraph; multiplied by

(bb) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(cc) four.

(III) SPECIAL ALLOWANCE SUPPORT LEVEL.—For purposes of this clause, the term "special allowance support level" means, for any loan, a number expressed as a percentage equal to the sum of the rates determined under subclauses (I) and (III) of clause (i), and applying any substitution rules applicable to such loan under clauses (ii), (iii), (iv), (vi), and (vii) in determining such sum.

(vi) REDUCTION FOR LOANS DISBURSED ON OR AFTER OCTOBER 1, 2007, AND BEFORE JULY 1, 2010.—With respect to a loan on which the applicable interest rate is determined under section 427A(l) and for which the first disbursement of principal is made on or after October 1, 2007, and before July 1, 2010, the special allowance payment computed pursuant to this subparagraph shall be computed—

(I) for loans held by an eligible lender not described in subclause (II)—

(aa) by substituting "1.79 percent" for "2.34 percent" each place the term appears in this subparagraph;

(bb) by substituting "1.19 percent" for "1.74 percent" in clause (ii);

(cc) by substituting "1.79 percent" for "2.64 percent" in clause (iii); and

(dd) by substituting "2.09 percent" for "2.64 percent" in clause (iv); and

(II) for loans held by an eligible not-for-profit holder—

(aa) by substituting "1.94 percent" for "2.34 percent" each place the term appears in this subparagraph;

(bb) by substituting "1.34 percent" for "1.74 percent" in clause (ii);

(cc) by substituting "1.94 percent" for "2.64 percent" in clause (iii); and

(dd) by substituting "2.24 percent" for "2.64 percent" in clause (iv).

(vii) REVISED CALCULATION RULE TO REFLECT FINANCIAL MARKET CONDITIONS.—

(I) CALCULATION BASED ON LIBOR.—For the calendar quarter beginning on April 1, 2012 and each subsequent calendar quarter, in computing the special allowance paid pursuant to this subsection with respect to loans described in subclause (II), clause (i)(I) of this subparagraph shall be applied by substituting "of the 1-month London Inter Bank Offered Rate (LIBOR) for United States dollars in effect for each of the days in such quarter as compiled and released by the British Bankers Association" for "of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period".

(II) LOANS ELIGIBLE FOR LIBOR-BASED CALCULATION.—The special allowance paid pursuant to this subsection shall be calculated as described in subclause (I) with respect to special allowance payments for the 3-month period ending June 30, 2012, and each succeeding 3-month period, on loans for which the first disbursement is made on or after January 1, 2000, and before July 1, 2010, if, not later than April 1, 2012, the holder of the loan (or, if the holder acts as eligible lender trustee for the beneficial owner of the loan, the beneficial owner of the loan), affirmatively and permanently waives all contractual, statutory, or other legal rights to a special allowance paid pursuant to this subsection that is calculated using the formula in effect at the time the loans were first disbursed.

(III) TERMS OF WAIVER.—

(aa) IN GENERAL.—A waiver pursuant to subclause (II) shall be in a form (printed or electronic) prescribed by the Secretary, and shall be applicable to—

(AA) all loans described in such subclause that the lender holds solely in its own right under any lender identification number associated with the holder (pursuant to section 487B);

(BB) all loans described in such subclause for which the beneficial owner has the authority to make an election of a waiver under such subclause, regardless of the lender identification number associated with the loan or the lender that holds the loan as eligible lender trustee on behalf of such beneficial owner; and

(CC) all future calculations of the special allowance on loans that, on the date of such waiver, are loans described in subitem (AA) or (BB), or that, after

such date, become loans described in subitem (AA) or (BB).

(bb) EXCEPTIONS.—Any waiver pursuant to subclause (II) that is elected for loans described in subitem (AA) or (BB) of item (aa) shall not apply to any loan described in such subitem for which the lender or beneficial owner of the loan demonstrates to the satisfaction of the Secretary that—

(AA) in accordance with an agreement entered into before the date of enactment of this section[37] by which such lender or owner is governed and that applies to such loans, such lender or owner is not legally permitted to make an election of such waiver with respect to such loans without the approval of one or more third parties with an interest in the loans, and that the lender or owner followed all available options under such agreement to obtain such approval, and was unable to do so; or

(BB) such lender or beneficial owner presented the proposal of electing such a waiver applicable to such loans associated with an obligation rated by a nationally recognized statistical rating organization (as defined in section 3(a)(62) of the Securities Exchange Act of 1934), and such rating organization provided a written opinion that the agency would downgrade the rating applicable to such obligation if the lender or owner elected such a waiver.

(3) CONTRACTUAL RIGHT OF HOLDERS TO SPECIAL ALLOWANCE.—The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such 3-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

(4) PENALTY FOR LATE PAYMENT.—(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

[37] So in law. The reference in (AA) to "this section" probably should be to "this clause".

(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the 31st day after the receipt of such request for payment from the holder, or (ii) the 31st day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) DEFINITION OF ELIGIBLE LOAN.—As used in this section, the term "eligible loan" means a loan—

(A)(i) on which a portion of the interest is paid on behalf of the student and for the student's account to the holder of the loan under section 428(a);

(ii) which is made under section 428A, 428B, 428C, 428H, or 439(o); or

(iii) which was made prior to October 1, 1981; and

(B) which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

(6) REGULATION OF TIME AND MANNER OF PAYMENT.—The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

(7) USE OF AVERAGE QUARTERLY BALANCE.—The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.

(c) ORIGINATION FEES FROM STUDENTS.—

(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—(A) Notwithstanding subsection (b), the Secretary shall collect the amount the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection—

(i) by reducing the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder; or

(ii) directly from the holder of the loan, if the lender fails or is not required to bill the Secretary for interest and special allowance or withdraws from the program with unpaid loan origination fees.

(B) If the Secretary collects the origination fee under this subsection through the reduction of interest and special allowance, and the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this

section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

(2) AMOUNT OF ORIGINATION FEES.—

(A) IN GENERAL.—Subject to paragraph (6) of this subsection, with respect to any loan (including loans made under section 428H, but excluding loans made under sections 428C and 439(o)) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after the date of enactment of the Postsecondary Student Assistance Amendments of 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower. Except as provided in paragraph (8), a lender that charges an origination fee under this paragraph shall assess the same fee to all student borrowers.

(B) SUBSEQUENT REDUCTIONS.—Subparagraph (A) shall be applied to loans made under this part (other than loans made under sections 428C and 439(o))—

(i) by substituting "2.0 percent" for "3.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2007;

(ii) by substituting "1.5 percent" for "3.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

(iii) by substituting "1.0 percent" for "3.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009; and

(iv) by substituting "0.5 percent" for "3.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010.

(3) RELATION TO APPLICABLE INTEREST.—Such origination fee shall not be taken into account for purposes of determining compliance with section 427A.

(4) DISCLOSURE REQUIRED.—The lender shall disclose to the borrower the amount and method of calculating the origination fee.

(5) PROHIBITION ON DEPARTMENT COMPELLING ORIGINATION FEE COLLECTIONS BY LENDERS.—Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 428(a)(3)(A) or for special allowances under subsection (b) of this section, to collect any origination fee or to

submit the sums collected as origination fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before the enactment of this paragraph, together with interest thereon.

(6) SLS AND PLUS LOANS.—With respect to any loans made under section 428A or 428B on or after October 1, 1992, and first disbursed before July 1, 2010, each eligible lender under this part shall charge the borrower an origination fee of 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

(7) DISTRIBUTION OF ORIGINATION FEES.—All origination fees collected pursuant to this section on loans authorized under section 428A or 428B shall be paid to the Secretary by the lender and deposited in the fund authorized under section 431 of this part.

(8) EXCEPTION.—Notwithstanding paragraph (2), a lender may assess a lesser origination fee for a borrower demonstrating greater financial need as determined by such borrower's adjusted gross family income.

(d) LOAN FEES FROM LENDERS.—

(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—

(A) IN GENERAL.—Notwithstanding subsection (b), the Secretary shall collect a loan fee in an amount determined in accordance with paragraph (2)—

(i) by reducing the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b), respectively, to any holder of a loan; or

(ii) directly from the holder of the loan, if the lender—

(I) fails or is not required to bill the Secretary for interest and special allowance payments; or

(II) withdraws from the program with unpaid loan fees.

(B) SPECIAL RULE.—If the Secretary collects loan fees under this subsection through the reduction of interest and special allowance payments, and the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b), respectively, is less than the amount of such loan fees, then the Secretary shall deduct the amount of the loan fee balance from the amount of interest and special allowance payments that would otherwise be payable, in subsequent quarterly increments until the balance has been deducted.

(2) AMOUNT OF LOAN FEES.—The amount of the loan fee which shall be deducted under paragraph (1), but which may not be collected from the borrower, shall be equal to—

(A) except as provided in subparagraph (B), 0.50 percent of the principal amount of the loan with respect to any loan under this part for which the first disbursement was made on or after October 1, 1993; and

(B) 1.0 percent of the principal amount of the loan with respect to any loan under this part for which the first disbursement was made on or after October 1, 2007, and before July 1, 2010.

(3) DISTRIBUTION OF LOAN FEES.—The Secretary shall deposit all fees collected pursuant to paragraph (3) into the insurance fund established in section 431.

(e) NONDISCRIMINATION.—In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1986, to be eligible to receive a special allowance under subsection (b)(2) on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

(f) REGULATIONS TO PREVENT DENIAL OF LOANS TO ELIGIBLE STUDENTS.—The Secretary shall adopt or amend appropriate regulations pertaining to programs carried out under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

(g) SPECIAL RULE.—With respect to any loan made under this part for which the interest rate is determined under the Servicemembers Civil Relief Act (50 U.S.C. App. 527), the applicable interest rate to be subtracted in calculating the special allowance for such loan under this section shall be the interest rate determined under that Act for such loan.

SEC. 439. [20 U.S.C. 1087–2][38] STUDENT LOAN MARKETING ASSOCIATION.

(a) PURPOSE.—The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional

[38] Section 602(d) of Public Law 104–208 (110 Stat. 3009–300) provides for the following repeals:

(d) REPEALS.—

(1) IN GENERAL.—Sections 439 of the Higher Education Act of 1965 (20 U.S.C. 1087–2) and 440 of such Act (as added by subsection (a) of this section) are repealed.

(2) EFFECTIVE DATE.—The repeals made by paragraph (1) shall be effective one year after—

(A) the date on which all of the obligations of the trust established under section 440(d)(1) of the Higher Education Act of 1965 (as added by subsection (a)) have been extinguished, if a reorganization occurs in accordance with section 440 of such Act; or

(B) the date on which all of the obligations of the trust established under subsection 439(s)(3)(A) of such Act (as added by subsection (c)) have been extinguished, if a reorganization does not occur in accordance with section 440 of such Act.

program of loan insurance to be covered by agreements with the Secretary.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) EXEMPTION FROM STATE AND LOCAL TAXES.—The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) APPROPRIATIONS AUTHORIZED FOR ESTABLISHMENT.—There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 percent, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c) BOARD OF DIRECTORS.—

(1) COMPOSITION OF BOARD; CHAIRMAN.—(A) The Association shall have a Board of Directors which shall consist of 21 persons, 7 of whom shall be appointed by the President and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f). Commencing with the annual shareholders meeting to be held in 1993—

(i) 7 of the elected directors shall be affiliated with an eligible institution; and

(ii) 7 of the elected directors shall be affiliated with an eligible lender.

(B) The President shall designate 1 of the directors to serve as Chairman.

(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director "affiliated with the eligible institution" or a director "affiliated with an eligible lender" means an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

(A) an eligible institution or an eligible lender;

(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

(4) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.

(d) AUTHORITY OF ASSOCIATION.—

(1) IN GENERAL.—The Association is authorized, subject to the provisions of this section—

(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a guaranty agency;

(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a guaranty agency or by an eligible lender in a State described in section 435(d)(1) (D) or (F);

(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, improvement, or purchase at institutions of higher edu-

cation of any of the following facilities (including the underlying property) and materials (including related equipment, instrumentation, and furnishings) at an eligible institution of higher education:

(i) educational and training facilities;

(ii) housing for students and faculties, dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and

(iii) library facilities, including the acquisition of library materials at institutions of higher education;

except that not more than 30 percent of the value of transactions entered into under this subparagraph shall involve transactions of the types described in clause (ii);

(D) to undertake a program of loan insurance pursuant to agreements with the Secretary under section 428, and except with respect to loans under subsection (o) of this section or under section 428C, the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no guaranty agency is capable of or willing to provide a program of loan insurance for such borrowers; and

(E) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students, except that—

(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

(ii) nothing in this subparagraph (E) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this subparagraph (E), the Association shall advise the Chairman and the Ranking Member on the Committee on Labor and Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection

to the same extent as a warehousing advance made on the security of insured loans.

(2) WAREHOUSING ADVANCES.—Any warehousing advance made under paragraph (1)(A) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

(3) PERFECTION OF SECURITY INTERESTS IN STUDENT LOANS.—Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.

(4) FORM OF SECURITIES.—Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

(5) RESTRICTIONS ON FACILITIES AND HOUSING ACTIVITIES.—Not less than 75 percent of the aggregate dollar amount of obligations bought, sold, held, insured, underwritten, and otherwise supported in accordance with the authority contained in paragraph (1)(C) shall be obligations which are listed by a nationally recognized statistical rating organization at a rating below the second highest rating of such organization.

(e) ADVANCES TO LENDERS THAT DO NOT DISCRIMINATE.—The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (1) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a

credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (2) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f) STOCK OF THE ASSOCIATION.—

(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

(2) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(3) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on voting common stock by the Board of Directors. Such dividends as may be declared by the Board of Directors shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(4) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Higher Education Amendments of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.

(g) PREFERRED STOCK.—

(1) AUTHORITY OF BOARD.—The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) RIGHTS OF PREFERRED STOCK.—The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the Asso-

ciation's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h) DEBT OBLIGATIONS.—

(1) APPROVAL BY SECRETARIES OF EDUCATION AND THE TREASURY.—The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank. To the extent that the average outstanding amount of the obligations owned by the Association pursuant to the authority contained in subsection (d)(1) (B) and (C) of this section and as to which the income is exempt from taxation under the Internal Revenue Code of 1986 does not exceed the average stockholders' equity of the Association, the interest on obligations issued under this paragraph shall not be deemed to be interest on indebtedness incurred or continued to purchase or carry obligations for the purpose of section 265 of the Internal Revenue Code of 1986.

(2) GUARANTEE OF DEBT.—The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

(3) BORROWING AUTHORITY TO MEET GUARANTEE OBLIGATIONS.—To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as

amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(4) ACTION ON REQUEST FOR GUARANTEES.—Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than 60 days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

(5) AUTHORITY OF TREASURY TO PURCHASE DEBT.—The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(6) SALE OF DEBT TO FEDERAL FINANCING BANK.—Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time

been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.

(7) OFFSET FEE.—(A) The Association shall pay to the Secretary, on a monthly basis, an offset fee calculated on an annual basis in an amount equal to 0.30 percent of the principal amount of each loan made, insured or guaranteed under this part that the Association holds (except for loans made pursuant to sections 428C, 439(o), or 439(q)) and that was acquired on or after the date of enactment of this paragraph.

(B) If the Secretary determines that the Association has substantially failed to comply with subsection (q), subparagraph (A) shall be applied by substituting "1.0 percent" for "0.3 percent".

(C) The Secretary shall deposit all fees collected pursuant to this paragraph into the insurance fund established in section 431.

(i) GENERAL CORPORATE POWERS.—The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not

so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

(l) LAWFUL INVESTMENT INSTRUMENTS; EFFECT OF AND EXEMPTIONS FROM OTHER LAWS.—All obligations issued by the Association including those made under subsection (d)(4) shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for the purpose of section 3124 of title 31, United States Code. For the purpose of the distribution of its property pursuant to section 726 of title 11, United States Code, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3713 of title 31, United States Code, shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1992. The Federal Reserve Banks are authorized to act as depositaries,

custodians, or fiscal agents, or a combination thereof, for the Association in the general performance of its powers under this section.

(m) PREPARATION OF OBLIGATIONS.—In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations. The Secretary of the Treasury is authorized to promulgate regulations on behalf of the Association so that the Association may utilize the book-entry system of the Federal Reserve Banks.

(n) REPORT ON OPERATIONS AND ACTIVITIES.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year.

(o) LOAN CONSOLIDATIONS.—

(1) IN GENERAL.—The Association or its designated agent may, upon request of a borrower, consolidate loans received under this title in accordance with section 428C.

(2) USE OF EXISTING AGENCIES AS AGENT.—The Association in making loans pursuant to this subsection in any State served by a guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) may designate as its agent such agency or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency or lender.

(p) ADVANCES FOR DIRECT LOANS BY GUARANTY AGENCIES.—

(1) IN GENERAL.—The Association shall make advances in each fiscal year from amounts available to it to each guaranty agency and eligible lender described in subsection 428(h)(1) which has an agreement with the Association which sets forth that advances are necessary to enable such agency or lender to make student loans in accordance with section 428(h) and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency or lender. Advances made under this subsection shall not be subject to subsection (d)(2) of this section.

(2) LIMITATION.—No advance may be made under this subsection unless the guaranty agency or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

(q) LENDER-OF-LAST-RESORT.—

(1) ACTION AT REQUEST OF SECRETARY.—(A) Whenever the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part, the Association or

its designated agent shall, not later than 90 days after the date of enactment of the Student Loan Reform Act of 1993, begin making loans to such eligible borrowers in accordance with this subsection at the request of the Secretary. The Secretary may request that the Association make loans to borrowers within a geographic area or for the benefit of students attending institutions of higher education that certify, in accordance with standards established by the Secretary, that their students are seeking and unable to obtain loans.

(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a guaranty agency under paragraph (2)(A) of this subsection.

(2) ISSUANCE AND COVERAGE OF LOANS.—(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the guaranty agency in a State, or an eligible lender in a State described in section 435(d)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent shall begin making such loans to borrowers in such State or within an area of such State in accordance with this subsection at the request of the Secretary.

(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

(3) TERMINATION OF LENDING.—The Association or its designated agent shall cease making loans under this subsection at such time as the Secretary determines that the conditions which caused the implementation of this subsection have ceased to exist.

(r) SAFETY AND SOUNDNESS OF ASSOCIATION.—

(1) REPORTS BY THE ASSOCIATION.—The Association shall promptly furnish to the Secretary of Education and Secretary of the Treasury copies of all—

(A) periodic financial reports publicly distributed by the Association;

(B) reports concerning the Association that are received by the Association and prepared by nationally recognized statistical rating organizations; and

(C)(i) financial statements of the Association within 45 days of the end of each fiscal quarter; and

(ii) reports setting forth the calculation of the capital ratio of the Association within 45 days of the end of each fiscal quarter.

(2) AUDIT BY SECRETARY OF THE TREASURY.—(A) The Secretary of the Treasury may—

(i) appoint and fix the compensation of such auditors and examiners as may be necessary[39] to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing the Association's financial safety and soundness and to determine whether the requirements of this section and section 440 are being met; and

(ii) obtain the services of such experts as the Secretary of the Treasury determines necessary and appropriate, as authorized by section 3109 of title 5, United States Code, to assist in determining the condition of the Association for the purpose of assessing the Association's financial safety and soundness, and to determine whether the requirements of this section and section 440 are being met.

(B) Each auditor appointed under this paragraph shall conduct an audit of the Association to the extent requested by the Secretary of the Treasury and shall prepare and submit a report to the Secretary of the Treasury concerning the results of such audit. A copy of such report shall be furnished to the Association and the Secretary of Education on the date on which it is delivered to the Secretary of the Treasury.

(C) The Association shall provide full and prompt access to the Secretary of the Treasury to its books and records and other information requested by the Secretary of the Treasury.

(D) ANNUAL ASSESSMENT.—

(i) IN GENERAL.—For each fiscal year beginning on or after October 1, 1996, the Secretary of the Treasury may establish and collect from the Association an assessment (or assessments) in amounts sufficient to provide for reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 440 during such fiscal year. In no event may the total amount so assessed exceed, for any fiscal year, $800,000, adjusted for each fiscal year ending after September 30, 1997, by the ratio of the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the final month of the fiscal year preceding the fiscal year for which the assessment is made to the Consumer Price Index for All Urban Consumers for September 1997.

(ii) DEPOSIT.—Amounts collected from assessments under this subparagraph shall be deposited in an account within the Treasury of the United States as designated by the Secretary of the Treasury for that purpose. The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account the reasonable

[39] Section 309(1) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (114 Stat. 2763A–45), as enacted into law by section 1(a)(1) of Public Law 106–554, amended this clause by striking "auditors and examiners" and inserting "and fix the compensation of such auditors and examiners as may be necessary". The amendment probably should have been to strike "auditors or examiners", but was executed to reflect the probable intent of Congress.

costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 440. None of the funds deposited into such account shall be available for any purpose other than making payments for such costs and expenses.

(E) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—

(i) IN GENERAL.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

(I) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

(II) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

(ii) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of such information to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and clause (i), require the Association to make reports concerning the activities of any associated person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

(iii) DEFINITION.—For purposes of this subparagraph, the term "associated person" means any person, other than a natural person, directly or indirectly controlling, controlled by, or under common control with the Association.

(F)[40] COMPENSATION OF AUDITORS AND EXAMINERS.—

(i) RATES OF PAY.—Rates of basic pay for all auditors and examiners appointed pursuant to subparagraph (A) may be set and adjusted by the Secretary of the Treasury without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

(ii) COMPARABILITY.—

(I) IN GENERAL.—Subject to section 5373 of title 5, United States Code, the Secretary of the Treasury may provide additional compensation and benefits to auditors and examiners appointed pursuant to subparagraph (A) if the same type of compensation or benefits are then being provided

[40] Margins so in law.

by any agency referred to in section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation.

(II) CONSULTATION.—In setting and adjusting the total amount of compensation and benefits for auditors and examiners appointed pursuant to subparagraph (A), the Secretary of the Treasury shall consult with, and seek to maintain comparability with, the agencies referred to in section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

(3) MONITORING OF SAFETY AND SOUNDNESS.—The Secretary of the Treasury shall conduct such studies as may be necessary to monitor the financial safety and soundness of the Association. In the event that the Secretary of the Treasury determines that the financial safety and soundness of the Association is at risk, the Secretary of the Treasury shall inform the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education of such determination and identify any corrective actions that should be taken to ensure the safety and soundness of the Association.

(4) CAPITAL STANDARD.—If the capital ratio is less than 2 percent and is greater than or equal to 1.75 percent at the end of the Association's most recent calendar quarter the Association shall, within 60 days of such occurrence, submit to the Secretary of the Treasury a capital restoration plan, in reasonable detail, that the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 36 months.

(5) CAPITAL RESTORATION PLAN.—

(A) SUBMISSION, APPROVAL, AND IMPLEMENTATION.—The Secretary of the Treasury and the Association shall consult with respect to any capital restoration plan submitted pursuant to paragraph (4) and the Secretary of the Treasury shall approve such plan (or a modification thereof accepted by the Association) or disapprove such plan within 30 days after such plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a capital restoration plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan to the best of its ability.

(B) DISAPPROVAL.—If the Secretary of the Treasury does not approve a capital restoration plan as provided in subparagraph (A), then not later than the earlier of the date the Secretary of the Treasury disapproves of such

plan by written notice to the Association or the expiration of the 30-day consideration period referred to in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall submit the Association's capital restoration plan, in the form most recently proposed to the Secretary of the Treasury by the Association, together with a report on the Secretary of the Treasury's reasons for disapproval of such plan and an alternative capital restoration plan, to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury.

(C) ASSOCIATION IMPLEMENTATION AND RESPONSE.—Upon receipt of the submission by the Association, the Association shall forthwith proceed with diligence to implement the most recently proposed capital restoration plan of the Association. The Association, within 30 days after receipt from the Secretary of the Treasury of such submission, shall submit to such Chairmen and ranking minority members a written response to such submission, setting out fully the nature and extent of the Association's agreement or the disagreement with the Secretary of the Treasury with respect to the capital restoration plan submitted to the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(6) SUBSTANTIAL CAPITAL RATIO REDUCTION.—

(A) ADDITIONAL PLAN REQUIRED.—If the capital ratio is less than 1.75 percent and is greater than or equal to 1 percent at the end of the Association's most recent calendar quarter, the Association shall submit to the Secretary of the Treasury within 60 days after such occurrence a capital restoration plan (or an appropriate modification of any plan previously submitted or approved under paragraph (4)) to increase promptly its capital ratio to equal or exceed 1.75 percent. The Secretary of the Treasury and the Association shall consult with respect to any plan or modified plan submitted pursuant to this paragraph. The Secretary of the Treasury shall approve such plan or modified plan (or a modification thereof accepted by the Association) or disapprove such plan or modified plan within 30 days after such plan or modified plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a plan or modified plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan or modified plan to the best of the Association's ability.

(B) DISAPPROVAL.—If the Secretary of the Treasury disapproves a capital restoration plan or modified plan

submitted pursuant to subparagraph (A), then, not later than the earlier of the date the Secretary of the Treasury disapproves of such plan or modified plan (by written notice to the Association) or the expiration of the 30-day consideration period described in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall prepare and submit an alternative capital restoration plan, together with a report on his reasons for disapproval of the Association's plan or modified plan, to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury. The Association, within 5 days after receipt from the Secretary of the Treasury of such submission, shall submit to the Chairmen and ranking minority members of such Committees, and the Secretary of the Treasury, a written response to such submission, setting out fully the nature and extent of the Association's agreement or disagreement with the Secretary of the Treasury with respect to the disapproved plan and the alternative plan of the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(C) REVIEW BY CONGRESS; ASSOCIATION IMPLEMENTATION.—Congress shall have 60 legislative days after the date on which Congress receives the alternative plan under subparagraph (B) from the Secretary of the Treasury to review such plan. If Congress does not take statutory action with respect to any such plan within such 60-day period, the Association shall immediately proceed with diligence to implement the alternative capital restoration plan of the Secretary of the Treasury under subparagraph (B). If Congress is out of session when any such alternative plan is received, such 60-day period shall begin on the first day of the next session of Congress.

(7) ACTIONS BY SECRETARY OF THE TREASURY.—If the capital ratio of the Association does not equal or exceed 1.75 percent at the end of the Association's most recent calendar quarter, the Secretary of the Treasury may, until the capital ratio equals or exceeds 1.75 percent, take any one or more of the following actions:

(A) LIMIT INCREASE IN LIABILITIES.—Limit any increase in, or order the reduction of, any liabilities of the Association, except as necessary to fund student loan purchases and warehousing advances.

(B) RESTRICT GROWTH.—Restrict or eliminate growth of the Association's assets, other than student loans purchases and warehousing advances.

(C) RESTRICT DISTRIBUTIONS.—Restrict the Association from making any capital distribution.

(D) REQUIRE ISSUANCE OF NEW CAPITAL.—Require the Association to issue new capital in any form and in any amount sufficient to restore at least a 1.75 percent capital ratio.

(E) LIMIT EXECUTIVE COMPENSATION.—Prohibit the Association from increasing for any executive officer any compensation including bonuses at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months and prohibiting the Board from adopting any new employment severance contracts.

(8) CRITICAL CAPITAL STANDARD.—(A) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has already submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall forthwith proceed with diligence to implement the most recently proposed plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(B) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has not submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall—

(i) within 14 days of such occurrence submit a capital restoration plan to the Secretary of the Treasury which the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 60 months; and

(ii) forthwith proceed with diligence to implement such plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(C) Immediately upon a determination under subparagraph (A) or (B) to implement a capital restoration plan, the Secretary of the Treasury shall submit the capital restoration plan to be implemented to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education.

(9) ADDITIONAL REPORTS TO COMMITTEES.—The Association shall submit a copy of its capital restoration plan, modifications proposed to the Secretary of the Treasury, and proposed modifications received from the Secretary of the Treasury to the Congressional Budget Office and General Accounting Office upon their submission to the Secretary of the Treasury or receipt from the Secretary of the Treasury. Notwithstanding any other provision of law, the Congressional Budget Office and General Accounting Office shall maintain the confidentiality of information received pursuant to the previous sentence. In the event that the Secretary of the Treasury does not approve a capital restoration plan as provided in paragraph (5)(A) or (6)(A), or in the event that a capital restoration plan is modified by the Secretary of the Treasury pursuant to paragraph

(6)(B) or (8), the Congressional Budget Office and General Accounting Office shall each submit a report within 30 days of the Secretary of the Treasury's submission to the Chairmen and ranking minority members as required in paragraphs (5)(B), (6)(B), and (8)(C) to such Chairmen and ranking members—

(A) analyzing the financial condition of the Association;

(B) analyzing the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8);

(C) analyzing the impact of the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the impact of the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), and analyzing the impact of the recommendations made pursuant to subparagraph (D) of this paragraph, on—

(i) the ability of the Association to fulfill its purpose and authorized activities as provided in this section, and

(ii) the operation of the student loan programs; and

(D) recommending steps which the Association should take to increase its capital ratio without impairing its ability to perform its purpose and authorized activities as provided in this section.

(10) REVIEW BY SECRETARY OF EDUCATION.—The Secretary of Education shall review the Secretary of the Treasury's submission required pursuant to paragraph (5)(B), (6)(B), or (8) and shall submit a report within 30 days to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor—

(A) describing any administrative or legislative provisions governing the student loan programs which contributed to the decline in the Association's capital ratio; and

(B) recommending administrative and legislative changes in the student loan programs to maintain the orderly operation of such programs and to enable the Association to fulfill its purpose and authorized activities consistent with the capital ratio specified in paragraph (4).

(11) SAFE HARBOR.—The Association shall be deemed in compliance with the capital ratios described in paragraphs (4) and (6)(A) if the Association is rated in 1 of the 2 highest full rating categories (such categories to be determined without regard to designations within categories) by 2 nationally recognized statistical rating organizations, determined without re-

gard to the Association's status as a federally chartered corporation.

(12) TREATMENT OF CONFIDENTIAL INFORMATION.—Notwithstanding any other provision of law, the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office shall not disclose any information treated as confidential by the Association or the Association's associated persons and obtained pursuant to this subsection. Nothing in this paragraph shall authorize the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office to withhold information from Congress, or prevent the Secretary of Education, the Congressional Budget Office, and the General Accounting Office from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3) of such section 552.

(13) ENFORCEMENT OF SAFETY AND SOUNDNESS REQUIREMENTS.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

(14) ACTIONS BY SECRETARY.—

(A) IN GENERAL.—For any fiscal quarter ending after January 1, 2000, the Association shall have a capital ratio of at least 2.25 percent. The Secretary of the Treasury may, whenever such capital ratio is not met, take any one or more of the actions described in paragraph (7), except that—

(i) the capital ratio to be restored pursuant to paragraph (7)(D) shall be 2.25 percent; and

(ii) if the relevant capital ratio is in excess of or equal to 2 percent for such quarter, the Secretary of the Treasury shall defer taking any of the actions set forth in paragraph (7) until the next succeeding quarter and may then proceed with any such action only if the capital ratio of the Association remains below 2.25 percent.

(B) APPLICABILITY.—The provisions of paragraphs (4), (5), (6), (8), (9), (10), and (11) shall be of no further application to the Association for any period after January 1, 2000.

(15) DEFINITIONS.—As used in this subsection:

(A) The term "nationally recognized statistical rating organization" means any nationally recognized statistical

rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934.

(B) The term "capital ratio" means the ratio of total stockholders' equity, as shown on the Association's most recent quarterly consolidated balance sheet prepared in the ordinary course of its business, to the sum of—

(i) the total assets of the Association, as shown on the balance sheet prepared in the ordinary course of its business; and

(ii) 50 percent of the credit equivalent amount of the following off-balance sheet items of the Association as of the date of such balance sheet—

(I) all financial standby letters of credit and other irrevocable guarantees of the repayment of financial obligations of others; and

(II) all interest rate contracts and exchange rate contracts, including interest exchange agreements, floor, cap, and collar agreements and similar arrangements.

For purposes of this subparagraph, the calculation of the credit equivalent amount of the items set forth in clause (ii) of this subparagraph, the netting of such items and eliminations for the purpose of avoidance of double-counting of such items shall be made in accordance with the measures for computing credit conversion factors for off-balance sheet items for capital maintenance purposes established for commercial banks from time to time by the Federal Reserve Board, but without regard to any risk weighting provisions in such measures.

(C) The term "legislative days" means only days on which either House of Congress is in session.

(16) DIVIDENDS.—The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards set forth in this section.

(17) CERTIFICATION PRIOR TO PAYMENT OF DIVIDEND.—Prior to the payment of any dividend under paragraph (16), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (16) and shall provide copies of all calculations needed to make such certification.

(s) CHARTER SUNSET.—

(1) APPLICATION OF PROVISIONS.—This subsection applies beginning 18 months and one day after the date of enactment of this subsection if no reorganization of the Association occurs in accordance with the provisions of section 440.

(2) SUNSET PLAN.—

(A) PLAN SUBMISSION BY THE ASSOCIATION.—Not later than July 1, 2007, the Association shall submit to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Labor and Human Resources

of the Senate and the Chairman and Ranking Member of the Committee on Economic and Educational Opportunities of the House of Representatives, a detailed plan for the orderly winding up, by July 1, 2013, of business activities conducted pursuant to the charter set forth in this section. Such plan shall—

(i) ensure that the Association will have adequate assets to transfer to a trust, as provided in this subsection, to ensure full payment of remaining obligations of the Association in accordance with the terms of such obligations;

(ii) provide that all assets not used to pay liabilities shall be distributed to shareholders as provided in this subsection; and

(iii) provide that the operations of the Association shall remain separate and distinct from that of any entity to which the assets of the Association are transferred.

(B) AMENDMENT OF THE PLAN BY THE ASSOCIATION.—The Association shall from time to time amend such plan to reflect changed circumstances, and submit such amendments to the Secretary of the Treasury and to the Chairman and Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and Chairman and Ranking Minority Member of the Committee on Economic and Educational Opportunities of the House of Representatives. In no case may any amendment extend the date for full implementation of the plan beyond the dissolution date provided in paragraph (3).

(C) PLAN MONITORING.—The Secretary of the Treasury shall monitor the Association's compliance with the plan and shall continue to review the plan (including any amendments thereto).

(D) AMENDMENT OF THE PLAN BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury may require the Association to amend the plan (including any amendments to the plan), if the Secretary of the Treasury deems such amendments necessary to ensure full payment of all obligations of the Association.

(E) IMPLEMENTATION BY THE ASSOCIATION.—The Association shall promptly implement the plan (including any amendments to the plan, whether such amendments are made by the Association or are required to be made by the Secretary of the Treasury).

(3) DISSOLUTION OF THE ASSOCIATION.—The Association shall dissolve and the Association's separate existence shall terminate on July 1, 2013, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days of receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort

pursuant to subsection (q) or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (4)(A). On the dissolution date, the Association shall take the following actions:

(A) ESTABLISHMENT OF A TRUST.—The Association shall, under the terms of an irrevocable trust agreement in form and substance satisfactory to the Secretary of the Treasury, the Association, and the appointed trustee, irrevocably transfer all remaining obligations of the Association to a trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms.

(B) USE OF TRUST ASSETS.—All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust. Upon the fulfillment of the trustee's duties under the trust, any remaining assets of the trust shall be transferred to the persons who, at the time of the dissolution, were the shareholders of the Association, or to the legal successors or assigns of such persons.

(C) OBLIGATIONS NOT TRANSFERRED TO THE TRUST.—The Association shall make proper provision for all other obligations of the Association, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding.

(D) TRANSFER OF REMAINING ASSETS.—After compliance with subparagraphs (A) and (C), the Association shall transfer to the shareholders of the Association any remaining assets of the Association.

(4) RESTRICTIONS RELATING TO WINDING UP.—

(A) RESTRICTIONS ON NEW BUSINESS ACTIVITY OR ACQUISITION OF ASSETS BY THE ASSOCIATION.—

(i) IN GENERAL.—Beginning on July 1, 2009, the Association shall not engage in any new business activities or acquire any additional program assets (including acquiring assets pursuant to contractual commitments) described in subsection (d) other than in connection with the Association—

(I) serving as a lender of last resort pursuant to subsection (q); and

(II) purchasing loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or re-

sumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

(ii) AGREEMENT.—The Secretary is authorized to enter into an agreement described in subclause (II) of clause (i) with the Association covering such secondary market activities. Any agreement entered into under such subclause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under subsection (h)(7) shall not apply to loans acquired under any such agreement with the Secretary.

(B) ISSUANCE OF DEBT OBLIGATIONS DURING THE WIND UP PERIOD; ATTRIBUTES OF DEBT OBLIGATIONS.—The Association shall not issue debt obligations which mature later than July 1, 2013, except in connection with serving as a lender of last resort pursuant to subsection (q) or with purchasing loans under an agreement with the Secretary as described in subparagraph (A). Nothing in this subsection shall modify the attributes accorded the debt obligations of the Association by this section, regardless of whether such debt obligations are transferred to a trust in accordance with paragraph (3).

(C) USE OF ASSOCIATION NAME.—The Association may not transfer or permit the use of the name "Student Loan Marketing Association", "Sallie Mae", or any variation thereof, to or by any entity other than a subsidiary of the Association.

SEC. 440.[41] REORGANIZATION OF THE STUDENT LOAN MARKETING ASSOCIATION THROUGH THE FORMATION OF A HOLDING COMPANY.

(a) ACTIONS BY THE ASSOCIATION'S BOARD OF DIRECTORS.—The Board of Directors of the Association shall take or cause to be taken all such action as the Board of Directors deems necessary or appropriate to effect, upon the shareholder approval described in subsection (b), a restructuring of the common stock ownership of the Association, as set forth in a plan of reorganization adopted by the Board of Directors (the terms of which shall be consistent with this section) so that all of the outstanding common shares of the Association shall be directly owned by a Holding Company. Such actions may include, in the Board of Director's discretion, a merger of a wholly owned subsidiary of the Holding Company with and into the Association, which would have the effect provided in the plan of reorganization and the law of the jurisdiction in which such subsidiary is incorporated. As part of the restructuring, the Board of Directors may cause—

(1) the common shares of the Association to be converted, on the reorganization effective date, to common shares of the Holding Company on a one for one basis, consistent with applicable State or District of Columbia law; and

[41] See footnote for section 439 above.

(2) Holding Company common shares to be registered with the Securities and Exchange Commission.

(b) SHAREHOLDER APPROVAL.—The plan of reorganization adopted by the Board of Directors pursuant to subsection (a) shall be submitted to common shareholders of the Association for their approval. The reorganization shall occur on the reorganization effective date, provided that the plan of reorganization has been approved by the affirmative votes, cast in person or by proxy, of the holders of a majority of the issued and outstanding shares of the Association common stock.

(c) TRANSITION.—In the event the shareholders of the Association approve the plan of reorganization under subsection (b), the following provisions shall apply beginning on the reorganization effective date:

(1) IN GENERAL.—Except as specifically provided in this section, until the dissolution date the Association shall continue to have all of the rights, privileges and obligations set forth in, and shall be subject to all of the limitations and restrictions of, section 439, and the Association shall continue to carry out the purposes of such section. The Holding Company and any subsidiary of the Holding Company (other than the Association) shall not be entitled to any of the rights, privileges, and obligations, and shall not be subject to the limitations and restrictions, applicable to the Association under section 439, except as specifically provided in this section. The Holding Company and any subsidiary of the Holding Company (other than the Association or a subsidiary of the Association) shall not purchase loans insured under this Act until such time as the Association ceases acquiring such loans, except that the Holding Company may purchase such loans if the Association is merely continuing to acquire loans as a lender of last resort pursuant to section 439(q) or under an agreement with the Secretary described in paragraph (6).

(2) TRANSFER OF CERTAIN PROPERTY.—

(A) IN GENERAL.—Except as provided in this section, on the reorganization effective date or as soon as practicable thereafter, the Association shall use the Association's best efforts to transfer to the Holding Company or any subsidiary of the Holding Company (or both), as directed by the Holding Company, all real and personal property of the Association (both tangible and intangible) other than the remaining property. Subject to the preceding sentence, such transferred property shall include all right, title, and interest in—

(i) direct or indirect subsidiaries of the Association (excluding special purpose funding companies in existence on the date of enactment of this section and any interest in any government-sponsored enterprise);

(ii) contracts, leases, and other agreements of the Association;

(iii) licenses and other intellectual property of the Association; and

(iv) any other property of the Association.

(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit the Association from transferring remaining property from time to time to the Holding Company or any subsidiary of the Holding Company, subject to the provisions of paragraph (4).

(3) TRANSFER OF PERSONNEL.—On the reorganization effective date, employees of the Association shall become employees of the Holding Company (or any subsidiary of the Holding Company), and the Holding Company (or any subsidiary of the Holding Company) shall provide all necessary and appropriate management and operational support (including loan servicing) to the Association, as requested by the Association. The Association, however, may obtain such management and operational support from persons or entities not associated with the Holding Company.

(4) DIVIDENDS.—The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards and requirements set forth in section 439(r). If, at any time after the reorganization effective date, the Association fails to comply with such capital standards, the Holding Company shall transfer with due diligence to the Association additional capital in such amounts as are necessary to ensure that the Association again complies with the capital standards.

(5) CERTIFICATION PRIOR TO DIVIDEND.—Prior to the payment of any dividend under paragraph (4), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (4) and shall provide copies of all calculations needed to make such certification.

(6) RESTRICTIONS ON NEW BUSINESS ACTIVITY OR ACQUISITION OF ASSETS BY ASSOCIATION.—

(A) IN GENERAL.—After the reorganization effective date, the Association shall not engage in any new business activities or acquire any additional program assets described in section 439(d) other than in connection with—

(i) student loan purchases through September 30, 2007;

(ii) contractual commitments for future warehousing advances, or pursuant to letters of credit or standby bond purchase agreements, which are outstanding as of the reorganization effective date;

(iii) the Association serving as a lender-of-last-resort pursuant to section 439(q); and

(iv) the Association's purchase of loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

(B) AGREEMENT.—The Secretary is authorized to enter into an agreement described in clause (iv) of subparagraph (A) with the Association covering such secondary market activities. Any agreement entered into under such clause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under section 439(h)(7) shall not apply to loans acquired under any such agreement with the Secretary.

(7) ISSUANCE OF DEBT OBLIGATIONS DURING THE TRANSITION PERIOD; ATTRIBUTES OF DEBT OBLIGATIONS.—After the reorganization effective date, the Association shall not issue debt obligations which mature later than September 30, 2008, except in connection with serving as a lender-of-last-resort pursuant to section 439(q) or with purchasing loans under an agreement with the Secretary as described in paragraph (6). Nothing in this section shall modify the attributes accorded the debt obligations of the Association by section 439, regardless of whether such debt obligations are incurred prior to, or at any time following, the reorganization effective date or are transferred to a trust in accordance with subsection (d).

(8) MONITORING OF SAFETY AND SOUNDNESS.—

(A) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

(i) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

(ii) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

(B) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of the information described in subparagraph (A) to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and subparagraph (A), require the Association to make reports concerning the activities of any associated person whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

(C) SEPARATE OPERATION OF CORPORATIONS.—

(i) IN GENERAL.—The funds and assets of the Association shall at all times be maintained separately

from the funds and assets of the Holding Company or any subsidiary of the Holding Company and may be used by the Association solely to carry out the Association's purposes and to fulfill the Association's obligations.

(ii) BOOKS AND RECORDS.—The Association shall maintain books and records that clearly reflect the assets and liabilities of the Association, separate from the assets and liabilities of the Holding Company or any subsidiary of the Holding Company.

(iii) CORPORATE OFFICE.—The Association shall maintain a corporate office that is physically separate from any office of the Holding Company or any subsidiary of the Holding Company.

(iv) DIRECTOR.—No director of the Association who is appointed by the President pursuant to section 439(c)(1)(A) may serve as a director of the Holding Company.

(v) ONE OFFICER REQUIREMENT.—At least one officer of the Association shall be an officer solely of the Association.

(vi) TRANSACTIONS.—Transactions between the Association and the Holding Company or any subsidiary of the Holding Company, including any loan servicing arrangements, shall be on terms no less favorable to the Association than the Association could obtain from an unrelated third party offering comparable services.

(vii) CREDIT PROHIBITION.—The Association shall not extend credit to the Holding Company or any subsidiary of the Holding Company nor guarantee or provide any credit enhancement to any debt obligations of the Holding Company or any subsidiary of the Holding Company.

(viii) AMOUNTS COLLECTED.—Any amounts collected on behalf of the Association by the Holding Company or any subsidiary of the Holding Company with respect to the assets of the Association, pursuant to a servicing contract or other arrangement between the Association and the Holding Company or any subsidiary of the Holding Company, shall be collected solely for the benefit of the Association and shall be immediately deposited by the Holding Company or such subsidiary to an account under the sole control of the Association.

(D) ENCUMBRANCE OF ASSETS.—Notwithstanding any Federal or State law, rule, or regulation, or legal or equitable principle, doctrine, or theory to the contrary, under no circumstances shall the assets of the Association be available or used to pay claims or debts of or incurred by the Holding Company. Nothing in this subparagraph shall be construed to limit the right of the Association to pay dividends not otherwise prohibited under this subparagraph or to limit any liability of the Holding Company explicitly provided for in this section.

(E) HOLDING COMPANY ACTIVITIES.—After the reorganization effective date and prior to the dissolution date, all business activities of the Holding Company shall be conducted through subsidiaries of the Holding Company.

(F) CONFIDENTIALITY.—Any information provided by the Association pursuant to this section shall be subject to the same confidentiality obligations contained in section 439(r)(12).

(G) DEFINITION.—For purposes of this paragraph, the term associated person" means any person, other than a natural person, who is directly or indirectly controlling, controlled by, or under common control with, the Association.

(9) ISSUANCE OF STOCK WARRANTS.—

(A) IN GENERAL.—On the reorganization effective date, the Holding Company shall issue to the District of Columbia Financial Responsibility and Management Assistance Authority a number of stock warrants that is equal to one percent of the outstanding shares of the Association, determined as of the last day of the fiscal quarter preceding the date of enactment of this section, with each stock warrant entitling the holder of the stock warrant to purchase from the Holding Company one share of the registered common stock of the Holding Company or the Holding Company's successors or assigns, at any time on or before September 30, 2008. The exercise price for such warrants shall be an amount equal to the average closing price of the common stock of the Association for the 20 business days prior to the date of enactment of this section on the exchange or market which is then the primary exchange or market for the common stock of the Association. The number of shares of Holding Company common stock subject to each stock warrant and the exercise price of each stock warrant shall be adjusted as necessary to reflect—

(i) the conversion of Association common stock into Holding Company common stock as part of the plan of reorganization approved by the Association's shareholders; and

(ii) any issuance or sale of stock (including issuance or sale of treasury stock), stock split, recapitalization, reorganization, or other corporate event, if agreed to by the Secretary of the Treasury and the Association.

(B) AUTHORITY TO SELL OR EXERCISE STOCK WARRANTS; DEPOSIT OF PROCEEDS.—The District of Columbia Financial Responsibility and Management Assistance Authority is authorized to sell or exercise the stock warrants described in subparagraph (A). The District of Columbia Financial Responsibility and Management Assistance Authority shall deposit into the account established under section 3(e) of the Student Loan Marketing Association Reorganization Act of 1996 amounts collected from the sale and proceeds resulting from the exercise of the stock warrants pursuant to this subparagraph.

(10) RESTRICTIONS ON TRANSFER OF ASSOCIATION SHARES AND BANKRUPTCY OF ASSOCIATION.—After the reorganization effective date, the Holding Company shall not sell, pledge, or otherwise transfer the outstanding shares of the Association, or agree to or cause the liquidation of the Association or cause the Association to file a petition for bankruptcy under title 11, United States Code, without prior approval of the Secretary of the Treasury and the Secretary of Education.

(d) TERMINATION OF THE ASSOCIATION.—In the event the shareholders of the Association approve a plan of reorganization under subsection (b), the Association shall dissolve, and the Association's separate existence shall terminate on September 30, 2008, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days after receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to section 439(q) or continues to be needed to purchase loans under an agreement with the Secretary described in subsection (c)(6). On the dissolution date, the Association shall take the following actions:

(1) ESTABLISHMENT OF A TRUST.—The Association shall, under the terms of an irrevocable trust agreement that is in form and substance satisfactory to the Secretary of the Treasury, the Association and the appointed trustee, irrevocably transfer all remaining obligations of the Association to the trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms. To the extent the Association cannot provide money or qualifying obligations in the amount required, the Holding Company shall be required to transfer money or qualifying obligations to the trust in the amount necessary to prevent any deficiency.

(2) USE OF TRUST ASSETS.—All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust.

(3) OBLIGATIONS NOT TRANSFERRED TO THE TRUST.—The Association shall make proper provision for all other obligations of the Association not transferred to the trust, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding. Any obligations of the Associa-

tion which cannot be fully satisfied shall become liabilities of the Holding Company as of the date of dissolution.

(4) TRANSFER OF REMAINING ASSETS.—After compliance with paragraphs (1) and (3), any remaining assets of the trust shall be transferred to the Holding Company or any subsidiary of the Holding Company, as directed by the Holding Company.

(e) OPERATION OF THE HOLDING COMPANY.—In the event the shareholders of the Association approve the plan of reorganization under subsection (b), the following provisions shall apply beginning on the reorganization effective date:

(1) HOLDING COMPANY BOARD OF DIRECTORS.—The number of members and composition of the Board of Directors of the Holding Company shall be determined as set forth in the Holding Company's charter or like instrument (as amended from time to time) or bylaws (as amended from time to time) and as permitted under the laws of the jurisdiction of the Holding Company's incorporation.

(2) HOLDING COMPANY NAME.—The names of the Holding Company and any subsidiary of the Holding Company (other than the Association)—

(A) may not contain the name "Student Loan Marketing Association"; and

(B) may contain, to the extent permitted by applicable State or District of Columbia law, "Sallie Mae" or variations thereof, or such other names as the Board of Directors of the Association or the Holding Company deems appropriate.

(3) USE OF SALLIE MAE NAME.—Subject to paragraph (2), the Association may assign to the Holding Company, or any subsidiary of the Holding Company, the "Sallie Mae" name as a trademark or service mark, except that neither the Holding Company nor any subsidiary of the Holding Company (other than the Association or any subsidiary of the Association) may use the "Sallie Mae" name on, or to identify the issuer of, any debt obligation or other security offered or sold by the Holding Company or any subsidiary of the Holding Company (other than a debt obligation or other security issued to and held by the Holding Company or any subsidiary of the Holding Company). The Association shall remit to the account established under section 3(e) of the Student Loan Marketing Association Reorganization Act of 1996, $5,000,000, within 60 days of the reorganization effective date as compensation for the right to assign the "Sallie Mae" name as a trademark or service mark.

(4) DISCLOSURE REQUIRED.—Until 3 years after the dissolution date, the Holding Company, and any subsidiary of the Holding Company (other than the Association), shall prominently display—

(A) in any document offering the Holding Company's securities, a statement that the obligations of the Holding Company and any subsidiary of the Holding Company are not guaranteed by the full faith and credit of the United States; and

(B) in any advertisement or promotional materials which use the "Sallie Mae" name or mark, a statement

that neither the Holding Company nor any subsidiary of the Holding Company is a government-sponsored enterprise or instrumentality of the United States.

(f) STRICT CONSTRUCTION.—Except as specifically set forth in this section, nothing in this section shall be construed to limit the authority of the Association as a federally chartered corporation, or of the Holding Company as a State or District of Columbia chartered corporation.

(g) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

(h) DEADLINE FOR REORGANIZATION EFFECTIVE DATE.—This section shall be of no further force and effect in the event that the reorganization effective date does not occur on or before 18 months after the date of enactment of this section.

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

(1) ASSOCIATION.—The term "Association" means the Student Loan Marketing Association.

(2) DISSOLUTION DATE.—The term "dissolution date" means September 30, 2008, or such earlier date as the Secretary of Education permits the transfer of remaining obligations in accordance with subsection (d).

(3) HOLDING COMPANY.—The term "Holding Company" means the new business corporation established pursuant to this section by the Association under the laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring described in subsection (a).

(4) REMAINING OBLIGATIONS.—The term "remaining obligations" means the debt obligations of the Association outstanding as of the dissolution date.

(5) REMAINING PROPERTY.—The term "remaining property" means the following assets and liabilities of the Association which are outstanding as of the reorganization effective date:

(A) Debt obligations issued by the Association.

(B) Contracts relating to interest rate, currency, or commodity positions or protections.

(C) Investment securities owned by the Association.

(D) Any instruments, assets, or agreements described in section 439(d) (including, without limitation, all student loans and agreements relating to the purchase and sale of student loans, forward purchase and lending commitments, warehousing advances, academic facilities obligations, letters of credit, standby bond purchase agreements, liquidity agreements, and student loan revenue bonds or other loans).

(E) Except as specifically prohibited by this section or section 439, any other nonmaterial assets or liabilities of the Association which the Association's Board of Directors

determines to be necessary or appropriate to the Association's operations.

(6) REORGANIZATION.—The term "reorganization' means the restructuring event or events (including any merger event) giving effect to the Holding Company structure described in subsection (a).

(7) REORGANIZATION EFFECTIVE DATE.—The term "reorganization effective date" means the effective date of the reorganization as determined by the Board of Directors of the Association, which shall not be earlier than the date that shareholder approval is obtained pursuant to subsection (b) and shall not be later than the date that is 18 months after the date of enactment of this section.

(8) SUBSIDIARY.—The term "subsidiary" means one or more direct or indirect subsidiaries.

SEC. 440A. DISCRIMINATION IN SECONDARY MARKETS PROHIBITED.

The Student Loan Marketing Association (and, if the Association is privatized under section 440, any successor entity functioning as a secondary market for loans under this part, including the Holding Company described in such section) shall not engage directly or indirectly in any pattern or practice that results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year at an eligible institution.

PART C—FEDERAL WORK-STUDY PROGRAMS

SEC. 441. [20 U.S.C. 1087–51] PURPOSE; APPROPRIATIONS AUTHORIZED.

(a) PURPOSE.—The purpose of this part is to stimulate and promote the part-time employment of students who are enrolled as undergraduate, graduate, or professional students and who are in need of earnings from employment to pursue courses of study at eligible institutions, and to encourage students receiving Federal student financial assistance to participate in community service activities that will benefit the Nation and engender in the students a sense of social responsibility and commitment to the community.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part, such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(c) COMMUNITY SERVICES.—For purposes of this part, the term "community services" means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs, including—

(1) such fields as health care, child care (including child care services provided on campus that are open and accessible to the community), literacy training, education (including tutorial services), welfare, social services, transportation, housing

and neighborhood improvement, public safety, emergency preparedness and response, crime prevention and control, recreation, rural development, and community improvement;

(2) work in a project, as defined in section 101(20) of the National and Community Service Act of 1990 (42 U.S.C. 12511(20));

(3) support services to students with disabilities, including students with disabilities who are enrolled at the institution; and

(4) activities in which a student serves as a mentor for such purposes as—

(A) tutoring;

(B) supporting educational and recreational activities; and

(C) counseling, including career counseling.

SEC. 442. [20 U.S.C. 1087–52] ALLOCATION OF FUNDS.

(a) ALLOCATION BASED ON PREVIOUS ALLOCATION[42].—(1) From the amount appropriated pursuant to section 441(b) for each fiscal year, the Secretary shall first allocate to each eligible institution for each succeeding fiscal year, an amount equal to 100 percent of the amount such institution received under subsections (a) and (b) for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year).

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

[42] The allocation provisions of section 413D of the Higher Education Act of 1965 were amended by section 442 of the Higher Education Amendments of 1998 (P.L. 105–244; 112 Stat. 1712). Subsection (c) of that section 442 contained the following effective date provision:

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to allocations of amounts appropriated pursuant to section 441(b) for fiscal year 2000 or any succeeding fiscal year.

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate or transfer to a 4-year institution of higher education.

(b) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From the remainder of the amount appropriated pursuant to section 441(b) after making the allocations required by subsection (a), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (c)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 441(b) for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a).

(c) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help

need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students; and

(F) multiply the number of eligible independent students in ach income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary shall—

(A) establish various income categories of graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under sub-

paragraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category; and

(F) add the amounts determined under subparagraph (E) of this paragraph for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term "average cost of attendance" means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $600.

(d) REALLOCATION OF EXCESS ALLOCATIONS.—(1) If institutions return to the Secretary any portion of the sums allocated to such institutions under this section for any fiscal year, the Secretary shall reallot such excess to eligible institutions which used at least 5 percent of the total amount of funds granted to such institution under this section to compensate students employed in tutoring in reading and family literacy activities in the preceding fiscal year. Such excess funds shall be reallotted to institutions which qualify under this subsection on the same basis as excess eligible amounts are allocated to institutions pursuant to subsection (b). Funds received by institutions pursuant to this subsection shall be used to compensate students employed in community service.

(2) If, under paragraph (1) of this subsection, an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.

(e) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

SEC. 443. [20 U.S.C. 1087–53] GRANTS FOR FEDERAL WORK-STUDY PROGRAMS.

(a) AGREEMENTS REQUIRED.—The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

(b) CONTENTS OF AGREEMENTS.—An agreement entered into pursuant to this section shall—

(1) provide for the operation by the institution of a program for the part-time employment, including internships, practica, or research assistantships as determined by the Secretary, of its students in work for the institution itself, work in community service or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

(A) will not result in the displacement of employed workers or impair existing contracts for services;

(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938;

(2) provide that funds granted an institution of higher education, pursuant to this section, may be used only to make payments to students participating in work-study programs, except that—

(A) for fiscal year 2000 and succeeding fiscal years, an institution shall use at least 7 percent of the total amount of funds granted to such institution under this section for such fiscal year to compensate students employed in community service, and shall ensure that not less than 1 tutoring or family literacy project (as described in subsection (d)) is included in meeting the requirement of this subparagraph, except that the Secretary may waive this subparagraph if the Secretary determines that enforcing this subparagraph would cause hardship for students at the institution; and

(B) an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 489 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 446 of this part, and may transfer funds in accordance with the provisions of section 488 of this Act;

(3) provide that in the selection of students for employment under such work-study program, only students who dem-

onstrate financial need in accordance with part F and meet the requirements of section 484 will be assisted, except that if the institution's grant under this part is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution on less than a full-time basis, or (B) independent students, a reasonable portion of the grant shall be made available to such students;

(4) provide that for a student employed in a work-study program under this part, at the time income derived from any need-based employment is in excess of the determination of the amount of such student's need by more than $300, continued employment shall not be subsidized with funds appropriated under this part;

(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent, except that—

(A) the Federal share may exceed 75 percent, but not exceed 90 percent, if, consistent with regulations of the Secretary—

(i) the student is employed at a nonprofit private organization or a government agency that—

(I) is not a part of, and is not owned, operated, or controlled by, or under common ownership, operation, or control with, the institution;

(II) is selected by the institution on an individual case-by-case basis for such student; and

(III) would otherwise be unable to afford the costs of such employment; and

(ii) not more than 10 percent of the students compensated through the institution's grant under this part during the academic year are employed in positions for which the Federal share exceeds 75 percent; and

(B) the Federal share may exceed 75 percent if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part;

(6) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof;

(7) provide assurances that employment made available from funds under this part will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance under this part;

(8) provide assurances, in the case of each proprietary institution, that students attending the proprietary institution receiving assistance under this part who are employed by the institution may be employed in jobs—

(A) that are only on campus and that—

(i) to the maximum extent practicable, complement and reinforce the education programs or vocational goals of such students; and

(ii) furnish student services that are directly related to the student's education, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; or

(B) in community service in accordance with paragraph (2)(A) of this subsection;

(9) provide assurances that employment made available from funds under this part may be used to support programs for supportive services to students with disabilities;

(10) provide assurances that the institution will inform all eligible students of the opportunity to perform community service, and will consult with local nonprofit, governmental, and community-based organizations to identify such opportunities; and

(11) include such other reasonable provisions as the Secretary shall deem necessary or appropriate to carry out the purpose of this part.

(c) PRIVATE SECTOR EMPLOYMENT AGREEMENT.—As part of its agreement described in subsection (b), an institution of higher education may, at its option, enter into an additional agreement with the Secretary which shall—

(1) provide for the operation by the institution of a program of part-time employment of its students in work for a private for-profit organization under an arrangement between the institution and such organization that complies with the requirements of subparagraphs (A) through (D) of subsection (b)(1) and subsection (b)(3);

(2) provide that the institution will use not more than 25 percent of the funds made available to such institution under this part for any fiscal year for the operation of the program described in paragraph (1);

(3) provide that, notwithstanding subsection (b)(5), the Federal share of the compensation of students employed in such program will not exceed 60 percent for academic years 1987–1988 and 1988–1989, 55 percent for academic year 1989–1990, and 50 percent for academic year 1990–1991 and succeeding academic years, and that the non-Federal share of such compensation will be provided by the private for-profit organization in which the student is employed;

(4) provide that jobs under the work study program will be academically relevant, to the maximum extent practicable; and

(5) provide that the for-profit organization will not use funds made available under this part to pay any employee who would otherwise be employed by the organization.

(d) TUTORING AND LITERACY ACTIVITIES.—

(1) USE OF FUNDS.—In any academic year to which subsection (b)(2)(A) applies, an institution shall ensure that funds granted to such institution under this section are used in accordance with such subsection to compensate (including com-

pensation for time spent in training and travel directly related to tutoring in reading and family literacy activities) students—

(A) employed as reading tutors for children who are preschool age or are in elementary school; or

(B) employed in family literacy projects.

(2) PRIORITY FOR SCHOOLS.—To the extent practicable, an institution shall—

(A) give priority to the employment of students in the provision of tutoring in reading in schools that are participating in a reading reform project that—

(i) is designed to train teachers how to teach reading on the basis of scientifically-based research on reading; and

(ii) is funded under the Elementary and Secondary Education Act of 1965; and

(B) ensure that any student compensated with the funds described in paragraph (1) who is employed in a school participating in a reading reform project described in subparagraph (A) receives training from the employing school in the instructional practices used by the school.

(3) FEDERAL SHARE.—The Federal share of the compensation of work-study students compensated under this subsection may exceed 75 percent.

(e) CIVIC EDUCATION AND PARTICIPATION ACTIVITIES.—

(1) USE OF FUNDS.—Funds granted to an institution under this section may be used to compensate (including compensation for time spent in training and travel directly related to civic education and participation activities) students employed in projects that—

(A) teach civics in schools;

(B) raise awareness of government functions or resources; or

(C) increase civic participation.

(2) PRIORITY FOR SCHOOLS.—To the extent practicable, an institution shall—

(A) give priority to the employment of students participating in projects that educate or train the public about evacuation, emergency response, and injury prevention strategies relating to natural disasters, acts of terrorism, and other emergency situations; and

(B) ensure that any student compensated with the funds described in paragraph (1) receives appropriate training to carry out the educational services required.

(3) FEDERAL SHARE.—The Federal share of the compensation of work-study students compensated under this subsection may exceed 75 percent.

SEC. 444. [20 U.S.C. 1087–54 note] SOURCES OF MATCHING FUNDS.

Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part, and such share may be paid to such student in the form of services and

equipment (including tuition, room, board, and books) furnished by such institution.

SEC. 445. [20 U.S.C. 1087–55] FLEXIBLE USE OF FUNDS.

(a) CARRY-OVER AUTHORITY.—(1) Of the sums granted to an eligible institution under this part for any fiscal year, 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out programs under this part.

(2) Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

(b) CARRY-BACK AUTHORITY.—(1) Up to 10 percent of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.

(2) An eligible institution may make payments to students of wages earned after the end of the academic year, but prior to the beginning of the succeeding fiscal year, from such succeeding fiscal year's appropriations.

(c) FLEXIBLE USE OF FUNDS.—An eligible institution may, upon the request of a student, make payments to the student under this part by crediting the student's account at the institution or by making a direct deposit to the student's account at a depository institution. An eligible institution may only credit the student's account at the institution for (1) tuition and fees, (2) in the case of institutionally owned housing, room and board, and (3) other institutionally provided goods and services.

(d) FLEXIBILITY IN THE EVENT OF A MAJOR DISASTER.—

(1) IN GENERAL.—In the event of a major disaster, an eligible institution located in any area affected by such major disaster, as determined by the Secretary, may make payments under this part to disaster-affected students, for the period of time (not to exceed one academic year) in which the disaster-affected students were prevented from fulfilling the students' work-study obligations as described in paragraph (2)(A)(iii), as follows:

(A) Payments may be made under this part to disaster-affected students in an amount equal to or less than the amount of wages such students would have been paid under this part had the students been able to complete the work obligation necessary to receive work study funds.

(B) Payments shall not be made to any student who was not eligible for work study or was not completing the work obligation necessary to receive work study funds under this part prior to the occurrence of the major disaster.

(C) Any payments made to disaster-affected students under this subsection shall meet the matching requirements of section 443, unless such matching requirements are waived by the Secretary.

(2) DEFINITIONS.—In this subsection:

(A) The term "disaster-affected student" means a student enrolled at an eligible institution who—

(i) received a work-study award under this section for the academic year during which a major disaster occurred;

(ii) earned Federal work-study wages from such eligible institution for such academic year;

(iii) was prevented from fulfilling the student's work-study obligation for all or part of such academic year due to such major disaster; and

(iv) was unable to be reassigned to another work-study job.

(B) The term "major disaster" has the meaning given such term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

SEC. 446. [20 U.S.C. 1087–56] JOB LOCATION AND DEVELOPMENT PROGRAMS.

(a) AGREEMENTS REQUIRED.—(1) The Secretary is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 percent or $75,000 of its allotment under section 442, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions, locates and develops jobs, including community service jobs, for currently enrolled students.

(2) Jobs located and developed under this section shall be jobs that are suitable to the scheduling and other needs of such students and that, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students.

(b) CONTENTS OF AGREEMENTS.—Agreements under subsection (a) shall—

(1) provide that the Federal share of the cost of any program under this section will not exceed 80 percent of such cost;

(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution;

(3) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

(4) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

(5) provide satisfactory assurance that Federal funds used for the purpose of this section can realistically be expected to help generate student wages exceeding, in the aggregate, the

amount of such funds, and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

(6) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.

SEC. 447. [20 U.S.C. 1087–57] ADDITIONAL FUNDS TO CONDUCT COMMUNITY SERVICE WORK-STUDY PROGRAMS.

(a) COMMUNITY SERVICE-LEARNING.—Each institution participating under this part may use up to 10 percent of the funds made available under section 489(a) and attributable to the amount of the institution's expenditures under this part to conduct that institution's program of community service-learning, including—

(1) development of mechanisms to assure the academic quality of the student experience,

(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

(3) collaboration with public and private nonprofit agencies, and programs assisted under the National and Community Service Act of 1990 in the planning, development, and administration of such programs.

(b) OFF-CAMPUS COMMUNITY SERVICE.—

(1) GRANTS AUTHORIZED.—In addition to funds made available under section 443(b)(2)(A), the Secretary is authorized to award grants to institutions participating under this part to supplement off-campus community service employment.

(2) USE OF FUNDS.—An institution shall ensure that funds granted to such institution under this subsection are used in accordance with section 443(b)(2)(A) to recruit and compensate students (including compensation for time spent in training and for travel directly related to such community service).

(3) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applications that support postsecondary students assisting with early childhood education activities and activities in preparation for emergencies and natural disasters.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

SEC. 448. [20 U.S.C. 1087–58] WORK COLLEGES.

(a) PURPOSE.—The purpose of this section is to recognize, encourage, and promote the use of comprehensive work-learning-service programs as a valuable educational approach when it is an integral part of the institution's educational program and a part of a financial plan which decreases reliance on grants and loans.

(b) SOURCE AND USE FUNDS.—

(1) SOURCE OF FUNDS.—In addition to the sums appropriated under subsection (f), funds allocated to the institution under part C and part E of this title may be transferred for

use under this section to provide flexibility in strengthening the self-help-through-work element in financial aid packaging.

(2) ACTIVITIES AUTHORIZED.—From the sums appropriated pursuant to subsection (f), and from the funds available under paragraph (1), eligible institutions may, following approval of an application under subsection (c) by the Secretary—

(A) support the educational costs of qualified students through self-help payments or credits provided under the work-learning-service program of the institution within the limits of part F of this title;

(B) promote the work-learning-service experience as a tool of postsecondary education, financial self-help and community service-learning opportunities;

(C) carry out activities described in section 443 or 446;

(D) be used for the administration, development and assessment of comprehensive work-learning-service programs, including—

(i) community-based work-learning-service alternatives that expand opportunities for community service and career-related work; and

(ii) alternatives that develop sound citizenship, encourage student persistence, and make optimum use of assistance under this part in education and student development;

(E) coordinate and carry out joint projects and activities to promote work service learning; and

(F) carry out a comprehensive, longitudinal study of student academic progress and academic and career outcomes, relative to student self-sufficiency in financing their higher education, repayment of student loans, continued community service, kind and quality of service performed, and career choice and community service selected after graduation.

(c) APPLICATION.—Each eligible institution may submit an application for funds authorized by subsection (f) to use funds under subsection (b)(1) at such time and in such manner as the Secretary, by regulation, may reasonably require.

(d) MATCH REQUIRED.—Funds made available to work-colleges pursuant to this section shall be matched on a dollar-for-dollar basis from non-Federal sources.

(e) DEFINITIONS.—For the purpose of this section—

(1) the term "work college" means an eligible institution that—

(A) has been a public or private nonprofit, four-year, degree-granting institution with a commitment to community service;

(B) has operated a comprehensive work-learning-service program for at least two years;

(C) requires students, including at least one-half of all students who are enrolled on a full-time basis, to participate in a comprehensive work-learning-service program for at least five hours each week, or at least 80 hours during each period of enrollment, except summer school, unless

the student is engaged in an institutionally organized or approved study abroad or externship program; and

(D) provides students participating in the comprehensive work-learning-service program with the opportunity to contribute to their education and to the welfare of the community as a whole; and

(2) the term "comprehensive student work-learning-service program" means a student work-learning-service program that—

(A) is an integral and stated part of the institution's educational philosophy and program;

(B) requires participation of all resident students for enrollment and graduation;

(C) includes learning objectives, evaluation, and a record of work performance as part of the student's college record;

(D) provides programmatic leadership by college personnel at levels comparable to traditional academic programs;

(E) recognizes the educational role of work-learning-service supervisors; and

(F) includes consequences for nonperformance or failure in the work-learning-service program similar to the consequences for failure in the regular academic program.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

SEC. 451. [20 U.S.C. 1087a] PROGRAM AUTHORITY.

(a) IN GENERAL.—There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary (1) to make loans to all eligible students (and the eligible parents of such students) in attendance at participating institutions of higher education selected by the Secretary, to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994; and (2) for purchasing loans under section 459A. Loans made under this part shall be made by participating institutions, or consortia thereof, that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

(b) DESIGNATION.—

(1) PROGRAM.—The program established under this part shall be referred to as the "William D. Ford Federal Direct Loan Program".

(2) DIRECT LOANS.—Notwithstanding any other provision of this part, loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under sec-

tion 428, shall be known as "Federal Direct Stafford/Ford Loans".

SEC. 452. [20 U.S.C. 1087b] FUNDS FOR ORIGINATION OF DIRECT STUDENT LOANS.

(a) IN GENERAL.—The Secretary shall provide, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans, funds for student and parent loans under this part—

(1) directly to an institution of higher education that has an agreement with the Secretary under section 454(a) to participate in the direct student loan programs under this part and that also has an agreement with the Secretary under section 454(b) to originate loans under this part; or

(2) through an alternative originator designated by the Secretary to students (and parents of students) attending institutions of higher education that have an agreement with the Secretary under section 454(a) but that do not have an agreement with the Secretary under section 454(b).

(b) NO ENTITLEMENT TO PARTICIPATE OR ORIGINATE.—No institution of higher education shall have a right to participate in the programs authorized by this part, to originate loans, or to perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part.

(c) DELIVERY OF LOAN FUNDS.—Loan funds shall be paid and delivered to an institution by the Secretary prior to the beginning of the payment period established by the Secretary in a manner that is consistent with payment and delivery of Federal Pell Grants under subpart 1 of part A of this title.

(d) INSTITUTIONS OUTSIDE THE UNITED STATES.—Loan funds for students (and parents of students) attending institutions outside the United States shall be disbursed through a financial institution located or operating in the United States and designated by the Secretary to serve as the agent of such institutions with respect to the receipt of the disbursements of such loan funds and the transfer of such funds to such institutions. To be eligible to receive funds under this part, an institution outside the United States shall make arrangements with the agent designated by the Secretary under this subsection to receive funds under this part.

SEC. 453. [20 U.S.C. 1087c] SELECTION OF INSTITUTIONS FOR PARTICIPATION AND ORIGINATION.

(a) GENERAL AUTHORITY.—The Secretary shall enter into agreements pursuant to section 454(a) with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 454(b) with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 456(b) or such other means as the Secretary may provide, for students attending partici-

pating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994–1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

(b) SELECTION CRITERIA.—

(1) APPLICATION.—Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

(2) SELECTION PROCEDURE.—The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 454(a), from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe.

(c) SELECTION CRITERIA FOR ORIGINATION.—

(1) IN GENERAL.—The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

(A) has an agreement under subsection 454(a);

(B) desires to originate loans under this part; and

(C) meets the criteria described in paragraph (2).

(2) SELECTION CRITERIA.—The Secretary may approve an institution to originate loans only if such institution—

(A) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A, part C, or part E of this title;

(B) is not overdue on program or financial reports or audits required under this title;

(C) is not subject to an emergency action, or a limitation, suspension, or termination under section 428(b)(1)(T), 432(h), or 487(c);

(D) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this title, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

(E) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and

(F) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

(d) ELIGIBLE INSTITUTIONS.—The Secretary may not select an institution of higher education for participation under this section

unless such institution is an eligible institution under section 435(a).

(e) CONSORTIA.—Subject to such requirements as the Secretary may prescribe, eligible institutions of higher education (as determined under subsection (d)) with agreements under section 454(a) may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Each such institution shall be required to meet the requirements of subsection (c) with respect to loan origination.

SEC. 454. [20 U.S.C. 1087d] AGREEMENTS WITH INSTITUTIONS.

(a) PARTICIPATION AGREEMENTS.—An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

(A) identify eligible students who seek student financial assistance at such institution in accordance with section 484;

(B) estimate the need of each such student as required by part F of this title for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 428H (except as otherwise provided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 428B (except as otherwise provided in this part), or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student's determination of need (as determined under part F of this title), if the reason for such action is documented and provided in written form to such student;

(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and

(E) provide timely and accurate information—

(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

(ii) if the institution does not have an agreement with the Secretary under subsection (b), concerning

student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

(3) provide that the institution accepts responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

(4) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

(5) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

(6) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

(b) ORIGINATION.—An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

(1) supplement the agreement entered into in accordance with subsection (a);

(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), and (6) of subsection (a), as modified to relate to the origination of loans by the institution or consortium;

(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

(c) WITHDRAWAL AND TERMINATION PROCEDURES.—The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

SEC. 455. [20 U.S.C. 1087e] TERMS AND CONDITIONS OF LOANS.

(a) IN GENERAL.—

(1) PARALLEL TERMS, CONDITIONS, BENEFITS, AND AMOUNTS.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as

loans made to borrowers, and first disbursed on June 30, 2010,[43] under sections 428, 428B, 428C, and 428H of this title.

(2) DESIGNATION OF LOANS.—Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

(A) section 428 shall be known as "Federal Direct Stafford Loans";

(B) section 428B shall be known as "Federal Direct PLUS Loans";

(C) section 428C shall be known as "Federal Direct Consolidation Loans"; and

(D) section 428H shall be known as "Federal Direct Unsubsidized Stafford Loans".

(3) TERMINATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS TO GRADUATE AND PROFESSIONAL STUDENTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any provision of this part or part B, for any period of instruction beginning on or after July 1, 2012—

(i) a graduate or professional student shall not be eligible to receive a Federal Direct Stafford loan under this part; and

(ii) the maximum annual amount of Federal Direct Unsubsidized Stafford loans such a student may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the maximum annual amount for such student determined under section 428H, plus an amount equal to the amount of Federal Direct Stafford loans the student would have received in the absence of this subparagraph.

(B) EXCEPTION.—Subparagraph (A) shall not apply to an individual enrolled in course work specified in paragraph (3)(B) or (4)(B) of section 484(b).

(b) INTEREST RATE.—

(1) RATES FOR FDSL AND FDUSL.—For Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.1 percent,

except that such rate shall not exceed 8.25 percent.

(2) IN SCHOOL AND GRACE PERIOD RULES.—(A) Notwithstanding the provisions of paragraph (1), but subject to para-

[43] The amendment made by section 2211(a)(1) of Public Law 111–152 to insert ", and first disbursed on June 30, 2010," before "under sections 428" is subject to an effective date. Subsection (b) of section 2211 of such Public Law provides:

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply with respect to loans first disbursed under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) on or after July 1, 2010.

graph (3), with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall not exceed the rate determined under subparagraph (B).

(B) For the purpose of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(ii) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) OUT-YEAR RULE.—Notwithstanding paragraphs (1) and (2), for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(4) RATES FOR FDPLUS.—

(A)(i) For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on or before June 30, 2001, be determined on the preceding June 1 and be equal to—

(I) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the applicable rate of interest determined under this subparagraph shall be determined on the preceding June 26 and be equal to—

(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

(B) For Federal Direct PLUS loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-

month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(ii) 2.1 percent,

except that such rate shall not exceed 9 percent.

(5) TEMPORARY INTEREST RATE PROVISION.—

(A) RATES FOR FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(B) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under subparagraph (A) by substituting "1.7 percent" for "2.3 percent".

(C) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall be determined under subparagraph (A)—

(i) by substituting "3.1 percent" for "2.3 percent"; and

(ii) by substituting "9.0 percent" for "8.25 percent".

(6) INTEREST RATE PROVISION FOR NEW LOANS ON OR AFTER OCTOBER 1, 1998, AND BEFORE JULY 1, 2006.—

(A) RATES FOR FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(B) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under subparagraph (A) by substituting "1.7 percent" for "2.3 percent".

(C) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be determined under subparagraph (A)—

(i) by substituting "3.1 percent" for "2.3 percent"; and

(ii) by substituting "9.0 percent" for "8.25 percent".

(D) CONSOLIDATION LOANS.—Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after February 1, 1999, and before July 1, 2006, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or

(ii) 8.25 percent.

(E) TEMPORARY RULES FOR CONSOLIDATION LOANS.—Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after October 1, 1998, and before February 1, 1999, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(7) INTEREST RATE PROVISION FOR NEW LOANS ON OR AFTER JULY 1, 2006 AND BEFORE JULY 1, 2013.—

(A) RATES FOR FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 2006, and before July 1, 2013, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

(B) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct PLUS loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2013, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

(C) CONSOLIDATION LOANS.—Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after July 1, 2006, and before July 1, 2013, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or

(ii) 8.25 percent.

(D) REDUCED RATES FOR UNDERGRADUATE FDSL.—Notwithstanding the preceding paragraphs of this subsection and subparagraph (A) of this paragraph, for Federal Direct Stafford Loans made to undergraduate students for which the first disbursement is made on or after July 1, 2006, and before July 1, 2013, the applicable rate of interest shall be as follows:

(i) For a loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2008, 6.8 percent on the unpaid principal balance of the loan.

(ii) For a loan for which the first disbursement is made on or after July 1, 2008, and before July 1, 2009, 6.0 percent on the unpaid principal balance of the loan.

(iii) For a loan for which the first disbursement is made on or after July 1, 2009, and before July 1, 2010, 5.6 percent on the unpaid principal balance of the loan.

(iv) For a loan for which the first disbursement is made on or after July 1, 2010, and before July 1, 2011, 4.5 percent on the unpaid principal balance of the loan.

(v) For a loan for which the first disbursement is made on or after July 1, 2011, and before July 1, 2013, 3.4 percent on the unpaid principal balance of the loan.

(8) INTEREST RATE PROVISIONS FOR NEW LOANS ON OR AFTER JULY 1, 2013.—

(A) RATES FOR UNDERGRADUATE FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this sub-

section, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans issued to undergraduate students, for which the first disbursement is made on or after July 1, 2013, the applicable rate of interest shall, for loans disbursed during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

(i) a rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to such June 1 plus 2.05 percent; or

(ii) 8.25 percent.

(B) RATES FOR GRADUATE AND PROFESSIONAL FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Unsubsidized Stafford Loans issued to graduate or professional students, for which the first disbursement is made on or after July 1, 2013, the applicable rate of interest shall, for loans disbursed during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

(i) a rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to such June 1 plus 3.6 percent; or

(ii) 9.5 percent.

(C) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct PLUS Loans, for which the first disbursement is made on or after July 1, 2013, the applicable rate of interest shall, for loans disbursed during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

(i) a rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to such June 1 plus 4.6 percent; or

(ii) 10.5 percent.

(D) CONSOLIDATION LOANS.—Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation Loan for which the application is received on or after July 1, 2013, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent.

(E) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this paragraph after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(F) RATE.—The applicable rate of interest determined under this paragraph for a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct PLUS Loan shall be fixed for the period of the loan.

(9) REPAYMENT INCENTIVES.—

(A)(A)[44] INCENTIVES FOR LOANS DISBURSED BEFORE JULY 1, 2012.—Notwithstanding any other provision of this part with respect to loans for which the first disbursement of principal is made before July 1, 2012,,[45] the Secretary is authorized to prescribe by regulation such reductions in the interest or origination fee rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the Federal Government. Any increase in subsidy costs resulting from such reductions shall be completely offset by corresponding savings in funds available for the William D. Ford Federal Direct Loan Program in that fiscal year from section 458 and other administrative accounts.

(B) ACCOUNTABILITY.—Prior to publishing regulations proposing repayment incentives with respect to loans for which the first disbursement of principal is made before July 1, 2012, the Secretary shall ensure the cost neutrality of such reductions. The Secretary shall not prescribe such regulations in final form unless an official report from the Director of the Office of Management and Budget to the Secretary and a comparable report from the Director of the Congressional Budget Office to the Congress each certify that any such reductions will be completely cost neutral. Such reports shall be transmitted to the authorizing committees not less than 60 days prior to the publication of regulations proposing such reductions.

(C) NO REPAYMENT INCENTIVES FOR NEW LOANS DISBURSED ON OR AFTER JULY 1, 2012.—Notwithstanding any other provision of this part, the Secretary is prohibited from authorizing or providing any repayment incentive not otherwise authorized under this part to encourage on-time repayment of a loan under this part for which the first disbursement of principal is made on or after July 1, 2012, including any reduction in the interest or origination fee rate paid by a borrower of such a loan, except that the Secretary may provide for an interest rate reduction for a borrower who agrees to have payments on such a loan automatically electronically debited from a bank account.

(10) PUBLICATION.—The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(c) LOAN FEE.—

(1) IN GENERAL.—The Secretary shall charge the borrower of a loan made under this part an origination fee of 4.0 percent of the principal amount of loan.

[44] So in law. See amendment made by section 503(1)(A) of Public Law 112–25. The amendment revises the heading in its entirety and probably should not have included the subparagraph designator in the matter to be inserted since that is not part of the heading.

[45] Two commas so in law. See amendment made by section 503(1)(B) of Public Law 112–25.

(2) SUBSEQUENT REDUCTION.—Paragraph (1) shall be applied to loans made under this part, other than Federal Direct Consolidation loans and Federal Direct PLUS loans—

(A) by substituting "3.0 percent" for "4.0 percent" with respect to loans for which the first disbursement of principal is made on or after the date of enactment of the Higher Education Reconciliation Act of 2005, and before July 1, 2007;

(B) by substituting "2.5 percent" for "4.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

(C) by substituting "2.0 percent" for "4.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

(D) by substituting "1.5 percent" for "4.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

(E) by substituting "1.0 percent" for "4.0 percent" with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.

(d) REPAYMENT PLANS.—

(1) DESIGN AND SELECTION.—Consistent with criteria established by the Secretary, the Secretary shall offer a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part. The borrower may choose—

(A) a standard repayment plan, consistent with subsection (a)(1) of this section and with section 428(b)(9)(A)(i);

(B) a graduated repayment plan, consistent with section 428(b)(9)(A)(ii);

(C) an extended repayment plan, consistent with section 428(b)(9)(A)(iv), except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 428(b)(1)(L);

(D) an income contingent repayment plan, with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time prescribed by the Secretary, not to exceed 25 years, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS loan made on behalf of a dependent student; and

(E) beginning on July 1, 2009, an income-based repayment plan that enables borrowers who have a partial financial hardship to make a lower monthly payment in accordance with section 493C, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS Loan made on behalf of a dependent student or a Federal Direct Consolidation Loan, if

the proceeds of such loan were used to discharge the liability on such Federal Direct PLUS Loan or a loan under section 428B made on behalf of a dependent student.

(2) SELECTION BY SECRETARY.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

(3) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

(4) ALTERNATIVE REPAYMENT PLANS.—The Secretary may provide, on a case by case basis, an alternative repayment plan to a borrower of a loan made under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are not adequate to accommodate the borrower's exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

(5) REPAYMENT AFTER DEFAULT.—The Secretary may require any borrower who has defaulted on a loan made under this part to—

(A) pay all reasonable collection costs associated with such loan; and

(B) repay the loan pursuant to an income contingent repayment plan.

(e) INCOME CONTINGENT REPAYMENT.—

(1) INFORMATION AND PROCEDURES.—The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to income contingent repayment, for the purpose of determining the annual repayment obligation of the borrower. Returns and return information (as defined in section 6103 of the Internal Revenue Code of 1986) may be obtained under the preceding sentence only to the extent authorized by section 6103(l)(13) of such Code. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively income contingent repayment.

(2) REPAYMENT BASED ON ADJUSTED GROSS INCOME.—A repayment schedule for a loan made under this part and repaid pursuant to income contingent repayment shall be based on the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the borrower or, if the borrower is married and files a Federal income tax return jointly with the borrower's spouse, on the adjusted gross income of the borrower and the borrower's spouse.

(3) ADDITIONAL DOCUMENTS.—A borrower who chooses, or is required, to repay a loan made under this part pursuant to income contingent repayment, and for whom adjusted gross income is unavailable or does not reasonably reflect the borrower's current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

(4) REPAYMENT SCHEDULES.—Income contingent repayment schedules shall be established by regulations promulgated by the Secretary and shall require payments that vary in relation to the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

(5) CALCULATION OF BALANCE DUE.—The balance due on a loan made under this part that is repaid pursuant to income contingent repayment shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may promulgate regulations limiting the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

(6) NOTIFICATION TO BORROWERS.—The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to income contingent repayment is notified of the terms and conditions of such plan, including notification of such borrower—

(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of the Internal Revenue Code of 1986; and

(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

(7) MAXIMUM REPAYMENT PERIOD.—In calculating the extended period of time for which an income contingent repayment plan under this subsection may be in effect for a borrower, the Secretary shall include all time periods during which a borrower of loans under part B, part D, or part E—

(A) is not in default on any loan that is included in the income contingent repayment plan; and

(B)(i) is in deferment due to an economic hardship described in section 435(o);

(ii) makes monthly payments under paragraph (1) or (6) of section 493C(b);

(iii) makes monthly payments of not less than the monthly amount calculated under section 428(b)(9)(A)(i) or subsection (d)(1)(A), based on a 10-year repayment period,

when the borrower first made the election described in section 493C(b)(1);

(iv) makes payments of not less than the payments required under a standard repayment plan under section 428(b)(9)(A)(i) or subsection (d)(1)(A) with a repayment period of 10 years; or

(v) makes payments under an income contingent repayment plan under subsection (d)(1)(D).

(f) DEFERMENT.—

(1) EFFECT ON PRINCIPAL AND INTEREST.—A borrower of a loan made under this part who meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

(A) shall not accrue, in the case of a—

(i) Federal Direct Stafford Loan; or

(ii) a Federal Direct Consolidation Loan that consolidated only Federal Direct Stafford Loans, or a combination of such loans and Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; or

(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan not described in subparagraph (A)(ii).

(2) ELIGIBILITY.—A borrower of a loan made under this part shall be eligible for a deferment during any period—

(A) during which the borrower—

(i) is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible institution (as such term is defined in section 435(a)) the borrower is attending; or

(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(C) during which the borrower—

(i) is serving on active duty during a war or other military operation or national emergency; or

(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency,

and for the 180-day period following the demobilization date for the service described in clause (i) or (ii); or

(D) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 435(o), that the borrower has experienced or will experience an economic hardship.

(3) DEFINITION OF BORROWER.—For the purpose of this subsection, the term "borrower" means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

(4) DEFERMENTS FOR PREVIOUS PART B LOAN BORROWERS.—A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV prior to July 1, 1993, shall be eligible for a deferment under section 427(a)(2)(C) or section 428(b)(1)(M) as such sections were in effect on July 22, 1992.

(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A borrower of a loan made under this part may consolidate such loan with the loans described in section 428C(a)(4), including any loan made under part B and first disbursed before July 1, 2010. To be eligible for a consolidation loan under this part, a borrower shall meet the eligibility criteria set forth in section 428C(a)(3).

(h) BORROWER DEFENSES.—Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

(i) LOAN APPLICATION AND PROMISSORY NOTE.—The common financial reporting form required in section 483(a)(1) shall constitute the application for loans made under this part (other than a Federal Direct PLUS loan). The Secretary shall develop, print, and distribute to participating institutions a standard promissory note and loan disclosure form.

(j) LOAN DISBURSEMENT.—

(1) IN GENERAL.—Proceeds of loans to students under this part shall be applied to the student's account for tuition and fees, and, in the case of institutionally owned housing, to room and board. Loan proceeds that remain after the application of the previous sentence shall be delivered to the borrower by check or other means that is payable to and requires the endorsement or other certification by such borrower.

(2) PAYMENT PERIODS.—The Secretary shall establish periods for the payments described in paragraph (1) in a manner consistent with payment of Federal Pell Grants under subpart 1 of part A of this title.

(k) FISCAL CONTROL AND FUND ACCOUNTABILITY.—

(1) IN GENERAL.—(A) An institution shall maintain financial records in a manner consistent with records maintained for other programs under this title.

(B) Except as otherwise required by regulations of the Secretary[46] an institution may maintain loan funds under this part in the same account as other Federal student financial assistance.

(2) PAYMENTS AND REFUNDS.—Payments and refunds shall be reconciled in a manner consistent with the manner set forth for the submission of a payment summary report required of institutions participating in the program under subpart 1 of part A, except that nothing in this paragraph shall prevent such reconciliations on a monthly basis.

(3) TRANSACTION HISTORIES.—All transaction histories under this part shall be maintained using the same system designated by the Secretary for the provision of Federal Pell Grants under subpart 1 of part A of this title.

(l) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the Secretary shall grant the borrower forbearance, in the form of a temporary cessation of all payments on the loan other than the payments of interest on the loan that are made under that paragraph.

(m) REPAYMENT PLAN FOR PUBLIC SERVICE EMPLOYEES.—

(1) IN GENERAL.—The Secretary shall cancel the balance of interest and principal due, in accordance with paragraph (2), on any eligible Federal Direct Loan not in default for a borrower who—

(A) has made 120 monthly payments on the eligible Federal Direct Loan after October 1, 2007, pursuant to any one or a combination of the following—

(i) payments under an income-based repayment plan under section 493C;

(ii) payments under a standard repayment plan under subsection (d)(1)(A), based on a 10-year repayment period;

(iii) monthly payments under a repayment plan under subsection (d)(1) or (g) of not less than the monthly amount calculated under subsection (d)(1)(A), based on a 10-year repayment period; or

(iv) payments under an income contingent repayment plan under subsection (d)(1)(D); and

(B)(i) is employed in a public service job at the time of such forgiveness; and

[46] So in law. Probably should read "Secretary,".

(ii) has been employed in a public service job during the period in which the borrower makes each of the 120 payments described in subparagraph (A).

(2) LOAN CANCELLATION AMOUNT.—After the conclusion of the employment period described in paragraph (1), the Secretary shall cancel the obligation to repay the balance of principal and interest due as of the time of such cancellation, on the eligible Federal Direct Loans made to the borrower under this part.

(3) DEFINITIONS.—In this subsection:

(A) ELIGIBLE FEDERAL DIRECT LOAN.—The term "eligible Federal Direct Loan" means a Federal Direct Stafford Loan, Federal Direct PLUS Loan, or Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan.

(B) PUBLIC SERVICE JOB.—The term "public service job" means—

(i) a full-time job in emergency management, government (excluding time served as a member of Congress), military service, public safety, law enforcement, public health (including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined by the Bureau of Labor Statistics), public education, social work in a public child or family service agency, public interest law services (including prosecution or public defense or legal advocacy on behalf of low-income communities at a nonprofit organization), early childhood education (including licensed or regulated childcare, Head Start, and State funded prekindergarten), public service for individuals with disabilities, public service for the elderly, public library sciences, school-based library sciences and other school-based services, or at an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

(ii) teaching as a full-time faculty member at a Tribal College or University as defined in section 316(b) and other faculty teaching in high-needs subject areas or areas of shortage (including nurse faculty, foreign language faculty, and part-time faculty at community colleges), as determined by the Secretary.

(4) INELIGIBILITY FOR DOUBLE BENEFITS.—No borrower may, for the same service, receive a reduction of loan obligations under both this subsection and section 428J, 428K, 428L, or 460.

(n) IDENTITY FRAUD PROTECTION.—The Secretary shall take such steps as may be necessary to ensure that monthly Federal Direct Loan statements and other publications of the Department do not contain more than four digits of the Social Security number of any individual.

(o) NO ACCRUAL OF INTEREST FOR ACTIVE DUTY SERVICE MEMBERS.—

(1) IN GENERAL.—Notwithstanding any other provision of this part and in accordance with paragraphs (2) and (4), interest shall not accrue for an eligible military borrower on a loan made under this part for which the first disbursement is made on or after October 1, 2008.

(2) CONSOLIDATION LOANS.—In the case of any consolidation loan made under this part that is disbursed on or after October 1, 2008, interest shall not accrue pursuant to this subsection only on such portion of such loan as was used to repay a loan made under this part for which the first disbursement is made on or after October 1, 2008.

(3) ELIGIBLE MILITARY BORROWER.—In this subsection, the term "eligible military borrower" means an individual who—

(A)(i) is serving on active duty during a war or other military operation or national emergency; or

(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency; and

(B) is serving in an area of hostilities in which service qualifies for special pay under section 310 of title 37, United States Code.

(4) LIMITATION.—An individual who qualifies as an eligible military borrower under this subsection may receive the benefit of this subsection for not more than 60 months.

(p) DISCLOSURES.—Each institution of higher education with which the Secretary has an agreement under section 453, and each contractor with which the Secretary has a contract under section 456, shall, with respect to loans under this part and in accordance with such regulations as the Secretary shall prescribe, comply with each of the requirements under section 433 that apply to a lender with respect to a loan under part B.

(q) ELIGIBILITY FOR, AND INTEREST CHARGES ON, FEDERAL DIRECT STAFFORD LOANS FOR NEW BORROWERS ON OR AFTER JULY 1, 2013.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of this title, any borrower who was a new borrower on or after July 1, 2013, shall not be eligible for a Federal Direct Stafford Loan if the period of time for which the borrower has received Federal Direct Stafford Loans, in the aggregate, exceeds the period of enrollment described in paragraph (3). Such borrower may still receive any Federal Direct Unsubsidized Stafford Loan for which such borrower is otherwise eligible.

(2) ACCRUAL OF INTEREST ON FEDERAL DIRECT STAFFORD LOANS.—Notwithstanding subsection (f)(1)(A) or any other provision of this title and beginning on the date upon which a borrower who is enrolled in a program of education or training (including a course of study or program described in paragraph (3)(B) or (4)(B) of section 484(b)) for which borrowers are otherwise eligible to receive Federal Direct Stafford Loans, becomes ineligible for such loan as a result of paragraph (1), interest on all Federal Direct Stafford Loans that were disbursed to such

borrower on or after July 1, 2013, shall accrue. Such interest shall be paid or capitalized in the same manner as interest on a Federal Direct Unsubsidized Stafford Loan is paid or capitalized under section 428H(e)(2).

(3) PERIOD OF ENROLLMENT.—

(A) IN GENERAL.—The aggregate period of enrollment referred to in paragraph (1) shall not exceed the lesser of—

(i) a period equal to 150 percent of the published length of the educational program in which the student is enrolled; or

(ii) in the case of a borrower who was previously enrolled in one or more other educational programs that began on or after July 1, 2013, and subject to subparagraph (B), a period of time equal to the difference between—

(I) 150 percent of the published length of the longest educational program in which the borrower was, or is, enrolled; and

(II) any periods of enrollment in which the borrower received a Federal Direct Stafford Loan.

(B) REGULATIONS.—The Secretary shall specify in regulation—

(i) how the aggregate period described in subparagraph (A) shall be calculated with respect to a borrower who was or is enrolled on less than a full-time basis; and

(ii) how such aggregate period shall be calculated to include a course of study or program described in paragraph (3)(B) or (4)(B) of section 484(b), respectively.

SEC. 456. [20 U.S.C. 1087f] CONTRACTS.

(a) CONTRACTS FOR SUPPLIES AND SERVICES.—

(1) IN GENERAL.—The Secretary shall, to the extent practicable, award contracts for origination, servicing, and collection described in subsection (b). In awarding such contracts, the Secretary shall ensure that such services and supplies are provided at competitive prices.

(2) ENTITIES.—The entities with which the Secretary may enter into contracts shall include only entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the origination, servicing, and collection of loans under this part, the Secretary shall enter into contracts only with entities that have extensive and relevant experience and demonstrated effectiveness. The entities with which the Secretary may enter into such contracts shall include, where practicable, agencies with agreements with the Secretary under sections 428(b) and (c), if such agencies meet the qualifications as determined by the Secretary under this subsection and if those agencies have such experience and demonstrated effectiveness. In awarding contracts to such State agencies, the Secretary shall, to the extent practicable and consistent with the purposes of this part,

give special consideration to State agencies with a history of high quality performance to perform services for institutions of higher education within their State.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as a limitation of the authority of any State agency to enter into an agreement for the purposes of this section as a member of a consortium of State agencies.

(b) CONTRACTS FOR ORIGINATION, SERVICING, AND DATA SYSTEMS.—The Secretary may enter into contracts for—

(1) the alternative origination of loans to students attending institutions of higher education with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 454(b);

(2) the servicing and collection of loans made or purchased under this part;

(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made or purchased under this part; and

(4) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

[Section 457 repealed by section 404(b)(3) of P.L. 111–39]

SEC. 458. [20 U.S.C. 1087h] FUNDS FOR ADMINISTRATIVE EXPENSES.

(a) ADMINISTRATIVE EXPENSES.—

(1) MANDATORY FUNDS FOR FISCAL YEAR 2006.—For fiscal year 2006, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c),

not to exceed (from such funds not otherwise appropriated) $820,000,000 in fiscal year 2006.

(2) [Repealed by section 502(2) of division A of H.J. Res. 59.]

(3) AUTHORIZATION FOR ADMINISTRATIVE COSTS BEGINNING IN FISCAL YEARS 2007 THROUGH 2014.—For each of the fiscal years 2007 through 2014, there are authorized to be appropriated such sums as may be necessary for administrative costs under this part and part B, including the costs of the direct student loan programs under this part.

(4) CONTINUING MANDATORY FUNDS FOR ACCOUNT MAINTENANCE FEES.—For each of the fiscal years 2007 through 2016, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsection (b).

(5) ACCOUNT MAINTENANCE FEES.—Account maintenance fees under paragraph (3) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

(6) TECHNICAL ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION.—

(A) PROVISION OF ASSISTANCE.—The Secretary shall provide institutions of higher education participating, or seeking to participate, in the loan programs under this part with technical assistance in establishing and administering such programs.

(B) FUNDS.—There are authorized to be appropriated, and there are appropriated, to carry out this paragraph (in addition to any other amounts appropriated to carry out this paragraph and out of any money in the Treasury not otherwise appropriated), $50,000,000 for fiscal year 2010.

(C) DEFINITION.—In this paragraph, the term "assistance" means the provision of technical support, training, materials, technical assistance, and financial assistance.

(7) ADDITIONAL PAYMENTS.—

(A) PROVISION OF ASSISTANCE.—The Secretary shall provide payments to loan servicers for retaining jobs at locations in the United States where such servicers were operating under part B on January 1, 2010.

(B) FUNDS.—There are authorized to be appropriated, and there are appropriated, to carry out this paragraph (in addition to any other amounts appropriated to carry out this paragraph and out of any money in the Treasury not otherwise appropriated), $25,000,000 for each of the fiscal years 2010 and 2011.

(8) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year.

(b) CALCULATION BASIS.—Account maintenance fees payable to guaranty agencies under subsection (a)(4) shall be calculated on the basis of 0.06 percent of the original principal amount of outstanding loans on which insurance was issued under part B.

(c) BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.

SEC. 459. [20 U.S.C. 1087i] AUTHORITY TO SELL LOANS.

The Secretary, in consultation with the Secretary of the Treasury, is authorized to sell loans made under this part on such terms as the Secretary determines are in the best interest of the United States, except that any such sale shall not result in any cost to the Federal Government. Notwithstanding any other provision of law, the proceeds of any such sale may be used by the Secretary to offer reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment in accordance with section 455(b)(7). Such reductions may be offered only if the Secretary determines the re-

ductions are in the best financial interests of the Federal Government.

SEC. 459A. [20 U.S.C. 1087i–1] TEMPORARY AUTHORITY TO PURCHASE STUDENT LOANS.

(a) AUTHORITY TO PURCHASE.—

(1) AUTHORITY; DETERMINATION REQUIRED.—Upon a determination by the Secretary that there is an inadequate availability of loan capital to meet the demand for loans under sections 428, 428B, or 428H, whether as a result of inadequate liquidity for such loans or for other reasons, the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase, or enter into forward commitments to purchase, from any eligible lender, as defined by section 435(d)(1), loans first disbursed under sections 428, 428B, or 428H on or after October 1, 2003, and before July 1, 2010, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this section shall not result in any net cost to the Federal Government (including the cost of servicing the loans purchased), as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(2) FEDERAL REGISTER NOTICE.—The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall jointly publish a notice in the Federal Register prior to any purchase of loans under paragraph (1) that—

(A) establishes the terms and conditions governing the purchases authorized by paragraph (1);

(B) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, will jointly consider in evaluating the price at which to purchase loans made under section 428, 428B, or 428H; and

(C) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).

(3) TEMPORARY AUTHORITY TO PURCHASE REHABILITATED LOANS.—

(A) AUTHORITY.—In addition to the authority described in paragraph (1), the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase, or enter into forward commitments to purchase, from any eligible lender (as defined in section 435(d)(1)), loans that such lender purchased under section 428F on or after October 1, 2003, and before July 1, 2010, and that are not in default, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this paragraph shall not result in any net cost to the

Federal Government (including the cost of servicing the loans purchased), as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(B) FEDERAL REGISTER NOTICE.—The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget shall jointly publish a notice in the Federal Register prior to any purchase of loans under this paragraph that—

(i) establishes the terms and conditions governing the purchases authorized by this paragraph;

(ii) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget will jointly consider in evaluating the price at which to purchase loans rehabilitated pursuant to section 428F(a); and

(iii) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).

(b) PROCEEDS.—The Secretary shall require, as a condition of any purchase under subsection (a), that the funds paid by the Secretary to any eligible lender under this section be used—

(1) to ensure continued participation of such lender in the Federal student loan programs authorized under part B of this title; and

(2)(A) in the case of loans purchased pursuant to subsection (a)(1), to originate new Federal loans to students, as authorized under part B of this title; or

(B) in the case of loans purchased pursuant to subsection (a)(3), to originate such new Federal loans to students, or to purchase loans in accordance with section 428F(a).

(c) MAINTAINING SERVICING ARRANGEMENTS.—The Secretary may, if agreed upon by an eligible lender selling loans under this section, contract with such lender for the servicing of the loans purchased, provided that—

(1) the cost of such servicing arrangement does not exceed the cost the Federal Government would otherwise incur for the servicing of loans purchased, as determined under subsection (a); and

(2) such servicing arrangement is in the best interest of the borrowers whose loans are purchased.

(d) GUARANTY AGENCY RESPONSIBILITIES AND PAYMENTS.—Notwithstanding any other provision of this Act, beginning on the date on which the Secretary purchases a loan under this section—

(1) the guaranty agency that insured such loan shall cease to have any obligations, responsibilities, or rights (including rights to any payment) under this Act for any activity related to the administration of such loan that is carried out or required to be carried out on or after the date of such purchase; and

(2) the insurance issued by such agency pursuant to section 428(b) for such loan shall cease to be effective with respect to any default on such loan that occurs on or after the date of such purchase.

(e) REPORTS AND COST ESTIMATES.—The Secretary shall prepare, transmit to the authorizing committees, and make available to the public, the following:

(1) QUARTERLY REPORTS.—

(A) CONTENTS.—Not later than 60 days after the end of each quarter during the period beginning July 1, 2008, and ending September 30, 2010, a quarterly report on—

(i) the number of loans the Secretary has agreed to purchase, or has purchased, using the authority provided under this section, and the total amount of outstanding principal and accrued interest of such loans, during such period; and

(ii) the number of loans in which the Secretary has purchased a participation interest, and the total amount of outstanding principal and accrued interest of such loans, during such period.

(B) DISAGGREGATED INFORMATION.—For each quarterly report, the information described in clauses (i) and (ii) of subparagraph (A) shall be disaggregated by lender and, for each lender, by category of institution (using the categories described in section 132(d)) and type of loan.

(2) ESTIMATES OF PURCHASE PROGRAM COSTS.—Not later than February 15, 2011, an estimate of the costs associated with the program of purchasing loans described in paragraph (1)(A)(i) during the period beginning July 1, 2008, and ending September 30, 2010, and an estimate of the costs associated with the program of purchasing a participation interest in loans described in paragraph (1)(A)(ii) during such period. Each such estimate shall—

(A) contain the same level of detail, and be reported in a similar manner, as the budget estimates provided for the loan program under part B and the direct student loan program under this part in the President's annual budget submission to Congress, except that current and future administrative costs shall also be reported;

(B) include an estimate of the gross and net outlays that have been, or will be, incurred by the Federal Government (including subsidy and administrative costs, and any payments made by the Department to lenders, trusts, or other entities related to such activities) in purchasing such loans or purchasing a participation interest in such loans during such period (as applicable); and

(C) include a comparison of—

(i) the average amount of the gross and net outlays (including costs and payments) described in subparagraph (B) for each $100 of loans purchased or for which a participation interest was purchased (as applicable) during such period, disaggregated by type of loan; with

(ii) the average amount of such gross and net outlays (including costs and payments) to the Federal Government for each $100 of comparable loans made under this part and part B during such period, disaggregated by part and by type of loan.

(3) ANNUAL COST ESTIMATES.—Not later than February 15 of the fiscal year following each of the fiscal years 2008, 2009, 2010, and 2011, an annual estimate of the costs associated with the program of purchasing loans described in paragraph (1)(A)(i), and an annual estimate of the costs associated with the program of purchasing a participation interest in loans described in paragraph (1)(A)(ii), that includes the information described in paragraph (2) for such fiscal year.

(f) EXPIRATION OF AUTHORITY.—The Secretary's authority to purchase loans under this section shall expire on July 1, 2010.

SEC. 459B. [20 U.S.C. 1087i–2] TEMPORARY LOAN CONSOLIDATION AUTHORITY.

(a) TEMPORARY LOAN CONSOLIDATION AUTHORITY.—

(1) IN GENERAL.—A borrower who has 1 or more loans in 2 or more of the categories described in paragraph (2), and who has not yet entered repayment on 1 or more of those loans in any of the categories, may consolidate all of the loans of the borrower that are described in paragraph (2) into a Federal Direct Consolidation Loan during the period described in paragraph (3).

(2) CATEGORIES OF LOANS THAT MAY BE CONSOLIDATED.—The categories of loans that may be consolidated under paragraph (1) are—

(A) loans made under this part;

(B) loans purchased by the Secretary pursuant to section 459A; and

(C) loans made under part B that are held by an eligible lender, as such term is defined in section 435(d).

(3) TIME PERIOD IN WHICH LOANS MAY BE CONSOLIDATED.—The Secretary may make a Federal Direct Consolidation Loan under this section to a borrower whose application for such Federal Direct Consolidation Loan is received on or after July 1, 2010, and before July 1, 2011.

(b) TERMS OF LOANS.—A Federal Direct Consolidation Loan made under this section shall have the same terms and conditions as a Federal Direct Consolidation Loan made under section 455(g), except that—

(1) in determining the applicable rate of interest on the Federal Direct Consolidation Loan made under this section (other than on a Federal Direct Consolidation Loan described in paragraph (2)), section 427A(l)(3) shall be applied without rounding the weighted average of the interest rate on the loans consolidated to the nearest higher one-eighth of 1 percent as described in subparagraph (A) of section 427A(l)(3); and

(2) if a Federal Direct Consolidation Loan made under this section that repays a loan which is subject to an interest rate determined under section 427A(g)(2), (j)(2), or (k)(2), then the interest rate for such Federal Direct Consolidation Loan shall be calculated—

(A) by using the applicable rate of interest described in section 427A(g)(2), (j)(2), or (k)(2), respectively; and

(B) in accordance with section 427A(l)(3).

SEC. 460. [20 U.S.C. 1087j] LOAN CANCELLATION FOR TEACHERS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

(b) PROGRAM AUTHORIZED.—The Secretary shall carry out a program of canceling the obligation to repay a qualified loan amount in accordance with subsection (c) for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made under this part for any new borrower on or after October 1, 1998, who—

(1) has been employed as a full-time teacher for 5 consecutive complete school years—

(A) in a school or location that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools or locations; and

(B) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary and Secondary Education Act of 1965, or meets the requirements of subsection (g)(3); and

(2) is not in default on a loan for which the borrower seeks forgiveness.

(c) QUALIFIED LOAN AMOUNTS.—

(1) IN GENERAL.—The Secretary shall cancel not more than $5,000 in the aggregate of the loan obligation on a Federal Direct Stafford Loan or a Federal Direct Unsubsidized Stafford Loan that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1). No borrower may receive a reduction of loan obligations under both this section and section 428J.

(2) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a Federal Direct Consolidation Loan may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 428 or 428H, for a borrower who meets the requirements of subsection (b), as determined in accordance with regulations prescribed by the Secretary.

(3) ADDITIONAL AMOUNTS FOR TEACHERS IN MATHEMATICS, SCIENCE, OR SPECIAL EDUCATION.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall cancel under this section shall be not more than $17,500 in the case of—

(A) a secondary school teacher—

(i) who meets the requirements of subsection (b); and

(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

(B) an elementary school or secondary school teacher—

(i) who meets the requirements of subsection (b);

(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 602 of the Individuals with Disabilities Education Act); and

(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, or, in the case of a teacher who is employed by an educational service agency, as certified by the chief administrative officer of such agency, is teaching children with disabilities that correspond with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.

(d) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(e) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any canceled loan.

(f) LIST.—If the list of schools in which a teacher may perform service pursuant to subsection (b) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(g) ADDITIONAL ELIGIBILITY PROVISIONS.—

(1) CONTINUED ELIGIBILITY.—Any teacher who performs service in a school that—

(A) meets the requirements of subsection (b)(1)(A) in any year during such service; and

(B) in a subsequent year fails to meet the requirements of such subsection, may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (b).

(2) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same voluntary service, receive a benefit under both this section and—

(A) section 428K;

(B) section 455(m); or

(C) subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(3) PRIVATE SCHOOL TEACHERS.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(B), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher

requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.

(h) DEFINITION.—For the purpose of this section, the term "year" where applied to service as a teacher means an academic year as defined by the Secretary.

PART E—FEDERAL PERKINS LOANS

SEC. 461. [20 U.S.C. 1087aa] APPROPRIATIONS AUTHORIZED.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program assisting in the maintenance of funds at institutions of higher education for the making of loans to undergraduate students in need to pursue their courses of study in such institutions or while engaged in programs of study abroad approved for credit by such institutions. Loans made under this part shall be known as "Federal Perkins Loans".

(b) AUTHORITY TO MAKE LOANS.—

(1) IN GENERAL.—

(A) LOANS FOR NEW UNDERGRADUATE FEDERAL PERKINS LOAN BORROWERS.—Through September 30, 2017, an institution of higher education may make a loan under this part to an eligible undergraduate student who, on the date of disbursement of a loan made under this part, has no outstanding balance of principal or interest on a loan made under this part from the student loan fund established under this part by the institution, but only if the institution has awarded all Federal Direct Loans, as referenced under subparagraphs (A) and (D) of section 455(a)(2), for which such undergraduate student is eligible.

(B) LOANS FOR CURRENT UNDERGRADUATE FEDERAL PERKINS LOAN BORROWERS.—Through September 30, 2017, an institution of higher education may make a loan under this part to an eligible undergraduate student who, on the date of disbursement of a loan made under this part, has an outstanding balance of principal or interest on a loan made under this part from the student loan fund established under this part by the institution, but only if the institution has awarded all Federal Direct Stafford Loans as referenced under section 455(a)(2)(A) for which such undergraduate student is eligible.

(C) LOANS FOR CERTAIN GRADUATE BORROWERS.—Through September 30, 2016, with respect to an eligible graduate student who has received a loan made under this part prior to October 1, 2015, an institution of higher education that has most recently made such a loan to the student for an academic program at such institution may continue making loans under this part from the student loan fund established under this part by the institution to enable the student to continue or complete such academic program.

(2) NO ADDITIONAL LOANS.—An institution of higher education shall not make loans under this part after September 30, 2017.

(3) PROHIBITION ON ADDITIONAL APPROPRIATIONS.—No funds are authorized to be appropriated under this Act or any other Act to carry out the functions described in paragraph (1) for any fiscal year following fiscal year 2015.

SEC. 462. [20 U.S.C. 1087bb] ALLOCATION OF FUNDS.

(a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 461(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

(A) 100 percent of the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year), multiplied by

(B) the institution's default penalty, as determined under subsection (e),

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f), the institution may not receive an allocation under this paragraph.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

(ii) the institution's default penalty, as determined under subsection (e),

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f), the institution may not receive an allocation under this paragraph.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(b) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From the remainder of the amount appropriated pursuant to section 461(b) after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under paragraph (3)), divided by (ii) the sum of the eligible amounts of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 461(b) for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a),

except that an eligible institution which has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) may not receive an allocation under this paragraph.

(3) For any eligible institution, the eligible amount of that institution is equal to—

(A) the amount of the institution's self-help need, as determined under subsection (c); minus

(B) the institution's anticipated collections; multiplied by

(C) the institution's default penalty, as determined under subsection (e);

except that, if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f), the eligible amount of that institution is zero.

(c) DETERMINATION OF INSTITUTION'S SELF-HELP NEED.—(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary shall—

(A) establish various income categories for graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, deter-

mined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

(F) add the amounts determined under subparagraph (E) for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term "average cost of attendance" means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $600.

(d) ANTICIPATED COLLECTIONS.—(1) An institution's anticipated collections are equal to the amount which was collected during the second year preceding the beginning of the award period, multiplied by 1.21.

(2) The Secretary shall establish an appeals process by which the anticipated collections required in paragraph (1) may be waived for institutions with low cohort default rates in the program assisted under this part.

(e) DEFAULT PENALTIES.—

(1) YEARS PRECEDING FISCAL YEAR 2000.—For any fiscal year preceding fiscal year 2000, any institution with a cohort default rate that—

(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations prescribed by the Secretary, except that such plan shall not be required with respect to an institution that has a default rate of

less than 20 percent and that has less than 100 students who have loans under this part in such academic year;

(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

(D) equals or exceeds 30 percent shall have a default penalty of zero.

(2) YEARS FOLLOWING FISCAL YEAR 2000.—For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (g)) that equals or exceeds 25 percent shall have a default penalty of zero.

(3) INELIGIBILITY.—

(A) IN GENERAL.—For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined in subsection (g)) that equals or exceeds 50 percent for each of the 3 most recent years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and the 2 succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after the submission of the appeal. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the calculation of the institution's cohort default rate is not accurate, and that recalculation would reduce the institution's cohort default rate for any of the 3 fiscal years below 50 percent; or

(ii) there are, in the judgment of the Secretary, such a small number of borrowers entering repayment that the application of this subparagraph would be inequitable.

(B) CONTINUED PARTICIPATION.—During an appeal under subparagraph (A), the Secretary may permit the institution to continue to participate in a program under this part.

(C) RETURN OF FUNDS.—Within 90 days after the date of any termination pursuant to subparagraph (A), or the conclusion of any appeal pursuant to subparagraph (B), whichever is later, the balance of the student loan fund established under this part by the institution that is the subject of the termination shall be distributed as follows:

(i) The Secretary shall first be paid an amount which bears the same ratio to such balance (as of the date of such distribution) as the total amount of Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal capital contributions and the capital contributions to such fund made by the institution.

(ii) The remainder of such student loan fund shall be paid to the institution.

(D) USE OF RETURNED FUNDS.—Any funds returned to the Secretary under this paragraph shall be reallocated to institutions of higher education pursuant to subsection (i).

(E) DEFINITION.—For the purposes of subparagraph (A), the term "loss of eligibility" shall be defined as the mandatory liquidation of an institution's student loan fund, and assignment of the institution's outstanding loan portfolio to the Secretary.

(f) APPLICABLE MAXIMUM COHORT DEFAULT RATE.—

(1) AWARD YEARS PRIOR TO 2000.—For award years prior to award year 2000, the applicable maximum cohort default rate is 30 percent.

(2) AWARD YEAR 2000 AND SUCCEEDING AWARD YEARS.—For award year 2000 and subsequent years, the applicable maximum cohort default rate is 25 percent.

(g) DEFINITION OF COHORT DEFAULT RATE.—

(1)(A) The term "cohort default rate" means, for any award year in which 30 or more current and former students at the institution enter repayment on loans under this part (received for attendance at the institution), the percentage of those current and former students who enter repayment on such loans (received for attendance at that institution) in that award year who default before the end of the following award year.

(B) For any award year in which less than 30 of the institution's current and former students enter repayment, the term "cohort default rate" means the percentage of such current and former students who entered repayment on such loans in any of the three most recent award years and who default before the end of the award year immediately following the year in which they entered repayment.

(C) A loan on which a payment is made by the institution of higher education, its owner, agency, contractor, employee, or any other entity or individual affiliated with such institution, in order to avoid default by the borrower, is considered as in default for the purposes of this subsection.

(D) In the case of a student who has attended and borrowed at more than one school, the student (and his or her subsequent repayment or default) is attributed to the school for attendance at which the student received the loan that entered repayment in the award year.

(E) In determining the number of students who default before the end of such award year, the institution, in calculating the cohort default rate, shall exclude—

(i) any loan on which the borrower has, after the time periods specified in paragraph (2)—

(I) voluntarily made 6 consecutive payments;

(II) voluntarily made all payments currently due;

(III) repaid in full the amount due on the loan; or

(IV) received a deferment or forbearance, based on a condition that began prior to such time periods;

(ii) any loan which has, after the time periods specified in paragraph (2), been rehabilitated or canceled; and

(iii) any other loan that the Secretary determines should be excluded from such determination.

(F) The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control or other means as determined by the Secretary.

(2) For purposes of calculating the cohort default rate under this subsection, a loan shall be considered to be in default—

(A) 240 days (in the case of a loan repayable monthly), or

(B) 270 days (in the case of a loan repayable quarterly),

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.

(h) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(i) REALLOCATION OF EXCESS ALLOCATIONS.—

(1) IN GENERAL.—(A) If an institution of higher education returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate 80 percent of such returned portions to participating institutions in an amount not to exceed such participating institution's excess eligible amounts as determined under paragraph (2).

(B) For the purpose of this subsection, the term "participating institution" means an institution of higher education that—

(i) was a participant in the program assisted under this part in fiscal year 1999; and

(ii) did not receive an allocation under subsection (a) in the fiscal year for which the reallocation determination is made.

(2) EXCESS ELIGIBLE AMOUNT.—For any participating institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under subsection (b)(3)), divided by (ii) the sum of the eligible amounts of all participating institutions (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

(B) the amount required to be allocated to that institution under subsection (b).

(3) REMAINDER.—The Secretary shall reallocate the remainder of such returned portions in accordance with regulations of the Secretary.

(4) ALLOCATION REDUCTIONS.—If under paragraph (1) of this subsection an institution returns more than 10 percent of

its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it is contrary to the interest of the program.

SEC. 463. [20 U.S.C. 1087cc] AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION.

(a) CONTENTS OF AGREEMENTS.—An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 461;

(B) a capital contribution by an institution in an amount equal to one-third of the Federal capital contributions described in subparagraph (A);

(C) collections of principal and interest on student loans made from deposited funds;

(D) charges collected pursuant to regulations under section 464(c)(1)(H); and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part;

(B) administrative expenses, as provided in subsection (b);

(C) capital distributions, as provided in section 466; and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H);

(4) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 462; or

(B) if the institution is not one described in subparagraph (A), the Secretary may allow such institution to refer such note or agreement to the Secretary, without recompense, except that, once every six months, any sums collected on such a loan (less an amount not to exceed 30 per-

cent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution and treated as an additional capital contribution under section 462;

(5) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 462;

(6) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived;

(7) provide assurances that the institution will comply with the provisions of section 463A;

(8) provide that the institution of higher education will make loans first to students with exceptional need; and

(9) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution, except that nothing in this paragraph shall be construed to permit the Secretary to require the assignment of loans to the Secretary other than as is provided for in paragraphs (4) and (5).

(b) ADMINISTRATIVE EXPENSES.—An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 489.

(c) COOPERATIVE AGREEMENTS WITH CONSUMER REPORTING AGENCIES.—(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary and each institution of higher education participating in the program under this part shall enter into cooperative agreements with consumer reporting agencies to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 467 and regarding loans held by the Secretary or an institution.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 430A except that such agreement shall provide for the disclosure by the Secretary or an institution, as the case may be, to such consumer reporting agencies, with respect to any loan held by the Secretary or the institution, respectively, of—

(A) the date of disbursement and the amount of such loans made to any borrower under this part at the time of disbursement of the loan;

(B) information concerning the repayment and collection of any such loan, including information concerning the status of such loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan, or upon cancellation or discharge of the borrower's obligation on the loan for any reason.

(3) Notwithstanding paragraphs (4) and (5) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c (a)(4), (a)(5)), a consumer reporting agency may make a report containing information received from the Secretary or an institution regarding the status of a borrower's account on a loan made under this part until the loan is paid in full.

(4)(A) Except as provided in subparagraph (B), an institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any consumer reporting agency with which the Secretary has such an agreement the information set forth in paragraph (2), and shall disclose promptly to such consumer reporting agency any changes to the information previously disclosed.

(B) The Secretary may promulgate regulations establishing criteria under which an institution of higher education may cease reporting the information described in paragraph (2) before a loan is paid in full.

(5) Each institution of higher education shall notify the appropriate consumer reporting agencies whenever a borrower of a loan that is made and held by the institution and that is in default makes 6 consecutive monthly payments on such loan, for the purpose of encouraging such consumer reporting agencies to update the status of information maintained with respect to that borrower.

(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(9), the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.

SEC. 463A. [20 U.S.C. 1087cc–1] STUDENT LOAN INFORMATION BY ELIGIBLE INSTITUTIONS.

(a) DISCLOSURE REQUIRED PRIOR TO DISBURSEMENT.—Each institution of higher education shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 16302);

(11) a definition of default and the consequences to the borrower if the borrower defaults, together with a statement that the disbursement of, and the default on, a loan under this part, shall be reported to a consumer reporting agency;

(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance;

(13) an explanation of any cost the borrower may incur in the making or collection of the loan;

(14) a notice and explanation regarding the end to future availability of loans made under this part;

(15) a notice and explanation that repayment and forgiveness benefits available to borrowers of loans made under part D are not available to borrowers participating in the loan program under this part;

(16) a notice and explanation regarding a borrower's option to consolidate a loan made under this part into a Federal Direct Loan under part D, including any benefit of such consolidation;

(17) with respect to new undergraduate Federal Perkins loan borrowers, as described in section 461(b)(1)(A), a notice

and explanation providing a comparison of the interest rates of loans under this part and part D and informing the borrower that the borrower has reached the maximum annual borrowing limit for which the borrower is eligible as referenced under subparagraphs (A) and (D) of section 455(a)(2); and

(18) with respect to current undergraduate Federal Perkins loan borrowers, as described in section 461(b)(1)(B), a notice and explanation providing a comparison of the interest rates of loans under this part and part D and informing the borrower that the borrower has reached the maximum annual borrowing limit for which the borrower is eligible on Federal Direct Stafford Loans as referenced under section 455(a)(2)(A).

(b) DISCLOSURE REQUIRED PRIOR TO REPAYMENT.—Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) COSTS AND EFFECTS OF DISCLOSURES.—Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

SEC. 464. [20 U.S.C. 1087dd] TERMS OF LOANS.

(a) TERMS AND CONDITIONS.—(1) Loans from any student loan fund established pursuant to an agreement under section 463 to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

(i) $5,500, in the case of a student who has not successfully completed a program of undergraduate education; or

(ii) $8,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

(B) Except as provided in paragraph (4), the aggregate unpaid principal amount for all loans made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(i) $60,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary, and including any loans from such funds made to such person before such person became a graduate or professional student);

(ii) $27,500, in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations issued by the Secretary), and including any loans from such funds made to such person before such person became such a student; and

(iii) $11,000, in the case of any other student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the annual and aggregate loan limits for the student may exceed the amounts described in paragraphs (2)(A) and (2)(B) by 20 percent.

(b) DEMONSTRATION OF NEED AND ELIGIBILITY REQUIRED.—(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part F of this title, who meets the requirements of section 484, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan. A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 462(g)(1)(E).

(2) If the institution's capital contribution under section 462 is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, then a reasonable por-

tion of the loans made from the institution's student loan fund containing the contribution shall be made available to such students.

(c) CONTENTS OF LOAN AGREEMENT.—(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C)(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $40 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $40 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (i) prior to the beginning date of repayment determined under paragraph (2)(A)(i), or (ii) during any period in which repayment is suspended by reason of paragraph (2);

(E) shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be cancelled—

(i)[47] upon the death of the borrower;

(ii)[47] if the borrower becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

(iii)[47] if the borrower is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months; or

(iv)[47] if the borrower is determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability;

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 463(a)(6);

(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20 percent of the amount of the monthly payment of the borrower; and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to consumer reporting agencies under section 463(c).

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(iii) during which the borrower—

(I) is serving on active duty during a war or other military operation or national emergency; or

(II) is performing qualifying National Guard duty during a war or other military operation or national emergency,

[47] Margin so in law.

and for the 180-day period following the demobilization date for the service described in subclause (I) or (II);

(iv) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 435(o), has caused or will cause the borrower to have an economic hardship; or

(v) during which the borrower is engaged in service described in section 465(a)(2);

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (A) of paragraph (1).

(B) No repayment of principal of, or interest on, any loan for any period described in subparagraph (A) shall begin until 6 months after the completion of such period.

(C) An individual with an outstanding loan balance who meets the eligibility criteria for a deferment described in subparagraph (A) as in effect on the date of enactment of this subparagraph shall be eligible for deferment under this paragraph notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such deferment.

(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

(4) The repayment period for a loan made under this part shall begin on the day immediately following the expiration of the period, specified in paragraph (1)(A), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment, forbearance, or cancellation.

(5) The institution may elect—

(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

(6) Requests for deferment of repayment of loans under this part by students engaged in graduate or post-graduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(7) There shall be excluded from the 9-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload (as described in paragraph (1)(A)) any period not to exceed 3 years during which a bor-

rower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code, is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period.

(d) AVAILABILITY OF LOAN FUND TO ALL ELIGIBLE STUDENTS.—An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(e) FORBEARANCE.—(1) The Secretary shall ensure that, as documented in accordance with paragraph (2), an institution of higher education shall grant a borrower forbearance of principal and interest or principal only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

(A) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income;

(B) the institution determines that the borrower should qualify for forbearance for other reasons; or

(C) the borrower is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, United States Code, and, pursuant to that eligibility, the interest on such loan is being paid under subsection (j), except that the form of a forbearance under this paragraph shall be a temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (j).

(2) For the purpose of paragraph (1), the terms of forbearance agreed to by the parties shall be documented by—

(A) confirming the agreement of the borrower by notice to the borrower from the institution of higher education; and

(B) recording the terms in the borrower's file.

(f) SPECIAL REPAYMENT RULE AUTHORITY.—(1) Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States, in order to encourage repayment of loans made under this part which are in default, the Secretary may, in the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2). The Federal share of the compromise repayment shall bear the same relation to the institution's share of such compromise repayment as the Federal capital contribution to the institution's loan fund under this part bears to the institution's capital contribution to such fund.

(2) No compromise repayment of a defaulted loan as authorized by paragraph (1) may be made unless the student borrower pays—

(A) 90 percent of the loan under this part;

(B) the interest due on such loan; and

(C) any collection fees due on such loan;

in a lump sum payment.

(g) DISCHARGE.—

(1) IN GENERAL.—If a student borrower who received a loan made under this part on or after January 1, 1986, is unable to complete the program in which such student is enrolled due to the closure of the institution, then the Secretary shall discharge the borrower's liability on the loan (including the interest and collection fees) and shall subsequently pursue any claim available to such borrower against the institution and the institution's affiliates and principals, or settle the loan obligation pursuant to the financial responsibility standards described in section 498(c).

(2) ASSIGNMENT.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund in an amount that does not exceed the amount discharged against the institution and the institution's affiliates and principals.

(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE.—The period during which a student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title.

(4) SPECIAL RULE.—A borrower whose loan has been discharged pursuant to this subsection shall not be precluded, because of that discharge, from receiving additional grant, loan, or work assistance under this title for which the borrower would be otherwise eligible (but for the default on the discharged loan). The amount discharged under this subsection shall be treated as an amount canceled under section 465(a).

(5) REPORTING.—The Secretary or institution, as the case may be, shall report to consumer reporting agencies with respect to loans that have been discharged pursuant to this subsection.

(h) REHABILITATION OF LOANS.—

(1) REHABILITATION.—

(A) IN GENERAL.—If the borrower of a loan made under this part who has defaulted on the loan makes 9 on-time, consecutive, monthly payments of amounts owed on the loan, as determined by the institution, or by the Secretary in the case of a loan held by the Secretary, the loan shall be considered rehabilitated, and the institution that made that loan (or the Secretary, in the case of a loan held by the Secretary) shall request that any consumer reporting agency to which the default was reported remove the default from the borrower's credit history.

(B) COMPARABLE CONDITIONS.—As long as the borrower continues to make scheduled repayments on a loan rehabilitated under this paragraph, the rehabilitated loan shall be subject to the same terms and conditions, and qualify for the same benefits and privileges, as other loans made under this part.

(C) ADDITIONAL ASSISTANCE.—The borrower of a rehabilitated loan shall not be precluded by section 484 from receiving additional grant, loan, or work assistance under this title (for which the borrower is otherwise eligible) on

the basis of defaulting on the loan prior to such rehabilitation.

(D) LIMITATIONS.—A borrower only once may obtain the benefit of this paragraph with respect to rehabilitating a loan under this part.

(2) RESTORATION OF ELIGIBILITY.—If the borrower of a loan made under this part who has defaulted on that loan makes 6 ontime, consecutive, monthly payments of amounts owed on such loan, the borrower's eligibility for grant, loan, or work assistance under this title shall be restored to the extent that the borrower is otherwise eligible. A borrower only once may obtain the benefit of this paragraph with respect to restored eligibility.

(i) INCENTIVE REPAYMENT PROGRAM.—

(1) IN GENERAL.—Each institution of higher education may establish, with the approval of the Secretary, an incentive repayment program designed to reduce default and to replenish student loan funds established under this part. Each such incentive repayment program may—

(A) offer a reduction of the interest rate on a loan on which the borrower has made 48 consecutive, monthly repayments, but in no event may the rate be reduced by more than 1 percent;

(B) provide for a discount on the balance owed on a loan on which the borrower pays the principal and interest in full prior to the end of the applicable repayment period, but in no event may the discount exceed 5 percent of the unpaid principal balance due on the loan at the time the early repayment is made; and

(C) include such other incentive repayment options as the institution determines will carry out the objectives of this subsection.

(2) LIMITATION.—No incentive repayment option under an incentive repayment program authorized by this subsection may be paid for with Federal funds, including any Federal funds from the student loan fund, or with institutional funds from the student loan fund.

(j) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(1)(C).

(k) The Secretary may develop such additional safeguards as the Secretary determines necessary to prevent fraud and abuse in the cancellation of liability under subsection (c)(1)(F). Notwith-

standing subsection (c)(1)(F), the Secretary may promulgate regulations to resume collection on loans cancelled under subsection (c)(1)(F) in any case in which—

(1) a borrower received a cancellation of liability under subsection (c)(1)(F) and after the cancellation the borrower—

(A) receives a loan made, insured, or guaranteed under this title; or

(B) has earned income in excess of the poverty line; or

(2) the Secretary determines necessary.

SEC. 465. [20 U.S.C. 1087ee] CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE.

(a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) The percent specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year (including such a teacher employed by an educational service agency)—

(i) in a public or other nonprofit private elementary school or secondary school, which, for the purpose of this paragraph and for that year—

(I) has been determined by the Secretary (pursuant to regulations of the Secretary and after consultation with the State educational agency of the State in which the school is located) to be a school in which the number of children meeting a measure of poverty under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965, exceeds 30 percent of the total number of children enrolled in such school; and

(II) is in the school district of a local educational agency which is eligible in such year for assistance pursuant to part A of title I of the Elementary and Secondary Education Act of 1965; or

(ii) in one or more public, or nonprofit private, elementary schools or secondary schools or locations operated by an educational service agency that have been determined by the Secretary (pursuant to regulations of the Secretary and after consultation with the State educational agency of the State in which the educational service agency operates) to be a school or location at which the number of children taught who meet a measure of poverty under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965, exceeds 30 percent of the total number of children taught at such school or location;

(B) as a full-time staff member in a preschool program carried on under the Head Start Act, or in a prekindergarten or child care program that is licensed or regulated by the State, that is operated for a period which is comparable to a full school year in the locality if the salary of such staff member

is not more than the salary of a comparable employee of the local educational agency;

(C) as a full-time special education teacher, including teachers of infants, toddlers, children, or youth with disabilities in a public or other nonprofit elementary or secondary school system, including a system administered by an educational service agency, or as a full-time qualified professional provider of early intervention services in a public or other nonprofit program under public supervision by the lead agency as authorized in section 635(a)(10) of the Individuals with Disabilities Education Act;

(D) as a member of the Armed Forces of the United States, for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities;

(E) as a volunteer under the Peace Corps Act or a volunteer under the Domestic Volunteer Service Act of 1973;

(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies, or as a full-time attorney employed in a defender organization established in accordance withsection 3006A(g)(2)of title 18, United States Code;

(G) as a full-time teacher of mathematics, science, foreign languages, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

(H) as a full-time nurse or medical technician providing health care services;

(I) as a full-time employee of a public or private nonprofit child or family service agency who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children;

(J) as a full-time fire fighter for service to a local, State, or Federal fire department or fire district;

(K) as a full-time faculty member at a Tribal College or University, as that term is defined in section 316;

(L) as a librarian, if the librarian has a master's degree in library science and is employed in—

(i) an elementary school or secondary school that is eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965; or

(ii) a public library that serves a geographic area that contains one or more schools eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965; or

(M) as a full-time speech language pathologist, if the pathologist has a masters degree and is working exclusively with schools that are eligible for assistance under title I of the Elementary and Secondary Education Act of 1965.

For the purpose of this paragraph, the term "children with disabilities" has the meaning set forth in section 602 of the Individuals with Disabilities Education Act.

(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in subparagraph (A), (C), (D), (F), (G), (H), (I), (J), (K), (L), or (M) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

(ii) in the case of service described in subparagraph (B) of paragraph (2), at the rate of 15 percent for each year of such service; or

(iii) in the case of service described in subparagraph (E) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent for the third or fourth year of such service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

(4) For the purpose of this subsection, the term "year" where applied to service as a teacher means academic year as defined by the Secretary.

(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1986.

(6) No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(7) An individual with an outstanding loan obligation under this part who performs service of any type that is described in paragraph (2) as in effect on the date of enactment of this paragraph shall be eligible for cancellation under this section for such service notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such service.

(b) REIMBURSEMENT FOR CANCELLATION.—The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 468. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection. To the extent feasible, the Secretary shall pay the amounts for which any institution qualifies under this subsection not later than 3 months after the institution files an institutional application for campus-based funds.

(c) SPECIAL RULES.—

(1) LIST.—If the list of schools in which a teacher may perform service pursuant to subsection (a)(2)(A) is not available before May 1 of any year, the Secretary may use the list for

the year preceding the year for which the determination is made to make such service determination.

(2) CONTINUING ELIGIBILITY.—Any teacher who performs service in a school which—

(A) meets the requirements of subsection (a)(2)(A) in any year; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (a)(1) such subsequent years.

SEC. 466. [20 U.S.C. 1087ff] DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS.

(a) IN GENERAL.—Beginning October 1, 2017, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 2017, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) DISTRIBUTION OF LATE COLLECTIONS.—Beginning October 1, 2017, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 2017, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a).

(c) DISTRIBUTION OF EXCESS CAPITAL.—(1) Upon a finding by the institution or the Secretary prior to October 1, 2017, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(A) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(B) The remainder of the capital distribution shall be paid to the institution.

(2) No finding that the liquid assets of a student loan fund established under this part exceed the amount required under paragraph (1) may be made prior to a date which is 2 years after the date on which the institution of higher education received the funds from such institution's allocation under section 462.

SEC. 467. [20 U.S.C. 1087gg] COLLECTION OF DEFAULTED LOANS: PERKINS LOAN REVOLVING FUND.

(a) AUTHORITY OF SECRETARY TO COLLECT REFERRED, TRANSFERRED, OR ASSIGNED LOANS.—With respect to any loan—

(1) which was made under this part, and

(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a),

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

(b) COLLECTION OF REFERRED, TRANSFERRED, OR ASSIGNED LOANS.—The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (4) or (5) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.

SEC. 468. [20 U.S.C. 1087hh] GENERAL AUTHORITY OF SECRETARY.

In carrying out the provisions of this part, the Secretary is authorized—

(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

(3) to conduct litigation in accordance with the provisions of section 432(a)(2); and

(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

SEC. 469. [20 U.S.C. 1087ii] DEFINITIONS.

(a) LOW-INCOME COMMUNITIES.—For the purpose of this part, the term "low-income communities" means communities in which there is a high concentration of children eligible to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965.

(b) HIGH-RISK CHILDREN.—For the purposes of this part, the term "high-risk children" means individuals under the age of 21 who are low-income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

(c) INFANTS, TODDLERS, CHILDREN, AND YOUTH WITH DISABILITIES.—For purposes of this part, the term "infants, toddlers, children, and youth with disabilities" means children with disabilities and infants and toddlers with disabilities as defined in sections 602 and 632, respectively, of the Individuals with Disabilities Education Act, and the term "early intervention services" has the meaning given the term in section 632 of such Act.

PART F—NEED ANALYSIS

SEC. 471. [20 U.S.C. 1087kk] AMOUNT OF NEED.

Except as otherwise provided therein, the amount of need of any student for financial assistance under this title (except subparts 1 or 2 of part A) is equal to—

(1) the cost of attendance of such student, minus

(2) the expected family contribution for such student, minus

(3) estimated financial assistance not received under this title (as defined in section 480(j)).

SEC. 472. [20 U.S.C. 1087ll] COST OF ATTENDANCE.

For the purpose of this title, the term "cost of attendance" means—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses, including a reasonable allowance for the documented rental or purchase of a personal computer, for a student attending the institution on at least a half-time basis, as determined by the institution;

(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

(A) shall be an allowance determined by the institution for a student without dependents residing at home with parents;

(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board;

(C) for students who live in housing located on a military base or for which a basic allowance is provided under section 403(b) of title 37, United States Code, shall be an allowance based on the expenses reasonably incurred by such students for board but not for room; and

(D) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board;

(4) for less than half-time students (as determined by the institution), tuition and fees and an allowance for only—

(A) books, supplies, and transportation (as determined by the institution);

(B) dependent care expenses (determined in accordance with paragraph (8)); and

(C) room and board costs (determined in accordance with paragraph (3)), except that a student may receive an allowance for such costs under this subparagraph for not more than 3 semesters or the equivalent, of which not more than 2 semesters or the equivalent may be consecutive;

(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(6) for incarcerated students only tuition and fees and, if required, books and supplies;

(7) for a student enrolled in an academic program in a program of study abroad approved for credit by the student's home institution, reasonable costs associated with such study (as determined by the institution at which such student is enrolled);

(8) for a student with one or more dependents, an allowance based on the estimated actual expenses incurred for such dependent care, based on the number and age of such dependents, except that—

(A) such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided; and

(B) the period for which dependent care is required includes, but is not limited to, class-time, study-time, field work, internships, and commuting time;

(9) for a student with a disability, an allowance (as determined by the institution) for those expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;

(10) for a student receiving all or part of the student's instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs;

(11) for a student engaged in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the institution);

(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student's cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be; and

(13) at the option of the institution, for a student in a program requiring professional licensure or certification, the one-time cost of obtaining the first professional credentials (as determined by the institution).

SEC. 473. [20 U.S.C. 1087mm] FAMILY CONTRIBUTION.

(a) IN GENERAL.—For the purpose of this title, other than subpart 2 of part A, and except as provided in subsection (b), the term "family contribution" with respect to any student means the amount which the student and the student's family may be reasonably expected to contribute toward the student's postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

(b) SPECIAL RULE.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, the family contribution of each student described in paragraph (2) shall be deemed to be zero for the academic year for which the determination is made.

(2) APPLICABILITY.—Paragraph (1) shall apply to any dependent or independent student with respect to determinations of need for academic year 2009–2010 and succeeding academic years—

(A) who is eligible to receive a Federal Pell Grant for the academic year for which the determination is made;

(B) whose parent or guardian was a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001; and

(C) who, at the time of the parent or guardian's death, was—

(i) less than 24 years of age; or

(ii) enrolled at an institution of higher education on a part-time or full-time basis.

(3) INFORMATION.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs and the Secretary of Defense, as appropriate, shall provide the Secretary of Education with information necessary to determine which students meet the requirements of paragraph (2).

SEC. 474. [20 U.S.C. 1087nn] DETERMINATION OF EXPECTED FAMILY CONTRIBUTION; DATA ELEMENTS.

(a) GENERAL RULE FOR DETERMINATION OF EXPECTED FAMILY CONTRIBUTION.—The expected family contribution—

(1) for a dependent student shall be determined in accordance with section 475;

(2) for a single independent student or a married independent student without dependents (other than a spouse) shall be determined in accordance with section 476; and

(3) for an independent student with dependents other than a spouse shall be determined in accordance with section 477.

(b) DATA ELEMENTS.—The following data elements are considered in determining the expected family contribution:

(1) the available income of (A) the student and the student's spouse, or (B) the student and the student's parents, in the case of a dependent student;

(2) the number of dependents in the family of the student;

(3) the number of dependents in the family of the student, excluding the student's parents, who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 and for whom the family may reasonably be expected to contribute to their postsecondary education;

(4) the net assets of (A) the student and the student's spouse, and (B) the student and the student's parents, in the case of a dependent student;

(5) the marital status of the student;

(6) the age of the older parent, in the case of a dependent student, and the student; and

(7) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when the student is married and the student's spouse is employed, or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1986.

SEC. 475. [20 U.S.C. 1087oo] FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each dependent student, the expected family contribution is equal to the sum of—

(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b));

(2) the student contribution from available income (determined in accordance with subsection (g)); and

(3) the student contribution from assets (determined in accordance with subsection (h)).

(b) PARENTS' CONTRIBUTION FROM ADJUSTED AVAILABLE INCOME.—The parents' contribution from adjusted available income is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the parents' available income (determined in accordance with subsection (c)); and

(B) the parents' contribution from assets (determined in accordance with subsection (d));

(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e); and

(3) dividing the assessment resulting under paragraph (2) by the number of the family members, excluding the student's parents, who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

(c) PARENTS' AVAILABLE INCOME.—

(1) IN GENERAL.—The parents' available income is determined by deducting from total income (as defined in section 480)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken by the parents under section 25A of the Internal Revenue Code of 1986.

(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate

appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(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					
(including student)	1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	$9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 478):

(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the parent with the lesser earned income.

(B) If a parent qualifies as a surviving spouse or as a head of household as defined in section 2 of the Internal Revenue Code of 1986, such allowance is equal to the lesser of $2,500 or 35 percent of such parent's earned income.

(d) PARENTS' CONTRIBUTION FROM ASSETS.—

(1) IN GENERAL.—The parents' contribution from assets is equal to—

(A) the parental net worth (determined in accordance with paragraph (2)); minus

(B) the education savings and asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) PARENTAL NET WORTH.—The parental net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value of the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478), except as provided under section 480(f):

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) EDUCATION SAVINGS AND ASSET PROTECTION ALLOWANCE.—The education savings and asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 478):

Education Savings and Asset Protection Allowances for Families and Students

If the age of the oldest parent is—	And there are	
	two parents	one parent
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) ASSET CONVERSION RATE.—The asset conversion rate is 12 percent.

(e) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (b)(1) and hereafter in this subsection referred to as "AAI") is assessed according to the following table (or a successor table prescribed by the Secretary under section 478):

Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(f) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, REMARRIAGE, OR DEATH.—

(1) DIVORCED OR SEPARATED PARENTS.—Parental income and assets for a student whose parents are divorced or separated is determined under the following procedures:

(A) Include only the income and assets of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(B) If the preceding criterion does not apply, include only the income and assets of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(C) If neither of the preceding criteria apply, include only the income and assets of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(2) DEATH OF A PARENT.—Parental income and assets in the case of the death of any parent is determined as follows:

(A) If either of the parents has died, the student shall include only the income and assets of the surviving parent.

(B) If both parents have died, the student shall not report any parental income or assets.

(3) REMARRIED PARENTS.—If a parent whose income and assets are taken into account under paragraph (1) of this subsection, or if a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection, has remarried, the income of that parent's spouse shall be included in determining the parent's adjusted available income only if—

(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

(B) the student is not an independent student.

(g) STUDENT CONTRIBUTION FROM AVAILABLE INCOME.—

(1) IN GENERAL.—The student contribution from available income is equal to—

(A) the student's total income (determined in accordance with section 480); minus

(B) the adjustment to student income (determined in accordance with paragraph (2)); multiplied by

(C) the assessment rate as determined in paragraph (5);

except that the amount determined under this subsection shall not be less than zero.

(2) ADJUSTMENT TO STUDENT INCOME.—The adjustment to student income is equal to the sum of—

(A) Federal income taxes of the student;

(B) an allowance for State and other income taxes (determined in accordance with paragraph (3));

(C) an allowance for social security taxes determined in accordance with paragraph (4);

(D) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—

(i) for academic year 2009–2010, $3,750;

(ii) for academic year 2010–2011, $4,500;

(iii) for academic year 2011–2012, $5,250; and

(iv) for academic year 2012–2013, $6,000;

(E) the amount of any tax credit taken by the student under section 25A of the Internal Revenue Code of 1986; and

(F) an allowance for parents' negative available income, determined in accordance with paragraph (6).

(3) ALLOWANCE FOR STATE AND OTHER INCOME TAXES.—The allowance for State and other income taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(4) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(5) The student's available income (determined in accordance with paragraph (1) of this subsection) is assessed at 50 percent.

(6) ALLOWANCE FOR PARENTS' NEGATIVE AVAILABLE INCOME.—The allowance for parents' negative available income is the amount, if any, by which the sum of the amounts deducted under subparagraphs (A) through (F) of subsection (c)(1) exceeds the sum of the parents' total income (as defined in section 480) and the parents' contribution from assets (as determined in accordance with subsection (d)).

(h) STUDENT CONTRIBUTION FROM ASSETS.—The student contribution from assets is determined by calculating the net assets of the student and multiplying such amount by 20 percent, except that the result shall not be less than zero.

(i) ADJUSTMENTS TO PARENTS' CONTRIBUTION FOR ENROLLMENT PERIODS OTHER THAN 9 MONTHS FOR PURPOSES OTHER THAN SUBPART 2 OF PART A OF THIS TITLE.—For periods of enrollment other than 9 months, the parents' contribution from adjusted available income (as determined under subsection (b)) is determined as follows for purposes other than subpart 2 of part A of this title:

(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income is divided by 9 and the result multiplied by the number of months enrolled.

(2) For periods of enrollment greater than 9 months—

(A) the parents' adjusted available income (determined in accordance with subsection (b)(1)) is increased by the difference between the income protection allowance (determined in accordance with subsection (c)(4)) for a family of four and a family of five, each with one child in college;

(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) and adjusted according to subsection (b)(3) to determine a revised parents' contribution from adjusted available income;

(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.

(j) ADJUSTMENTS TO STUDENT'S CONTRIBUTION FOR ENROLLMENT PERIODS OF LESS THAN NINE MONTHS.—For periods of enrollment of less than 9 months, the student's contribution from adjusted available income (as determined under subsection (g)) is determined, for purposes other than subpart 2 of part A, by dividing the amount determined under such subsection by 9, and multiplying the result by the number of months in the period of enrollment.

SEC. 476. [20 U.S.C. 1087pp] FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.

(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student without dependents other than a spouse, the expected family contribution is determined by—

(1) adding—

(A) the family's contribution from available income (determined in accordance with subsection (b)); and

(B) the family's contribution from assets (determined in accordance with subsection (c));

(2) dividing the sum resulting under paragraph (1) by the number of students who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested; and

(3) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A—

(A) dividing the quotient resulting under paragraph (2) by 9; and

(B) multiplying the result by the number of months in the period of enrollment;

except that the amount determined under this subsection shall not be less than zero.

(b) FAMILY'S CONTRIBUTION FROM AVAILABLE INCOME.—

(1) IN GENERAL.—The family's contribution from income is determined by—

(A) deducting from total income (as defined in section 480)—

(i) Federal income taxes;

(ii) an allowance for State and other taxes, determined in accordance with paragraph (2);

(iii) an allowance for social security taxes, determined in accordance with paragraph (3);

(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—

(I) for single or separated students, or married students where both are enrolled pursuant to subsection (a)(2)—

(aa) for academic year 2009–2010, $7,000;

(bb) for academic year 2010–2011, $7,780;

(cc) for academic year 2011–2012, $8,550; and

(dd) for academic year 2012–2013, $9,330; and

(II) for married students where 1 is enrolled pursuant to subsection (a)(2)—

(aa) for academic year 2009–2010, $11,220;

(bb) for academic year 2010–2011, $12,460;

(cc) for academic year 2011–2012, $13,710; and

(dd) for academic year 2012–2013, $14,960;

(v) in the case where a spouse is present, an employment expense allowance, as determined in accordance with paragraph (4); and

(vi) the amount of any tax credit taken under section 25A of the Internal Revenue Code of 1986; and

(B) assessing such available income in accordance with paragraph (5).

(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student (and spouse, if appropriate), multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) EMPLOYMENT EXPENSES ALLOWANCE.—The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 478):

(A) If the student is married and the student's spouse is employed in the year for which income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student is not married, the employment expense allowance is zero.

(5) ASSESSMENT OF AVAILABLE INCOME.—The family's available income (determined in accordance with paragraph (1)(A) of this subsection) is assessed at 50 percent.

(c) FAMILY CONTRIBUTION FROM ASSETS.—

(1) IN GENERAL.—The family's contribution from assets is equal to—

(A) the family's net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4));

except that the family's contribution from assets shall not be less than zero.

(2) FAMILY'S NET WORTH.—The family's net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478), except as provided under section 480(f):

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 478):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) ASSET CONVERSION RATE.—The asset conversion rate is 20 percent.

(d) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, OR DEATH.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.

SEC. 477. [20 U.S.C. 1087qq] FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.

(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student with dependents other than a spouse, the expected family contribution is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the family's available income (determined in accordance with subsection (b)); and

(B) the family's contribution from assets (determined in accordance with subsection (c));

(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d);

(3) dividing the assessment resulting under paragraph (2) by the number of family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested; and

(4) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A—

(A) dividing the quotient resulting under paragraph (3) by 9; and

(B) multiplying the result by the number of months in the period of enrollment;

except that the amount determined under this subsection shall not be less than zero.

(b) FAMILY'S AVAILABLE INCOME.—

(1) IN GENERAL.—The family's available income is determined by deducting from total income (as defined in section 480)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken under section 25A of the Internal Revenue Code of 1986.

(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And family's total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount estimated to be earned by the student (and spouse, if appropriate) multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the tables described in subparagraphs (A) through (D) (or a successor table prescribed by the Secretary under section 478).

(A) ACADEMIC YEAR 2009–2010.—For academic year 2009–2010, the income protection allowance is determined by the following table:

Income Protection Allowance

Family Size	*Number in College*					
(including student)	*1*	*2*	*3*	*4*	*5*	*For each additional subtract:*
2	*$17,720*	*$14,690*				
3	*22,060*	*19,050*	*$16,020*			
4	*27,250*	*24,220*	*21,210*	*$18,170*		
5	*32,150*	*29,120*	*26,100*	*23,070*	*$20,060*	
6	*37,600*	*34,570*	*31,570*	*28,520*	*25,520*	*$3,020*

Income Protection Allowance—Continued

Family Size	*Number in College*					
(including student)	*1*	*2*	*3*	*4*	*5*	*For each additional subtract:*
For each additional add:	*4,240*	*4,240*	*4,240*	*4,240*	*4,240*	

(B) ACADEMIC YEAR 2010–2011.—For academic year 2010–2011, the income protection allowance is determined by the following table:

Income Protection Allowance

Family Size	*Number in College*					
(including student)	*1*	*2*	*3*	*4*	*5*	*For each additional subtract:*
2	*$19,690*	*$16,330*				
3	*24,510*	*21,160*	*$17,800*			
4	*30,280*	*26,910*	*23,560*	*$20,190*		
5	*35,730*	*32,350*	*29,000*	*25,640*	*$22,290*	
6	*41,780*	*38,410*	*35,080*	*31,690*	*28,350*	*$3,350*
For each additional add:	*4,710*	*4,710*	*4,710*	*4,710*	*4,710*	

(C) ACADEMIC YEAR 2011–2012.—For academic year 2011–2012, the income protection allowance is determined by the following table:

Income Protection Allowance

Family Size	*Number in College*					
(including student)	*1*	*2*	*3*	*4*	*5*	*For each additional subtract:*
2	*$21,660*	*$17,960*				
3	*26,960*	*23,280*	*$19,580*			
4	*33,300*	*29,600*	*25,920*	*$22,210*		
5	*39,300*	*35,590*	*31,900*	*28,200*	*$24,520*	
6	*45,950*	*42,250*	*38,580*	*34,860*	*31,190*	*$3,690*
For each additional add:	*5,180*	*5,180*	*5,180*	*5,180*	*5,180*	

(D) ACADEMIC YEAR 2012–2013.—For academic year 2012–2013, the income protection allowance is determined by the following table:

Income Protection Allowance

Family Size	*Number in College*					
(including student)	*1*	*2*	*3*	*4*	*5*	*For each additional subtract:*
2	*$23,630*	*$19,590*				
3	*29,420*	*25,400*	*$21,360*			
4	*36,330*	*32,300*	*28,280*	*$24,230*		
5	*42,870*	*38,820*	*34,800*	*30,770*	*$26,750*	
6	*50,130*	*46,100*	*42,090*	*38,030*	*34,020*	*$4,020*
For each additional add:	*5,660*	*5,660*	*5,660*	*5,660*	*5,660*	

(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows (or a successor table prescribed by the Secretary under section 478):

(A) If the student is married and the student's spouse is employed in the year for which their income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student qualifies as a surviving spouse or as a head of household as defined in section 2 of the Internal Revenue Code of 1986, such allowance is equal to the lesser of $2,500 or 35 percent of the student's earned income.

(c) FAMILY'S CONTRIBUTION FROM ASSETS.—

(1) IN GENERAL.—The family's contribution from assets is equal to—

(A) the family net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) FAMILY NET WORTH.—The family net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478), except as provided under section 480(f):

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 478):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is married	And the student is single
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) ASSET CONVERSION RATE.—The asset conversion rate is 7 percent.

(d) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (a)(1) and hereafter referred to as "AAI") is assessed according to the following table (or a successor table prescribed by the Secretary under section 478):

Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(e) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, OR DEATH.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's available income or assets.

SEC. 478. [20 U.S.C. 1087rr] REGULATIONS; UPDATED TABLES.

(a) AUTHORITY TO PRESCRIBE REGULATIONS RESTRICTED.—(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

(A) to prescribe updated tables in accordance with subsections (b) through (h) of this section; or

(B) to propose modifications in the need analysis methodology required by this part.

(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (h) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (h) of this section.

(b) INCOME PROTECTION ALLOWANCE.—

(1) REVISED TABLES.—

(A) IN GENERAL.—For each academic year after academic year 2008–2009, the Secretary shall publish in the Federal Register a revised table of income protection allowances for the purpose of sections 475(c)(4) and 477(b)(4), subject to subparagraphs (B) and (C).

(B) TABLE FOR INDEPENDENT STUDENTS.—

(i) ACADEMIC YEARS 2009–2010 THROUGH 2012–2013.—For each of the academic years 2009–2010 through 2012–2013, the Secretary shall not develop a revised table of income protection allowances under section 477(b)(4) and the table specified for such academic year under subparagraphs (A) through (D) of such section shall apply.

(ii) OTHER ACADEMIC YEARS.—For each academic year after academic year 2012–2013, the Secretary shall develop the revised table of income protection allowances by increasing each of the dollar amounts con-

tained in the table of income protection allowances under section 477(b)(4)(D) by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2011 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(C) TABLE FOR PARENTS.—For each academic year after academic year 2008–2009, the Secretary shall develop the revised table of income protection allowances under section 475(c)(4) by increasing each of the dollar amounts contained in the table by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(2) REVISED AMOUNTS.—For each academic year after academic year 2007–2008, the Secretary shall publish in the Federal Register revised income protection allowances for the purpose of sections 475(g)(2)(D) and 476(b)(1)(A)(iv). Such revised allowances shall be developed for each academic year after academic year 2012–2013, by increasing each of the dollar amounts contained in such section for academic year 2012–2013 by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 2011 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(c) ADJUSTED NET WORTH OF A FARM OR BUSINESS.—For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a farm or business for purposes of sections 475(d)(2)(C), 476(c)(2)(C), and 477(c)(2)(C). Such revised table shall be developed—

(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such award year, and rounding the result to the nearest $5,000; and

(2) by adjusting the dollar amounts "$30,000", "$105,000", and "$195,000" to reflect the changes made pursuant to paragraph (1).

(d) EDUCATION SAVINGS AND ASSET PROTECTION ALLOWANCE.—For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of allowances for the purpose of sections 475(d)(3), 476(c)(3), and 477(c)(3). Such revised table shall be developed by determining the present value cost, rounded to the nearest $100, of an annuity that would provide, for each age cohort of 40 and above, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics), and the current average social security

retirement benefits. For each age cohort below 40, the allowance shall be computed by decreasing the allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100. In making such determinations—

(1) inflation shall be presumed to be 6 percent per year;

(2) the rate of return of an annuity shall be presumed to be 8 percent; and

(3) the sales commission on an annuity shall be presumed to be 6 percent.

(e) ASSESSMENT SCHEDULES AND RATES.—For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 475(e) and 477(d). Such revised table shall be developed—

(1) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

(2) by adjusting the other dollar amounts to reflect the changes made pursuant to paragraph (1).

(f) DEFINITION OF CONSUMER PRICE INDEX.—As used in this section, the term "Consumer Price Index" means the Consumer Price Index for All Urban Consumers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

(g) STATE AND OTHER TAX ALLOWANCE.—For each award year after award year 1993–1994, 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.

(h) EMPLOYMENT EXPENSE ALLOWANCE.—For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of employment expense allowances for the purpose of sections 475(c)(5), 476(b)(4), and 477(b)(5). Such revised table shall be developed by increasing the dollar amount specified in sections 475(c)(5)(A), 475(c)(5)(B), 476(b)(4)(A), 477(b)(5)(A), and 477(b)(5)(B) to reflect increases in the amount and percent of the Bureau of Labor Statistics budget of the marginal costs for food away from home, apparel, transportation, and household furnishings and operations for a two-worker versus one-worker family.

SEC. 479. [20 U.S.C. 1087ss] SIMPLIFIED NEEDS TESTS.

(a) SIMPLIFIED APPLICATION SECTION.—

(1) IN GENERAL.—The Secretary shall develop and use an easily identifiable simplified application section as part of the common financial reporting form prescribed under section

483(a) for families described in subsections (b) and (c) of this section.

(2) REDUCED DATA REQUIREMENTS.—The simplified application form shall—

(A) in the case of a family meeting the requirements of subsection (b)(1), permit such family to submit only the data elements required under subsection (b)(2) for the purposes of establishing eligibility for student financial aid under this part; and

(B) in the case of a family meeting the requirements of subsection (c), permit such family to be treated as having an expected family contribution equal to zero for purposes of establishing such eligibility and to submit only the data elements required to make a determination under subsection (c).

(b) SIMPLIFIED NEEDS TEST.—

(1) ELIGIBILITY.—An applicant is eligible to file a simplified form containing the elements required by paragraph (2) if—

(A) in the case of an applicant who is a dependent student—

(i) the student's parents—

(I) file, or are eligible to file, a form described in paragraph (3);

(II) certify that the parents are not required to file a Federal income tax return;

(III) include at least one parent who is a dislocated worker; or

(IV) received, 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

(ii) the total adjusted gross income of the parents (excluding any income of the dependent student) is less than $50,000; or

(B) in the case of an applicant who is an independent student—

(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 a Federal income tax return;

(III) is a dislocated worker or has a spouse who 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

(ii) the adjusted gross income of the student (and the student's spouse, if any) is less than $50,000.

(2) SIMPLIFIED TEST ELEMENTS.—The six elements to be used for the simplified needs analysis are—

(A) adjusted gross income,

(B) Federal taxes paid,

(C) untaxed income and benefits,

(D) the number of family members,

(E) the number of family members in postsecondary education, and

(F) an allowance (A) for State and other taxes, as defined in section 475(c)(2) for dependent students and in section 477(b)(2) for independent students with dependents other than a spouse, or (B) for State and other income taxes, as defined in section 476(b)(2) for independent students without dependents other than a spouse.

(3) QUALIFYING FORMS.—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—

(A) a form 1040A or 1040EZ (including any prepared or electronic version of such form) required pursuant to the Internal Revenue Code of 1986;

(B) a form 1040 (including any prepared or electronic version of such form) required pursuant to the Internal Revenue Code of 1986, except that such form shall be considered a qualifying form only if the student or family files such form in order to take a tax credit under section 25A of the Internal Revenue Code of 1986, and would otherwise be eligible to file a form described in subparagraph (A); or

(C) an income tax return (including any prepared or electronic version of such return) required pursuant to the tax code of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

(c) ZERO EXPECTED FAMILY CONTRIBUTION.—The Secretary shall consider an applicant to have an expected family contribution equal to zero if—

(1) in the case of a dependent student—

(A) the student's parents—

(i) file, or are eligible to file, a form described in subsection (b)(3);

(ii) certify that the parents are not required to file a Federal income tax return;

(iii) include at least one parent who is a dislocated worker; or

(iv) received, 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

(B) the sum of the adjusted gross income of the parents is less than or equal to $23,000; or

(2) in the case of an independent student with dependents other than a spouse—

(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 a Federal income tax return;

(iii) is a dislocated worker or has a spouse who is a dislocated worker; or

(iv) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and

(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $23,000.

An individual is not required to qualify or file for the earned income credit in order to be eligible under this subsection. 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).

(d) DEFINITIONS.—In this section:

(1) DISLOCATED WORKER.—The term "dislocated worker" has the meaning given the term in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)[48].

(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term "means-tested Federal benefit program" means a mandatory spending program of the Federal Government, other than a program under this title, in which eligibility for the program's benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as—

(A) the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

(B) the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(C) the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(D) the program of block grants for States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(E) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

(F) other programs identified by the Secretary.

SEC. 479A. [20 U.S.C. 1087tt] DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.

(a) IN GENERAL.—Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-

[48] Effective on July 1, 2015, section 512(n)(2) of Public Law 113–128 provides for an amendment to strike "The term 'dislocated worker' has the meaning given the term in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)" and insert "The term 'dislocated worker' has the meaning given the term in section 3 of the Workforce Innovation and Opportunity Act".

by-case basis to the cost of attendance or the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances. Special circumstances may include tuition expenses at an elementary or secondary school, medical, dental, or nursing home expenses not covered by insurance, unusually high child care or dependent care costs, recent unemployment of a family member or an independent student, a student or family member who is a dislocated worker (as defined in section 101 of the Workforce Investment Act of 1998)[49], the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 487, a change in housing status that results in an individual being homeless (as defined in section 103 of the McKinney-Vento Homeless Assistance Act), or other changes in a family's income, a family's assets, or a student's status. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator in such cases (1) to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this title, or (2) to offer a dependent student financial assistance under section 428H or a Federal Direct Unsubsidized Stafford Loan without requiring the parents of such student to file the financial aid form prescribed under section 483 if the student financial aid administrator verifies that the parent or parents of such student have ended financial support of such student and refuse to file such form. No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.

(b) ADJUSTMENTS TO ASSETS TAKEN INTO ACCOUNT.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if—

(1) the administrator makes adjustments excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation; or

(2) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability.

(c) REFUSAL OR ADJUSTMENT OF LOAN CERTIFICATIONS.—On a case-by-case basis, an eligible institution may refuse to certify a

[49] Effective on July 1, 2015, section 512(n)(3) of Public Law 113–128 provides for an amendment to strike "a dislocated worker (as defined in section 101 of the Workforce Investment Act of 1998)" and insert "a dislocated worker (as defined in section 3 of the Workforce Innovation and Opportunity Act)".

statement that permits a student to receive a loan under part B or D, or may certify a loan amount or make a loan that is less than the student's determination of need (as determined under this part), if the reason for the action is documented and provided in written form to the student. No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status.

SEC. 479B. [20 U.S.C. 1087uu] DISREGARD OF STUDENT AID IN OTHER FEDERAL PROGRAMS.

Notwithstanding any other provision of law, student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

SEC. 479C. [20 U.S.C. 1087uu–1] NATIVE AMERICAN STUDENTS

In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under Public Law 98–64 (25 U.S.C. 117a et seq.; 97 Stat. 365) (commonly known as the "Per Capita Act") or the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.); and

(2) any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) or the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721 et seq.).

SEC. 480. [20 U.S.C. 1087vv] DEFINITIONS.

As used in this part:

(a) TOTAL INCOME.—(1)(A) Except as provided in subparagraph (B) and paragraph (2), the term "total income" is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e)).

(B) Notwithstanding section 478(a), the Secretary may provide for the use of data from the second preceding tax year when and to the extent necessary to carry out the simplification of applications (including simplification for a subset of applications) used for the estimation and determination of financial aid eligibility. Such simplification may include the sharing of data between the Internal Revenue Service and the Department, pursuant to the consent of the taxpayer.

(2) No portion of any student financial assistance received from any program by an individual, no portion of veterans' education benefits received 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. 12511 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 described 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.

(b) UNTAXED INCOME AND BENEFITS.—

(1) The term "untaxed income and benefits" means—

(A) child support received;

(B) workman's compensation;

(C) veteran's benefits such as death pension, dependency, and indemnity compensation, but excluding veterans' education benefits as defined in subsection (c);

(D) interest on tax-free bonds;

(E) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits), except that the value of on-base military housing or the value of basic allowance for housing determined under section 403(b) of title 37, United States Code, received by the parents, in the case of a dependent student, or the student or student's spouse, in the case of an independent student, shall be excluded;

(F) cash support or any money paid on the student's behalf, except, for dependent students, funds provided by the student's parents;

(G) untaxed portion of pensions;

(H) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

(I) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, or railroad retirement benefits, or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)[50].

(2) The term "untaxed income and benefits" shall not include—

(A) the amount of additional child tax credit claimed for Federal income tax purposes;

(B) welfare benefits, including assistance under a State program funded under part A of title IV of the Social Security Act and aid to dependent children;

(C) the amount of earned income credit claimed for Federal income tax purposes;

(D) the amount of credit for Federal tax on special fuels claimed for Federal income tax purposes;

(E) the amount of foreign income excluded for purposes of Federal income taxes; or

(F) untaxed social security benefits.

(c) VETERAN AND VETERANS' EDUCATION BENEFITS.—(1) The term "veteran" means any individual who—

[50] Effective on July 1, 2015, section 512(n)(4) of Public Law 113–128 provides for an amendment to strike "benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)" and insert "benefits received through participation in employment and training activities under title I of the Workforce Innovation and Opportunity Act".

(A) has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or Coast Guard; and

(B) was released under a condition other than dishonorable.

(2) The term "veterans' education benefits" means veterans' benefits the student will receive during the award year, including but not limited to benefits under the following provisions of law:

(A) Chapter 103 of title 10, United States Code (Senior Reserve Officers' Training Corps).

(B) Chapter 106A of title 10, United States Code (Educational Assistance for Persons Enlisting for Active Duty).

(C) Chapter 1606 of title 10, United States Code (Selected Reserve Educational Assistance Program).

(D) Chapter 1607 of title 10, United States Code (Educational Assistance Program for Reserve Component Members Supporting Contingency Operations and Certain Other Operations).

(E) Chapter 30 of title 38, United States Code (All-Volunteer Force Educational Assistance Program, also known as the "Montgomery GI Bill—active duty").

(F) Chapter 31 of title 38, United States Code (Training and Rehabilitation for Veterans with Service-Connected Disabilities).

(G) Chapter 32 of title 38, United States Code (Post-Vietnam Era Veterans' Educational Assistance Program).

(H) Chapter 33 of title 38, United States Code (Post-9/11 Educational Assistance).

(I) Chapter 35 of title 38, United States Code (Survivors' and Dependents' Educational Assistance Program).

(J) Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note) (Educational Assistance Pilot Program).

(K) Section 156(b) of the "Joint Resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes" (42 U.S.C. 402 note) (Restored Entitlement Program for Survivors, also known as "Quayle benefits").

(L) The provisions of chapter 3 of title 37, United States Code, related to subsistence allowances for members of the Reserve Officers Training Corps.

(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 an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;

(C) is, or was immediately prior to attaining the age of majority, an emancipated minor or 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 serv-

ing on active duty in the Armed Forces for other than training purposes;

(E) is a graduate or professional student;

(F) is a married individual;

(G) has legal dependents other than a spouse;

(H) has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act), or as unaccompanied, at risk of homelessness, and self-supporting, by—

(i) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;

(ii) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;

(iii) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or

(iv) a financial aid administrator; or

(I) 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.—A financial aid administrator may make a determination of independence under paragraph (1)(I) based upon a documented determination of independence that was previously made by another financial aid administrator under such paragraph in the same award year.

(e) EXCLUDABLE INCOME.—The term "excludable income" means—

(1) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of this title;

(2) any income earned from work under a cooperative education program offered by an institution of higher education;

(3) any living allowance received by a participant in a program established under the National and Community Service Act of 1990;

(4) child support payments made by the student or parent;

(5) payments made and services provided under part E of title IV of the Social Security Act; and

(6) special combat pay.

(f) ASSETS.—(1) The term "assets" means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, qualified education benefits (except as provided in paragraph (3)), and the net value of real estate, income producing property, and business and farm assets.

(2) With respect to determinations of need under this title, other than for subpart 4 of part A, the term "assets" shall not include the net value of—

(A) the family's principal place of residence;

(B) a family farm on which the family resides; or

(C) a small business with not more than 100 full-time or full-time equivalent employees (or any part of such a small business) that is owned and controlled by the family.

(3) A qualified education benefit shall be considered an asset of—

(A) the student if the student is an independent student; or

(B) the parent if the student is a dependent student, regardless of whether the owner of the account is the student or the parent.

(4) In determining the value of assets in a determination of need under this title (other than for subpart 4 of part A), the value of a qualified education benefit shall be—

(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; and

(B) in the case of a program in which contributions are made to an account that is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, the current balance of such account.

(5) In this subsection:

(A) The term "qualified education benefit" means—

(i) a qualified tuition program (as defined in section 529(b)(1)(A) of the Internal Revenue Code of 1986) or other prepaid tuition plan offered by a State; and

(ii) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).

(B) The term "qualified higher education expenses" has the meaning given the term in section 529(e) of the Internal Revenue Code of 1986.

(g) NET ASSETS.—The term "net assets" means the current market value at the time of application of the assets (as defined in subsection (f)), minus the outstanding liabilities or indebtedness against the assets.

(h) TREATMENT OF INCOME TAXES PAID TO OTHER JURISDICTIONS.—(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

(2) References in this part to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

(i) CURRENT BALANCE.—The term "current balance of checking and savings accounts" does not include any funds over which an in-

dividual is barred from exercising discretion and control because of the actions of any State in declaring a bank emergency due to the insolvency of a private deposit insurance fund.

(j) OTHER FINANCIAL ASSISTANCE.—(1) For purposes of determining a student's eligibility for funds under this title, estimated financial assistance not received under this title shall include all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student's need is made, including national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990 (42 U.S.C. 12511 et seq.), but excluding veterans' education benefits as defined in subsection (c).

(2) Notwithstanding paragraph (1), a tax credit taken under section 25A of the Internal Revenue Code of 1986, 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, shall not be treated as estimated financial assistance for purposes of section 471(3).

(3) Notwithstanding paragraph (1) and section 472, assistance not received under this title may be excluded from both estimated financial assistance and cost of attendance, if that assistance is provided by a State and is designated by such State to offset a specific component of the cost of attendance. If that assistance is excluded from either estimated financial assistance or cost of attendance, it shall be excluded from both.

(4) Notwithstanding paragraph (1), special combat pay shall not be treated as estimated financial assistance for purposes of section 471(3).

(k) DEPENDENTS.—(1) Except as otherwise provided, the term "dependent of the parent" means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

(2) Except as otherwise provided, the term "dependent of the student" means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

(l) FAMILY SIZE.—(1) In determining family size in the case of a dependent student—

(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include,

in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

(2) In determining family size in the case of an independent student—

(A) family members include the student, the student's spouse, and the dependents of the student; and

(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

(m) BUSINESS ASSETS.—The term "business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

(n) SPECIAL COMBAT PAY.—The term "special combat pay" means pay received by a member of the Armed Forces because of exposure to a hazardous situation.

PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

SEC. 481. [20 U.S.C. 1088] DEFINITIONS.

(a) ACADEMIC AND AWARD YEAR.—(1) For the purpose of any program under this title, the term "award year" shall be defined as the period beginning July 1 and ending June 30 of the following year.

(2)(A) For the purpose of any program under this title, the term "academic year" shall—

(i) require a minimum of 30 weeks of instructional time for a course of study that measures its program length in credit hours; or

(ii) require a minimum of 26 weeks of instructional time for a course of study that measures its program length in clock hours; and

(iii) require an undergraduate course of study to contain an amount of instructional time whereby a full-time student is expected to complete at least—

(I) 24 semester or trimester hours or 36 quarter credit hours in a course of study that measures its program length in credit hours; or

(II) 900 clock hours in a course of study that measures its program length in clock hours.

(B) The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree and that measures program length in credit hours or clock hours.

(b) ELIGIBLE PROGRAM.—(1) For purposes of this title, the term "eligible program" means a program of at least—

(A) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

(i) provides a program of training to prepare students for gainful employment in a recognized profession; and

(ii) admits students who have not completed the equivalent of an associate degree; or

(B) 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—

(i) an undergraduate program that requires the equivalent of an associate degree for admissions; or

(ii) a graduate or professional program.

(2)(A) A program is an eligible program for purposes of part B of this title if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

(B) In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.

(3) An otherwise eligible program that is offered in whole or in part through telecommunications is eligible for the purposes of this title if the program is offered by an institution, other than a foreign institution, that has been evaluated and determined (before or after the date of enactment of the Higher Education Reconciliation Act of 2005) to have the capability to effectively deliver distance education programs by an accrediting agency or association that—

(A) is recognized by the Secretary under subpart 2 of part H; and

(B) has evaluation of distance education programs within the scope of its recognition, as described in section 496(n)(3).

(4) For purposes of this title, the term "eligible program" includes an instructional program that, in lieu of credit hours or clock hours as the measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, if such assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment. In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to be an eligible program.

(c) THIRD PARTY SERVICER.—For purposes of this title, the term "third party servicer" means any individual, any State, or any private, for-profit or nonprofit organization, which enters into a contract with—

(1) any eligible institution of higher education to administer, through either manual or automated processing, any aspect of such institution's student assistance programs under this title; or

(2) any guaranty agency, or any eligible lender, to administer, through either manual or automated processing, any aspect of such guaranty agency's or lender's student loan programs under part B of this title, including originating, guaranteeing, monitoring, processing, servicing, or collecting loans.

(d) DEFINITIONS FOR MILITARY DEFERMENTS.—For purposes of parts B, D, and E of this title:

(1) ACTIVE DUTY.—The term "active duty" has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

(2) MILITARY OPERATION.—The term "military operation" means a contingency operation as such term is defined in section 101(a)(13) of title 10, United States Code.

(3) NATIONAL EMERGENCY.—The term "national emergency" means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

(4) SERVING ON ACTIVE DUTY.—The term "serving on active duty during a war or other military operation or national emergency" means service by an individual who is—

(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

(5) QUALIFYING NATIONAL GUARD DUTY.—The term "qualifying National Guard duty during a war or other military operation or national emergency" means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.

(e) CONSUMER REPORTING AGENCY.—For purposes of this title, the term "consumer reporting agency" has the meaning given the term "consumer reporting agency that compiles and maintains files on consumers on a nationwide basis" in Section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)).

(f) DEFINITION OF EDUCATIONAL SERVICE AGENCY.—For purposes of parts B, D, and E, the term "educational service agency" has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965.

SEC. 481A. [20 U.S.C. 1088a] CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.

Notwithstanding any other provision of this Act, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this title, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.

SEC. 482. [20 U.S.C. 1089] MASTER CALENDAR.

(a) SECRETARY REQUIRED TO COMPLY WITH SCHEDULE.—To assure adequate notification and timely delivery of student aid funds under this title, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

(1) Development and distribution of Federal and multiple data entry forms—

(A) by February 1: first meeting of the technical committee on forms design of the Department;

(B) by March 1: proposed modifications, updates, and notices pursuant to sections 478 and 483(a)(5) published in the Federal Register;

(C) by June 1: final modifications, updates, and notices pursuant to sections 478 and 483(a)(5) published in the Federal Register;

(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

(E) by August 30: final approved forms delivered to servicers and printers;

(F) by October 1: Federal and multiple data entry forms and instructions printed; and

(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

(2) Allocations of campus-based and Pell Grant funds—

(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

(B) by October 1: final date for submission of FISAP by institutions to the Department;

(C) by November 15: edited FISAP and computer printout received by institutions;

(D) by December 1: appeals procedures received by institutions;

(E) by December 15: edits returned by institutions to the Department;

(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

(G) by February 15: closing date for receipt of institutional appeals by the Department;

(H) by March 1: appeals process completed;

(I) by April 1: final award notifications sent to institutions; and

(J) by June 1: Pell Grant authorization levels sent to institutions.

(3) The Secretary shall, to the extent practicable, notify eligible institutions, guaranty agencies, lenders, interested software providers, and, upon request, other interested parties, by December 1 prior to the start of an award year of minimal hardware and software requirements necessary to administer programs under this title.

(4) The Secretary shall attempt to conduct training activities for financial aid administrators and others in an expeditious and timely manner prior to the start of an award year in order to ensure that all participants are informed of all administrative requirements.

(b) TIMING FOR REALLOCATIONS.—With respect to any funds reallocated under section 413D(d), 442(d), or 462(i), the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purpose of the programs under subpart 3 of part A, part C, and part E, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—(1) Except as provided in paragraph (2), any regulatory changes initiated by the Secretary affecting the programs under this title that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

(2)(A) The Secretary may designate any regulatory provision that affects the programs under this title and is published in final form after November 1 as one that an entity subject to the provision may, in the entity's discretion, choose to implement prior to the effective date described in paragraph (1). The Secretary may specify in the designation when, and under what conditions, an entity may implement the provision prior to that effective date. The Secretary shall publish any designation under this subparagraph in the Federal Register.

(B) If an entity chooses to implement a regulatory provision prior to the effective date described in paragraph (1), as permitted by subparagraph (A), the provision shall be effective with respect to that entity in accordance with the terms of the Secretary's designation.

(d) NOTICE TO CONGRESS.—The Secretary shall notify the authorizing committees when a deadline included in the calendar described in subsection (a) is not met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

(e) COMPLIANCE CALENDAR.—Prior to the beginning of each award year, the Secretary shall provide to institutions of higher education a list of all the reports and disclosures required under this Act. The list shall include—

(1) the date each report or disclosure is required to be completed and to be submitted, made available, or disseminated;

(2) the required recipients of each report or disclosure;

(3) any required method for transmittal or dissemination of each report or disclosure;

(4) a description of the content of each report or disclosure sufficient to allow the institution to identify the appropriate individuals to be assigned the responsibility for such report or disclosure;

(5) references to the statutory authority, applicable regulations, and current guidance issued by the Secretary regarding each report or disclosure; and

(6) any other information which is pertinent to the content or distribution of the report or disclosure.

SEC. 483. [20 U.S.C. 1090] FORMS AND REGULATIONS.

(a) COMMON FINANCIAL AID FORM DEVELOPMENT AND PROCESSING.—

(1) IN GENERAL.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used 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). The forms shall be made available to applicants in both paper and electronic formats and shall be referred to as the "Free Application for Federal Student Aid" or the "FAFSA". The Secretary shall work to make the FAFSA consumer-friendly and to make questions on the FAFSA easy for students and families to read and understand, and shall ensure that the FAFSA is available in formats accessible to individuals with disabilities.

(2) PAPER FORMAT.—

(A) IN GENERAL.—The Secretary shall develop, make available, and process—

(i) a paper version of EZ FAFSA, as described in subparagraph (B); and

(ii) a paper version of the other forms described in this subsection, in accordance with subparagraph (C), for any applicant who does not meet the requirements of or does not wish to use the process described in subparagraph (B).

(B) EZ FAFSA.—

(i) IN GENERAL.—The Secretary shall develop and use, after appropriate field testing, a simplified paper form, to be known as the EZ FAFSA, to be used for applicants meeting the requirements of subsection (b) or (c) of section 479.

(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 appli-

cant meets the requirements under subsection (b) or (c) of section 479.

(iii) STATE DATA.—The Secretary shall include on the EZ FAFSA such data items as may be necessary to award State financial assistance, as provided under paragraph (5), except that the Secretary shall not include a State's data if that State does not permit the State's resident applicants to use the EZ FAFSA for State assistance.

(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 (10).

(C) PROMOTING THE USE OF ELECTRONIC FAFSA.—

(i) IN GENERAL.—The Secretary shall make all efforts to encourage all applicants to utilize the electronic version of the forms described in paragraph (3).

(ii) MAINTENANCE OF THE FAFSA IN A PRINTABLE ELECTRONIC FILE.—The Secretary shall maintain a version of the paper forms described in subparagraphs (A) and (B) in a printable electronic file that is easily portable, accessible, and downloadable to students on the same website used to provide students with the electronic version of the forms described in paragraph (3).

(iii) REQUESTS FOR PRINTED COPY.—The Secretary shall provide a printed copy of the full paper version of FAFSA upon request.

(iv) REPORTING REQUIREMENT.—The Secretary shall maintain data, and periodically report to Congress, on the impact of the digital divide on students completing applications for aid under this title. The Secretary shall report on the steps taken to eliminate the digital divide and reduce production of the paper form described in subparagraph (A). The Secretary's report shall specifically address the impact of the digital divide on the following student populations:

(I) Independent students.

(II) Traditionally underrepresented students.

(III) Dependent students.

(3) ELECTRONIC FORMAT.—

(A) IN GENERAL.—The Secretary shall produce, distribute, and process forms in electronic format to meet the requirements of paragraph (1). The Secretary shall develop an electronic version of the forms for applicants who do not meet the requirements of subsection (b) or (c) of section 479.

(B) SIMPLIFIED APPLICATIONS: FAFSA ON THE WEB.—

(i) IN GENERAL.—The Secretary shall develop and use a simplified electronic version of the form to be used by applicants meeting the requirements under subsection (b) or (c) of section 479.

(ii) REDUCED DATA REQUIREMENTS.—The simplified electronic version of the forms 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 subsection (b) or (c) of section 479.

(iii) USE OF FORMS.—Nothing in this subsection shall be construed to prohibit the use of the forms developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software provider, a consortium thereof, or such other entities as the Secretary may designate.

(C) STATE DATA.—The Secretary shall include on the electronic version of the forms such items as may be necessary to determine eligibility for State financial assistance, as provided under paragraph (5), except that the Secretary shall not require an applicant to enter data pursuant to this subparagraph that are required by any State other than the applicant's State of residence.

(D) AVAILABILITY AND PROCESSING.—The data collected by means of the simplified electronic version of the forms shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (10).

(E) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the forms. Data collected by such electronic version of the forms shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the forms shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this title.

(F) SIGNATURE.—Notwithstanding any other provision of this Act, the Secretary may continue to permit an electronic version of the form under this paragraph to be submitted without a signature, if a signature is subsequently submitted by the applicant or if the applicant uses a personal identification number provided by the Secretary under subparagraph (G).

(G) PERSONAL IDENTIFICATION NUMBERS AUTHORIZED.—The Secretary may continue to assign to an applicant a personal identification number—

(i) to enable the applicant to use such number as a signature for purposes of completing an electronic version of a form developed under this paragraph; and

(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this title.

(H) PERSONAL IDENTIFICATION NUMBER IMPROVEMENT.—The Secretary shall continue to work with the Commissioner of Social Security to minimize the time required for an applicant to obtain a personal identification number when applying for aid under this title through an electronic version of a form developed under this paragraph.

(4) STREAMLINING.—

(A) STREAMLINED REAPPLICATION PROCESS.—

(i) IN GENERAL.—The Secretary shall continue to streamline reapplication forms and processes for an applicant who applies for financial assistance under this title in the next succeeding academic year subsequent to an academic year for which such applicant applied for financial assistance under this title.

(ii) UPDATING OF DATA ELEMENTS.—The Secretary shall determine, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, the data elements that may be transferred from the previous academic year's application and those data elements that shall be updated.

(iii) REDUCED DATA AUTHORIZED.—Nothing in this title shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

(iv) 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 data that are necessary to determine eligibility under such section.

(B) REDUCTION OF DATA ELEMENTS.—

(i) REDUCTION ENCOURAGED.—Of the number of data elements on the FAFSA used for the 2009–2010 award year, the Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance and consistent with efforts under subsection (c), shall continue to reduce the number of such data elements required to be entered by all applicants, with the goal of reducing such number by 50 percent.

(ii) REPORT.—The Secretary shall submit a report on the process of this reduction to each of the authorizing committees by June 30, 2011.

(5) STATE REQUIREMENTS.—

(A) IN GENERAL.—Except as provided in paragraphs (2)(B)(iii), (3)(B), and (4)(A)(ii), the Secretary shall include on the forms developed under this subsection, such State-

specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with State agencies in order to assist in the awarding of State financial 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 for the 2008–2009 award year unless a State notifies the Secretary that the State no longer requires those data items for the distribution of State need-based aid.

(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review to determine—

(i) which data items each State requires to award need-based State aid; and

(ii) if the State will permit an applicant to file a form described in paragraph (2)(B) or (3)(B).

(C) FEDERAL REGISTER NOTICE.—Beginning with the forms developed under paragraphs (2)(B) and (3)(B) for the award year 2010–2011, the Secretary shall publish on an annual basis a notice in the Federal Register requiring State agencies to inform the Secretary—

(i) if the State agency is unable to permit applicants to utilize the simplified forms described in paragraphs (2)(B) and (3)(B); and

(ii) of the State-specific nonfinancial data that the State agency requires for delivery of State need-based financial aid.

(D) USE OF SIMPLIFIED FORMS ENCOURAGED.—The Secretary shall encourage States to take such steps as are necessary to encourage the use of simplified forms under this subsection, including those forms described in paragraphs (2)(B) and (3)(B), for applicants who meet the requirements of subsection (b) or (c) of section 479.

(E) CONSEQUENCES IF STATE DOES NOT ACCEPT SIMPLIFIED FORMS.—If a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based financial aid, the Secretary may determine that State-specific questions for such State will not be included on a form described in paragraph (2)(B) or (3)(B). If the Secretary makes such determination, the Secretary shall advise the State of the Secretary's determination.

(F) LACK OF STATE RESPONSE TO REQUEST FOR INFORMATION.—If a State does not respond to the Secretary's request for information under subparagraph (B), the Secretary shall—

(i) permit residents of that State to complete simplified forms under paragraphs (2)(B) and (3)(B); and

(ii) not require any resident of such State to complete any data items previously required by that State under this section.

(G) RESTRICTION.—The Secretary shall, to the extent practicable, not require applicants to complete any financial or nonfinancial data items that are not required—

(i) by the applicant's State; or

(ii) by the Secretary.

(6) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may be determined only by using a form developed by the Secretary under this subsection. Such forms 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. No data collected on a form for which a fee is charged shall be used to complete the form prescribed under this section, except that a Federal or State income tax form prepared by a paid income tax preparer or preparer service for the primary purpose of filing a Federal or State income tax return may be used to complete the form prescribed under this section.

(7) RESTRICTIONS ON USE OF PIN.—No person, commercial entity, or other entity may request, obtain, or utilize an applicant's personal identification number assigned under paragraph (3)(G) for purposes of submitting a form developed under this subsection on an applicant's behalf.

(8) APPLICATION PROCESSING CYCLE.—The Secretary shall enable students to submit forms developed under this subsection and initiate the processing of such forms under this subsection, as early as practicable prior to January 1 of the student's planned year of enrollment.

(9) EARLY ESTIMATES.—The Secretary shall continue to—

(A) permit applicants to enter data in such forms as described in this subsection in the years prior to enrollment in order to obtain a non-binding estimate of the applicant's family contribution (as defined in section 473);

(B) permit applicants to update information submitted on forms described in this subsection, without needing to re-enter previously submitted information;

(C) develop a means to inform applicants, in the years prior to enrollment, of student aid options for individuals in similar financial situations;

(D) develop a means to provide a clear and conspicuous notice that the applicant's expected family contribution is subject to change and may not reflect the final expected family contribution used to determine Federal student financial aid award amounts under this title; and

(E) consult with representatives of States, institutions of higher education, and other individuals with experience or expertise in student financial assistance application processes in making updates to forms used to provide early estimates under this paragraph.

(10) DISTRIBUTION OF DATA.—Institutions of higher education, guaranty agencies, and States shall receive, without charge, the data collected by the Secretary using a form developed under this subsection for the purposes of processing loan

applications and determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education, guaranty agencies, or States to receive such data shall be subject to all the requirements of this section, unless such requirements are waived by the Secretary.

(11) THIRD PARTY SERVICERS AND PRIVATE SOFTWARE PROVIDERS.—To the extent practicable and in a timely manner, the Secretary shall provide, to private organizations and consortia that develop software used by institutions of higher education for the administration of funds under this title, all the necessary specifications that the organizations and consortia must meet for the software the organizations and consortia develop, produce, and distribute (including any diskette, modem, or network communications) to be so used. The specifications shall contain record layouts for required data. The Secretary shall develop in advance of each processing cycle an annual schedule for providing such specifications. The Secretary, to the extent practicable, shall use multiple means of providing such specifications, including conferences and other meetings, outreach, and technical support mechanisms (such as training and printed reference materials). The Secretary shall, from time to time, solicit from such organizations and consortia means of improving the support provided by the Secretary.

(12) PARENT'S SOCIAL SECURITY NUMBER AND BIRTH DATE.—The Secretary is authorized to include space on the forms developed under this subsection for the social security number and birth date of parents of dependent students seeking financial assistance under this title.

(b) INFORMATION TO COMMITTEES OF CONGRESS.—Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the authorizing committees at least 45 days prior to their effective date.

(c) TOLL-FREE INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide 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 other appropriate provider of technical assistance and information on postsecondary educational services for individuals with disabilities, including the National Technical Assistance Center under section 777. The Secretary shall continue to implement, to the extent practicable, a toll-free telephone based system to permit applicants who meet the requirements of subsection (b) or (c) of section 479 to submit an application over such system.

(d) ASSISTANCE IN PREPARATION OF FINANCIAL AID APPLICATION.—

(1) PREPARATION AUTHORIZED.—Notwithstanding any provision of this Act, an applicant may use a preparer for consult-

ative or preparation services for the completion of a form developed under subsection (a) if the preparer satisfies the requirements of this subsection.

(2) PREPARER IDENTIFICATION REQUIRED.—If an applicant uses a preparer for consultative or preparation services for the completion of a form developed under subsection (a), and for which a fee is charged, the preparer shall—

(A) include, at the time the form is submitted to the Department, the name, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer on the applicant's form; and

(B) be subject to the same penalties as an applicant for purposely giving false or misleading information in the application.

(3) ADDITIONAL REQUIREMENTS.—A preparer that provides consultative or preparation services pursuant to this subsection shall—

(A) clearly inform each individual upon initial contact, including contact through the Internet or by telephone, that the FAFSA and EZ FAFSA are free forms that may be completed without professional assistance via paper or electronic version of the forms that are provided by the Secretary;

(B) include in any advertising clear and conspicuous information that the FAFSA and EZ FAFSA are free forms that may be completed without professional assistance via paper or electronic version of the forms that are provided by the Secretary;

(C) if advertising or providing any information on a website, or if providing services through a website, include on the website a link to the website that provides the electronic version of the forms developed under subsection (a); and

(D) not produce, use, or disseminate any other form for the purpose of applying for Federal student financial aid other than the form developed by the Secretary under subsection (a).

(4) SPECIAL RULE.—Nothing in this Act shall be construed to limit preparers of the forms required under this title that meet the requirements of this subsection from collecting source information from a student or parent, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.

(e) EARLY APPLICATION AND ESTIMATED AWARD DEMONSTRATION PROGRAM.—

(1) PURPOSE AND OBJECTIVES.—The purpose of the demonstration program under this subsection is to measure the benefits, in terms of student aspirations and plans to attend an institution of higher education, and any 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 two years

prior to the year of enrollment. Additional objectives associated with implementation of the demonstration program are the following:

(A) To measure the feasibility of enabling dependent students to apply for Federal, State, and institutional financial aid in their junior year of secondary school, using information from two years prior to the year of enrollment, by completing any of the forms under this subsection.

(B) To identify whether receiving final financial aid award estimates not later than the fall of the senior year of secondary school provides students with additional time to compete for the limited resources available for State and institutional financial aid and positively impacts the college aspirations and plans of these students.

(C) To measure the impact of using income information from the years prior to enrollment on—

(i) eligibility for financial aid under this title and for other State and institutional aid; and

(ii) the cost of financial aid programs under this title.

(D) To effectively evaluate the benefits and adverse effects of the demonstration program on program costs, integrity, distribution, and delivery of financial aid.

(2) PROGRAM AUTHORIZED.—Not later than two years after the date of enactment of the Higher Education Opportunity Act, the Secretary shall implement an early application demonstration program enabling dependent students who wish to participate in the program—

(A) to complete an application under this subsection during the academic year that is two years prior to the year such students plan to enroll in an institution of higher education; and

(B) based on the application described in subparagraph (A), to obtain, not later than one year prior to the year of the students' planned enrollment, information on eligibility for Federal Pell Grants, Federal student loans under this title, and State and institutional financial aid for the student's first year of enrollment in the institution of higher education.

(3) EARLY APPLICATION AND ESTIMATED AWARD.—For all dependent students selected for participation in the demonstration program who submit a completed FAFSA, or, as appropriate, an EZ FAFSA, two years prior to the year such students plan to enroll in an institution of higher education, the Secretary shall, not later than one year prior to the year of such planned enrollment—

(A) provide each student who completes an early application with an estimated determination of such student's—

(i) expected family contribution for the first year of the student's enrollment in an institution of higher education; and

(ii) Federal Pell Grant award for the first such year, based on the Federal Pell Grant amount, deter-

mined under section 401(b)(2)(A), for which a student is eligible at the time of application; and

(B) remind the students of the need to update the students' information during the calendar year of enrollment using the expedited reapplication process provided for in subsection (a)(4)(A).

(4) PARTICIPANTS.—The Secretary shall include as participants in the demonstration program—

(A) States selected through the application process described in paragraph (5);

(B) institutions of higher education within the selected States that are interested in participating in the demonstration program, and that can make estimates or commitments of institutional student financial aid, as appropriate, to students the year before the students' planned enrollment date; and

(C) secondary schools within the selected States that are interested in participating in the demonstration program, and that can commit resources to—

(i) advertising the availability of the program;

(ii) identifying students who might be interested in participating in the program;

(iii) encouraging such students to apply; and

(iv) participating in the evaluation of the program.

(5) APPLICATIONS.—Each State that is interested in participating in the demonstration program shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require. The application shall include—

(A) information on the amount of the State's need-based student financial assistance available, and the eligibility criteria for receiving such assistance;

(B) a commitment to make, not later than the year before the dependent students participating in the demonstration program plan to enroll in an institution of higher education, an estimate of the award of State financial aid to such dependent students;

(C) a plan for recruiting institutions of higher education and secondary schools with different demographic characteristics to participate in the program;

(D) a plan for selecting institutions of higher education and secondary schools to participate in the program that—

(i) demonstrate a commitment to encouraging students to submit a FAFSA, or, as appropriate, an EZ FAFSA, two years before the students' planned date of enrollment in an institution of higher education;

(ii) serve different populations of students;

(iii) in the case of institutions of higher education—

(I) to the extent possible, are of varying types and sectors; and

(II) commit to making, not later than the year prior to the year that dependent students partici-

pating in the demonstration program plan to enroll in the institution—

(aa) estimated institutional awards to participating dependent students; and

(bb) estimated grants or other financial aid available under this title (including supplemental grants under subpart 3 of part A), for all participating dependent students, along with information on State awards, as provided to the institution by the State;

(E) a commitment to participate in the evaluation conducted by the Secretary; and

(F) such other information as the Secretary may require.

(6) SPECIAL PROVISIONS.—

(A) DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.—A financial aid administrator at an institution of higher education participating in a demonstration program under this subsection may use the discretion provided under section 479A as necessary for students participating in the demonstration program.

(B) WAIVERS.—The Secretary is authorized to waive, for an institution of higher education participating in the demonstration program, any requirements under this title, or regulations prescribed under this title, that will make the demonstration program unworkable, except that the Secretary shall not waive any provisions with respect to the maximum award amounts for grants and loans under this title.

(7) OUTREACH.—The Secretary shall make appropriate efforts to notify States of the demonstration program under this subsection. Upon determination of participating States, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students within participating States of the opportunity to participate in the demonstration program and of the participation requirements.

(8) EVALUATION.—The Secretary shall conduct a rigorous evaluation of the demonstration program to measure the program's benefits and adverse effects, as the benefits and effects relate to the purpose and objectives of the program described in paragraph (1). In conducting the evaluation, the Secretary shall—

(A) determine whether receiving financial aid estimates one year prior to the year in which the student plans to enroll in an institution of higher education, has a positive impact on the higher education aspirations and plans of such student;

(B) measure the extent to which using a student's income information from the year that is two years prior to the student's planned enrollment date had an impact on the ability of States and institutions of higher education to make financial aid awards and commitments;

(C) determine what operational changes are required to implement the program on a larger scale;

(D) identify any changes to Federal law that are necessary to implement the program on a permanent basis;

(E) identify the benefits and adverse effects of providing early estimates on program costs, program operations, program integrity, award amounts, distribution, and delivery of aid; and

(F) examine the extent to which estimated awards differ from actual awards made to students participating in the program.

(9) CONSULTATION.—The Secretary shall consult, as appropriate, with the Advisory Committee on Student Financial Assistance established under section 491 on the design, implementation, and evaluation of the demonstration program.

(f) REDUCTION OF INCOME AND ASSET INFORMATION TO DETERMINE ELIGIBILITY FOR STUDENT FINANCIAL AID.—

(1) CONTINUATION OF CURRENT FAFSA SIMPLIFICATION EFFORTS.—The Secretary shall continue to examine—

(A) how the Internal Revenue Service can provide to the Secretary income and other data needed to compute an expected family contribution for taxpayers and dependents of taxpayers, and when in the application cycle the data can be made available;

(B) whether data provided by the Internal Revenue Service can be used to—

(i) prepopulate the electronic version of the FAFSA with student and parent taxpayer data; or

(ii) generate an expected family contribution without additional action on the part of the student and taxpayer; and

(C) whether the data elements collected on the FAFSA that are needed to determine eligibility for student aid, or to administer the Federal student financial aid programs under this title, but are not needed to compute an expected family contribution, such as information regarding the student's citizenship or permanent residency status, registration for selective service, or driver's license number, can be reduced without adverse effects.

(2) REPORT ON FAFSA SIMPLIFICATION EFFORTS TO DATE.—Not later than 90 days after the date of enactment of the Higher Education Opportunity Act, the Secretary shall provide a written report to the authorizing committees on the work the Department has done with the Secretary of the Treasury regarding—

(A) how the expected family contribution of a student can be calculated using substantially less income and asset information than was used on March 31, 2008;

(B) the extent to which the reduced income and asset information will result in a redistribution of Federal grants and subsidized loans under this title, State aid, or institutional aid, or in a change in the composition of the group of recipients of such aid, and the amount of such redistribution;

(C) how the alternative approaches for calculating the expected family contribution will—

(i) rely mainly, in the case of students and parents who file income tax returns, on information available on the 1040, 1040EZ, and 1040A; and

(ii) include formulas for adjusting income or asset information to produce similar results to the existing approach with less data;

(D) how the Internal Revenue Service can provide to the Secretary of Education income and other data needed to compute an expected family contribution for taxpayers and dependents of taxpayers, and when in the application cycle the data can be made available;

(E) whether data provided by the Internal Revenue Service can be used to—

(i) prepopulate the electronic version of the FAFSA with student and parent taxpayer data; or

(ii) generate an expected family contribution without additional action on the part of the student and taxpayer;

(F) the extent to which the use of income data from two years prior to a student's planned enrollment date will change the expected family contribution computed in accordance with part F, and potential adjustments to the need analysis formula that will minimize the change; and

(G) the extent to which the data elements collected on the FAFSA on March 31, 2008, that are needed to determine eligibility for student aid or to administer the Federal student financial aid programs, but are not needed to compute an expected family contribution, such as information regarding the student's citizenship or permanent residency status, registration for selective service, or driver's license number, can be reduced without adverse effects.

(3) STUDY.—

(A) FORMATION OF STUDY GROUP.—Not later than 90 days after the date of enactment of the Higher Education Opportunity Act, the Comptroller General shall convene a study group the membership of which shall include the Secretary of Education, the Secretary of the Treasury, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, representatives of institutions of higher education with expertise in Federal and State financial aid assistance, State chief executive officers of higher education with a demonstrated commitment to simplifying the FAFSA, and such other individuals as the Comptroller General and the Secretary of Education may designate.

(B) STUDY REQUIRED.—The Comptroller General, in consultation with the study group convened under subparagraph (A) shall—

(i) review and build on the work of the Secretary of Education and the Secretary of the Treasury, and individuals with expertise in analysis of financial need, to assess alternative approaches for calculating the expected family contribution under the statutory need analysis formula in effect on the day before the

date of enactment of the Higher Education Opportunity Act and under a new calculation that will use substantially less income and asset information than was used for the 2008–2009 FAFSA;

(ii) conduct an additional analysis if necessary; and

(iii) make recommendations to the authorizing committees.

(C) OBJECTIVES OF STUDY.—The objectives of the study required under subparagraph (B) are—

(i) to determine methods to shorten the FAFSA and make the FAFSA easier and less time-consuming to complete, thereby increasing higher education access for low-income students;

(ii) to identify changes to the statutory need analysis formula that will be necessary to reduce the amount of financial information students and families need to provide to receive a determination of eligibility for student financial aid without causing significant redistribution of Federal grants and subsidized loans under this title; and

(iii) to review State and institutional needs and uses for data collected on the FAFSA, and to determine the best means of addressing such needs in the case of modification of the FAFSA as described in clause (i), or modification of the need analysis formula as described in clause (ii).

(D) REQUIRED SUBJECTS OF STUDY.—The study required under subparagraph (B) shall examine—

(i) with respect to simplification of the financial aid application process using the statutory requirements for need analysis—

(I) additional steps that can be taken to simplify the financial aid application process for students who (or, in the case of dependent students, whose parents) are not required to file a Federal income tax return for the prior taxable year;

(II) information on State use of information provided on the FAFSA, including—

(aa) whether a State uses, as of the time of the study, or can use, a student's expected family contribution based on data from two years prior to the student's planned enrollment date;

(bb) the extent to which States and institutions will accept the data provided by the Internal Revenue Service to prepopulate the electronic version of the FAFSA to determine the distribution of State and institutional student financial aid funds;

(cc) what data are used by States, as of the time of the study, to determine eligibility for State student financial aid, and whether

the data are used for merit- or need-based aid;

(dd) whether State data are required by State law, State regulations, or policy directives; and

(ee) the extent to which any State-specific information requirements can be met by completion of a State application linked to the electronic version of the FAFSA; and

(III) information on institutional needs, including the extent to which institutions of higher education are already using supplemental forms to collect additional data from students and their families to determine eligibility for institutional funds; and

(ii) ways to reduce the amount of financial information students and families need to provide to receive a determination of eligibility for student financial aid, taking into account—

(I) the amount of redistribution of Federal grants and subsidized loans under this title caused by such a reduction, and the benefits to be gained by having an application process that will be easier for students and their families;

(II) students and families who do not file income tax returns;

(III) the extent to which the full array of income and asset information collected on the FAFSA, as of the time of the study, plays an important role in the awarding of need-based State financial aid, and whether the State can use an expected family contribution generated by the FAFSA, instead of income and asset information or a calculation with reduced data elements, to support determinations of eligibility for such State aid programs and, if not, what additional information will be needed or what changes to the FAFSA will be required; and

(IV) information on institutional needs, including the extent to which institutions of higher education are already using supplemental forms to collect additional data from students and their families to determine eligibility for institutional funds; and

(V) changes to this Act or other laws that will be required to implement a modified need analysis system.

(4) CONSULTATION.—The Secretary shall consult with the Advisory Committee on Student Financial Assistance established under section 491 as appropriate in carrying out this subsection.

(5) REPORTS.—

(A) REPORTS ON STUDY.—The Secretary shall prepare and submit to the authorizing committees—

(i) not later than one year after the date of enactment of the Higher Education Opportunity Act, an interim report on the progress of the study required under paragraph (3) that includes any preliminary recommendations by the study group established under such paragraph; and

(ii) not later than two years after the date of enactment of the Higher Education Opportunity Act, a final report on the results of the study required under paragraph (3) that includes recommendations by the study group established under such paragraph.

(B) REPORTS ON FAFSA SIMPLIFICATION EFFORTS.—The Secretary shall report to the authorizing committees, from time to time, on the progress of the simplification efforts under this subsection.

(g) ADDRESSING THE DIGITAL DIVIDE.—The Secretary shall utilize savings accrued by moving more applicants to the electronic version of the forms described in subsection (a)(3) to improve access to the electronic version of the forms described in such subsection for applicants meeting the requirements of subsection (b) or (c) of section 479.

(h) ADJUSTMENTS.—The Secretary shall disclose, on the form notifying a student of the student's expected family contribution, that the student may, on a case-by-case basis, qualify for an adjustment under section 479A to the cost of attendance or the values of the data items required to calculate the expected contribution for the student or parent. Such disclosure shall specify—

(1) the special circumstances under which a student or family member may qualify for such adjustment; and

(2) additional information regarding the steps a student or family member may take in order to seek an adjustment under section 479A.

SEC. 484. [20 U.S.C. 1091] STUDENT ELIGIBILITY.

(a) IN GENERAL.—In order to receive any grant, loan, or work assistance under this title, a student must—

(1) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487, except as provided in subsections (b)(3) and (b)(4), and not be enrolled in an elementary or secondary school;

(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c);

(3) not owe a refund on grants previously received at any institution under this title, or be in default on any loan from a student loan fund at any institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

(4) file with the Secretary, as part of the original financial aid application process, a certification, which need not be notarized, but which shall include—

(A) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

(B) such student's social security number;

(5) be a citizen or national of the United States, a permanent resident of the United States, or able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; and

(6) if the student has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, have completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud.

(b) ELIGIBILITY FOR STUDENT LOANS.—(1) In order to be eligible to receive any loan under this title (other than a loan under section 428B or 428C, or under section 428H pursuant to an exercise of discretion under section 479A) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this title, shall—

(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or

(B) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period, and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

(2) In order to be eligible to receive any loan under section 428A for any period of enrollment, a student shall—

(A) have received a determination of need for a loan under section 428(a)(2)(B) of this title;

(B) if determined to have need for a loan under section 428, have applied for such a loan; and

(C) has applied for a loan under section 428H, if such student is eligible to apply for such a loan.

(3) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B or D of this title. The eligibility de-

scribed in this paragraph shall be restricted to one 12-month period.

(4) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B, D, or E or work-study assistance under part C of this title.

(5) Notwithstanding any other provision of this subsection, no incarcerated student is eligible to receive a loan under this title.

(c) SATISFACTORY PROGRESS.—(1) For the purpose of subsection (a)(2), a student is maintaining satisfactory progress if—

(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

(2) Whenever a student fails to meet the eligibility requirements of subsection (a)(2) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(2) for a grant, loan, or work assistance under this title.

(3) Any institution of higher education at which the student is in attendance may waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

(A) the death of a relative of the student,

(B) the personal injury or illness of the student, or

(C) special circumstances as determined by the institution.

(d) STUDENTS WHO ARE NOT HIGH SCHOOL GRADUATES.—

(1) STUDENT ELIGIBILITY.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 3, and 4 of part A and parts B, C, D, and E of this title, the student shall meet the requirements of one of the following subparagraphs:

(A) The student is enrolled in an eligible career pathway program and meets one of the following standards:

(i) The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that such student can benefit from the education or training being offered. Such examination shall be approved by the Secretary on the basis of compliance with such

standards for development, administration, and scoring as the Secretary may prescribe in regulations.

(ii) The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves such process. In determining whether to approve or disapprove such process, the Secretary shall take into account the effectiveness of such process in enabling students without secondary school diplomas or the equivalent thereof to benefit from the instruction offered by institutions utilizing such process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

(iii) The student shall be determined by the institution of higher education as having the ability to benefit from the education or training offered by the institution of higher education upon satisfactory completion of 6 credit hours or the equivalent coursework that are applicable toward a degree or certificate offered by the institution of higher education.

(B) The student has completed a secondary school education in a home school setting that is treated as a home school or private school under State law.

(2)[51] ELIGIBLE CAREER PATHWAY PROGRAM.—In this subsection, the term "eligible career pathway program" means a program that combines rigorous and high-quality education, training, and other services that—

(A) aligns with the skill needs of industries in the economy of the State or regional economy involved;

(B) prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered 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.) (referred to individually in this Act as an "apprenticeship", except in section 171);

(C) includes counseling to support an individual in achieving the individual's education and career goals;

(D) includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

(E) organizes education, training, and other services to meet the particular needs of an individual in a manner

[51] Section 313(1) of division H of Public Law 114–113 provides for an amendment "by replacing (d)(2)" and inserting a new paragraph (2). Such amendment was carried out by striking subsection (d)(2) in its entirety and inserting a new paragraph (2) to reflect the probable intent of Congress.

that accelerates the educational and career advancement of the individual to the extent practicable;

(F) enables an individual to attain a secondary school diploma or its recognized equivalent, and at least 1 recognized postsecondary credential; and

(G) helps an individual enter or advance within a specific occupation or occupational cluster.

(e) CERTIFICATION FOR GSL ELIGIBILITY.—Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this title prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this title, if—

(1) checks for the loans are mailed to the eligible institution prior to disbursements;

(2) the disbursement is not made until the review is complete; and

(3) the eligible institution has no evidence or documentation on which the institution may base a determination that the information submitted by the applicant is incorrect.

(f) LOSS OF ELIGIBILITY FOR VIOLATION OF LOAN LIMITS.—(1) No student shall be eligible to receive any grant, loan, or work assistance under this title if the eligible institution determines that the student fraudulently borrowed in violation of the annual loan limits under part B, part D, or part E of this title in the same academic year, or if the student fraudulently borrowed in excess of the aggregate maximum loan limits under such part B, part D, or part E.

(2) If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this title.

(g) VERIFICATION OF IMMIGRATION STATUS.—

(1) IN GENERAL.—The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this title.

(2) SPECIAL RULE.—The documents collected and maintained by an eligible institution in the admission of a student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a) to verify eligibility to participate in work-study programs under part C of this title.

(3) VERIFICATION MECHANISMS.—The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

(4) REVIEW.—In the case of such an individual who is not a citizen or national of the United States, if the statement de-

scribed in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitute reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(h) LIMITATIONS OF ENFORCEMENT ACTIONS AGAINST INSTITUTIONS.—The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the institution, under subsection (g)(4)(A)(i), was required to provide a reasonable opportunity to submit documentation, or

(3) because the institution, under subsection (g)(4)(B)(i), was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student.

(i) VALIDITY OF LOAN GUARANTEES FOR LOAN PAYMENTS MADE BEFORE IMMIGRATION STATUS VERIFICATION COMPLETED.—Notwithstanding subsection (h), if—

(1) a guaranty is made under this title for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (h) had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.

(k)[52] SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive grant, loan, or work assistance under this title for a correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree.

(l) COURSES OFFERED THROUGH DISTANCE EDUCATION.—

(1) RELATION TO CORRESPONDENCE COURSES.—

(A) IN GENERAL.—A student enrolled in a course of instruction at an institution of higher education that is offered principally through distance education and leads to a recognized certificate, or recognized associate, recognized baccalaureate, or recognized graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses.

(B) EXCEPTION.—An institution of higher education referred to in subparagraph (A) shall not include an institution or school described in section 3(3)(C) of the Carl D. Perkins Career and Technical Education Act of 2006.

(2) REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive grants, loans, or work assistance under this title shall be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that distance education results in a substantially reduced cost of attendance to such student.

(3) SPECIAL RULE.—For award years beginning prior to July 1, 2008, the Secretary shall not take any compliance, disallowance, penalty, or other action based on a violation of this subsection against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this title if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

(m) STUDENTS WITH A FIRST BACCALAUREATE OR PROFESSIONAL DEGREE.—A student shall not be ineligible for assistance under parts B, C, D, and E of this title because such student has previously received a baccalaureate or professional degree.

(n) DATA BASE MATCHING.—To enforce the Selective Service registration provisions of section 12(f) of the Military Selective Service Act (50 U.S.C. App. 462(f)), the Secretary shall conduct data base matches with the Selective Service, using common demographic data elements. Appropriate confirmation, through an application output document or through other means, of any person's registration shall fulfill the requirement to file a separate state-

[52] So in law. Subection (j) was repealed by section 485(a)(4) of Public Law 110–315.

ment of compliance. In the absence of a confirmation from such data matches, an institution may also use data or documents that support either the student's registration, or the absence of a registration requirement for the student, to fulfill the requirement to file a separate statement of compliance. The mechanism for reporting the resolution of nonconfirmed matches shall be prescribed by the Secretary in regulations.

(o) STUDY ABROAD.—Nothing in this Act shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive grant, loan, or work assistance under this title, without regard to whether such study abroad program is required as part of the student's degree program.

(p) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary of Education, in cooperation with the Commissioner of the Social Security Administration, shall verify any social security number provided by a student to an eligible institution under subsection (a)(4) and shall enforce the following conditions:

(1) Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this part because social security number verification is pending.

(2) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant, loan, or work assistance under this title until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

(3) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, and a correct social security number cannot be provided by such student, and a loan has been guaranteed for such student under part B of this title, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, but such guaranty shall not be voided or otherwise nullified with respect to such disbursements made before the date that the lender and the guaranty agency receives such notice.

(4) Nothing in this subsection shall permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

(A) any institution of higher education with respect to any error in a social security number, unless such error was a result of fraud on the part of the institution; or

(B) any student with respect to any error in a social security number, unless such error was a result of fraud on the part of the student.

(q) USE OF INCOME DATA.—

(1) MATCHING WITH IRS.—The Secretary, in cooperation with the Secretary of the Treasury, is authorized to obtain from the Internal Revenue Service such information reported on Federal income tax returns by applicants, or by any other person whose financial information is required to be provided on the Federal student financial aid application, as the Secretary determines is necessary for the purpose of—

(A) prepopulating the Federal student financial aid application described in section 483; or

(B) verifying the information reported on such student financial aid applications.

(2) CONSENT.—The Secretary may require that applicants for financial assistance under this title provide a consent to the disclosure of the data described in paragraph (1) as a condition of the student receiving assistance under this title. The parents of an applicant, in the case of a dependent student, or the spouse of an applicant, in the case of an applicant who is married but files separately, may also be required to provide consent as a condition of the student receiving assistance under this title.

(r) SUSPENSION OF ELIGIBILITY FOR DRUG-RELATED OFFENSES.—

(1) IN GENERAL.—A student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student was receiving any grant, loan, or work assistance under this title shall not be eligible to receive any grant, loan, or work assistance under this title from the date of that conviction for the period of time specified in the following table:

If convicted of an offense involving:	
The possession of a controlled substance:	**Ineligibility period is:**
First offense	1 year
Second offense	2 years
Third offense	Indefinite.
The sale of a controlled substance:	**Ineligibility period is:**
First offense	2 years
Second offense	Indefinite.

(2) REHABILITATION.—A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if—

(A) the student satisfactorily completes a drug rehabilitation program that—

(i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and

(ii) includes two unannounced drug tests;

(B) the student successfully passes two unannounced drug tests conducted by a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe in regulations for purposes of subparagraph (A)(i); or

(C) the conviction is reversed, set aside, or otherwise rendered nugatory.

(3) DEFINITIONS.—In this subsection, the term "controlled substance" has the meaning given the term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(s) STUDENTS WITH INTELLECTUAL DISABILITIES.—

(1) DEFINITIONS.—In this subsection the terms "comprehensive transition and postsecondary program for students with intellectual disabilities" and "student with an intellectual disability" have the meanings given the terms in section 760.

(2) REQUIREMENTS.—Notwithstanding subsections (a), (c), and (d), in order to receive any grant or work assistance under section 401, subpart 3 of part A, or part C, a student with an intellectual disability shall—

(A) be enrolled or accepted for enrollment in a comprehensive transition and postsecondary program for students with intellectual disabilities at an institution of higher education;

(B) be maintaining satisfactory progress in the program as determined by the institution, in accordance with standards established by the institution; and

(C) meet the requirements of paragraphs (3), (4), (5), and (6) of subsection (a).

(3) AUTHORITY.—Notwithstanding any other provision of law unless such provision is enacted with specific reference to this section, the Secretary is authorized to waive any statutory provision applicable to the student financial assistance programs under section 401, subpart 3 of part A, or part C (other than a provision of part F related to such a program), or any institutional eligibility provisions of this title, as the Secretary determines necessary to ensure that programs enrolling stu-

dents with intellectual disabilities otherwise determined to be eligible under this subsection may receive such financial assistance.

(4) REGULATIONS.—Notwithstanding regulations applicable to grant or work assistance awards made under section 401, subpart 3 of part A, and part C (other than a regulation under part F related to such an award), including with respect to eligible programs, instructional time, credit status, and enrollment status as described in section 481, the Secretary shall promulgate regulations allowing programs enrolling students with intellectual disabilities otherwise determined to be eligible under this subsection to receive such awards.

(t) DATA ANALYSIS ON ACCESS TO FEDERAL STUDENT AID FOR CERTAIN POPULATIONS.—

(1) DEVELOPMENT OF THE SYSTEM.—Within one year of enactment of the Higher Education Opportunity Act, the Secretary shall analyze data from the FAFSA containing information regarding the number, characteristics, and circumstances of students denied Federal student aid based on a drug conviction while receiving Federal aid.

(2) RESULTS FROM ANALYSIS.—The results from the analysis of such information shall be made available on a continuous basis via the Department website and the Digest of Education Statistics.

(3) DATA UPDATING.—The data analyzed under this subsection shall be updated at the beginning of each award year and at least one additional time during such award year.

(4) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the authorizing committees, in each fiscal year, a report describing the results obtained by the establishment and operation of the data system authorized by this subsection.

SEC. 484A. [20 U.S.C. 1091a] STATUTE OF LIMITATIONS, AND STATE COURT JUDGMENTS.

(a) IN GENERAL.—(1) It is the purpose of this subsection to ensure that obligations to repay loans and grant overpayments are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Notwithstanding any other provision of statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action initiated or taken by—

(A) an institution that receives funds under this title that is seeking to collect a refund due from a student on a grant made, or work assistance awarded, under this title;

(B) a guaranty agency that has an agreement with the Secretary under section 428(c) that is seeking the repayment of the amount due from a borrower on a loan made under part B of this title after such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

(C) an institution that has an agreement with the Secretary pursuant to section 453 or 463(a) that is seeking the repayment of the amount due from a borrower on a loan made

under part D or E of this title after the default of the borrower on such loan; or

(D) the Secretary, the Attorney General, or the administrative head of another Federal agency, as the case may be, for payment of a refund due from a student on a grant made under this title, or for the repayment of the amount due from a borrower on a loan made under this title that has been assigned to the Secretary under this title.

(b) ASSESSMENT OF COSTS AND OTHER CHARGES.—Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs;

(2) in collecting any obligation arising from a loan made under part B of this title, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy; and

(3) in collecting any obligation arising from a loan made under part E, an institution of higher education that has an agreement with the Secretary pursuant to section 463(a) shall not be subject to a defense raised by any borrower based on a claim of infancy.

(c) STATE COURT JUDGMENTS.—A judgment of a State court for the recovery of money provided as grant, loan, or work assistance under this title that has been assigned or transferred to the Secretary under this title may be registered in any district court of the United States by filing a certified copy of the judgment and a copy of the assignment or transfer. A judgment so registered shall have the same force and effect, and may be enforced in the same manner, as a judgment of the district court of the district in which the judgment is registered.

(d) SPECIAL RULE.—This section shall not apply in the case of a student who is deceased, or to a deceased student's estate or the estate of such student's family. If a student is deceased, then the student's estate or the estate of the student's family shall not be required to repay any financial assistance under this title, including interest paid on the student's behalf, collection costs, or other charges specified in this title.

SEC. 484B. [20 U.S.C. 1091b] INSTITUTIONAL REFUNDS.

(a) RETURN OF TITLE IV FUNDS.—

(1) IN GENERAL.—If a recipient of assistance under this title withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the amount of grant or loan assistance (other than assistance received under part C) to be returned to the title IV programs is calculated according to paragraph (3) and returned in accordance with subsection (b).

(2) LEAVE OF ABSENCE.—

(A) LEAVE NOT TREATED AS WITHDRAWAL.—In the case of a student who takes 1 or more leaves of absence from an institution for not more than a total of 180 days in any 12-month period, the institution may consider the student as not having withdrawn from the institution during the

leave of absence, and not calculate the amount of grant and loan assistance provided under this title that is to be returned in accordance with this section if—

(i) the institution has a formal policy regarding leaves of absence;

(ii) the student followed the institution's policy in requesting a leave of absence; and

(iii) the institution approved the student's request in accordance with the institution's policy.

(B) CONSEQUENCES OF FAILURE TO RETURN.—If a student does not return to the institution at the expiration of an approved leave of absence that meets the requirements of subparagraph (A), the institution shall calculate the amount of grant and loan assistance provided under this title that is to be returned in accordance with this section based on the day the student withdrew (as determined under subsection (c)).

(3) CALCULATION OF AMOUNT OF TITLE IV ASSISTANCE EARNED.—

(A) IN GENERAL.—The amount of grant or loan assistance under this title that is earned by the recipient for purposes of this section is calculated by—

(i) determining the percentage of grant and loan assistance under this title that has been earned by the student, as described in subparagraph (B); and

(ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment for which the assistance was awarded, as of the day the student withdrew.

(B) PERCENTAGE EARNED.—For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this title that has been earned by the student is—

(i) equal to the percentage of the payment period or period of enrollment for which assistance was awarded that was completed (as determined in accordance with subsection (d)) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the payment period or period of enrollment; or

(ii) 100 percent, if the day the student withdrew occurs after the student has completed (as determined in accordance with subsection (d)) 60 percent of the payment period or period of enrollment.

(C) PERCENTAGE AND AMOUNT NOT EARNED.—For purposes of subsection (b), the amount of grant and loan assistance awarded under this title that has not been earned by the student shall be calculated by—

(i) determining the complement of the percentage of grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, D, and E, that has been earned by the student described in subparagraph (B); and

(ii) applying the percentage determined under clause (i) to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment, as of the day the student withdrew.

(4) DIFFERENCES BETWEEN AMOUNTS EARNED AND AMOUNTS RECEIVED.—

(A) IN GENERAL.—After determining the eligibility of the student for a late disbursement or post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower's obligation to repay the funds following any such disbursement. The institution shall document in the borrower's file the result of such contact and the final determination made concerning such disbursement.

(B) RETURN.—If the student has received more grant or loan assistance than the amount earned as calculated under paragraph (3)(A), the unearned funds shall be returned by the institution or the student, or both, as may be required under paragraphs (1) and (2) of subsection (b), to the programs under this title in the order specified in subsection (b)(3).

(b) RETURN OF TITLE IV PROGRAM FUNDS.—

(1) RESPONSIBILITY OF THE INSTITUTION.—The institution shall return not later than 45 days from the determination of withdrawal, in the order specified in paragraph (3), the lesser of—

(A) the amount of grant and loan assistance awarded under this title that has not been earned by the student, as calculated under subsection (a)(3)(C); or

(B) an amount equal to—

(i) the total institutional charges incurred by the student for the payment period or period of enrollment for which such assistance was awarded; multiplied by

(ii) the percentage of grant and loan assistance awarded under this title that has not been earned by the student, as described in subsection (a)(3)(C)(i).

(2) RESPONSIBILITY OF THE STUDENT.—

(A) IN GENERAL.—The student shall return assistance that has not been earned by the student as described in subsection (a)(3)(C)(ii) in the order specified in paragraph (3) minus the amount the institution is required to return under paragraph (1).

(B) SPECIAL RULE.—The student (or parent in the case of funds due to a loan borrowed by a parent under part B or D) shall return or repay, as appropriate, the amount determined under subparagraph (A) to—

(i) a loan program under this title in accordance with the terms of the loan; and

(ii) a grant program under this title, as an overpayment of such grant and shall be subject to—

(I) repayment arrangements satisfactory to the institution; or

(II) overpayment collection procedures prescribed by the Secretary.

(C) GRANT OVERPAYMENT REQUIREMENTS.—

(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which—

(I) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

(II) 50 percent of the total grant assistance received by the student under this title for the payment period or period of enrollment.

(ii) MINIMUM.—A student shall not be required to return amounts of $50 or less.

(D) WAIVERS OF FEDERAL PELL GRANT REPAYMENT BY STUDENTS AFFECTED BY DISASTERS.—The Secretary may waive the amounts that students are required to return under this section with respect to Federal Pell Grants if the withdrawals on which the returns are based are withdrawals by students—

(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170);

(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.

(E) WAIVERS OF GRANT ASSISTANCE REPAYMENT BY STUDENTS AFFECTED BY DISASTERS.—In addition to the waivers authorized by subparagraph (D), the Secretary may waive the amounts that students are required to return under this section with respect to any other grant assistance under this title if the withdrawals on which the returns are based are withdrawals by students—

(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170);

(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.

(3) ORDER OF RETURN OF TITLE IV FUNDS.—

(A) IN GENERAL.—Excess funds returned by the institution or the student, as appropriate, in accordance with paragraph (1) or (2), respectively, shall be credited to outstanding balances on loans made under this title to the student or on behalf of the student for the payment period or period of enrollment for which a return of funds is required. Such excess funds shall be credited in the following order:

(i) To outstanding balances on loans made under section 428H for the payment period or period of enrollment for which a return of funds is required.

(ii) To outstanding balances on loans made under section 428 for the payment period or period of enrollment for which a return of funds is required.

(iii) To outstanding balances on unsubsidized loans (other than parent loans) made under part D for the payment period or period of enrollment for which a return of funds is required.

(iv) To outstanding balances on subsidized loans made under part D for the payment period or period of enrollment for which a return of funds is required.

(v) To outstanding balances on loans made under part E for the payment period or period of enrollment for which a return of funds is required.

(vi) To outstanding balances on loans made under section 428B for the payment period or period of enrollment for which a return of funds is required.

(vii) To outstanding balances on parent loans made under part D for the payment period or period of enrollment for which a return of funds is required.

(B) REMAINING EXCESSES.—If excess funds remain after repaying all outstanding loan amounts, the remaining excess shall be credited in the following order:

(i) To awards under subpart 1 of part A for the payment period or period of enrollment for which a return of funds is required.

(ii) To awards under subpart 3 of part A for the payment period or period of enrollment for which a return of funds is required.

(iii) To other assistance awarded under this title for which a return of funds is required.

(c) WITHDRAWAL DATE.—

(1) IN GENERAL.—In this section, the term "day the student withdrew"—

(A) is the date that the institution determines—

(i) the student began the withdrawal process prescribed by the institution;

(ii) the student otherwise provided official notification to the institution of the intent to withdraw; or

(iii) in the case of a student who does not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the date that is the mid-point of the payment period for which assistance under this title was disbursed or a later date documented by the institution; or

(B) for institutions required to take attendance, is determined by the institution from such attendance records.

(2) SPECIAL RULE.—Notwithstanding paragraph (1), if the institution determines that a student did not begin the withdrawal process, or otherwise notify the institution of the intent to withdraw, due to illness, accident, grievous personal loss, or other such circumstances beyond the student's control, the institution may determine the appropriate withdrawal date.

(d) PERCENTAGE OF THE PAYMENT PERIOD OR PERIOD OF ENROLLMENT COMPLETED.—For purposes of subsection (a)(3)(B), the percentage of the payment period or period of enrollment for which assistance was awarded that was completed, is determined—

(1) in the case of a program that is measured in credit hours, by dividing the total number of calendar days comprising the payment period or period of enrollment for which assistance is awarded into the number of calendar days completed in that period as of the day the student withdrew; and

(2) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the payment period or period of enrollment for which assistance is awarded into the number of clock hours scheduled to be completed by the student in that period as of the day the student withdrew.

(e) EFFECTIVE DATE.—The provisions of this section shall take effect 2 years after the date of enactment of the Higher Education Amendments of 1998. An institution of higher education may choose to implement such provisions prior to that date.

SEC. 484C. [20 U.S.C. 1091c] READMISSION REQUIREMENTS FOR SERVICEMEMBERS.

(a) DEFINITION OF SERVICE IN THE UNIFORMED SERVICES.—In this section, the term "service in the uniformed services" means service (whether voluntary or involuntary) on active duty in the Armed Forces, including such service by a member of the National Guard or Reserve, for a period of more than 30 days under a call or order to active duty of more than 30 days.

(b) DISCRIMINATION AGAINST STUDENTS WHO SERVE IN THE UNIFORMED SERVICES PROHIBITED.—A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform, service in the uniformed services shall not be denied readmission to an institution of higher education on the basis of that membership, application for membership, performance of service, application for service, or obligation.

(c) READMISSION PROCEDURES.—

(1) IN GENERAL.—Any student whose absence from an institution of higher education is necessitated by reason of service in the uniformed services shall be entitled to readmission to the institution of higher education if—

(A) the student (or an appropriate officer of the Armed Forces or official of the Department of Defense) gives advance written or verbal notice of such service to the appropriate official at the institution of higher education;

(B) the cumulative length of the absence and of all previous absences from that institution of higher education by reason of service in the uniformed services does not exceed five years; and

(C) except as otherwise provided in this section, the student submits a notification of intent to reenroll in the institution of higher education in accordance with the provisions of paragraph (4).

(2) EXCEPTIONS.—

(A) MILITARY NECESSITY.—No notice is required under paragraph (1)(A) if the giving of such notice is precluded by military necessity, such as—

(i) a mission, operation, exercise, or requirement that is classified; or

(ii) a pending or ongoing mission, operation, exercise, or requirement that may be compromised or otherwise adversely affected by public knowledge.

(B) FAILURE TO GIVE ADVANCE NOTICE.—Any student (or an appropriate officer of the Armed Forces or official of the Department of Defense) who did not give advance written or verbal notice of service to the appropriate official at the institution of higher education in accordance with paragraph (1)(A) may meet the notice requirement by submitting, at the time the student seeks readmission, an attestation to the student's institution of higher education that the student performed service in the uniformed services that necessitated the student's absence from the institution of higher education.

(3) APPLICABILITY.—This section shall apply to a student who is absent from an institution of higher education by reason of service in the uniformed services if such student's cumulative period of service in the Armed Forces (including the National Guard or Reserve), with respect to the institution of higher education for which a student seeks readmission, does not exceed five years, except that any such period of service shall not include any service—

(A) that is required, beyond five years, to complete an initial period of obligated service;

(B) during which such student was unable to obtain orders releasing such student from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such student; or

(C) performed by a member of the Armed Forces (including the National Guard and Reserves) who is—

(i) ordered to or retained on active duty under section 688, 12301(a), 12301(g), 12302, 12304, or 12305 of title 10, United States Code, or under section 331, 332, 359, 360, 367, or 712 of title 14, United States Code;

(ii) ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

(iii) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 12304 of title 10, United States Code;

(iv) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the Armed Forces (including the National Guard or Reserve); or

(v) called into Federal service as a member of the National Guard under chapter 15 of title 10, United States Code, or section 12406 of title 10, United States Code.

(4) NOTIFICATION OF INTENT TO RETURN.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a student referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the institution of higher education of the student's intent to return to the institution not later than three years after the completion of the period of service.

(B) HOSPITALIZATION OR CONVALESCENCE.—A student who is hospitalized for or convalescing from an illness or injury incurred in or aggravated during the performance of service in the uniformed services shall notify the institution of higher education of the student's intent to return to the institution not later than two years after the end of the period that is necessary for recovery from such illness or injury.

(C) SPECIAL RULE.—A student who fails to apply for readmission within the period described in this section shall not automatically forfeit such eligibility for readmission to the institution of higher education, but shall be subject to the institution of higher education's established leave of absence policy and general practices.

(5) DOCUMENTATION.—

(A) IN GENERAL.—A student who submits an application for readmission to an institution of higher education under this section shall provide to the institution of higher education documentation to establish that—

(i) the student has not exceeded the service limitations established under this section; and

(ii) the student's eligibility for readmission has not been terminated due to an exception in subsection (d).

(B) PROHIBITED DOCUMENTATION DEMANDS.—An institution of higher education may not delay or attempt to avoid a readmission of a student under this section by demanding documentation that does not exist, or is not readily available, at the time of readmission.

(6) NO CHANGE IN ACADEMIC STATUS.—A student who is readmitted to an institution of higher education under this section shall be readmitted with the same academic status as such student had when such student last attended the institution of higher education.

(d) EXCEPTION FROM READMISSION ELIGIBILITY.—A student's eligibility for readmission to an institution of higher education under this section by reason of such student's service in the uniformed services terminates upon the occurrence of any of the following events:

(1) A separation of such person from the Armed Forces (including the National Guard and Reserves) with a dishonorable or bad conduct discharge.

(2) A dismissal of such person permitted under section 1161(a) of title 10, United States Code.

(3) A dropping of such person from the rolls pursuant to section 1161(b) of title 10, United States Code.

SEC. 485. [20 U.S.C. 1092] INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS.

(a) INFORMATION DISSEMINATION ACTIVITIES.—(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this title. The information required by this section shall be produced and be made readily available upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student. Each eligible institution shall, on an annual basis, provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and section 444 of the General Education Provisions Act (commonly known as the "Family Educational Rights and Privacy Act of 1974"), together with a statement of the procedures required to obtain such information. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this title;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of—

(i) the requirements of any refund policy with which the institution is required to comply;

(ii) the requirements under section 484B for the return of grant or loan assistance provided under this title; and

(iii) the requirements for officially withdrawing from the institution;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, (iii) the faculty and other instructional personnel, and (iv) any plans by the institution for improving the academic program of the institution;

(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to students with disabilities;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing;

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(2);

(L) the completion or graduation rate of certificate- or degree-seeking, full-time, undergraduate[53] students entering such institutions;

(M)[54] the terms and conditions of the loans that students receive under parts B, D, and E;

(N) that enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance;

(O) the campus crime report prepared by the institution pursuant to subsection (f), including all required reporting categories;

(P)[55] institutional policies and sanctions related to copyright infringement, including—

(i) an annual disclosure that explicitly informs students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;

(ii) a summary of the penalties for violation of Federal copyright laws; and

(iii) a description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against stu-

[53] Amendment made by sec. 10(a) of P.L. 102–26, 105 Stat. 128, inserted "undergraduate" after "full–time" without specifying which location. This compilation inserts it in only the first location.

[54] Margin so in law.

[55] Margins of subparagraphs (P) through (V) are so in law.

dents who engage in unauthorized distribution of copyrighted materials using the institution's information technology system;

(Q)[55] student body diversity at the institution, including information on the percentage of enrolled, full-time students who—

(i) are male;

(ii) are female;

(iii) receive a Federal Pell Grant; and

(iv) are a self-identified member of a major racial or ethnic group;

(R)[55] the placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate programs, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, State data systems, or other relevant sources;

(S)[55] the types of graduate and professional education in which graduates of the institution's four-year degree programs enrolled, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, State data systems, or other relevant sources;

(T)[55] the fire safety report prepared by the institution pursuant to subsection (i);

(U)[55] the retention rate of certificate- or degree-seeking, first-time, full-time, undergraduate students entering such institution; and

(V)[55] institutional policies regarding vaccinations.

(2) For the purpose of this section, the term "prospective student" means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

(3) In calculating the completion or graduation rate under subparagraph (L) of paragraph (1) of this subsection or under subsection (e), a student shall be counted as a completion or graduation if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation. The information required to be disclosed under such subparagraph—

(A) shall be made available by July 1 each year to enrolled students and prospective students prior to the students enrolling or entering into any financial obligation; and

(B) shall cover the one-year period ending on August 31 of the preceding year.

(4)[56] For purposes of this section, institutions may—

(A) exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to

[56] Margin so in law.

serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

(B) in cases where the students described in subparagraph (A) represent 20 percent or more of the certificate- or degree-seeking, full-time, undergraduate students at the institution, recalculate the completion or graduation rates of such students by excluding from the calculation described in paragraph (3) the time period during which such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government.

(5) The Secretary shall permit any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection, to use such data to satisfy the requirements of this subsection; and

(6) Each institution may provide supplemental information to enrolled and prospective students showing the completion or graduation rate for students described in paragraph (4) or for students transferring into the institution or information showing the rate at which students transfer out of the institution.

(7)(A)(i)[57] Subject to clause (ii), the information disseminated under paragraph (1)(L), or reported under subsection (e), shall be disaggregated by gender, by each major racial and ethnic subgroup, by recipients of a Federal Pell Grant, by recipients of a loan made under part B or D (other than a loan made under section 428H or a Federal Direct Unsubsidized Stafford Loan) who did not receive a Federal Pell Grant, and by recipients of neither a Federal Pell Grant nor a loan made under part B or D (other than a loan made under section 428H or a Federal Direct Unsubsidized Stafford Loan), if the number of students in such subgroup or with such status is sufficient to yield statistically reliable information and reporting will not reveal personally identifiable information about an individual student. If such number is not sufficient for such purposes, then the institution shall note that the institution enrolled too few of such students to so disclose or report with confidence and confidentiality.

(ii) The requirements of clause (i) shall not apply to two-year, degree-granting institutions of higher education until academic year 2011-2012.

(B)(i) In order to assist two-year degree-granting institutions of higher education in meeting the requirements of paragraph (1)(L) and subsection (e), the Secretary, in consultation with the Commissioner for Education Statistics, shall, not later than 90 days after the date of enactment of the Higher Education Opportunity Act, convene a group of representatives from diverse institutions of higher education, experts in the field of higher education policy, state higher education officials,

[57] Margin so in law.

students, and other stakeholders in the higher education community, to develop recommendations regarding the accurate calculation and reporting of the information required to be disseminated or reported under paragraph (1)(L) and subsection (e) by two-year, degree-granting institutions of higher education. In developing such recommendations, the group of representatives shall consider the mission and role of two-year degree-granting institutions of higher education, and may recommend additional or alternative measures of student success for such institutions in light of the mission and role of such institutions.

(ii) The Secretary shall widely disseminate the recommendations required under this subparagraph to two-year, degree-granting institutions of higher education, the public, and the authorizing committees not later than 18 months after the first meeting of the group of representatives convened under clause (i).

(iii) The Secretary shall use the recommendations from the group of representatives convened under clause (i) to provide technical assistance to two-year, degree-granting institutions of higher education in meeting the requirements of paragraph (1)(L) and subsection (e).

(iv) The Secretary may modify the information required to be disseminated or reported under paragraph (1)(L) or subsection (e) by a two-year, degree-granting institution of higher education—

(I) based on the recommendations received under this subparagraph from the group of representatives convened under clause (i);

(II) to include additional or alternative measures of student success if the goals of the provisions of paragraph (1)(L) and subsection (e) can be met through additional means or comparable alternatives; and

(III) during the period beginning on the date of enactment of the Higher Education Opportunity Act, and ending on June 30, 2011.

(b) EXIT COUNSELING FOR BORROWERS.—(1)(A) Each eligible institution shall, through financial aid offices or otherwise, provide counseling to borrowers of loans that are made, insured, or guaranteed under part B (other than loans made pursuant to section 428C or loans under section 428B made on behalf of a student) or made under part D (other than Federal Direct Consolidation Loans or Federal Direct PLUS Loans made on behalf of a student) or made under part E of this title prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

(i) information on the repayment plans available, including a description of the different features of each plan and sample information showing the average anticipated monthly payments, and the difference in interest paid and total payments, under each plan;

(ii) debt management strategies that are designed to facilitate the repayment of such indebtedness;

(iii) an explanation that the borrower has the options to prepay each loan, pay each loan on a shorter schedule, and change repayment plans;

(iv) for any loan forgiveness or cancellation provision of this title, a general description of the terms and conditions under which the borrower may obtain full or partial forgiveness or cancellation of the principal and interest, and a copy of the information provided by the Secretary under section 485(d);

(v) for any forbearance provision of this title, a general description of the terms and conditions under which the borrower may defer repayment of principal or interest or be granted forbearance, and a copy of the information provided by the Secretary under section 485(d);

(vi) the consequences of defaulting on a loan, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation;

(vii) information on the effects of using a consolidation loan under section 428C or a Federal Direct Consolidation Loan to discharge the borrower's loans under parts B, D, and E, including at a minimum—

(I) the effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

(II) the effects of consolidation on a borrower's underlying loan benefits, including grace periods, loan forgiveness, cancellation, and deferment opportunities;

(III) the option of the borrower to prepay the loan or to change repayment plans; and

(IV) that borrower benefit programs may vary among different lenders;

(viii) a general description of the types of tax benefits that may be available to borrowers; and

(ix) a notice to borrowers about the availability of the National Student Loan Data System and how the system can be used by a borrower to obtain information on the status of the borrower's loans; and

(B) In the case of borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information described in subparagraph (A) to the student in writing.

(2)(A) Each eligible institution shall require that the borrower of a loan made under part B, D, or E submit to the institution, during the exit interview required by this subsection—

(i) the borrower's expected permanent address after leaving the institution (regardless of the reason for leaving);

(ii) the name and address of the borrower's expected employer after leaving the institution;

(iii) the address of the borrower's next of kin; and

(iv) any corrections in the institution's records relating the borrower's name, address, social security number, references, and driver's license number.

(B) The institution shall, within 60 days after the interview, forward any corrected or completed information received from the

borrower to the guaranty agency indicated on the borrower's student aid records.

(C) Nothing in this subsection shall be construed to prohibit an institution of higher education from utilizing electronic means to provide personalized exit counseling.

(c) FINANCIAL ASSISTANCE INFORMATION PERSONNEL.—Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(d) DEPARTMENTAL PUBLICATION OF DESCRIPTIONS OF ASSISTANCE PROGRAMS.—(1) The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (A) assist students in gaining information through institutional sources, and (B) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this title. Such information shall also include information on the various payment options available for student loans, including income-sensitive and income-based repayment plans for loans made, insured, or guaranteed under part B and income-contingent and income-based repayment plans for loans made under part D. In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences. The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization. The Secretary shall also provide information on loan forbearance, including the increase in debt that results from capitalization of interest. Such information shall be provided by eligible institutions

and eligible lenders at any time that information regarding loan availability is provided to any student.

(2) The Secretary, to the extent the information is available, shall compile information describing State and other prepaid tuition programs and savings programs and disseminate such information to States, eligible institutions, students, and parents in departmental publications.

(3) The Secretary, to the extent practicable, shall update the Department's Internet site to include direct links to databases that contain information on public and private financial assistance programs. The Secretary shall only provide direct links to databases that can be accessed without charge and shall make reasonable efforts to verify that the databases included in a direct link are not providing fraudulent information. The Secretary shall prominently display adjacent to any such direct link a disclaimer indicating that a direct link to a database does not constitute an endorsement or recommendation of the database, the provider of the database, or any services or products of such provider. The Secretary shall provide additional direct links to information resources from which students may obtain information about fraudulent and deceptive practices in the provision of services related to student financial aid.

(4) The Secretary shall widely publicize the location of the information described in paragraph (1) among the public, eligible institutions, and eligible lenders, and promote the use of such information by prospective students, enrolled students, families of prospective and enrolled students, and borrowers.

(e) DISCLOSURES REQUIRED WITH RESPECT TO ATHLETICALLY RELATED STUDENT AID.—(1) Each institution of higher education which participates in any program under this title and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary which contains—

(A) the number of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

(B) the number of students at the institution of higher education, broken down by race and sex;

(C) the completion or graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track and all other sports combined;

(D) the completion or graduation rate for students at the institution of higher education, broken down by race and sex;

(E) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and

(F) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education broken down by race and sex.

(2) When an institution described in paragraph (1) of this subsection offers a potential student athlete athletically related student aid, such institution shall provide to the student and the student's parents, guidance counselor, and coach the information contained in the report submitted by such institution pursuant to paragraph (1). If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of the association's member institutions that the Secretary determines is substantially comparable to the information described in paragraph (1), the distribution of the compilation of such data to all secondary schools in the United States shall fulfill the responsibility of the institution to provide information to a prospective student athlete's guidance counselor and coach.

(3)[58] For purposes of this subsection, institutions may—

(A) exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

(B) in cases where the students described in subparagraph (A) represent 20 percent or more of the certificate- or degree-seeking, full-time, undergraduate students at the institution, calculate the completion or graduation rates of such students by excluding from the calculations described in paragraph (1) the time period during which such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government.

(4) Each institution of higher education described in paragraph (1) may provide supplemental information to students and the Secretary showing the completion or graduation rate when such completion or graduation rate includes students transferring into and out of such institution.

(5) The Secretary, using the reports submitted under this subsection, shall compile and publish a report containing the information required under paragraph (1) broken down by—

(A) individual institutions of higher education; and

(B) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(6) The Secretary shall waive the requirements of this subsection for any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection.

(7) The Secretary, in conjunction with the National Junior College Athletic Association, shall develop and obtain data on comple-

[58] Margin so in law.

tion or graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in this section.

(8) For purposes of this subsection, the term "athletically related student aid" means any scholarship, grant, or other form of financial assistance the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive such assistance.

(9) The reports required by this subsection shall be due each July 1 and shall cover the 1-year period ending August 31 of the preceding year.

(f) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.—(1) Each eligible institution participating in any program under this title, other than a foreign institution of higher education, shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including—

(i)[59] the law enforcement authority of campus security personnel;

(ii)[59] the working relationship of campus security personnel with State and local law enforcement agencies, including whether the institution has agreements with such agencies, such as written memoranda of understanding, for the investigation of alleged criminal offenses; and

(iii)[59] policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate law enforcement agencies, when the victim of such crime elects or is unable to make such a report.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and

[59] Margin so in law.

employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, in or on noncampus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

(i) of the following criminal offenses reported to campus security authorities or local police agencies:

(I) murder;

(II) sex offenses, forcible or nonforcible;

(III) robbery;

(IV) aggravated assault;

(V) burglary;

(VI) motor vehicle theft;

(VII) manslaughter;

(VIII) arson;

(IX) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; and

(ii) of the crimes described in subclauses (I) through (VIII) of clause (i), of larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and of other crimes involving bodily injury to any person, in which the victim is intentionally selected because of the actual or perceived race, gender, religion, national origin, sexual orientation, gender identity,,[60] ethnicity, or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice; and

(iii)[61] of domestic violence, dating violence, and stalking incidents that were reported to campus security authorities or local police agencies.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 120 of this Act.

(I) A statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(j)), concerning registered

[60] So in law. See section 304(a)(1)(B)(ii)(I) of Public Law 113–4 [enacted March 7, 2013, 127 Stat. 54].

[61] Margin so in law.

sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

(J)[62] A statement of current campus policies regarding immediate emergency response and evacuation procedures, including the use of electronic and cellular communication (if appropriate), which policies shall include procedures to—

(i) immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus, as defined in paragraph (6), unless issuing a notification will compromise efforts to contain the emergency;

(ii) publicize emergency response and evacuation procedures on an annual basis in a manner designed to reach students and staff; and

(iii) test emergency response and evacuation procedures on an annual basis.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this title, other than a foreign institution of higher education, shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely, that withholds the names of victims as confidential, and that will aid in the prevention of similar occurrences.

(4)(A) Each institution participating in any program under this title, other than a foreign institution of higher education, that maintains a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—

(i) the nature, date, time, and general location of each crime; and

(ii) the disposition of the complaint, if known.

(B)(i) All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection within two business days of the initial report being made to the department or a campus security authority.

(ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than two business days after

[62] Margin so in law.

the information becomes available to the police or security department.

(iii) If there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.

(5) On an annual basis, each institution participating in any program under this title, other than a foreign institution of higher education, shall submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(F). The Secretary shall—

(A) review such statistics and report to the authorizing committees on campus crime statistics by September 1, 2000;

(B) make copies of the statistics submitted to the Secretary available to the public; and

(C) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(6)(A) In this subsection:

(i) The terms "dating violence", "domestic violence", and "stalking" have the meaning given such terms in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

(ii) The term "campus" means—

(I) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(II) property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

(iii) The term "noncampus building or property" means—

(I) any building or property owned or controlled by a student organization recognized by the institution; and

(II) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

(iv) The term "public property" means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the insti-

tution in direct support of, or in a manner related to the institution's educational purposes.

(v) The term "sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(7) The statistics described in clauses (i) and (ii) of paragraph (1)(F) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act. For the offenses of domestic violence, dating violence, and stalking, such statistics shall be compiled in accordance with the definitions used in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)). Such statistics shall not identify victims of crimes or persons accused of crimes.

(8)(A) Each institution of higher education participating in any program under this title and title IV of the Economic Opportunity Act of 1964, other than a foreign institution of higher education, shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

(i) such institution's programs to prevent domestic violence, dating violence, sexual assault, and stalking; and

(ii) the procedures that such institution will follow once an incident of domestic violence, dating violence, sexual assault, or stalking has been reported, including a statement of the standard of evidence that will be used during any institutional conduct proceeding arising from such a report.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, which shall include—

(I) primary prevention and awareness programs for all incoming students and new employees, which shall include—

(aa) a statement that the institution of higher education prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking;

(bb) the definition of domestic violence, dating violence, sexual assault, and stalking in the applicable jurisdiction;

(cc) the definition of consent, in reference to sexual activity, in the applicable jurisdiction;

(dd) safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual;

(ee) information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; and

(ff) the information described in clauses (ii) through (vii); and

(II) ongoing prevention and awareness campaigns for students and faculty, including information described in items (aa) through (ff) of subclause (I).

(ii) Possible sanctions or protective measures that such institution may impose following a final determination of an institutional disciplinary procedure regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking.

(iii) Procedures victims should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information in writing about—

(I) the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order;

(II) to whom the alleged offense should be reported;

(III) options regarding law enforcement and campus authorities, including notification of the victim's option to—

(aa) notify proper law enforcement authorities, including on-campus and local police;

(bb) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

(cc) decline to notify such authorities; and

(IV) where applicable, the rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

(iv) Procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault, or stalking, which shall include a clear statement that—

(I) such proceedings shall—

(aa) provide a prompt, fair, and impartial investigation and resolution; and

(bb) be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;

(II) the accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice; and

(III) both the accuser and the accused shall be simultaneously informed, in writing, of—

(aa) the outcome of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking;

(bb) the institution's procedures for the accused and the victim to appeal the results of the institutional disciplinary proceeding;

(cc) of any change to the results that occurs prior to the time that such results become final; and

(dd) when such results become final.

(v) Information about how the institution will protect the confidentiality of victims, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the victim, to the extent permissible by law.

(vi) Written notification of students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community.

(vii) Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

(C) A student or employee who reports to an institution of higher education that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee's rights and options, as described in clauses (ii) through (vii) of subparagraph (B).

(9) The Secretary, in consultation with the Attorney General of the United States, shall provide technical assistance in complying with the provisions of this section to an institution of higher education who requests such assistance.

(10) Nothing in this section shall be construed to require the reporting or disclosure of privileged information.

(11) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

(12) For purposes of reporting the statistics with respect to crimes described in paragraph (1)(F), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

(A) on campus;

(B) in or on a noncampus building or property;

(C) on public property; and

(D) in dormitories or other residential facilities for students on campus.

(13) Upon a determination pursuant to section 487(c)(3)(B) that an institution of higher education has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection, the Secretary shall impose a civil

penalty upon the institution in the same amount and pursuant to the same procedures as a civil penalty is imposed under section 487(c)(3)(B).

(14)(A) Nothing in this subsection may be construed to—

(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

(ii) establish any standard of care.

(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(15)[63] The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of higher education, including an up-to-date report on the Secretary's monitoring of such compliance.

(16)(A) The Secretary shall seek the advice and counsel of the Attorney General of the United States concerning the development, and dissemination to institutions of higher education, of best practices information about campus safety and emergencies.

(B) The Secretary shall seek the advice and counsel of the Attorney General of the United States and the Secretary of Health and Human Services concerning the development, and dissemination to institutions of higher education, of best practices information about preventing and responding to incidents of domestic violence, dating violence, sexual assault, and stalking, including elements of institutional policies that have proven successful based on evidence-based outcome measurements.

(17) No officer, employee, or agent of an institution participating in any program under this title shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision of this subsection.

(18) This subsection may be cited as the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act".

(g) DATA REQUIRED.—

(1) IN GENERAL.—Each coeducational institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually, for the immediately preceding academic year, prepare a report that contains the following information regarding intercollegiate athletics:

(A) The number of male and female full-time undergraduates that attended the institution.

(B) A listing of the varsity teams that competed in intercollegiate athletic competition and for each such team the following data:

(i) The total number of participants, by team, as of the day of the first scheduled contest for the team.

(ii) Total operating expenses attributable to such teams, except that an institution may also report such

[63] Margin so in law.

expenses on a per capita basis for each team and expenditures attributable to closely related teams such as track and field or swimming and diving, may be reported together, although such combinations shall be reported separately for men's and women's teams.

(iii) Whether the head coach is male or female and whether the head coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as head coaches shall be considered to be head coaches for the purposes of this clause.

(iv) The number of assistant coaches who are male and the number of assistant coaches who are female for each team and whether a particular coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as assistant coaches shall be considered to be assistant coaches for the purposes of this clause.

(C) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, separately for men's and women's teams overall.

(D) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

(E) The total amount of expenditures on recruiting, separately for men's and women's teams overall.

(F) The total annual revenues generated across all men's teams and across all women's teams, except that an institution may also report such revenues by individual team.

(G) The average annual institutional salary of the head coaches of men's teams, across all offered sports, and the average annual institutional salary of the head coaches of women's teams, across all offered sports.

(H) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

(I)(i) The total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, derived by the institution from the institution's intercollegiate athletics activities.

(ii) For the purpose of clause (i), revenues from intercollegiate athletics activities allocable to a sport shall include (without limitation) gate receipts, broadcast revenues, appearance guarantees and options, concessions, and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only.

(J)(i) The total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined, and all other women's

sports combined, made by the institution for the institution's intercollegiate athletics activities.

(ii) For the purpose of clause (i), expenses for intercollegiate athletics activities allocable to a sport shall include (without limitation) grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

(2) SPECIAL RULE.—For the purposes of paragraph (1)(G), if a coach has responsibilities for more than one team and the institution does not allocate such coach's salary by team, the institution should divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

(3) DISCLOSURE OF INFORMATION TO STUDENTS AND PUBLIC.—An institution of higher education described in paragraph (1) shall make available to students and potential students, upon request, and to the public, the information contained in the report described in paragraph (1), except that all students shall be informed of their right to request such information.

(4) SUBMISSION; REPORT; INFORMATION AVAILABILITY.—(A) On an annual basis, each institution of higher education described in paragraph (1) shall provide to the Secretary, within 15 days of the date that the institution makes available the report under paragraph (1), the information contained in the report.

(B) The Secretary shall ensure that the reports described in subparagraph (A) are made available to the public within a reasonable period of time.

(C) Not later than 180 days after the date of enactment of the Higher Education Amendments of 1998, the Secretary shall notify all secondary schools in all States regarding the availability of the information made available under paragraph (1), and how such information may be accessed.

(5) DEFINITION.—For the purposes of this subsection, the term "operating expenses" means expenditures on lodging and meals, transportation, officials, uniforms and equipment.

(h) TRANSFER OF CREDIT POLICIES.—

(1) DISCLOSURE.—Each institution of higher education participating in any program under this title shall publicly disclose, in a readable and comprehensible manner, the transfer of credit policies established by the institution which shall include a statement of the institution's current transfer of credit policies that includes, at a minimum—

(A) any established criteria the institution uses regarding the transfer of credit earned at another institution of higher education; and

(B) a list of institutions of higher education with which the institution has established an articulation agreement.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

(A) authorize the Secretary or the National Advisory Committee on Institutional Quality and Integrity to re-

quire particular policies, procedures, or practices by institutions of higher education with respect to transfer of credit;

(B) authorize an officer or employee of the Department to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any institution of higher education, or over any accrediting agency or association;

(C) limit the application of the General Education Provisions Act; or

(D) create any legally enforceable right on the part of a student to require an institution of higher education to accept a transfer of credit from another institution.

(i) DISCLOSURE OF FIRE SAFETY STANDARDS AND MEASURES.—

(1) ANNUAL FIRE SAFETY REPORTS ON STUDENT HOUSING REQUIRED.—Each eligible institution participating in any program under this title that maintains on-campus student housing facilities shall, on an annual basis, publish a fire safety report, which shall contain information with respect to the campus fire safety practices and standards of that institution, including—

(A) statistics concerning the following in each on-campus student housing facility during the most recent calendar years for which data are available:

(i) the number of fires and the cause of each fire;

(ii) the number of injuries related to a fire that result in treatment at a medical facility;

(iii) the number of deaths related to a fire; and

(iv) the value of property damage caused by a fire;

(B) a description of each on-campus student housing facility fire safety system, including the fire sprinkler system;

(C) the number of regular mandatory supervised fire drills;

(D) policies or rules on portable electrical appliances, smoking, and open flames (such as candles), procedures for evacuation, and policies regarding fire safety education and training programs provided to students, faculty, and staff; and

(E) plans for future improvements in fire safety, if determined necessary by such institution.

(2) REPORT TO THE SECRETARY.—Each institution described in paragraph (1) shall, on an annual basis, submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(A).

(3) CURRENT INFORMATION TO CAMPUS COMMUNITY.—Each institution described in paragraph (1) shall—

(A) make, keep, and maintain a log, recording all fires in on-campus student housing facilities, including the nature, date, time, and general location of each fire; and

(B) make annual reports to the campus community on such fires.

(4) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall—

(A) make the statistics submitted under paragraph (1)(A) to the Secretary available to the public; and

(B) in coordination with nationally recognized fire organizations and representatives of institutions of higher education, representatives of associations of institutions of higher education, and other organizations that represent and house a significant number of students—

(i) identify exemplary fire safety policies, procedures, programs, and practices, including the installation, to the technical standards of the National Fire Protection Association, of fire detection, prevention, and protection technologies in student housing, dormitories, and other buildings;

(ii) disseminate the exemplary policies, procedures, programs and practices described in clause (i) to the Administrator of the United States Fire Administration;

(iii) make available to the public information concerning those policies, procedures, programs, and practices that have proven effective in the reduction of fires; and

(iv) develop a protocol for institutions to review the status of their fire safety systems.

(5) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

(A) authorize the Secretary to require particular policies, procedures, programs, or practices by institutions of higher education with respect to fire safety, other than with respect to the collection, reporting, and dissemination of information required by this subsection;

(B) affect section 444 of the General Education Provisions Act (commonly known as the "Family Educational Rights and Privacy Act of 1974") or the regulations issued under section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note);

(C) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

(D) establish any standard of care.

(6) COMPLIANCE REPORT.—The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of higher education, including an up-to-date report on the Secretary's monitoring of such compliance.

(7) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(j) MISSING PERSON PROCEDURES.—

(1) OPTION AND PROCEDURES.—Each institution of higher education that provides on-campus housing and participates in any program under this title shall—

(A) establish a missing student notification policy for students who reside in on-campus housing that—

(i) informs each such student that such student has the option to identify an individual to be contacted by the institution not later than 24 hours after the time that the student is determined missing in accordance with official notification procedures established by the institution under subparagraph (B);

(ii) provides each such student a means to register confidential contact information in the event that the student is determined to be missing for a period of more than 24 hours;

(iii) advises each such student who is under 18 years of age, and not an emancipated individual, that the institution is required to notify a custodial parent or guardian not later 24 hours after the time that the student is determined to be missing in accordance with such procedures;

(iv) informs each such residing student that the institution will notify the appropriate law enforcement agency not later than 24 hours after the time that the student is determined missing in accordance with such procedures; and

(v) requires, if the campus security or law enforcement personnel has been notified and makes a determination that a student who is the subject of a missing person report has been missing for more than 24 hours and has not returned to the campus, the institution to initiate the emergency contact procedures in accordance with the student's designation; and

(B) establish official notification procedures for a missing student who resides in on-campus housing that—

(i) includes procedures for official notification of appropriate individuals at the institution that such student has been missing for more than 24 hours;

(ii) requires any official missing person report relating to such student be referred immediately to the institution's police or campus security department; and

(iii) if, on investigation of the official report, such department determines that the missing student has been missing for more than 24 hours, requires—

(I) such department to contact the individual identified by such student under subparagraph (A)(i);

(II) if such student is under 18 years of age, and not an emancipated individual, the institution to immediately contact the custodial parent or legal guardian of such student; and

(III) if subclauses (I) or (II) do not apply to a student determined to be a missing person, inform the appropriate law enforcement agency.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed—

(A) to provide a private right of action to any person to enforce any provision of this subsection; or

(B) to create a cause of action against any institution of higher education or any employee of the institution for any civil liability.

(k) NOTICE TO STUDENTS CONCERNING PENALTIES FOR DRUG VIOLATIONS.—

(1) NOTICE UPON ENROLLMENT.—Each institution of higher education shall provide to each student, upon enrollment, a separate, clear, and conspicuous written notice that advises the student of the penalties under section 484(r).

(2) NOTICE AFTER LOSS OF ELIGIBILITY.—An institution of higher education shall provide in a timely manner to each student who has lost eligibility for any grant, loan, or work-study assistance under this title as a result of the penalties listed under section 484(r)(1) a separate, clear, and conspicuous written notice that notifies the student of the loss of eligibility and advises the student of the ways in which the student can regain eligibility under section 484(r)(2).

(l) ENTRANCE COUNSELING FOR BORROWERS.—

(1) DISCLOSURE REQUIRED PRIOR TO DISBURSEMENT.—

(A) IN GENERAL.—Each eligible institution shall, at or prior to the time of a disbursement to a first-time borrower of a loan made, insured, or guaranteed under part B (other than a loan made pursuant to section 428C or a loan made on behalf of a student pursuant to section 428B) or made under part D (other than a Federal Direct Consolidation Loan or a Federal Direct PLUS loan made on behalf of a student), ensure that the borrower receives comprehensive information on the terms and conditions of the loan and of the responsibilities the borrower has with respect to such loan in accordance with paragraph (2). Such information—

(i) shall be provided in a simple and understandable manner; and

(ii) may be provided—

(I) during an entrance counseling session conduction in person;

(II) on a separate written form provided to the borrower that the borrower signs and returns to the institution; or

(III) online, with the borrower acknowledging receipt of the information.

(B) USE OF INTERACTIVE PROGRAMS.—The Secretary shall encourage institutions to carry out the requirements of subparagraph (A) through the use of interactive programs that test the borrower's understanding of the terms and conditions of the borrower's loans under part B or D, using simple and understandable language and clear formatting.

(2) INFORMATION TO BE PROVIDED.—The information to be provided to the borrower under paragraph (1)(A) shall include the following:

(A) To the extent practicable, the effect of accepting the loan to be disbursed on the eligibility of the borrower for other forms of student financial assistance.

(B) An explanation of the use of the master promissory note.

(C) Information on how interest accrues and is capitalized during periods when the interest is not paid by either the borrower or the Secretary.

(D) In the case of a loan made under section 428B or 428H, a Federal Direct PLUS Loan, or a Federal Direct Unsubsidized Stafford Loan, the option of the borrower to pay the interest while the borrower is in school.

(E) The definition of half-time enrollment at the institution, during regular terms and summer school, if applicable, and the consequences of not maintaining half-time enrollment.

(F) An explanation of the importance of contacting the appropriate offices at the institution of higher education if the borrower withdraws prior to completing the borrower's program of study so that the institution can provide exit counseling, including information regarding the borrower's repayment options and loan consolidation.

(G) Sample monthly repayment amounts based on—

(i) a range of levels of indebtedness of—

(I) borrowers of loans under section 428 or 428H; and

(II) as appropriate, graduate borrowers of loans under section 428, 428B, or 428H; or

(ii) the average cumulative indebtedness of other borrowers in the same program as the borrower at the same institution.

(H) The obligation of the borrower to repay the full amount of the loan, regardless of whether the borrower completes or does not complete the program in which the borrower is enrolled within the regular time for program completion.

(I) The likely consequences of default on the loan, including adverse credit reports, delinquent debt collection procedures under Federal law, and litigation.

(J) Information on the National Student Loan Data System and how the borrower can access the borrower's records.

(K) The name of and contact information for the individual the borrower may contact if the borrower has any questions about the borrower's rights and responsibilities or the terms and conditions of the loan.

(m) DISCLOSURES OF REIMBURSEMENTS FOR SERVICE ON ADVISORY BOARDS.—

(1) DISCLOSURE.—Each institution of higher education participating in any program under this title shall report, on an annual basis, to the Secretary, any reasonable expenses paid or provided under section 140(d) of the Truth in Lending Act to any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with re-

spect to education loans or other financial aid of the institution. Such reports shall include—

(A) the amount for each specific instance of reasonable expenses paid or provided;

(B) the name of the financial aid official, other employee, or agent to whom the expenses were paid or provided;

(C) the dates of the activity for which the expenses were paid or provided; and

(D) a brief description of the activity for which the expenses were paid or provided.

(2) REPORT TO CONGRESS.—The Secretary shall summarize the information received from institutions of higher education under paragraph (1) in a report and transmit such report annually to the authorizing committees.

SEC. 485A. [20 U.S.C. 1092a] COMBINED PAYMENT PLAN.

(a) ELIGIBILITY FOR PLAN.—Upon the request of the borrower, a lender described in subparagraph (A), (B), or (C) of section 428C(a)(1) of this Act, or an eligible lender as defined in section 719 of the Public Health Service Act (42 U.S.C. 292o) may, with respect to a consolidation loan made under section 428C of this Act (and section 439(o) of this Act as in effect prior to the enactment of section 428C) and loans guaranteed under under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—A lender offering a combined payment plan shall comply with all provisions of section 428C applicable to loans consolidated or to be consolidated and shall comply with all provisions of part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) applicable to loans under that subpart which are made part of the combined payment plan, except that a lender offering a combined payment plan under this section may offer consolidation loans pursuant to section 428C(b)(1)(A) if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

(c) LENDER ELIGIBILITY.—Such lender may offer a combined payment plan only if—

(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

(2) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

(d) BORROWER SELECTION OF COMPETING OFFERS.—In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

(e) EFFECT OF PLAN.—Upon selection of a lender to administer the combined payment plan, the lender may reissue any loan under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

(2) the loan being reissued was not in default (as defined in section 707(e)(3) of the Public Health Service Act) at the time the request for a combined payment plan is made.

(f) NOTES AND INSURANCE CERTIFICATES.—(1) Each loan reissued under subsection (e) shall be evidenced by a note executed by the borrower. The Secretary of Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) (including the Student Loan Marketing Association). Such certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 710 of the Public Health Service Act. Notwithstanding the provisions of section 729(a) of the Public Health Service Act, the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the borrower's obligation to that holder on that loan shall be discharged.

(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum repayment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.), the maximum repayment period for all such loans may extend to the latest date permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act, and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period.

(g) TERMINATION OF BORROWER ELIGIBILITY.—The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

(h) FEES AND PREMIUMS.—No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

(i) COMMENCEMENT OF REPAYMENT.—Repayment of a combined payment plan shall commence within 60 days after the later of the date of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e).

SEC. 485B. [20 U.S.C. 1092b] NATIONAL STUDENT LOAN DATA SYSTEM.

(a) DEVELOPMENT OF THE SYSTEM.—The Secretary shall consult with a representative group of guaranty agencies, eligible lenders, and eligible institutions to develop a mutually agreeable proposal for the establishment of a National Student Loan Data System containing information regarding loans made, insured, or guaranteed under part B and loans made under parts D and E, and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan not later than one year after the date of enactment of the Higher Education Amendments of 1998. The information in the data system shall include (but is not limited to)—

(1) the amount and type of each such loan made;

(2) the names and social security numbers of the borrowers;

(3) the guaranty agency responsible for the guarantee of the loan;

(4) the institution of higher education or organization responsible for loans made under parts D and E;

(5) the exact amount of loans partially or totally canceled or in deferment for service under the Peace Corps Act (22 U.S.C. 2501 et seq.), for service under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), and for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness;

(6) the eligible institution in which the student was enrolled or accepted for enrollment at the time the loan was made, and any additional institutions attended by the borrower;

(7) the total amount of loans made to any borrower and the remaining balance of the loans;

(8) the lender, holder, and servicer of such loans;

(9) information concerning the date of any default on the loan and the collection of the loan, including any information concerning the repayment status of any defaulted loan on

which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan;

(10) information regarding any deferments or forbearance granted on such loans; and

(11) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

(b) ADDITIONAL INFORMATION.—For the purposes of research and policy analysis, the proposal shall also contain provisions for obtaining additional data concerning the characteristics of borrowers and the extent of student loan indebtedness on a statistically valid sample of borrowers under part B. Such data shall include—

(1) information concerning the income level of the borrower and his family and the extent of the borrower's need for student financial assistance, including loans;

(2) information concerning the type of institution attended by the borrower and the year of the program of education for which the loan was obtained;

(3) information concerning other student financial assistance received by the borrower; and

(4) information concerning Federal costs associated with the student loan program under part B of this title, including the costs of interest subsidies, special allowance payments, and other subsidies.

(c) VERIFICATION.—The Secretary may require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan made under part B, D, or E.

(d) PRINCIPLES FOR ADMINISTERING THE DATA SYSTEM.—In managing the National Student Loan Data System, the Secretary shall take actions necessary to maintain confidence in the data system, including, at a minimum—

(1) ensuring that the primary purpose of access to the data system by guaranty agencies, eligible lenders, and eligible institutions of higher education is for legitimate program operations, such as the need to verify the eligibility of a student, potential student, or parent for loans under part B, D, or E;

(2) prohibiting nongovernmental researchers and policy analysts from accessing personally identifiable information;

(3) creating a disclosure form for students and potential students that is distributed when such students complete the common financial reporting form under section 483, and as a part of the exit counseling process under section 485(b), that—

(A) informs the students that any title IV grant or loan the students receive will be included in the National Student Loan Data System, and instructs the students on how to access that information;

(B) describes the categories of individuals or entities that may access the data relating to such grant or loan through the data system, and for what purposes access is allowed;

(C) defines and explains the categories of information included in the data system;

(D) provides a summary of the provisions of section 444 of the General Education Provisions Act (commonly known as the "Family Educational Rights and Privacy Act of 1974") and other applicable Federal privacy statutes, and a statement of the students' rights and responsibilities with respect to such statutes;

(E) explains the measures taken by the Department to safeguard the students' data; and

(F) includes other information as determined appropriate by the Secretary;

(4) requiring guaranty agencies, eligible lenders, and eligible institutions of higher education that enter into an agreement with a potential student, student, or parent of such student regarding a loan under part B, D, or E, to inform the student or parent that such loan shall be—

(A) submitted to the data system; and

(B) accessible to guaranty agencies, eligible lenders, and eligible institutions of higher education determined by the Secretary to be authorized users of the data system;

(5) regularly reviewing the data system to—

(A) delete inactive users from the data system;

(B) ensure that the data in the data system are not being used for marketing purposes; and

(C) monitor the use of the data system by guaranty agencies and eligible lenders to determine whether an agency or lender is accessing the records of students in which the agency or lender has no existing financial interest; and

(6) developing standardized protocols for limiting access to the data system that include—

(A) collecting data on the usage of the data system to monitor whether access has been or is being used contrary to the purposes of the data system;

(B) defining the steps necessary for determining whether, and how, to deny or restrict access to the data system; and

(C) determining the steps necessary to reopen access to the data system following a denial or restriction of access.

(e) REPORTS TO CONGRESS.—

(1) ANNUAL REPORT.—Not later than September 30 of each fiscal year, the Secretary shall prepare and submit to the authorizing committees a report describing—

(A) the effectiveness of existing privacy safeguards in protecting student and parent information in the data system;

(B) the success of any new authorization protocols in more effectively preventing abuse of the data system;

(C) the ability of the Secretary to monitor how the system is being used, relative to the intended purposes of the data system; and

(D) any protocols developed under subsection (d)(6) during the preceding fiscal year.

(2) STUDY.—

(A) IN GENERAL.—The Secretary shall conduct a study regarding—

(i) available mechanisms for providing students and parents with the ability to opt in or opt out of allowing eligible lenders to access their records in the National Student Loan Data System; and

(ii) appropriate protocols for limiting access to the data system, based on the risk assessment required under subchapter III of chapter 35 of title 44, United States Code.

(B) SUBMISSION OF STUDY.—Not later than three years after the date of enactment of the Higher Education Opportunity Act, the Secretary shall prepare and submit a report on the findings of the study under subparagraph (A) to the authorizing committees.

(f) STANDARDIZATION OF DATA REPORTING.—

(1) IN GENERAL.—The Secretary shall by regulation prescribe standards and procedures (including relevant definitions) that require all lenders and guaranty agencies to report information on all aspects of loans made under this title in uniform formats in order to permit the direct comparison of data submitted by individual lenders, servicers or guaranty agencies.

(2) ACTIVITIES.—For the purpose of establishing standards under this section, the Secretary shall—

(A) consult with guaranty agencies, lenders, institutions of higher education, and organizations representing the groups described in paragraph (1);

(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software; and

(C) publish the specifications selected to be used to encourage the automation of exchanges of information between all parties involved in loans under this title.

(g) COMMON IDENTIFIERS.—The Secretary shall, not later than July 1, 1993—

(1) revise the codes used to identify institutions and students in the student loan data system authorized by this section to make such codes consistent with the codes used in each database used by the Department of Education that contains information of participation in programs under this title; and

(2) modify the design or operation of the system authorized by this section to ensure that data relating to any institution is readily accessible and can be used in a form compatible with the integrated postsecondary education data system (IPEDS).

(h) INTEGRATION OF DATABASES.—The Secretary shall integrate the National Student Loan Data System with the Pell Grant applicant and recipient databases as of January 1, 1994, and any other databases containing information on participation in programs under this title.

SEC. 485C. [20 U.S.C. 1092c] SIMPLIFICATION OF THE LENDING PROCESS FOR BORROWERS.

(a) ALL LIKE LOANS TREATED AS ONE.—To the extent practicable, and with the cooperation of the borrower, eligible lenders shall treat all loans made to a borrower under the same section of part B as one loan and shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. Any deferments on one such loan will be considered a deferment on the total amount of all such loans.

(b) ONE LENDER, ONE GUARANTY AGENCY.—To the extent practicable, and with the cooperation of the borrower, the guaranty agency shall ensure that a borrower only have one lender, one holder, one guaranty agency, and one servicer with which to maintain contact.

SEC. 485D. [20 U.S.C. 1092e] COLLEGE ACCESS INITIATIVE.

(a) STATE-BY-STATE INFORMATION.—The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 428(c) to provide to the Secretary the information necessary for the development of Internet web links and access for students and families to a comprehensive listing of the postsecondary education opportunities, programs, publications, Internet web sites, and other services available in the States for which such agency serves as the designated guarantor.

(b) GUARANTY AGENCY ACTIVITIES.—

(1) PLAN AND ACTIVITY REQUIRED.—Each guaranty agency with which the Secretary has an agreement under section 428(c) shall develop a plan, and undertake the activity necessary, to gather the information required under subsection (a) and to make such information available to the public and to the Secretary in a form and manner as prescribed by the Secretary.

(2) ACTIVITIES.—Each guaranty agency shall undertake such activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career preparation, and paying for college. The guaranty agency shall publicize such information and coordinate such activities with other entities that either provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.

(3) FUNDING.—The activities required by this section may be funded from the guaranty agency's Operating Fund established pursuant to section 422B and, to the extent funds remain, from earnings on the restricted account established pursuant to section 422(h)(4).

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a guaranty agency to duplicate any efforts under way on the date of enactment of the Higher Education Reconciliation Act of 2005 that meet the requirements of this section.

(c) ACCESS TO INFORMATION.—

(1) SECRETARY'S RESPONSIBILITY.—The Secretary shall ensure the availability of the information provided, by the guaranty agencies in accordance with this section, to students, par-

ents, and other interested individuals, through Internet web links or other methods prescribed by the Secretary.

(2) GUARANTY AGENCY RESPONSIBILITY.—The guaranty agencies shall ensure that the information required by this section is available without charge in printed format for students and parents requesting such information.

(3) PUBLICITY.—Not later than 270 days after the date of enactment of the Higher Education Reconciliation Act of 2005, the Secretary and guaranty agencies shall publicize the availability of the information required by this section, with special emphasis on ensuring that populations that are traditionally underrepresented in postsecondary education are made aware of the availability of such information.

SEC. 485E. [20 U.S.C. 1092f] EARLY AWARENESS OF FINANCIAL AID ELIGIBILITY.

(a) IN GENERAL.—The Secretary shall implement, in cooperation with States, institutions of higher education, secondary schools, early intervention and outreach programs under this title, other agencies and organizations involved in student financial assistance and college access, public libraries, community centers, employers, and businesses, a comprehensive system of early financial aid information in order to provide students and families with early information about financial aid and early estimates of such students' eligibility for financial aid from multiple sources. Such system shall include the activities described in subsection (b).

(b) COMMUNICATION OF AVAILABILITY OF AID AND AID ELIGIBILITY.—

(1) STUDENTS WHO RECEIVE BENEFITS.—The Secretary shall—

(A) make special efforts to notify students who receive or are eligible to receive benefits under a Federal means-tested benefit program (including the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.)), or another such benefit program as determined by the Secretary, of such students' potential eligibility for the Federal Pell Grant amount, determined under section 401(b)(2)(A), for which the student would be eligible; and

(B) disseminate such informational materials, that are part of the system described in subsection (a), as the Secretary determines necessary.

(2) SECONDARY SCHOOL STUDENTS.—The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, secondary schools, and programs under this title that serve secondary school students, shall make special efforts to notify students in secondary school and their families, as early as possible but not later than such students' junior year of secondary school, of the availability of financial aid under this title and shall provide nonbinding estimates of the amounts of grant and loan aid that an individual may be eligible for under this title upon completion of an application form under section 483(a). The Secretary shall ensure that such information is as accurate as possible and that such information is provided in

an age-appropriate format using dissemination mechanisms suitable for students in secondary school.

(3) ADULT LEARNERS.—The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, employers, workforce investment boards, and public libraries, shall make special efforts to provide individuals who would qualify as independent students, as defined in section 480(d), with information regarding the availability of financial aid under this title and with nonbinding estimates of the amounts of grant and loan aid that an individual may be eligible for under this title upon completion of an application form under section 483(a). The Secretary shall ensure that such information—

(A) is as accurate as possible;

(B) includes specific information regarding the availability of financial aid for students qualified as independent students, as defined in section 480(d); and

(C) uses dissemination mechanisms suitable for adult learners.

(4) PUBLIC AWARENESS CAMPAIGN.—Not later than two years after the date of enactment of the Higher Education Opportunity Act, the Secretary, in coordination with States, institutions of higher education, early intervention and outreach programs under this title, other agencies and organizations involved in college access and student financial aid, secondary schools, organizations that provide services to individuals that are or were homeless, to individuals in foster care, or to other disconnected individuals, local educational agencies, public libraries, community centers, businesses, employers, employment services, workforce investment boards, and movie theaters, shall implement a public awareness campaign in order to increase national awareness regarding the availability of financial aid under this title. The public awareness campaign shall disseminate accurate information regarding the availability of financial aid under this title and shall be implemented, to the extent practicable, using a variety of media, including print, television, radio, and the Internet. The Secretary shall design and implement the public awareness campaign based upon relevant independent research and the information and dissemination strategies found most effective in implementing paragraphs (1) through (3).

SEC. 486. [20 U.S.C. 1093] DISTANCE EDUCATION DEMONSTRATION PROGRAMS.

(a) PURPOSE.—It is the purpose of this section—

(1) to allow demonstration programs that are strictly monitored by the Department of Education to test the quality and viability of expanded distance education programs currently restricted under this Act;

(2) to provide for increased student access to higher education through distance education programs; and

(3) to help determine—

(A) the most effective means of delivering quality education via distance education course offerings;

(B) the specific statutory and regulatory requirements which should be altered to provide greater access to high quality distanceeducation programs; and

(C) the appropriate level of Federal assistance for students enrolled in distance education programs.

(b) DEMONSTRATION PROGRAMS AUTHORIZED.—

(1) IN GENERAL.—In accordance with the provisions of subsection (d), the Secretary is authorized to select institutions of higher education, systems of such institutions, or consortia of such institutions for voluntary participation in a Distance Education Demonstration Program that provides participating institutions with the ability to offer distance education programs that do not meet all or a portion of the sections or regulations described in paragraph (2).

(2) WAIVERS.—The Secretary is authorized to waive for any institution of higher education, system of institutions of higher education, or consortium participating in a Distance Education Demonstration Program, the requirements of section 472(5) as the section relates to computer costs, sections 481(a) and 481(b) as such sections relate to requirements for a minimum number of weeks of instruction, sections 102(a)(3)(A), 102(a)(3)(B), and 484(l)(1), or one or more of the regulations prescribed under this part or part F which inhibit the operation of quality distance education programs.

(3) ELIGIBLE APPLICANTS.—

(A) ELIGIBLE INSTITUTIONS.—Except as provided in subparagraphs (B), (C), and (D), only an institution of higher education that is eligible to participate in programs under this title shall be eligible to participate in the demonstration program authorized under this section.

(B) PROHIBITION.—An institution of higher education described in section 102(a)(1)(C) shall not be eligible to participate in the demonstration program authorized under this section.

(C) SPECIAL RULE.—Subject to subparagraph (B), an institution of higher education that meets the requirements of subsection (a) of section 102, other than the requirement of paragraph (3)(A) or (3)(B) of such subsection, and that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree, shall be eligible to participate in the demonstration program authorized under this section.

(D) REQUIREMENT.—Notwithstanding any other provision of this paragraph, Western Governors University shall be considered eligible to participate in the demonstration program authorized under this section. In addition to the waivers described in paragraph (2), the Secretary may waive the provisions of title I and parts G and H of this title for such university that the Secretary determines to be appropriate because of the unique characteristics of such university. In carrying out the preceding sentence, the Secretary shall ensure that adequate program integrity and accountability measures apply to such university's

participation in the demonstration program authorized under this section.

(c) APPLICATION.—

(1) IN GENERAL.—Each institution, system, or consortium of institutions desiring to participate in a demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) CONTENTS.—Each application shall include—

(A) a description of the institution, system, or consortium's consultation with a recognized accrediting agency or association with respect to quality assurances for the distance education programs to be offered;

(B) a description of the statutory and regulatory requirements described in subsection (b)(2) or, if applicable, subsection (b)(3)(D) for which a waiver is sought and the reasons for which the waiver is sought;

(C) a description of the distance education programs to be offered;

(D) a description of the students to whom distance education programs will be offered;

(E) an assurance that the institution, system, or consortium will offer full cooperation with the ongoing evaluations of the demonstration program provided for in this section; and

(F) such other information as the Secretary may require.

(d) SELECTION.—

(1) IN GENERAL.—For the first year of the demonstration program authorized under this section, the Secretary is authorized to select for participation in the program not more than 15 institutions, systems of institutions, or consortia of institutions. For the third year of the demonstration program authorized under this section, the Secretary may select not more than 35 institutions, systems, or consortia, in addition to the institutions, systems, or consortia selected pursuant to the preceding sentence, to participate in the demonstration program if the Secretary determines that such expansion is warranted based on the evaluations conducted in accordance with subsections (f) and (g).

(2) CONSIDERATIONS.—In selecting institutions to participate in the demonstration program in the first or succeeding years of the program, the Secretary shall take into account—

(A) the number and quality of applications received;

(B) the Department's capacity to oversee and monitor each institution's participation;

(C) an institution's—

(i) financial responsibility;

(ii) administrative capability; and

(iii) program or programs being offered via distance education; and

(D) ensuring the participation of a diverse group of institutions with respect to size, mission, and geographic distribution.

(e) NOTIFICATION.—The Secretary shall make available to the public and to the authorizing committees a list of institutions, systems or consortia selected to participate in the demonstration program authorized by this section. Such notice shall include a listing of the specific statutory and regulatory requirements being waived for each institution, system or consortium and a description of the distance education courses to be offered.

(f) EVALUATIONS AND REPORTS.—

(1) EVALUATION.—The Secretary shall evaluate the demonstration programs authorized under this section on an annual basis. Such evaluations specifically shall review—

(A) the extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance;

(B) the number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased;

(C) issues related to student financial assistance for distance education;

(D) effective technologies for delivering distance education course offerings; and

(E) the extent to which statutory or regulatory requirements not waived under the demonstration program present difficulties for students or institutions.

(2) POLICY ANALYSIS.—The Secretary shall review current policies and identify those policies that present impediments to the development and use of distance education and other nontraditional methods of expanding access to education.

(3) ANNUAL REPORTS.—The Secretary shall provide reports to the authorizing committees on an annual basis regarding—

(A) the demonstration programs authorized under this section; and

(B) the number and types of students receiving assistance under this title for instruction leading to a recognized certificate, as provided for in section 484(l)(1), including the progress of such students toward recognized certificates and the degree to which participation in such programs leading to such certificates increased.

(g) OVERSIGHT.—In conducting the demonstration program authorized under this section, the Secretary shall, on a continuing basis—

(1) assure compliance of institutions, systems or consortia with the requirements of this title (other than the sections and regulations that are waived under subsections (b)(2) and (b)(3)(D));

(2) provide technical assistance;

(3) monitor fluctuations in the student population enrolled in the participating institutions, systems or consortia; and

(4) consult with appropriate accrediting agencies or associations and appropriate State regulatory authorities.

(h) DEFINITION.—For the purpose of this section, the term "distance education" means an educational process that is characterized by the separation, in time or place, between instructor and student. Such term may include courses offered principally through the use of—

(1) television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission;

(2) audio or computer conferencing;

(3) video cassettes or discs; or

(4) correspondence.

SEC. 486A. [20 U.S.C. 1093a] ARTICULATION AGREEMENTS.

(a) DEFINITION.—In this section, the term "articulation agreement" means an agreement between or among institutions of higher education that specifies the acceptability of courses in transfer toward meeting specific degree or program requirements.

(b) PROGRAM TO ENCOURAGE ARTICULATION AGREEMENTS.—

(1) PROGRAM ESTABLISHED.—The Secretary shall carry out a program for States, in cooperation with public institutions of higher education, to develop, enhance, and implement comprehensive articulation agreements between or among such institutions in a State, and (to the extent practicable) across State lines, by 2010. Such articulation agreements shall be made widely and publicly available on the websites of States and such institutions. In developing, enhancing, and implementing articulation agreements, States and public institutions of higher education may employ strategies, where applicable, including—

(A) common course numbering;

(B) a general education core curriculum;

(C) management systems regarding course equivalency, transfer of credit, and articulation; and

(D) other strategies identified by the Secretary.

(2) TECHNICAL ASSISTANCE PROVIDED.—The Secretary shall provide technical assistance to States and public institutions of higher education for the purposes of developing and implementing articulation agreements in accordance with this subsection.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to articulation agreements.

SEC. 487. [20 U.S.C. 1094] PROGRAM PARTICIPATION AGREEMENTS.

(a) REQUIRED FOR PROGRAMS OF ASSISTANCE; CONTENTS.—In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 4 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this title or the amount of such assistance.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

(A) the Secretary;

(B) the appropriate guaranty agency; and

(C) the appropriate accrediting agency or association.

(4) The institution will comply with the provisions of subsection (c) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this title.

(6) The institution will not provide any student with any statement or certification to any lender under part B that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 425(a), 428(a)(2), and 428(b)(1) (A) and (B).

(7) The institution will comply with the requirements of section 485.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application (A) the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements, and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed to prepare such prospective students.

(9) In the case of an institution participating in a program under part B or D, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution

to be accessible to any officer, employee, or student at the institution.

(11) In the case of any institution whose students receive financial assistance pursuant to section 484(d), the institution will make available to such students a program proven successful in assisting students in obtaining a certificate of high school equivalency.

(12) The institution certifies that—

(A) the institution has established a campus security policy; and

(B) the institution has complied with the disclosure requirements of section 485(f).

(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this title on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

(14)(A) The institution, in order to participate as an eligible institution under part B or D, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B or D, develop a Default Management Plan for approval by the Secretary and implement such Plan for two years after its change of ownership or status.

(C) This paragraph shall not apply in the case of an institution in which (i) neither the parent nor the subordinate institution has a cohort default rate in excess of 10 percent, and (ii) the new owner of such parent or subordinate institution does not, and has not, owned any other institution with a cohort default rate in excess of 10 percent.

(15) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and the State agencies under subpart 1 of part H to share with each other any information pertaining to the institution's eligibility to participate in programs under this title or any information on fraud and abuse.

(16)(A) The institution will not knowingly employ an individual in a capacity that involves the administration of programs under this title, or the receipt of program funds under this title, who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title, or has been judicially determined to have committed fraud involving funds under this title or contract with an institution or third party servicer that has been terminated under section 432 involving the acquisition, use, or expenditure of funds under this title, or who has been judicially determined to have committed fraud involving funds under this title.

(B) The institution will not knowingly contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been—

(i) convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title; or

(ii) judicially determined to have committed fraud involving funds under this title.

(17) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

(18) The institution will meet the requirements established pursuant to section 485(g).

(19) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this title due to compliance with the provisions of this title, or delays attributable to the institution.

(20) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(21) The institution will meet the requirements established by the Secretary and accrediting agencies or associations, and will provide evidence to the Secretary that the institution has the authority to operate within a State.

(22) The institution will comply with the refund policy established pursuant to section 484B.

(23)(A) The institution, if located in a State to which section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–2(b)) does not apply, will make a good faith effort to distribute a mail voter registration form, requested and received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.

(B) The institution shall request the forms from the State 120 days prior to the deadline for registering to vote within the State. If an institution has not received a sufficient quantity of forms to fulfill this section from the State within 60 days prior to the deadline for registering to vote in the State, the institution shall not be held liable for not meeting the requirements of this section during that election year.

(C) This paragraph shall apply to general and special elections for Federal office, as defined in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)), and to the elections for Governor or other chief executive within such State).

(D)[64] The institution shall be considered in compliance with the requirements of subparagraph (A) for each student to whom the institution electronically transmits a message containing a voter registration form acceptable for use in the State in which the institution is located, or an Internet address where such a form can be downloaded, if such information is in an electronic message devoted exclusively to voter registration.

(24) In the case of a proprietary institution of higher education (as defined in section 102(b)), such institution will derive not less than ten percent of such institution's revenues from sources other than funds provided under this title, as calculated in accordance with subsection (d)(1), or will be subject to the sanctions described in subsection (d)(2).

(25) In the case of an institution that participates in a loan program under this title, the institution will—

(A) develop a code of conduct with respect to such loans with which the institution's officers, employees, and agents shall comply, that—

(i) prohibits a conflict of interest with the responsibilities of an officer, employee, or agent of an institution with respect to such loans; and

(ii) at a minimum, includes the provisions described in subsection (e);

(B) publish such code of conduct prominently on the institution's website; and

(C) administer and enforce such code by, at a minimum, requiring that all of the institution's officers, employees, and agents with responsibilities with respect to such loans be annually informed of the provisions of the code of conduct.

(26) The institution will, upon written request, disclose to the alleged victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), or a nonforcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

(27) In the case of an institution that has entered into a preferred lender arrangement, the institution will at least annually compile, maintain, and make available for students attending the institution, and the families of such students, a list, in print or other medium, of the specific lenders for loans made, insured, or guaranteed under this title or private edu-

[64] Margin so in law.

cation loans that the institution recommends, promotes, or endorses in accordance with such preferred lender arrangement. In making such list, the institution shall comply with the requirements of subsection (h).

(28)(A) The institution will, upon the request of an applicant for a private education loan, provide to the applicant the form required under section 128(e)(3) of the Truth in Lending Act (15 U.S.C. 1638(e)(3)), and the information required to complete such form, to the extent the institution possesses such information.

(B) For purposes of this paragraph, the term "private education loan" has the meaning given such term in section 140 of the Truth in Lending Act.

(29) The institution certifies that the institution—

(A) has developed plans to effectively combat the unauthorized distribution of copyrighted material, including through the use of a variety of technology-based deterrents; and

(B) will, to the extent practicable, offer alternatives to illegal downloading or peer-to-peer distribution of intellectual property, as determined by the institution in consultation with the chief technology officer or other designated officer of the institution.

(b) HEARINGS.—(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

(c) AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.—(1) Notwithstanding any other provisions of this title, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clauses (ii) and (iii), a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the appropriate State agency notifying the Secretary under subpart 1 of part

H, except that the Secretary may modify the requirements of this clause with respect to institutions of higher education that are foreign institutions, and may waive such requirements with respect to a foreign institution whose students receive less than $500,000 in loans under this title during the award year preceding the audit period;

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit; or

(iii) at the discretion of the Secretary, with regard to an eligible institution (other than an eligible institution described in section 102(a)(1)(C)) that has obtained less than $200,000 in funds under this title during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than ½ of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 498(g);

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution;

(C)(i) except as provided in clause (ii), a compliance audit of a third party servicer (other than with respect to the servicer's functions as a lender if such functions are otherwise audited under this part and such audits meet the requirements of this clause), with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under this title, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a third party servicer that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by such audit;

(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this title, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the

audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a secondary market that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;

(E) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll;

(F) the limitation, suspension, or termination of the participation in any program under this title of an eligible institution, or the imposition of a civil penalty under paragraph (3)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing, that such institution has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time;

(G) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this title, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

(H) the limitation, suspension, or termination of the eligibility of a third party servicer to contract with any institution

to administer any aspect of an institution's student assistance program under this title, or the imposition of a civil penalty under paragraph (3)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

(I) an emergency action against a third party servicer that has contracted with an institution to administer any aspect of the institution's student assistance program under this title, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this title, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.

(2) If an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with the definition of substantial control in subpart 3 of part H, over one or more institutions participating in any program under this title, or, for purposes of paragraphs (1) (H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this title, is determined to have committed one or more violations of the requirements of any program under this title, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of

any or all institutions under the substantial control of that individual or entity.

(3)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution—

(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(4) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(5) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State agencies notifying the Secretary under subpart 1 of part H, and accrediting agencies or associations the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).

(6) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(15) of this section.

(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this title for which the institution has not received funds appropriated under this title (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount

against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums).

(d) IMPLEMENTATION OF NON-TITLE IV REVENUE REQUIREMENT.—

(1) CALCULATION.—In making calculations under subsection (a)(24), a proprietary institution of higher education shall—

(A) use the cash basis of accounting, except in the case of loans described in subparagraph (D)(i) that are made by the proprietary institution of higher education;

(B) consider as revenue only those funds generated by the institution from—

(i) tuition, fees, and other institutional charges for students enrolled in programs eligible for assistance under this title;

(ii) activities conducted by the institution that are necessary for the education and training of the institution's students, if such activities are—

(I) conducted on campus or at a facility under the control of the institution;

(II) performed under the supervision of a member of the institution's faculty; and

(III) required to be performed by all students in a specific educational program at the institution; and

(iii) funds paid by a student, or on behalf of a student by a party other than the institution, for an education or training program that is not eligible for funds under this title, if the program—

(I) is approved or licensed by the appropriate State agency;

(II) is accredited by an accrediting agency recognized by the Secretary; or

(III) provides an industry-recognized credential or certification;

(C) presume that any funds for a program under this title that are disbursed or delivered to or on behalf of a student will be used to pay the student's tuition, fees, or other institutional charges, regardless of whether the institution credits those funds to the student's account or pays those funds directly to the student, except to the extent that the student's tuition, fees, or other institutional charges are satisfied by—

(i) grant funds provided by non-Federal public agencies or private sources independent of the institution;

(ii) funds provided under a contractual arrangement with a Federal, State, or local government agency for the purpose of providing job training to low-income individuals who are in need of that training;

(iii) funds used by a student from savings plans for educational expenses established by or on behalf of

the student and which qualify for special tax treatment under the Internal Revenue Code of 1986; or

(iv) institutional scholarships described in subparagraph (D)(iii);

(D) include institutional aid as revenue to the school only as follows:

(i) in the case of loans made by a proprietary institution of higher education on or after July 1, 2008 and prior to July 1, 2012, the net present value of such loans made by the institution during the applicable institutional fiscal year accounted for on an accrual basis and estimated in accordance with generally accepted accounting principles and related standards and guidance, if the loans—

(I) are bona fide as evidenced by enforceable promissory notes;

(II) are issued at intervals related to the institution's enrollment periods; and

(III) are subject to regular loan repayments and collections;

(ii) in the case of loans made by a proprietary institution of higher education on or after July 1, 2012, only the amount of loan repayments received during the applicable institutional fiscal year, excluding repayments on loans made and accounted for as specified in clause (i); and

(iii) in the case of scholarships provided by a proprietary institution of higher education, only those scholarships provided by the institution in the form of monetary aid or tuition discounts based upon the academic achievements or financial need of students, disbursed during each fiscal year from an established restricted account, and only to the extent that funds in that account represent designated funds from an outside source or from income earned on those funds;

(E) in the case of each student who receives a loan on or after July 1, 2008, and prior to July 1, 2011, that is authorized under section 428H or that is a Federal Direct Unsubsidized Stafford Loan, treat as revenue received by the institution from sources other than funds received under this title, the amount by which the disbursement of such loan received by the institution exceeds the limit on such loan in effect on the day before the date of enactment of the Ensuring Continued Access to Student Loans Act of 2008; and

(F) exclude from revenues—

(i) the amount of funds the institution received under part C, unless the institution used those funds to pay a student's institutional charges;

(ii) the amount of funds the institution received under subpart 4 of part A;

(iii) the amount of funds provided by the institution as matching funds for a program under this title;

(iv) the amount of funds provided by the institution for a program under this title that are required to be refunded or returned; and

(v) the amount charged for books, supplies, and equipment, unless the institution includes that amount as tuition, fees, or other institutional charges.

(2) SANCTIONS.—

(A) INELIGIBILITY.—A proprietary institution of higher education that fails to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years shall be ineligible to participate in the programs authorized by this title for a period of not less than two institutional fiscal years. To regain eligibility to participate in the programs authorized by this title, a proprietary institution of higher education shall demonstrate compliance with all eligibility and certification requirements under section 498 for a minimum of two institutional fiscal years after the institutional fiscal year in which the institution became ineligible.

(B) ADDITIONAL ENFORCEMENT.—In addition to such other means of enforcing the requirements of this title as may be available to the Secretary, if a proprietary institution of higher education fails to meet a requirement of subsection (a)(24) for any institutional fiscal year, then the institution's eligibility to participate in the programs authorized by this title becomes provisional for the two institutional fiscal years after the institutional fiscal year in which the institution failed to meet the requirement of subsection (a)(24), except that such provisional eligibility shall terminate—

(i) on the expiration date of the institution's program participation agreement under this subsection that is in effect on the date the Secretary determines that the institution failed to meet the requirement of subsection (a)(24); or

(ii) in the case that the Secretary determines that the institution failed to meet a requirement of subsection (a)(24) for two consecutive institutional fiscal years, on the date the institution is determined ineligible in accordance with subparagraph (A).

(3) PUBLICATION ON COLLEGE NAVIGATOR WEBSITE.—The Secretary shall publicly disclose on the College Navigator website—

(A) the identity of any proprietary institution of higher education that fails to meet a requirement of subsection (a)(24); and

(B) the extent to which the institution failed to meet such requirement.

(4) REPORT TO CONGRESS.—Not later than July 1, 2009, and July 1 of each succeeding year, the Secretary shall submit to the authorizing committees a report that contains, for each proprietary institution of higher education that receives assistance under this title, as provided in the audited financial state-

ments submitted to the Secretary by each institution pursuant to the requirements of subsection (a)(24)—

(A) the amount and percentage of such institution's revenues received from sources under this title; and

(B) the amount and percentage of such institution's revenues received from other sources.

(e) CODE OF CONDUCT REQUIREMENTS.—An institution of higher education's code of conduct, as required under subsection (a)(25), shall include the following requirements:

(1) BAN ON REVENUE-SHARING ARRANGEMENTS.—

(A) PROHIBITION.—The institution shall not enter into any revenue-sharing arrangement with any lender.

(B) DEFINITION.—For purposes of this paragraph, the term "revenue-sharing arrangement" means an arrangement between an institution and a lender under which—

(i) a lender provides or issues a loan that is made, insured, or guaranteed under this title to students attending the institution or to the families of such students; and

(ii) the institution recommends the lender or the loan products of the lender and in exchange, the lender pays a fee or provides other material benefits, including revenue or profit sharing, to the institution, an officer or employee of the institution, or an agent.

(2) GIFT BAN.—

(A) PROHIBITION.—No officer or employee of the institution who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or agent who has responsibilities with respect to education loans, shall solicit or accept any gift from a lender, guarantor, or servicer of education loans.

(B) DEFINITION OF GIFT.—

(i) IN GENERAL.—In this paragraph, the term "gift" means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a de minimus amount. The term includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(ii) EXCEPTIONS.—The term "gift" shall not include any of the following:

(I) Standard material, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy, such as a brochure, a workshop, or training.

(II) Food, refreshments, training, or informational material furnished to an officer or employee of an institution, or to an agent, as an integral part of a training session that is designed to improve the service of a lender, guarantor, or servicer of education loans to the institution, if such training contributes to the professional development of the officer, employee, or agent.

(III) Favorable terms, conditions, and borrower benefits on an education loan provided to a student employed by the institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.

(IV) Entrance and exit counseling services provided to borrowers to meet the institution's responsibilities for entrance and exit counseling as required by subsections (b) and (l) of section 485, as long as—

(aa) the institution's staff are in control of the counseling, (whether in person or via electronic capabilities); and

(bb) such counseling does not promote the products or services of any specific lender.

(V) Philanthropic contributions to an institution from a lender, servicer, or guarantor of education loans that are unrelated to education loans or any contribution from any lender, guarantor, or servicer that is not made in exchange for any advantage related to education loans.

(VI) State education grants, scholarships, or financial aid funds administered by or on behalf of a State.

(iii) RULE FOR GIFTS TO FAMILY MEMBERS.—For purposes of this paragraph, a gift to a family member of an officer or employee of an institution, to a family member of an agent, or to any other individual based on that individual's relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if—

(I) the gift is given with the knowledge and acquiescence of the officer, employee, or agent; and

(II) the officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.

(3) CONTRACTING ARRANGEMENTS PROHIBITED.—

(A) PROHIBITION.—An officer or employee who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or an agent who has responsibilities with respect to education loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit (including the opportunity to purchase stock) as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to education loans.

(B) EXCEPTIONS.—Nothing in this subsection shall be construed as prohibiting—

(i) an officer or employee of an institution who is not employed in the institution's financial aid office and who does not otherwise have responsibilities with respect to education loans, or an agent who does not

have responsibilities with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans;

(ii) an officer or employee of the institution who is not employed in the institution's financial aid office but who has responsibility with respect to education loans as a result of a position held at the institution, or an agent who has responsibility with respect to education loans, from performing paid or unpaid service on a board of directors of a lender, guarantor, or servicer of education loans, if the institution has a written conflict of interest policy that clearly sets forth that officers, employees, or agents must recuse themselves from participating in any decision of the board regarding education loans at the institution; or

(iii) an officer, employee, or contractor of a lender, guarantor, or servicer of education loans from serving on a board of directors, or serving as a trustee, of an institution, if the institution has a written conflict of interest policy that the board member or trustee must recuse themselves from any decision regarding education loans at the institution.

(4) INTERACTION WITH BORROWERS.—The institution shall not—

(A) for any first-time borrower, assign, through award packaging or other methods, the borrower's loan to a particular lender; or

(B) refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender or guaranty agency.

(5) PROHIBITION ON OFFERS OF FUNDS FOR PRIVATE LOANS.—

(A) PROHIBITION.—The institution shall not request or accept from any lender any offer of funds to be used for private education loans (as defined in section 140 of the Truth in Lending Act), including funds for an opportunity pool loan, to students in exchange for the institution providing concessions or promises regarding providing the lender with—

(i) a specified number of loans made, insured, or guaranteed under this title;

(ii) a specified loan volume of such loans; or

(iii) a preferred lender arrangement for such loans.

(B) DEFINITION OF OPPORTUNITY POOL LOAN.—In this paragraph, the term "opportunity pool loan" means a private education loan made by a lender to a student attending the institution or the family member of such a student that involves a payment, directly or indirectly, by such institution of points, premiums, additional interest, or financial support to such lender for the purpose of such lender extending credit to the student or the family.

(6) BAN ON STAFFING ASSISTANCE.—

(A) PROHIBITION.—The institution shall not request or accept from any lender any assistance with call center staffing or financial aid office staffing.

(B) CERTAIN ASSISTANCE PERMITTED.—Nothing in paragraph (1) shall be construed to prohibit the institution from requesting or accepting assistance from a lender related to—

(i) professional development training for financial aid administrators;

(ii) providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials; or

(iii) staffing services on a short-term, nonrecurring basis to assist the institution with financial aid-related functions during emergencies, including State-declared or federally declared natural disasters, federally declared national disasters, and other localized disasters and emergencies identified by the Secretary.

(7) ADVISORY BOARD COMPENSATION.—Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to education loans or other student financial aid of the institution, and who serves on an advisory board, commission, or group established by a lender, guarantor, or group of lenders or guarantors, shall be prohibited from receiving anything of value from the lender, guarantor, or group of lenders or guarantors, except that the employee may be reimbursed for reasonable expenses incurred in serving on such advisory board, commission, or group.

(f) INSTITUTIONAL REQUIREMENTS FOR TEACH-OUTS.—

(1) IN GENERAL.—In the event the Secretary initiates the limitation, suspension, or termination of the participation of an institution of higher education in any program under this title under the authority of subsection (c)(1)(F) or initiates an emergency action under the authority of subsection (c)(1)(G) and its prescribed regulations, the Secretary shall require that institution to prepare a teach-out plan for submission to the institution's accrediting agency or association in compliance with section 496(c)(3), the Secretary's regulations on teach-out plans, and the standards of the institution's accrediting agency or association.

(2) TEACH-OUT PLAN DEFINED.—In this subsection, the term "teach-out plan" means a written plan that provides for the equitable treatment of students if an institution of higher education ceases to operate before all students have completed their program of study, and may include, if required by the institution's accrediting agency or association, an agreement between institutions for such a teach-out plan.

(g) INSPECTOR GENERAL REPORT ON GIFT BAN VIOLATIONS.—The Inspector General of the Department shall—

(1) submit an annual report to the authorizing committees identifying all violations of an institution's code of conduct that the Inspector General has substantiated during the preceding

year relating to the gift ban provisions described in subsection (e)(2); and

(2) make the report available to the public through the Department's website.

(h) PREFERRED LENDER LIST REQUIREMENTS.—

(1) IN GENERAL.—In compiling, maintaining, and making available a preferred lender list as required under subsection (a)(27), the institution will—

(A) clearly and fully disclose on such preferred lender list—

(i) not less than the information required to be disclosed under section 153(a)(2)(A);

(ii) why the institution has entered into a preferred lender arrangement with each lender on the preferred lender list, particularly with respect to terms and conditions or provisions favorable to the borrower; and

(iii) that the students attending the institution, or the families of such students, do not have to borrow from a lender on the preferred lender list;

(B) ensure, through the use of the list of lender affiliates provided by the Secretary under paragraph (2), that—

(i) there are not less than three lenders of loans made under part B that are not affiliates of each other included on the preferred lender list and, if the institution recommends, promotes, or endorses private education loans, there are not less than two lenders of private education loans that are not affiliates of each other included on the preferred lender list; and

(ii) the preferred lender list under this paragraph—

(I) specifically indicates, for each listed lender, whether the lender is or is not an affiliate of each other lender on the preferred lender list; and

(II) if a lender is an affiliate of another lender on the preferred lender list, describes the details of such affiliation;

(C) prominently disclose the method and criteria used by the institution in selecting lenders with which to enter into preferred lender arrangements to ensure that such lenders are selected on the basis of the best interests of the borrowers, including—

(i) payment of origination or other fees on behalf of the borrower;

(ii) highly competitive interest rates, or other terms and conditions or provisions of loans under this title or private education loans;

(iii) high-quality servicing for such loans; or

(iv) additional benefits beyond the standard terms and conditions or provisions for such loans;

(D) exercise a duty of care and a duty of loyalty to compile the preferred lender list under this paragraph without prejudice and for the sole benefit of the students attending the institution, or the families of such students;

(E) not deny or otherwise impede the borrower's choice of a lender or cause unnecessary delay in loan certification under this title for those borrowers who choose a lender that is not included on the preferred lender list; and

(F) comply with such other requirements as the Secretary may prescribe by regulation.

(2) LENDER AFFILIATES LIST.—

(A) IN GENERAL.—The Secretary shall maintain and regularly update a list of lender affiliates of all eligible lenders, and shall provide such list to institutions for use in carrying out paragraph (1)(B).

(B) USE OF MOST RECENT LIST.—An institution shall use the most recent list of lender affiliates provided by the Secretary under subparagraph (A) in carrying out paragraph (1)(B).

(i) DEFINITIONS.—For the purpose of this section:

(1) AGENT.—The term "agent" has the meaning given the term in section 151.

(2) AFFILIATE.—The term "affiliate" means a person that controls, is controlled by, or is under common control with another person. A person controls, is controlled by, or is under common control with another person if—

(A) the person directly or indirectly, or acting through one or more others, owns, controls, or has the power to vote five percent or more of any class of voting securities of such other person;

(B) the person controls, in any manner, the election of a majority of the directors or trustees of such other person; or

(C) the Secretary determines (after notice and opportunity for a hearing) that the person directly or indirectly exercises a controlling interest over the management or policies of such other person's education loans.

(3) EDUCATION LOAN.—The term "education loan" has the meaning given the term in section 151.

(4) ELIGIBLE INSTITUTION.—The term "eligible institution" means any such institution described in section 102 of this Act.

(5) OFFICER.—The term "officer" has the meaning given the term in section 151.

(6) PREFERRED LENDER ARRANGEMENT.—The term "preferred lender arrangement" has the meaning given the term in section 151.

(j) CONSTRUCTION.—Nothing in the amendments made by the Higher Education Amendments of 1992 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of this section to create a record of the hearing, except the unavailability of a recording shall not serve to delay the completion of the proceeding. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.

SEC. 487A. [20 U.S.C. 1094a] REGULATORY RELIEF AND IMPROVEMENT.

(a) QUALITY ASSURANCE PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems, related to processing and disbursement of student financial aid, verification of student financial aid application data, and entrance and exit interviews, thereby enhancing program integrity within the student aid delivery system.

(2) CRITERIA AND CONSIDERATION.—The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary. The selection criteria shall ensure the participation of a diverse group of institutions of higher education with respect to size, mission, and geographical distribution.

(3) WAIVER.—The Secretary is authorized to waive for any institution participating in the Quality Assurance Program any regulations dealing with reporting or verification requirements in this title that are addressed by the institution's alternative management system, and may substitute such quality assurance reporting as the Secretary determines necessary to ensure accountability and compliance with the purposes of the programs under this title. The Secretary shall not modify or waive any statutory requirements pursuant to this paragraph.

(4) DETERMINATION.—The Secretary is authorized to determine—

(A) when an institution that is unable to administer the Quality Assurance Program shall be removed from such program; and

(B) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

(5) REVIEW AND EVALUATION.—The Secretary shall review and evaluate the Quality Assurance Program conducted by each participating institution and, on the basis of that evaluation, make recommendations regarding amendments to this Act that will streamline the administration and enhance the integrity of Federal student assistance programs. Such recommendations shall be submitted to the authorizing committees.

(b) REGULATORY IMPROVEMENT AND STREAMLINING EXPERIMENTS.—

(1) IN GENERAL.—The Secretary shall continue the voluntary participation of any experimental sites in existence as of July 1, 2007, unless the Secretary determines that such site's participation has not been successful in carrying out the purposes of this section. Any experimental sites approved by the Secretary prior to such date that have not been successful in carrying out the purposes of this section shall be discontinued not later than June 30, 2010.

(2) REPORT.—The Secretary shall review and evaluate the experience of institutions participating as experimental sites and shall, on a biennial basis, submit a report based on the review and evaluation to the authorizing committees. Such report shall include—

(A) a list of participating institutions and the specific statutory or regulatory waivers granted to each institution;

(B) the findings and conclusions reached regarding each of the experiments conducted; and

(C) recommendations for amendments to improve and streamline this Act, based on the results of the experiment.

(3) SELECTION.—

(A) IN GENERAL.—The Secretary is authorized to periodically select a limited number of additional institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

(B) WAIVERS.—The Secretary is authorized to waive, for any institution participating as an experimental site under subparagraph (A), any requirements in this title, including requirements related to the award process and disbursement of student financial aid (such as innovative delivery systems for modular or compressed courses, or other innovative systems), verification of student financial aid application data, entrance and exit interviews, or other management procedures or processes as determined in the negotiated rulemaking process under section 492, or regulations prescribed under this title, that will bias the results of the experiment, except that the Secretary shall not waive any provisions with respect to award rules (other than an award rule related to an experiment in modular or compressed schedules), grant and loan maximum award amounts, and need analysis requirements unless the waiver of such provisions is authorized by another provision under this title.

(4) DETERMINATION OF SUCCESS.—For the purposes of paragraph (1), the Secretary shall make a determination of success regarding an institution's participation as an experimental site based on—

(A) the ability of the experimental site to reduce administrative burdens to the institution, as documented in the Secretary's biennial report under paragraph (2), without creating costs for the taxpayer; and

(B) whether the experimental site has improved the delivery of services to, or otherwise benefitted, students.

(c) DEFINITIONS.—For purposes of this section, the term "current award year" means the award year during which the participating institution indicates the institution's intention to cease participation.

SEC. 487B. [20 U.S.C. 1094b] ASSIGNMENT OF IDENTIFICATION NUMBERS.

The Secretary shall assign to each participant in title IV programs, including institutions, lenders, and guaranty agencies, a single Department of Education identification number to be used to identify its participation in each of the title IV programs.

SEC. 488. [20 U.S.C. 1095] TRANSFER OF ALLOTMENTS.

In order to offer an arrangement of types of aid, including institutional and State aid which best fits the needs of each individual student, an institution may (1) transfer a total of 25 percent of the institutions allotment under section 462 to the institution's allotment under section 413D or 442 (or both); (2) transfer 25 percent of the institution's allotment under section 442 to the institution's allotment under section 413D or 462 (or both); and (3) transfer 25 percent of the institution's allotment under section 413D to the institution's allotment under section 442. Funds transferred to an institution's allotment under another section may be used as a part of and for the same purposes as funds allotted under that section. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

SEC. 488A. [20 U.S.C. 1095a] WAGE GARNISHMENT REQUIREMENT.

(a) GARNISHMENT REQUIREMENTS.—Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this title that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B on which the guaranty agency received reimbursement from the Secretary under section 428(c), with the guaranty agency holding the loan, as appropriate, provided that—

(1) the amount deducted for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph;

(7) if an individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of such individual until such individual has been reemployed continuously for at least 12 months; and

(8) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(b) HEARING REQUIREMENTS.—A hearing described in subsection (a)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2), and in accordance with such procedures as the Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(c) NOTICE REQUIREMENTS.—The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(d) NO ATTACHMENT OF STUDENT ASSISTANCE.—Except as authorized in this section, notwithstanding any other provision of Federal or State law, no grant, loan, or work assistance awarded under this title, or property traceable to such assistance, shall be subject to garnishment or attachment in order to satisfy any debt owed by the student awarded such assistance, other than a debt owed to the Secretary and arising under this title.

(e) DEFINITION.—For the purpose of this section, the term "disposable pay" means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by law to be withheld.

SEC. 489. [20 U.S.C. 1096] ADMINISTRATIVE EXPENSES.

(a) AMOUNT OF PAYMENTS.—From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 3 of part A or part C, of this title or under part E of this title shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first $2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 percent of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 3 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E, excluding the principal amount of any such loans which the institution has referred under section 463(a)(4)(B). In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 484(g).

(b) PURPOSE OF PAYMENTS.—(1) The sums paid to institutions under this part are for the sole purpose of administering the programs described in subsection (a).

(2) If the institution enrolls a significant number of students who are (A) attending the institution less than full time, or (B) independent students, the institution shall use a reasonable proportion of the funds available under this section for financial aid services during times and in places that will most effectively accommodate the needs of such students.

SEC. 490. [20 U.S.C. 1097] CRIMINAL PENALTIES.

(a) IN GENERAL.—Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under this title or attempts to so embezzle, misapply, steal,

obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed $200, then the fine shall not be more than $5,000 and imprisonment shall not exceed one year, or both.

(b) ASSIGNMENT OF LOANS.—Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) INDUCEMENTS TO LEND OR ASSIGN.—Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(d) OBSTRUCTION OF JUSTICE.—Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $20,000 or imprisoned not more than 5 years, or both.

SEC. 490A. [20 U.S.C. 1097a] ADMINISTRATIVE SUBPOENAS.

(a) AUTHORITY.—To assist the Secretary in the conduct of investigations of possible violations of the provisions of this title, the Secretary is authorized to require by subpoena the production of information, documents, reports, answers, records, accounts, papers, and other documentary evidence pertaining to participation in any program under this title. The production of any such records may be required from any place in a State.

(b) ENFORCEMENT.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States where such person resides or transacts business for a court order for the enforcement of this section.

SEC. 491. [20 U.S.C. 1098] ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

(a) ESTABLISHMENT AND PURPOSE.—(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the "Advisory Committee") which shall provide advice and counsel to the authorizing committees and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms;

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students;

(D)[65] to provide knowledge and understanding of early intervention programs, and to make recommendations that will result in early awareness by low- and moderate-income students and families—

(i) of their eligibility for assistance under this title; and

(ii) to the extent practicable, of their eligibility for other forms of State and institutional need-based student assistance;

(E)[65] to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions of higher education, and private entities to increase the awareness and the total amount of need-based student assistance available to low- and moderate-income students; and

(F)[65] to collect information on Federal regulations, and on the impact of Federal regulations on student financial assistance and on the cost of receiving a postsecondary education, and to make recommendations to help streamline the regulations for institutions of higher education from all sectors.

(b) INDEPENDENCE OF ADVISORY COMMITTEE.—In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations, expenditures and staffing levels, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures. Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the authorizing committees in accordance with subsection (f). The Secretary's authority to terminate advisory committees of the Department pursuant to section 448(b) of the General Education Provisions Act ceased to be effective on June 23, 1983.

[65] Margin so in law.

(c) MEMBERSHIP.—(1) The Advisory Committee shall consist of 11 members appointed as follows:

(A) Four members shall be appointed by the President pro tempore of the Senate, of whom two members shall be appointed from recommendations by the Majority Leader of the Senate, and two members shall be appointed from recommendations by the Minority Leader of the Senate.

(B) Four members shall be appointed by the Speaker of the House of Representatives, of whom two members shall be appointed from recommendations by the Majority Leader of the House of Representatives, and two members shall be appointed from recommendations by the Minority Leader of the House of Representatives.

(C) Three members shall be appointed by the Secretary, of whom at least one member shall be a student.

(2) Each member of the Advisory Committee, with the exception of a student member, shall be appointed on the basis of technical qualifications, professional experience, and demonstrated knowledge in the fields of higher education, student financial aid, financing post-secondary education, and the operations and financing of student loan guarantee agencies.

(3) The appointment of a member under subparagraph (A) or (B) of paragraph (1) shall be effective upon publication of such appointment in the Congressional Record.

(d) FUNCTIONS OF THE COMMITTEE.—The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under part F of this title;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this title and assist the Department of Education in improving the delivery of student aid;

(4) assess the impact of legislative and administrative policy proposals;

(5) review and comment upon, prior to promulgation, all regulations affecting programs under this title, including proposed regulations;

(6) recommend to the authorizing committees and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met;

(7) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs;

(8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs;

(9) provide an annual report to the authorizing committees that provides analyses and policy recommendations regarding—

(A) the adequacy of need-based grant aid for low- and moderate-income students; and

(B) the postsecondary enrollment and graduation rates of low- and moderate-income students;

(10) develop and maintain an information clearinghouse to help institutions of higher education understand the regulatory impact of the Federal Government on institutions of higher education from all sectors, in order to raise awareness of institutional legal obligations and provide information to improve compliance with, and to reduce the duplication and inefficiency of, Federal regulations; and

(11) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.

(e) OPERATIONS OF THE COMMITTEE.—(1) Each member of the Advisory Committee shall be appointed for a term of 4 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee serving on the date of enactment of the Higher Education Opportunity Act shall be permitted to serve the duration of the member's term, regardless of whether the member was previously appointed to more than one term.

(3) No officers or full-time employees of the Federal Government shall serve as members of the Advisory Committee.

(4) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(5) Six members of the Advisory Committee shall constitute a quorum.

(6) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) SUBMISSION TO DEPARTMENT FOR COMMENT.—The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) COMPENSATION AND EXPENSES.—Members of the Advisory Committee may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(h) PERSONNEL AND RESOURCES.—(1) The Advisory Committee may appoint such personnel as may be determined necessary by the Chairman without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the Gen-

eral Schedule. The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5, United States Code. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.

(2) In carrying out its duties under the Act, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants without regard to section 3109 of title 5, United States Code and to set pay in accordance with such section.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) AVAILABILITY OF FUNDS.—In each fiscal year not less than $800,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(j) SPECIAL ANALYSES AND ACTIVITIES.—The Advisory Committee shall—

(1) monitor and evaluate the modernization of student financial aid systems and delivery processes and simplifications, including recommendations for improvement;

(2) assess the adequacy of current methods for disseminating information about programs under this title and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students;

(3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this title, as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation;

(4) conduct a review and analysis of regulations in accordance with subsection (l); and

(5) conduct a study in accordance with subsection (m).

(k) TERM OF THE COMMITTEE.—Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 2015.

(l) REVIEW AND ANALYSIS OF REGULATIONS.—

(1) RECOMMENDATIONS.—The Advisory Committee shall make recommendations to the Secretary and the authorizing committees for consideration of future legislative action regarding redundant or outdated regulations consistent with the Secretary's requirements under section 498B.

(2) REVIEW AND ANALYSIS OF REGULATIONS.—

(A) REVIEW OF CURRENT REGULATIONS.—To meet the requirements of subsection (d)(10), the Advisory Committee shall conduct a review and analysis of the regulations issued by Federal agencies that are in effect at the time of the review and that apply to the operations or activities of institutions of higher education from all sectors. The review and analysis may include a determination of whether the regulation is duplicative, is no longer necessary, is inconsistent with other Federal requirements, or is overly burdensome. In conducting the review, the Advisory Committee shall pay specific attention to evaluating ways in which regulations under this title affecting institutions of higher education (other than institutions described in section 102(a)(1)(C)), that have received in each of the two most recent award years prior to the date of enactment of the Higher Education Opportunity Act less than $200,000 in funds through this title, may be improved, streamlined, or eliminated.

(B) REVIEW AND COLLECTION OF FUTURE REGULATIONS.—The Advisory Committee shall—

(i) monitor all Federal regulations, including notices of proposed rulemaking, for their impact or potential impact on higher education; and

(ii) provide a succinct description of each regulation or proposed regulation that is generally relevant to institutions of higher education from all sectors.

(C) MAINTENANCE OF PUBLIC WEBSITE.—The Advisory Committee shall develop and maintain an easy to use, searchable, and regularly updated website that—

(i) provides information collected in subparagraph (B);

(ii) provides an area for the experts and members of the public to provide recommendations for ways in which the regulations may be streamlined; and

(iii) publishes the study conducted by the National Research Council of the National Academy of Sciences under section 1106 of the Higher Education Opportunity Act.

(3) CONSULTATION.—

(A) IN GENERAL.—In carrying out the review, analysis, and development of the website required under paragraph (2), the Advisory Committee shall consult with the Secretary, other Federal agencies, relevant representatives of institutions of higher education, individuals who have expertise and experience with Federal regulations, and the review panels described in subparagraph (B).

(B) REVIEW PANELS.—The Advisory Committee shall convene not less than two review panels of representatives of the groups involved in higher education, including individuals involved in student financial assistance programs under this title, who have experience and expertise in the regulations issued by the Federal Government that affect all sectors of higher education, in order to review the regulations and to provide recommendations to the Advisory Committee with respect to the review and analysis under paragraph (2). The panels shall be made up of experts in areas such as the operations of the financial assistance programs, the institutional eligibility requirements for the financial assistance programs, regulations not directly related to the operations or the institutional eligibility requirements of the financial assistance programs, and regulations for dissemination of information to students about the financial assistance programs.

(4) PERIODIC UPDATES TO THE AUTHORIZING COMMITTEES.—The Advisory Committee shall—

(A) submit, not later than two years after the completion of the negotiated rulemaking process required under section 492 resulting from the amendments to this Act made by the Higher Education Opportunity Act, a report to the authorizing committees and the Secretary detailing the review panels' findings and recommendations with respect to the review of regulations; and

(B) provide periodic updates to the authorizing committees regarding—

(i) the impact of all Federal regulations on all sectors of higher education; and

(ii) suggestions provided through the website for streamlining or eliminating duplicative regulations.

(5) ADDITIONAL SUPPORT.—The Secretary and the Inspector General of the Department shall provide such assistance and resources to the Advisory Committee as the Secretary and Inspector General determine are necessary to conduct the review and analysis required by this subsection.

(m) STUDY OF INNOVATIVE PATHWAYS TO BACCALAUREATE DEGREE ATTAINMENT.—

(1) STUDY REQUIRED.—The Advisory Committee shall conduct a study of the feasibility of increasing baccalaureate degree attainment rates by reducing the costs and financial barriers to attaining a baccalaureate degree through innovative programs.

(2) SCOPE OF STUDY.—The Advisory Committee shall examine new and existing programs that promote baccalaureate degree attainment through innovative ways, such as dual or

concurrent enrollment programs, changes made to the Federal Pell Grant program, simplification of the needs analysis process, compressed or modular scheduling, articulation agreements, and programs that allow two-year institutions of higher education to offer baccalaureate degrees.

(3) REQUIRED ASPECTS OF THE STUDY.—In performing the study described in this subsection, the Advisory Committee shall examine the following aspects of such innovative programs:

(A) The impact of such programs on baccalaureate attainment rates.

(B) The degree to which a student's total cost of attaining a baccalaureate degree can be reduced by such programs.

(C) The ways in which low- and moderate-income students can be specifically targeted by such programs.

(D) The ways in which nontraditional students can be specifically targeted by such programs.

(E) The cost-effectiveness for the Federal Government, States, and institutions of higher education to implement such programs.

(4) CONSULTATION.—

(A) IN GENERAL.—In performing the study described in this subsection, the Advisory Committee shall consult with a broad range of interested parties in higher education, including parents, students, appropriate representatives of secondary schools and institutions of higher education, appropriate State administrators, administrators of dual or concurrent enrollment programs, and appropriate Department officials.

(B) CONSULTATION WITH THE AUTHORIZING COMMITTEES.—The Advisory Committee shall consult on a regular basis with the authorizing committees in carrying out the study required by this subsection.

(5) REPORTS TO AUTHORIZING COMMITTEES.—

(A) INTERIM REPORT.—The Advisory Committee shall prepare and submit to the authorizing committees and the Secretary an interim report, not later than one year after the date of enactment of the Higher Education Opportunity Act, describing the progress made in conducting the study required by this subsection and any preliminary findings on the topics identified under paragraph (2).

(B) FINAL REPORT.—The Advisory Committee shall, not later than three years after the date of enactment of the Higher Education Opportunity Act, prepare and submit to the authorizing committees and the Secretary a final report on the study, including recommendations for legislative, regulatory, and administrative changes based on findings related to the topics identified under paragraph (2).

SEC. 492. [20 U.S.C. 1098a] REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

(a) MEETINGS.—

(1) IN GENERAL.—The Secretary shall obtain public involvement in the development of proposed regulations for this title. The Secretary shall obtain the advice of and recommendations from individuals and representatives of the groups involved in student financial assistance programs under this title, such as students, legal assistance organizations that represent students, institutions of higher education, State student grant agencies, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

(2) ISSUES.—The Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of this title through such mechanisms as regional meetings and electronic exchanges of information. The Secretary shall take into account the information received through such mechanisms in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

(b) DRAFT REGULATIONS.—

(1) IN GENERAL.—After obtaining the advice and recommendations described in subsection (a)(1) and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing this title and shall submit such regulations to a negotiated rulemaking process. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups described in subsection (a)(1), and shall include both representatives of such groups from Washington, D.C., and industry participants. The Secretary shall select individuals with demonstrated expertise or experience in the relevant subjects under negotiation, reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 360-day period described in section 437(e) of the General Education Provisions Act.

(2) EXPANSION OF NEGOTIATED RULEMAKING.—All regulations pertaining to this title that are promulgated after the date of enactment of this paragraph shall be subject to a negotiated rulemaking (including the selection of the issues to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5, United States Code), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of para-

graph (1), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiations process is maintained.

(c) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to activities carried out under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section, except that if no funds are appropriated pursuant to this subsection, the Secretary shall make funds available to carry out this section from amounts appropriated for the operations and expenses of the Department of Education.

SEC. 493. [20 U.S.C. 1098b] AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES.

There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this title, including expenses for staff personnel, program reviews, and compliance activities.

[Section 493A repealed by section 494E of P.L. 110–315]

SEC. 493B. [20 U.S.C. 1098d] PROCEDURES FOR CANCELLATIONS AND DEFERMENTS FOR ELIGIBLE DISABLED VETERANS.

The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a procedure to permit Department of Veterans Affairs physicians to provide the certifications and affidavits needed to enable disabled veterans enrolled in the Department of Veterans Affairs health care system to document such veterans' eligibility for deferments or cancellations of student loans made, insured, or guaranteed under this title. Not later than 6 months after the date of enactment of the Higher Education Amendments of 1998, the Secretary and the Secretary of Veterans Affairs jointly shall report to Congress on the progress made in developing and implementing the procedure.

SEC. 493C. [20 U.S.C. 1098e] INCOME-BASED REPAYMENT.

(a) DEFINITIONS.—In this section:

(1) EXCEPTED PLUS LOAN.—The term "excepted PLUS loan" means a loan under section 428B, or a Federal Direct PLUS Loan, that is made, insured, or guaranteed on behalf of a dependent student.

(2) EXCEPTED CONSOLIDATION LOAN.—The term "excepted consolidation loan" means a consolidation loan under section 428C, or a Federal Direct Consolidation Loan, if the proceeds of such loan were used to the discharge the liability on an excepted PLUS loan.

(3) PARTIAL FINANCIAL HARDSHIP.—The term "partial financial hardship", when used with respect to a borrower, means that for such borrower—

(A) the annual amount due on the total amount of loans made, insured, or guaranteed under part B or D (other than an excepted PLUS loan or excepted consolidation loan) to a borrower as calculated under the standard

repayment plan under section 428(b)(9)(A)(i) or 455(d)(1)(A), based on a 10-year repayment period; exceeds

(B) 15 percent of the result obtained by calculating, on at least an annual basis, the amount by which—

(i) the borrower's, and the borrower's spouse's (if applicable), adjusted gross income; exceeds

(ii) 150 percent of the poverty line applicable to the borrower's family size as determined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(b) INCOME-BASED REPAYMENT PROGRAM AUTHORIZED.—Notwithstanding any other provision of this Act, the Secretary shall carry out a program under which—

(1) a borrower of any loan made, insured, or guaranteed under part B or D (other than an excepted PLUS loan or excepted consolidation loan) who has a partial financial hardship (whether or not the borrower's loan has been submitted to a guaranty agency for default aversion or had been in default) may elect, during any period the borrower has the partial financial hardship, to have the borrower's aggregate monthly payment for all such loans not exceed the result described in subsection (a)(3)(B) divided by 12;

(2) the holder of such a loan shall apply the borrower's monthly payment under this subsection first toward interest due on the loan, next toward any fees due on the loan, and then toward the principal of the loan;

(3) any interest due and not paid under paragraph (2)—

(A) shall, on subsidized loans, be paid by the Secretary for a period of not more than 3 years after the date of the borrower's election under paragraph (1), except that such period shall not include any period during which the borrower is in deferment due to an economic hardship described in section 435(o); and

(B) be capitalized—

(i) in the case of a subsidized loan, subject to subparagraph (A), at the time the borrower—

(I) ends the election to make income-based repayment under this subsection; or

(II) begins making payments of not less than the amount specified in paragraph (6)(A); or

(ii) in the case of an unsubsidized loan, at the time the borrower—

(I) ends the election to make income-based repayment under this subsection; or

(II) begins making payments of not less than the amount specified in paragraph (6)(A);

(4) any principal due and not paid under paragraph (2) shall be deferred;

(5) the amount of time the borrower makes monthly payments under paragraph (1) may exceed 10 years;

(6) if the borrower no longer has a partial financial hardship or no longer wishes to continue the election under this subsection, then—

(A) the maximum monthly payment required to be paid for all loans made to the borrower under part B or D (other than an excepted PLUS loan or excepted consolidation loan) shall not exceed the monthly amount calculated under section 428(b)(9)(A)(i) or 455(d)(1)(A), based on a 10-year repayment period, when the borrower first made the election described in this subsection; and

(B) the amount of time the borrower is permitted to repay such loans may exceed 10 years;

(7) the Secretary shall repay or cancel any outstanding balance of principal and interest due on all loans made under part B or D (other than a loan under section 428B or a Federal Direct PLUS Loan) to a borrower who—

(A) at any time, elected to participate in income-based repayment under paragraph (1); and

(B) for a period of time prescribed by the Secretary, not to exceed 25 years, meets 1 or more of the following requirements—

(i) has made reduced monthly payments under paragraph (1) or paragraph (6);

(ii) has made monthly payments of not less than the monthly amount calculated under section 428(b)(9)(A)(i) or 455(d)(1)(A), based on a 10-year repayment period, when the borrower first made the election described in this subsection;

(iii) has made payments of not less than the payments required under a standard repayment plan under section 428(b)(9)(A)(i) or 455(d)(1)(A) with a repayment period of 10 years;

(iv) has made payments under an income-contingent repayment plan under section 455(d)(1)(D); or

(v) has been in deferment due to an economic hardship described in section 435(o);

(8) a borrower who is repaying a loan made under part B or D pursuant to income-based repayment may elect, at any time, to terminate repayment pursuant to income-based repayment and repay such loan under the standard repayment plan; and

(9) the special allowance payment to a lender calculated under section 438(b)(2)(I), when calculated for a loan in repayment under this section, shall be calculated on the principal balance of the loan and on any accrued interest unpaid by the borrower in accordance with this section.

(c) ELIGIBILITY DETERMINATIONS.—The Secretary shall establish procedures for annually determining the borrower's eligibility for income-based repayment, including verification of a borrower's annual income and the annual amount due on the total amount of loans made, insured, or guaranteed under part B or D (other than an excepted PLUS loan or excepted consolidation loan), and such other procedures as are necessary to effectively implement income-based repayment under this section. The Secretary shall consider, but is not limited to, the procedures established in accordance with section 455(e)(1) or in connection with income sensitive repayment schedules under section 428(b)(9)(A)(iii) or 428C(b)(1)(E).

(d) SPECIAL RULE FOR MARRIED BORROWERS FILING SEPARATELY.—In the case of a married borrower who files a separate Federal income tax return, the Secretary shall calculate the amount of the borrower's income-based repayment under this section solely on the basis of the borrower's student loan debt and adjusted gross income.

(e) SPECIAL TERMS FOR NEW BORROWERS ON AND AFTER JULY 1, 2014.—With respect to any loan made to a new borrower on or after July 1, 2014—

(1) subsection (a)(3)(B) shall be applied by substituting "10 percent" for "15 percent"; and

(2) subsection (b)(7)(B) shall be applied by substituting "20 years" for "25 years".

SEC. 493D. [20 U.S.C. 1098f] DEFERRAL OF LOAN REPAYMENT FOLLOWING ACTIVE DUTY.

(a) DEFERRAL OF LOAN REPAYMENT FOLLOWING ACTIVE DUTY.—In addition to any deferral of repayment of a loan made under this title pursuant to section 428(b)(1)(M)(iii), 455(f)(2)(C), or 464(c)(2)(A)(iii), a borrower of a loan under this title who is a member of the National Guard or other reserve component of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, is called or ordered to active duty, and is enrolled, or was enrolled within six months prior to the activation, in a program of instruction at an eligible institution, shall be eligible for a deferment during the 13 months following the conclusion of such service, except that a deferment under this subsection shall expire upon the borrower's return to enrolled student status.

(b) ACTIVE DUTY.—Notwithstanding section 481(d), in this section, the term "active duty" has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term—

(1) does not include active duty for training or attendance at a service school; but

(2) includes, in the case of members of the National Guard, active State duty.

PART H—PROGRAM INTEGRITY

Subpart 1—State Role

SEC. 495. [20 U.S.C. 1099a] STATE RESPONSIBILITIES.

(a) STATE RESPONSIBILITIES.—As part of the integrity program authorized by this part, each State, through one State agency or several State agencies selected by the State, shall—

(1) furnish the Secretary, upon request, information with respect to the process for licensing or other authorization for institutions of higher education to operate within the State;

(2) notify the Secretary promptly whenever the State revokes a license or other authority to operate an institution of higher education; and

(3) notify the Secretary promptly whenever the State has credible evidence that an institution of higher education within the State—

(A) has committed fraud in the administration of the student assistance programs authorized by this title; or

(B) has substantially violated a provision of this title.

(b) INSTITUTIONAL RESPONSIBILITY.—Each institution of higher education shall provide evidence to the Secretary that the institution has authority to operate within a State at the time the institution is certified under subpart 3.

Subpart 2—Accrediting Agency Recognition

SEC. 496. [20 U.S.C. 1099b] RECOGNITION OF ACCREDITING AGENCY OR ASSOCIATION.

(a) CRITERIA REQUIRED.—No accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality of education or training offered for the purposes of this Act or for other Federal purposes, unless the agency or association meets criteria established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a hearing, establish criteria for such determinations. Such criteria shall include an appropriate measure or measures of student achievement. Such criteria shall require that—

(1) the accrediting agency or association shall be a State, regional, or national agency or association and shall demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region, or nationally, as appropriate;

(2) such agency or association—

(A)(i) for the purpose of participation in programs under this Act, has a voluntary membership of institutions of higher education and has as a principal purpose the accrediting of institutions of higher education; or

(ii) for the purpose of participation in other programs administered by the Department of Education or other Federal agencies, has a voluntary membership and has as its principal purpose the accrediting of institutions of higher education or programs;

(B) is a State agency approved by the Secretary for the purpose described in subparagraph (A); or

(C) is an agency or association that, for the purpose of determining eligibility for student assistance under this title, conducts accreditation through (i) a voluntary membership organization of individuals participating in a profession, or (ii) an agency or association which has as its principal purpose the accreditation of programs within institutions, which institutions are accredited by another agency or association recognized by the Secretary;

(3) if such agency or association is an agency or association described in—

(A) subparagraph (A)(i) of paragraph (2), then such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization;

(B) subparagraph (B) of paragraph (2), then such agency or association has been recognized by the Secretary on or before October 1, 1991; or

(C) subparagraph (C) of paragraph (2) and such agency or association has been recognized by the Secretary on or before October 1, 1991, then the Secretary may waive the requirement that such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization upon a demonstration that the existing relationship has not served to compromise the independence of its accreditation process;

(4)(A) such agency or association consistently applies and enforces standards that respect the stated mission of the institution of higher education, including religious missions, and that ensure that the courses or programs of instruction, training, or study offered by the institution of higher education, including distance education or correspondence courses or programs, are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered; and

(B) if such agency or association has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education or correspondence education, such agency or association shall, in addition to meeting the other requirements of this subpart, demonstrate to the Secretary that—

(i) the agency or association's standards effectively address the quality of an institution's distance education or correspondence education in the areas identified in paragraph (5), except that—

(I) the agency or association shall not be required to have separate standards, procedures, or policies for the evaluation of distance education or correspondence education institutions or programs in order to meet the requirements of this subparagraph; and

(II) in the case that the agency or association is recognized by the Secretary, the agency or association shall not be required to obtain the approval of the Secretary to expand its scope of accreditation to include distance education or correspondence education, provided that the agency or association notifies the Secretary in writing of the change in scope; and

(ii) the agency or association requires an institution that offers distance education or correspondence education to have processes through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the program and receives the academic credit;

(5) the standards for accreditation of the agency or association assess the institution's—

(A) success with respect to student achievement in relation to the institution's mission, which may include dif-

ferent standards for different institutions or programs, as established by the institution, including, as appropriate, consideration of State licensing examinations, consideration of course completion, and job placement rates;

(B) curricula;

(C) faculty;

(D) facilities, equipment, and supplies;

(E) fiscal and administrative capacity as appropriate to the specified scale of operations;

(F) student support services;

(G) recruiting and admissions practices, academic calendars, catalogs, publications, grading and advertising;

(H) measures of program length and the objectives of the degrees or credentials offered;

(I) record of student complaints received by, or available to, the agency or association; and

(J) record of compliance with its program responsibilities under title IV of this Act based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and any such other information as the Secretary may provide to the agency or association;

except that subparagraphs (A), (H), and (J) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;

(6) such an agency or association shall establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings, which comply with due process procedures that provide—

(A) for adequate written specification of—

(i) requirements, including clear standards for an institution of higher education or program to be accredited; and

(ii) identified deficiencies at the institution or program examined;

(B) for sufficient opportunity for a written response, by an institution or program, regarding any deficiencies identified by the agency or association to be considered by the agency or association—

(i) within a timeframe determined by the agency or association; and

(ii) prior to final action in the evaluation and withdrawal proceedings;

(C) upon the written request of an institution or program, for an opportunity for the institution or program to appeal any adverse action under this section, including denial, withdrawal, suspension, or termination of accreditation, taken against the institution or program, prior to such action becoming final at a hearing before an appeals panel that—

(i) shall not include current members of the agency's or association's underlying decisionmaking body that made the adverse decision; and

(ii) is subject to a conflict of interest policy;

(D) for the right to representation and participation by counsel for an institution or program during an appeal of the adverse action;

(E) for a process, in accordance with written procedures developed by the agency or association, through which an institution or program, before a final adverse action based solely upon a failure to meet a standard or criterion pertaining to finances, may on one occasion seek review of significant financial information that was unavailable to the institution or program prior to the determination of the adverse action, and that bears materially on the financial deficiencies identified by the agency or association;

(F) in the case that the agency or association determines that the new financial information submitted by the institution or program under subparagraph (E) meets the criteria of significance and materiality described in such subparagraph, for consideration by the agency or association of the new financial information prior to the adverse action described in such subparagraph becoming final; and

(G) that any determination by the agency or association made with respect to the new financial information described in subparagraph (E) shall not be separately appealable by the institution or program;

(7) such agency or association shall notify the Secretary and the appropriate State licensing or authorizing agency within 30 days of the accreditation of an institution or any final denial, withdrawal, suspension, or termination of accreditation or placement on probation of an institution, together with any other adverse action taken with respect to an institution; and

(8) such agency or association shall make available to the public, upon request, and to the Secretary, and the State licensing or authorizing agency a summary of any review resulting in a final accrediting decision involving denial, termination, or suspension of accreditation, together with the comments of the affected institution.

(b) SEPARATE AND INDEPENDENT DEFINED.—For the purpose of subsection (a)(3), the term "separate and independent" means that—

(1) the members of the postsecondary education governing body of the accrediting agency or association are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization;

(2) among the membership of the board of the accrediting agency or association there shall be one public member (who is not a member of any related trade or membership organization) for each six members of the board, with a minimum of one such public member, and guidelines are established for such members to avoid conflicts of interest;

(3) dues to the accrediting agency or association are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and

(4) the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.

(c) OPERATING PROCEDURES REQUIRED.—No accrediting agency or association may be recognized by the Secretary as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this title, unless the agency or association—

(1) performs, at regularly established intervals, on-site inspections and reviews of institutions of higher education (which may include unannounced site visits) with particular focus on educational quality and program effectiveness, and ensures that accreditation team members are well-trained and knowledgeable with respect to their responsibilities, including those regarding distance education;

(2) monitors the growth of programs at institutions that are experiencing significant enrollment growth;

(3) requires an institution to submit for approval to the accrediting agency a teach-out plan upon the occurrence of any of the following events:

(A) the Department notifies the accrediting agency of an action against the institution pursuant to section 487(f);

(B) the accrediting agency acts to withdraw, terminate, or suspend the accreditation of the institution; or

(C) the institution notifies the accrediting agency that the institution intends to cease operations;

(4) requires that any institution of higher education subject to its jurisdiction which plans to establish a branch campus submit a business plan, including projected revenues and expenditures, prior to opening the branch campus;

(5) agrees to conduct, as soon as practicable, but within a period of not more than 6 months of the establishment of a new branch campus or a change of ownership of an institution of higher education, an on-site visit of that branch campus or of the institution after a change of ownership;

(6) requires that teach-out agreements among institutions are subject to approval by the accrediting agency or association consistent with standards promulgated by such agency or association;

(7) makes available to the public and the State licensing or authorizing agency, and submits to the Secretary, a summary of agency or association actions, including—

(A) the award of accreditation or reaccreditation of an institution;

(B) final denial, withdrawal, suspension, or termination of accreditation of an institution, and any findings made in connection with the action taken, together with the official comments of the affected institution; and

(C) any other adverse action taken with respect to an institution or placement on probation of an institution;

(8) discloses publicly whenever an institution of higher education subject to its jurisdiction is being considered for accreditation or reaccreditation; and

(9) confirms, as a part of the agency's or association's review for accreditation or reaccreditation, that the institution has transfer of credit policies—

(A) that are publicly disclosed; and

(B) that include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.

(d) LENGTH OF RECOGNITION.—No accrediting agency or association may be recognized by the Secretary for the purpose of this Act for a period of more than 5 years.

(e) INITIAL ARBITRATION RULE.—The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

(f) JURISDICTION.—Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association recognized by the Secretary for the purpose of this title and involving the denial, withdrawal, or termination of accreditation of the institution of higher education, shall be brought in the appropriate United States district court.

(g) LIMITATION ON SCOPE OF CRITERIA.—Nothing in this Act shall be construed to permit the Secretary to establish criteria for accrediting agencies or associations that are not required by this section. Nothing in this Act shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section. Nothing in this section shall be construed to permit the Secretary to establish any criteria that specifies, defines, or prescribes the standards that accrediting agencies or associations shall use to assess any institution's success with respect to student achievement.

(h) CHANGE OF ACCREDITING AGENCY.—The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.

(i) DUAL ACCREDITATION RULE.—The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is accredited, as an institution, by more than one accrediting agency or association, unless the institution submits to each such agency and association and to the Secretary the reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association. If the institution is accredited, as an institution, by more than one accrediting agency or association, the institution shall designate which agency's accreditation shall be utilized in determining the institution's eligibility for programs under this Act.

(j) IMPACT OF LOSS OF ACCREDITATION.—An institution may not be certified or recertified as an institution of higher education

under section 102 and subpart 3 of this part or participate in any of the other programs authorized by this Act if such institution—

(1) is not currently accredited by any agency or association recognized by the Secretary;

(2) has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency; or

(3) has withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months, unless such order has been rescinded by the same accrediting agency.

(k) RELIGIOUS INSTITUTION RULE.—Notwithstanding subsection (j), the Secretary shall allow an institution that has had its accreditation withdrawn, revoked, or otherwise terminated, or has voluntarily withdrawn from an accreditation agency, to remain certified as an institution of higher education under section 102 and subpart 3 of this part for a period sufficient to allow such institution to obtain alternative accreditation, if the Secretary determines that the reason for the withdrawal, revocation, or termination—

(1) is related to the religious mission or affiliation of the institution; and

(2) is not related to the accreditation criteria provided for in this section.

(l) LIMITATION, SUSPENSION, OR TERMINATION OF RECOGNITION.—(1) If the Secretary determines that an accrediting agency or association has failed to apply effectively the criteria in this section, or is otherwise not in compliance with the requirements of this section, the Secretary shall—

(A) after notice and opportunity for a hearing, limit, suspend, or terminate the recognition of the agency or association; or

(B) require the agency or association to take appropriate action to bring the agency or association into compliance with such requirements within a timeframe specified by the Secretary, except that—

(i) such timeframe shall not exceed 12 months unless the Secretary extends such period for good cause; and

(ii) if the agency or association fails to bring the agency or association into compliance within such timeframe, the Secretary shall, after notice and opportunity for a hearing, limit, suspend, or terminate the recognition of the agency or association.

(2) The Secretary may determine that an accrediting agency or association has failed to apply effectively the standards provided in this section if an institution of higher education seeks and receives accreditation from the accrediting agency or association during any period in which the institution is the subject of any interim action by another accrediting agency or association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension, revocation, or termination of accreditation or the institution has been notified of the threatened loss of accreditation, and the due process procedures required by such sus-

pension, revocation, termination, or threatened loss have not been completed.

(m) LIMITATION ON THE SECRETARY'S AUTHORITY.—The Secretary may only recognize accrediting agencies or associations which accredit institutions of higher education for the purpose of enabling such institutions to establish eligibility to participate in the programs under this Act or which accredit institutions of higher education or higher education programs for the purpose of enabling them to establish eligibility to participate in other programs administered by the Department of Education or other Federal agencies.

(n) INDEPENDENT EVALUATION.—(1) The Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the criteria established by this section. The Secretary shall conduct an independent evaluation of the information provided by such agency or association. Such evaluation shall include—

(A) the solicitation of third-party information concerning the performance of the accrediting agency or association; and

(B) site visits, including unannounced site visits as appropriate, at accrediting agencies and associations, and, at the Secretary's discretion, at representative member institutions.

(2) The Secretary shall place a priority for review of accrediting agencies or associations on those agencies or associations that accredit institutions of higher education that participate most extensively in the programs authorized by this title and on those agencies or associations which have been the subject of the most complaints or legal actions.

(3) The Secretary shall consider all available relevant information concerning the compliance of the accrediting agency or association with the criteria provided for in this section, including any complaints or legal actions against such agency or association. In cases where deficiencies in the performance of an accreditation agency or association with respect to the requirements of this section are noted, the Secretary shall take these deficiencies into account in the recognition process. The Secretary shall not, under any circumstances, base decisions on the recognition or denial of recognition of accreditation agencies or associations on criteria other than those contained in this section. When the Secretary decides to recognize an accrediting agency or association, the Secretary shall determine the agency or association's scope of recognition. If the agency or association reviews institutions offering distance education courses or programs and the Secretary determines that the agency or association meets the requirements of this section, then the agency shall be recognized and the scope of recognition shall include accreditation of institutions offering distance education courses or programs.

(4) The Secretary shall maintain sufficient documentation to support the conclusions reached in the recognition process, and, if the Secretary does not recognize any accreditation agency or association, shall make publicly available the reason for denying rec-

ognition, including reference to the specific criteria under this section which have not been fulfilled.

(o) REGULATIONS.—The Secretary shall by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions. Notwithstanding any other provision of law, the Secretary shall not promulgate any regulation with respect to the standards of an accreditation agency or association described in subsection (a)(5).

(p) RULE OF CONSTRUCTION.—Nothing in subsection (a)(5) shall be construed to restrict the ability of—

(1) an accrediting agency or association to set, with the involvement of its members, and to apply, accreditation standards for or to institutions or programs that seek review by the agency or association; or

(2) an institution to develop and use institutional standards to show its success with respect to student achievement, which achievement may be considered as part of any accreditation review.

(q) REVIEW OF SCOPE CHANGES.—The Secretary shall require a review, at the next available meeting of the National Advisory Committee on Institutional Quality and Integrity, of any change in scope undertaken by an agency or association under subsection (a)(4)(B)(i)(II) if the enrollment of an institution that offers distance education or correspondence education that is accredited by such agency or association increases by 50 percent or more within any one institutional fiscal year.

Subpart 3—Eligibility and Certification Procedures

SEC. 498. [20 U.S.C. 1099c] ELIGIBILITY AND CERTIFICATION PROCEDURES.

(a) GENERAL REQUIREMENT.—For purposes of qualifying institutions of higher education for participation in programs under this title, the Secretary shall determine the legal authority to operate within a State, the accreditation status, and the administrative capability and financial responsibility of an institution of higher education in accordance with the requirements of this section.

(b) SINGLE APPLICATION FORM.—The Secretary shall prepare and prescribe a single application form which—

(1) requires sufficient information and documentation to determine that the requirements of eligibility, accreditation, financial responsibility, and administrative capability of the institution of higher education are met;

(2) requires a specific description of the relationship between a main campus of an institution of higher education and all of its branches, including a description of the student aid processing that is performed by the main campus and that which is performed at its branches;

(3) requires—

(A) a description of the third party servicers of an institution of higher education; and

(B) the institution to maintain a copy of any contract with a financial aid service provider or loan servicer, and

provide a copy of any such contract to the Secretary upon request;

(4) requires such other information as the Secretary determines will ensure compliance with the requirements of this title with respect to eligibility, accreditation, administrative capability and financial responsibility; and

(5) provides, at the option of the institution, for participation in one or more of the programs under part B or D.

(c) FINANCIAL RESPONSIBILITY STANDARDS.—(1) The Secretary shall determine whether an institution has the financial responsibility required by this title on the basis of whether the institution is able—

(A) to provide the services described in its official publications and statements;

(B) to provide the administrative resources necessary to comply with the requirements of this title; and

(C) to meet all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

(2) Notwithstanding paragraph (1), if an institution fails to meet criteria prescribed by the Secretary regarding ratios that demonstrate financial responsibility, then the institution shall provide the Secretary with satisfactory evidence of its financial responsibility in accordance with paragraph (3). Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for-profit, public, and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.

(3) The Secretary shall determine an institution to be financially responsible, notwithstanding the institution's failure to meet the criteria under paragraphs (1) and (2), if—

(A) such institution submits to the Secretary third-party financial guarantees that the Secretary determines are reasonable, such as performance bonds or letters of credit payable to the Secretary, which third-party financial guarantees shall equal not less than one-half of the annual potential liabilities of such institution to the Secretary for funds under this title, including loan obligations discharged pursuant to section 437, and to students for refunds of institutional charges, including funds under this title;

(B) such institution has its liabilities backed by the full faith and credit of a State, or its equivalent;

(C) such institution establishes to the satisfaction of the Secretary, with the support of a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards, that the institution has sufficient resources to ensure against the precipitous closure of the institution, including the ability to meet all of its financial obligations (including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary); or

(D) such institution has met standards of financial responsibility, prescribed by the Secretary by regulation, that indicate a level of financial strength not less than those required in paragraph (2).

(4) If an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree fails to meet the criteria imposed by the Secretary pursuant to paragraph (2), the Secretary shall waive that particular requirement for that institution if the institution demonstrates to the satisfaction of the Secretary that—

(A) there is no reasonable doubt as to its continued solvency and ability to deliver quality educational services;

(B) it is current in its payment of all current liabilities, including student refunds, repayments to the Secretary, payroll, and payment of trade creditors and withholding taxes; and

(C) it has substantial equity in school-occupied facilities, the acquisition of which was the direct cause of its failure to meet the criteria.

(5) The determination as to whether an institution has met the standards of financial responsibility provided for in paragraphs (2) and (3)(C) shall be based on an audited and certified financial statement of the institution. Such audit shall be conducted by a qualified independent organization or person in accordance with standards established by the American Institute of Certified Public Accountants. Such statement shall be submitted to the Secretary at the time such institution is considered for certification or recertification under this section. If the institution is permitted to be certified (provisionally or otherwise) and such audit does not establish compliance with paragraph (2), the Secretary may require that additional audits be submitted.

(6)(A) The Secretary shall establish requirements for the maintenance by an institution of higher education of sufficient cash reserves to ensure repayment of any required refunds.

(B) The Secretary shall provide for a process under which the Secretary shall exempt an institution of higher education from the requirements described in subparagraph (A) if the Secretary determines that the institution—

(i) is located in a State that has a tuition recovery fund that ensures that the institution meets the requirements of subparagraph (A);

(ii) contributes to the fund; and

(iii) otherwise has legal authority to operate within the State.

(d) ADMINISTRATIVE CAPACITY STANDARD.—The Secretary is authorized—

(1) to establish procedures and requirements relating to the administrative capacities of institutions of higher education, including—

(A) consideration of past performance of institutions or persons in control of such institutions with respect to student aid programs; and

(B) maintenance of records; and

(2) to establish such other reasonable procedures as the Secretary determines will contribute to ensuring that the insti-

tution of higher education will comply with administrative capability required by this title.

(e) FINANCIAL GUARANTEES FROM OWNERS.—(1) Notwithstanding any other provision of law, the Secretary may, to the extent necessary to protect the financial interest of the United States, require—

(A) financial guarantees from an institution participating, or seeking to participate, in a program under this title, or from one or more individuals who the Secretary determines, in accordance with paragraph (2), exercise substantial control over such institution, or both, in an amount determined by the Secretary to be sufficient to satisfy the institution's potential liability to the Federal Government, student assistance recipients, and other program participants for funds under this title; and

(B) the assumption of personal liability, by one or more individuals who exercise substantial control over such institution, as determined by the Secretary in accordance with paragraph (2), for financial losses to the Federal Government, student assistance recipients, and other program participants for funds under this title, and civil and criminal monetary penalties authorized under this title.

(2)(A) The Secretary may determine that an individual exercises substantial control over one or more institutions participating in a program under this title if the Secretary determines that—

(i) the individual directly or indirectly controls a substantial ownership interest in the institution;

(ii) the individual, either alone or together with other individuals, represents, under a voting trust, power of attorney, proxy, or similar agreement, one or more persons who have, individually or in combination with the other persons represented or the individual representing them, a substantial ownership interest in the institution; or

(iii) the individual is a member of the board of directors, the chief executive officer, or other executive officer of the institution or of an entity that holds a substantial ownership interest in the institution.

(B) The Secretary may determine that an entity exercises substantial control over one or more institutions participating in a program under this title if the Secretary determines that the entity directly or indirectly holds a substantial ownership interest in the institution.

(3) For purposes of this subsection, an ownership interest is defined as a share of the legal or beneficial ownership or control of, or a right to share in the proceeds of the operation of, an institution or institution's parent corporation. An ownership interest may include, but is not limited to—

(A) a sole proprietorship;

(B) an interest as a tenant-in-common, joint tenant, or tenant by the entireties;

(C) a partnership; or

(D) an interest in a trust.

(4) The Secretary shall not impose the requirements described in subparagraphs (A) and (B) of paragraph (1) on an institution that—

(A) has not been subjected to a limitation, suspension, or termination action by the Secretary or a guaranty agency within the preceding 5 years;

(B) has not had, during its 2 most recent audits of the institutions conduct of programs under this title, an audit finding that resulted in the institution being required to repay an amount greater than 5 percent of the funds the institution received from programs under this title for any year;

(C) meets and has met, for the preceding 5 years, the financial responsibility standards under subsection (c); and

(D) has not been cited during the preceding 5 years for failure to submit audits required under this title in a timely fashion.

(5) For purposes of section 487(c)(1)(G), this section shall also apply to individuals or organizations that contract with an institution to administer any aspect of an institution's student assistance program under this title.

(6) Notwithstanding any other provision of law, any individual who—

(A) the Secretary determines, in accordance with paragraph (2), exercises substantial control over an institution participating in, or seeking to participate in, a program under this title;

(B) is required to pay, on behalf of a student or borrower, a refund of unearned institutional charges to a lender, or to the Secretary; and

(C) willfully fails to pay such refund or willfully attempts in any manner to evade payment of such refund,

shall, in addition to other penalties provided by law, be liable to the Secretary for the amount of the refund not paid, to the same extent with respect to such refund that such an individual would be liable as a responsible person for a penalty under section 6672(a) of Internal Revenue Code of 1986 with respect to the nonpayment of taxes.[66]

(f) ACTIONS ON APPLICATIONS AND SITE VISITS.—The Secretary shall ensure that prompt action is taken by the Department on any application required under subsection (b). The personnel of the Department of Education may conduct a site visit at each institution before certifying or recertifying its eligibility for purposes of any program under this title. The Secretary shall establish priorities by which institutions are to receive site visits, and shall, to the extent practicable, coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.

(g) TIME LIMITATIONS ON, AND RENEWAL OF, ELIGIBILITY.—

(1) GENERAL RULE.—After the expiration of the certification of any institution under the schedule prescribed under

[66] Section 493(c)(2) of the Higher Education Amendments of 1998 provided that the amendment adding paragraph (6) was effective with respect to any unpaid refunds that were first required to be paid to a lender or to the Secretary on or after 90 days after the date of enactment of that Act.

this section (as this section was in effect prior to the enactment of the Higher Education Act Amendments of 1998), or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this title of each such institution for a period not to exceed 6 years.

(2) NOTIFICATION.—The Secretary shall notify each institution of higher education not later than 6 months prior to the date of the expiration of the institution's certification.

(3) INSTITUTIONS OUTSIDE THE UNITED STATES.—The Secretary shall promulgate regulations regarding the recertification requirements applicable to an institution of higher education outside of the United States that meets the requirements of section 102(a)(1)(C) and received less than $500,000 in funds under part B for the most recent year for which data are available.

(h) PROVISIONAL CERTIFICATION OF INSTITUTIONAL ELIGIBILITY.—(1) Notwithstanding subsections (d) and (g), the Secretary may provisionally certify an institution's eligibility to participate in programs under this title—

(A) for not more than one complete award year in the case of an institution of higher education seeking an initial certification; and

(B) for not more than 3 complete award years if—

(i) the institution's administrative capability and financial responsibility is being determined for the first time;

(ii) there is a complete or partial change of ownership, as defined under subsection (i), of an eligible institution; or

(iii) the Secretary determines that an institution that seeks to renew its certification is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its financial responsibilities under a program participation agreement.

(2) Whenever the Secretary withdraws the recognition of any accrediting agency, an institution of higher education which meets the requirements of accreditation, eligibility, and certification on the day prior to such withdrawal, the Secretary may, notwithstanding the withdrawal, continue the eligibility of the institution of higher education to participate in the programs authorized by this title for a period not to exceed 18 months from the date of the withdrawal of recognition.

(3) If, prior to the end of a period of provisional certification under this subsection, the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary may terminate the institution's participation in programs under this title.

(i) TREATMENT OF CHANGES OF OWNERSHIP.—(1) An eligible institution of higher education that has had a change in ownership resulting in a change of control shall not qualify to participate in programs under this title after the change in control (except as provided in paragraph (3)) unless it establishes that it meets the requirements of section 102 (other than the requirements in sub-

sections (b)(5) and (c)(3)) and this section after such change in control.

(2) An action resulting in a change in control may include (but is not limited to)—

(A) the sale of the institution or the majority of its assets;

(B) the transfer of the controlling interest of stock of the institution or its parent corporation;

(C) the merger of two or more eligible institutions;

(D) the division of one or more institutions into two or more institutions;

(E) the transfer of the controlling interest of stock of the institutions to its parent corporation; or

(F) the transfer of the liabilities of the institution to its parent corporation.

(3) An action that may be treated as not resulting in a change in control includes (but is not limited to)—

(A) the sale or transfer, upon the death of an owner of an institution, of the ownership interest of the deceased in that institution to a family member or to a person holding an ownership interest in that institution; or

(B) another action determined by the Secretary to be a routine business practice.

(4)(A) The Secretary may provisionally certify an institution seeking approval of a change in ownership based on the preliminary review by the Secretary of a materially complete application that is received by the Secretary within 10 business days of the transaction for which the approval is sought.

(B) A provisional certification under this paragraph shall expire not later than the end of the month following the month in which the transaction occurred, except that if the Secretary has not issued a decision on the application for the change of ownership within that period, the Secretary may continue such provisional certification on a month-to-month basis until such decision has been issued.

(j) TREATMENT OF BRANCHES.—(1) A branch of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, shall be certified under this subpart before it may participate as part of such institution in a program under this title, except that such branch shall not be required to meet the requirements of sections 102(b)(1)(E) and 102(c)(1)(C) prior to seeking such certification. Such branch is required to be in existence at least 2 years after the branch is certified by the Secretary as a branch campus participating in a program under this title, prior to seeking certification as a main campus or free-standing institution.

(2) The Secretary may waive the requirement of section 101(a)(2) for a branch that (A) is not located in a State, (B) is affiliated with an eligible institution, and (C) was participating in one or more programs under this title on or before January 1, 1992.

(k) TREATMENT OF TEACH-OUTS AT ADDITIONAL LOCATIONS.—

(1) IN GENERAL.—A location of a closed institution of higher education shall be eligible as an additional location of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, for the purposes of a teach-out de-

scribed in section 487(f), if such teach-out has been approved by the institution's accrediting agency.

(2) SPECIAL RULE.—An institution of higher education that conducts a teach-out through the establishment of an additional location described in paragraph (1) shall be permitted to establish a permanent additional location at a closed institution and shall not be required—

(A) to meet the requirements of sections 102(b)(1)(E) and 102(c)(1)(C) for such additional location; or

(B) to assume the liabilities of the closed institution.

SEC. 498A. [20 U.S.C. 1099c–1] PROGRAM REVIEW AND DATA.

(a) GENERAL AUTHORITY.—In order to strengthen the administrative capability and financial responsibility provisions of this title, the Secretary—

(1) shall provide for the conduct of program reviews on a systematic basis designed to include all institutions of higher education participating in programs authorized by this title;

(2) shall give priority for program review to institutions of higher education that are—

(A) institutions with a cohort default rate for loans under part B of this title in excess of 25 percent or which places such institutions in the highest 25 percent of such institutions;

(B) institutions with a default rate in dollar volume for loans under part B of this title which places the institutions in the highest 25 percent of such institutions;

(C) institutions with a significant fluctuation in Federal Stafford Loan volume, Federal Direct Stafford/Ford Loan volume, or Federal Pell Grant award volume, or any combination thereof, in the year for which the determination is made, compared to the year prior to such year, that are not accounted for by changes in the Federal Stafford Loan program, the Federal Direct Stafford/Ford Loan program, or the Pell Grant program, or any combination thereof;

(D) institutions reported to have deficiencies or financial aid problems by the State licensing or authorizing agency, or by the appropriate accrediting agency or association;

(E) institutions with high annual dropout rates; and

(F) such other institutions that the Secretary determines may pose a significant risk of failure to comply with the administrative capability or financial responsibility provisions of this title; and

(3) shall establish and operate a central data base of information on institutional accreditation, eligibility, and certification that includes—

(A) all relevant information available to the Department;

(B) all relevant information made available by the Secretary of Veterans Affairs;

(C) all relevant information from accrediting agencies or associations;

(D) all relevant information available from a guaranty agency; and

(E) all relevant information available from States under subpart 1.

(b) SPECIAL ADMINISTRATIVE RULES.—In carrying out paragraphs (1) and (2) of subsection (a) and any other relevant provisions of this title, the Secretary shall—

(1) establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education;

(2) make available to each institution participating in programs authorized under this title complete copies of all review guidelines and procedures used in program reviews;

(3) permit the institution to correct or cure an administrative, accounting, or recordkeeping error if the error is not part of a pattern of error and there is no evidence of fraud or misconduct related to the error;

(4) base any civil penalty assessed against an institution of higher education resulting from a program review or audit on the gravity of the violation, failure, or misrepresentation;

(5) inform the appropriate State and accrediting agency or association whenever the Secretary takes action against an institution of higher education under this section, section 498, or section 432;

(6) provide to an institution of higher education an adequate opportunity to review and respond to any program review report and relevant materials related to the report before any final program review report is issued;

(7) review and take into consideration an institution of higher education's response in any final program review report or audit determination, and include in the report or determination—

(A) a written statement addressing the institution of higher education's response;

(B) a written statement of the basis for such report or determination; and

(C) a copy of the institution's response; and

(8) maintain and preserve at all times the confidentiality of any program review report until the requirements of paragraphs (6) and (7) are met, and until a final program review is issued, other than to the extent required to comply with paragraph (5), except that the Secretary shall promptly disclose any and all program review reports to the institution of higher education under review.

(c) DATA COLLECTION RULES.—The Secretary shall develop and carry out a plan for the data collection responsibilities described in paragraph (3) of subsection (a). The Secretary shall make the information obtained under such paragraph (3) readily available to all institutions of higher education, guaranty agencies, States, and other organizations participating in the programs authorized by this title.

(d) TRAINING.—The Secretary shall provide training to personnel of the Department, including criminal investigative training,

designed to improve the quality of financial and compliance audits and program reviews conducted under this title.

(e) SPECIAL RULE.—The provisions of section 103(b) of the Department of Education Organization Act shall not apply to Secretarial determinations made regarding the appropriate length of instruction for programs measured in clock hours.

SEC. 498B. [20 U.S.C. 1099c–2] REVIEW OF REGULATIONS.

(a) REVIEW REQUIRED.—The Secretary shall review each regulation issued under this title that is in effect at the time of the review and applies to the operations or activities of any participant in the programs assisted under this title. The review shall include a determination of whether the regulation is duplicative, or is no longer necessary. The review may involve one or more of the following:

(1) An assurance of the uniformity of interpretation and application of such regulations.

(2) The establishment of a process for ensuring that eligibility and compliance issues, such as institutional audit, program review, and recertification, are considered simultaneously.

(3) A determination of the extent to which unnecessary costs are imposed on institutions of higher education as a consequence of the applicability to the facilities and equipment of such institutions of regulations prescribed for purposes of regulating industrial and commercial enterprises.

(b) REGULATORY AND STATUTORY RELIEF FOR SMALL VOLUME INSTITUTIONS.—The Secretary shall review and evaluate ways in which regulations under and provisions of this Act affecting institution of higher education (other than institutions described in section 102(a)(1)(C)), that have received in each of the two most recent award years prior to the date of the enactment of the Higher Education Amendments of 1998 less than $200,000 in funds through this title, may be improved, streamlined, or eliminated.

(c) CONSULTATION.—In carrying out subsections (a) and (b), the Secretary shall consult with relevant representatives of institutions participating in the programs authorized by this title.

PART I—COMPETITIVE LOAN AUCTION PILOT PROGRAM

SEC. 499. [20 U.S.C. 1099d] COMPETITIVE LOAN AUCTION PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE FEDERAL PLUS LOAN.—The term "eligible Federal PLUS Loan" means a loan described in section 428B made to a parent of a dependent student who is a new borrower on or after July 1, 2009.

(2) ELIGIBLE LENDER.—The term "eligible lender" has the meaning given the term in section 435.

(b) PILOT PROGRAM.—The Secretary shall carry out a pilot program under which the Secretary establishes a mechanism for an auction of eligible Federal PLUS Loans in accordance with this

subsection. The pilot program shall meet the following requirements:

(1) PLANNING AND IMPLEMENTATION.—During the period beginning on the date of enactment of this section and ending on June 30, 2009, the Secretary shall plan and implement the pilot program under this subsection. During the planning and implementation, the Secretary shall consult with other Federal agencies with knowledge of, and experience with, auction programs, including the Federal Communication Commission and the Department of the Treasury.

(2) ORIGINATION AND DISBURSEMENT; APPLICABILITY OF SECTION 428B.—Beginning on July 1, 2009, the Secretary shall arrange for the origination and disbursement of all eligible Federal PLUS Loans in accordance with the provisions of this subsection and the provisions of section 428B that are not inconsistent with this subsection.

(3) LOAN ORIGINATION MECHANISM.—The Secretary shall establish a loan origination auction mechanism that meets the following requirements:

(A) AUCTION FOR EACH STATE.—The Secretary administers an auction under this paragraph for each State, under which eligible lenders compete to originate eligible Federal PLUS Loans under this paragraph at all institutions of higher education within such State.

(B) PREQUALIFICATION PROCESS.—The Secretary establishes a prequalification process for eligible lenders desiring to participate in an auction under this paragraph that contains, at a minimum—

(i) a set of borrower benefits and servicing requirements each eligible lender shall meet in order to participate in such an auction;

(ii) an assessment of each such eligible lender's capacity, including capital capacity, to participate effectively; and

(iii) a commitment from such eligible lender that, if the lender has a winning bid under subparagraph (F), the lender will enter into the agreement required under subparagraph (G).

(C) TIMING AND ORIGINATION.—Each State auction takes place every 2 years, and the eligible lenders with the winning bids for the State are the only eligible lenders permitted to originate eligible Federal PLUS Loans made under this paragraph for the cohort of students at the institutions of higher education within the State until the students graduate from or leave the institutions of higher education.

(D) BIDS.—Each eligible lender's bid consists of the amount of the special allowance payment (after the application of section 438(b)(2)(I)(v)) the eligible lender proposes to accept from the Secretary with respect to the eligible Federal PLUS Loans made under this paragraph in lieu of the amount determined under section 438(b)(2)(I).

(E) MAXIMUM BID.—The maximum bid allowable under this paragraph shall not exceed the amount of the special

allowance payable on eligible Federal PLUS Loans made under this paragraph computed under section 438(b)(2)(I) (other than clauses (ii), (iii), (iv), and (vi) of such section), except that for purposes of the computation under this subparagraph, section 438(b)(2)(I)(i)(III) shall be applied by substituting "1.79 percent" for "2.34 percent".

(F) WINNING BIDS.—The winning bids for each State auction shall be the 2 bids containing the lowest and the second lowest proposed special allowance payments, subject to subparagraph (E).

(G) AGREEMENT WITH SECRETARY; COMPLIANCE.—

(i) AGREEMENT.—Each eligible lender having a winning bid under subparagraph (F) shall enter into an agreement with the Secretary under which the eligible lender—

(I) agrees to originate eligible Federal PLUS Loans under this paragraph to each borrower who—

(aa) seeks an eligible Federal PLUS Loan under this paragraph to enable a dependent student to attend an institution of higher education within the State;

(bb) is eligible for an eligible Federal PLUS Loan; and

(cc) elects to borrow from the eligible lender; and

(II) agrees to accept a special allowance payment (after the application of section 438(b)(2)(I)(v)) from the Secretary with respect to the eligible Federal PLUS Loans originated under subclause (I) in the amount proposed in the second lowest winning bid described in subparagraph (F) for the applicable State auction.

(ii) COMPLIANCE.—If an eligible lender with a winning bid under subparagraph (F) fails to enter into the agreement required under clause (i), or fails to comply with the terms of such agreement, the Secretary may sanction such eligible lender through one or more of the following:

(I) The assessment of a penalty on such eligible lender for any eligible Federal PLUS Loans that such eligible lender fails to originate under this paragraph in accordance with the agreement required under clause (i), in the amount of the additional costs (including the amounts of any increase in special allowance payments) incurred by the Secretary in obtaining another eligible lender to originate such eligible Federal PLUS Loans. The Secretary shall collect such penalty by—

(aa) reducing the amount of any payments otherwise due to such eligible lender from the Secretary by the amount of the penalty; or

(bb) requesting any other Federal agency to reduce the amount of any payments due to such eligible lender from such agency by the amount of the penalty, in accordance with section 3716 of title 31, United States Code.

(II) A prohibition of bidding by such lender in other auctions under this section.

(III) The limitation, suspension, or termination of such eligible lender's participation in the loan program under part B.

(IV) Any other enforcement action the Secretary is authorized to take under part B.

(H) SEALED BIDS; CONFIDENTIALITY.—All bids are sealed and the Secretary keeps the bids confidential, including following the announcement of the winning bids.

(I) ELIGIBLE LENDER OF LAST RESORT.—

(i) IN GENERAL.—In the event that there is no winning bid under subparagraph (F), the students at the institutions of higher education within the State that was the subject of the auction shall be served by an eligible lender of last resort, as determined by the Secretary.

(ii) DETERMINATION OF ELIGIBLE LENDER OF LAST RESORT.—Prior to the start of any auction under this paragraph, eligible lenders that desire to serve as an eligible lender of last resort shall submit an application to the Secretary at such time and in such manner as the Secretary may determine. Such application shall include an assurance that the eligible lender will meet the prequalification requirements described in subparagraph (B).

(iii) GEOGRAPHIC LOCATION.—The Secretary shall identify an eligible lender of last resort for each State.

(iv) NOTIFICATION TIMING.—The Secretary shall not identify any eligible lender of last resort until after the announcement of all the winning bids for a State auction for any year.

(v) MAXIMUM SPECIAL ALLOWANCE.—The Secretary is authorized to set a special allowance payment that shall be payable to a lender of last resort for a State under this subparagraph, which special allowance payment shall be kept confidential, including following the announcement of winning bids. The Secretary shall set such special allowance payment so that it incurs the lowest possible cost to the Federal Government, taking into consideration the lowest bid that was submitted in an auction for such State and the lowest bid submitted in a similar State, as determined by the Secretary.

(J) GUARANTEE AGAINST LOSSES.—Each eligible Federal PLUS Loan originated under this paragraph shall be insured by a guaranty agency in accordance with part B, except that, notwithstanding section 428(b)(1)(G), such in-

surance shall be in an amount equal to 99 percent of the unpaid principal and interest due on the loan.

(K) LOAN FEES.—The Secretary shall not collect a loan fee under section 438(d) with respect to an eligible Federal Plus Loan originated under this paragraph.

(L) CONSOLIDATION.—

(i) IN GENERAL.—An eligible lender who is permitted to originate eligible Federal PLUS Loans for a borrower under this paragraph shall have the option to consolidate such loans into 1 loan.

(ii) NOTIFICATION.—In the event a borrower with eligible Federal PLUS Loans made under this paragraph wishes to consolidate the loans, the borrower shall notify the eligible lender who originated the loans under this paragraph.

(iii) LIMITATION ON ELIGIBLE LENDER OPTION TO CONSOLIDATE.—The option described in clause (i) shall not apply if—

(I) the borrower includes in the notification in clause (ii) verification of consolidation terms and conditions offered by an eligible lender other than the eligible lender described in clause (i); and

(II) not later than 10 days after receiving such notification from the borrower, the eligible lender described in clause (i) does not agree to match such terms and conditions, or provide more favorable terms and conditions to such borrower than the offered terms and conditions described in subclause (I).

(iv) CONSOLIDATION OF ADDITIONAL LOANS.—If a borrower has a Federal Direct PLUS Loan or a loan made on behalf of a dependent student under section 428B and seeks to consolidate such loan with an eligible Federal PLUS Loan made under this paragraph, then the eligible lender that originated the borrower's loan under this paragraph may include in the consolidation under this subparagraph a Federal Direct PLUS Loan or a loan made on behalf of a dependent student under section 428B, but only if—

(I) in the case of a Federal Direct PLUS Loan, the eligible lender agrees, not later than 10 days after the borrower requests such consolidation from the lender, to match the consolidation terms and conditions that would otherwise be available to the borrower if the borrower consolidated such loans in the loan program under part D; or

(II) in the case of a loan made on behalf of a dependent student under section 428B, the eligible lender agrees, not later than 10 days after the borrower requests such consolidation from the lender, to match the consolidation terms and conditions offered by an eligible lender other than the eligible lender that originated the borrower's loans under this paragraph.

(v) SPECIAL ALLOWANCE ON CONSOLIDATION LOANS THAT INCLUDE LOANS MADE UNDER THIS PARAGRAPH.—The applicable special allowance payment for loans consolidated under this paragraph shall be equal to the lesser of—

(I) the weighted average of the special allowance payment on such loans, except that in calculating such weighted average the Secretary shall exclude any Federal Direct PLUS Loan included in the consolidation; or

(II) the result of—

(aa) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period; plus

(bb) 1.59 percent.

(vi) INTEREST PAYMENT REBATE FEE.—Any loan under section 428C consolidated under this paragraph shall not be subject to the interest payment rebate fee under section 428C(f).

(c) REQUIRED INITIAL EVALUATION.—The Secretary and Secretary of the Treasury shall jointly conduct an evaluation, in consultation with the Office of Management and Budget, the Congressional Budget Office, and the Comptroller General, of the pilot program carried out by the Secretary under this section. The evaluation shall determine—

(1) the extent of the savings to the Federal Government that are generated through the pilot program, compared to the cost the Federal Government would have incurred in operating the PLUS loan program under section 428B in the absence of the pilot program;

(2) the number of lenders that participated in the pilot program, and the extent to which the pilot program generated competition among lenders to participate in the auctions under the pilot program;

(3) the number and volume of loans made under the pilot program in each State;

(4) the effect of the transition to and operation of the pilot program on the ability of—

(A) lenders participating in the pilot program to originate loans made through the pilot program smoothly and efficiently;

(B) institutions of higher education participating in the pilot program to disburse loans made through the pilot program smoothly and efficiently; and

(C) parents to obtain loans made through the pilot program in a timely and efficient manner;

(5) the differential impact, if any, of the auction among the States, including between rural and non-rural States; and

(6) the feasibility of using the mechanism piloted to operate the other loan programs under part B of this title.

(d) REPORTS.—

(1) IN GENERAL.—The Secretary and the Secretary of the Treasury shall submit to the authorizing committees—

(A) not later than September 1, 2010, a preliminary report regarding the findings of the evaluation described in subsection (c);

(B) not later than September 1, 2012, an interim report regarding such findings; and

(C) not later than September 1, 2013, a final report regarding such findings.

(2) CONTENTS.—The Secretary shall include, in each report required under subparagraphs (A), (B), and (C) of paragraph (1), any recommendations, that are based on the findings of the evaluation under subsection (c), for—

(A) improving the operation and administration of the auction; and

(B) improving the operation and administration of other loan programs under part B.

TITLE V—DEVELOPING INSTITUTIONS

PART A—HISPANIC-SERVING INSTITUTIONS

SEC. 501. [20 U.S.C. 1101] FINDINGS; PURPOSE; AND PROGRAM AUTHORITY.

(a) FINDINGS.—Congress makes the following findings:

(1) Hispanic Americans are at high risk of not enrolling or graduating from institutions of higher education.

(2) Disparities between the enrollment of non-Hispanic white students and Hispanic students in postsecondary education are increasing. Between 1973 and 1994, enrollment of white secondary school graduates in 4-year institutions of higher education increased at a rate two times higher than that of Hispanic secondary school graduates.

(3) Despite significant limitations in resources, Hispanic-serving institutions provide a significant proportion of postsecondary opportunities for Hispanic students.

(4) Relative to other institutions of higher education, Hispanic-serving institutions are underfunded. Such institutions receive significantly less in State and local funding, per full-time equivalent student, than other institutions of higher education.

(5) Hispanic-serving institutions are succeeding in educating Hispanic students despite significant resource problems that—

(A) limit the ability of such institutions to expand and improve the academic programs of such institutions; and

(B) could imperil the financial and administrative stability of such institutions.

(6) There is a national interest in remedying the disparities described in paragraphs (2) and (4) and ensuring that Hispanic students have an equal opportunity to pursue postsecondary opportunities.

(b) PURPOSE.—The purpose of this title is to—

(1) expand educational opportunities for, and improve the academic attainment of, Hispanic students; and

(2) expand and enhance the academic offerings, program quality, and institutional stability of colleges and universities that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and other low-income individuals complete postsecondary degrees.

(c) PROGRAM AUTHORITY.—The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic students and other low-income individuals.

SEC. 502. [20 U.S.C. 1101a] DEFINITIONS; ELIGIBILITY.

(a) DEFINITIONS.—For the purpose of this title:

(1) EDUCATIONAL AND GENERAL EXPENDITURES.—The term "educational and general expenditures" means the total amount expended by an institution for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers that the institution is required to pay by law.

(2) ELIGIBLE INSTITUTION.—The term "eligible institution" means—

(A) an institution of higher education—

(i) that has an enrollment of needy students as required by subsection (b);

(ii) except as provided in section 522(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(iii) that is—

(I) legally authorized to provide, and provides within the State, an educational program for which the institution awards a bachelor's degree; or

(II) a junior or community college;

(iv) that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or that is, according to such an agency or association, making reasonable progress toward accreditation;

(v) that meets such other requirements as the Secretary may prescribe; and

(vi) that is located in a State; and

(B) any branch of any institution of higher education described under subparagraph (A) that by itself satisfies the requirements contained in clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

(3) ENDOWMENT FUND.—The term "endowment fund" means a fund that—

(A) is established by State law, by a Hispanic-serving institution, or by a foundation that is exempt from Federal income taxation;

(B) is maintained for the purpose of generating income for the support of the institution; and

(C) does not include real estate.

(4) FULL-TIME EQUIVALENT STUDENTS.—The term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(5) HISPANIC-SERVING INSTITUTION.—The term "Hispanic-serving institution" means an institution of higher education that—

(A) is an eligible institution; and

(B) has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students at the end of the award year immediately preceding the date of application.

(6) JUNIOR OR COMMUNITY COLLEGE.—The term "junior or community college" means an institution of higher education—

(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(B) that does not provide an educational program for which the institution awards a bachelor's degree (or an equivalent degree); and

(C) that—

(i) provides an educational program of not less than 2 years in duration that is acceptable for full credit toward such a degree; or

(ii) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(b) ENROLLMENT OF NEEDY STUDENTS.—For the purpose of this title, the term "enrollment of needy students" means an enrollment at an institution with respect to which—

(1) at least 50 percent of the degree students so enrolled are receiving need-based assistance under title IV in the second fiscal year preceding the fiscal year for which the deter-

mination is made (other than loans for which an interest subsidy is paid pursuant to section 428); or

(2) a substantial percentage of the students so enrolled are receiving Federal Pell Grants in the second fiscal year preceding the fiscal year for which the determination is made, compared to the percentage of students receiving Federal Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this paragraph is waived under section 522(a).

SEC. 503. [20 U.S.C. 1101b] AUTHORIZED ACTIVITIES.

(a) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this title shall be used by Hispanic-serving institutions of higher education to assist the institutions to plan, develop, undertake, and carry out programs to improve and expand the institutions' capacity to serve Hispanic students and other low-income students.

(b) AUTHORIZED ACTIVITIES.—Grants awarded under this section shall be used for one or more of the following activities:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities.

(3) Support of faculty exchanges, faculty development, curriculum development, academic instruction, and faculty fellowships to assist in attaining advanced degrees in the fellow's field of instruction.

(4) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

(5) Tutoring, counseling, and student service programs designed to improve academic success, including innovative and customized instruction courses (which may include remedial education and English language instruction) designed to help retain students and move the students rapidly into core courses and through program completion.

(6) Articulation agreements and student support programs designed to facilitate the transfer from two-year to four-year institutions.

(7) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

(8) Joint use of facilities, such as laboratories and libraries.

(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(10) Establishing or improving an endowment fund.

(11) Creating or improving facilities for Internet or other distance education technologies, including purchase or rental of telecommunications technology equipment or services.

(12) Establishing or enhancing a program of teacher education designed to qualify students to teach in public elementary schools and secondary schools.

(13) Establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education.

(14) Expanding the number of Hispanic and other underrepresented graduate and professional students that can be served by the institution by expanding courses and institutional resources.

(15) Providing education, counseling services, or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under title IV.

(16) Other activities proposed in the application submitted pursuant to section 504 that—

(A) contribute to carrying out the purposes of this title; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(c) ENDOWMENT FUND LIMITATIONS.—

(1) PORTION OF GRANT.—A Hispanic-serving institution may not use more than 20 percent of the grant funds provided under this title for any fiscal year for establishing or improving an endowment fund.

(2) MATCHING REQUIRED.—A Hispanic-serving institution that uses any portion of the grant funds provided under this title for any fiscal year for establishing or improving an endowment fund shall provide from non-Federal funds an amount equal to or greater than the portion.

(3) COMPARABILITY.—The provisions of part C of title III regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

SEC. 504. [20 U.S.C. 1101c] DURATION OF GRANT.

(a) AWARD PERIOD.—The Secretary may award a grant to a Hispanic-serving institution under this title for 5 years.

(b) PLANNING GRANTS.—Notwithstanding subsection (a), the Secretary may award a grant to a Hispanic-serving institution under this title for a period of 1 year for the purpose of preparation of plans and applications for a grant under this title.

SEC. 505. [20 U.S.C. 1101d] SPECIAL RULE.

No Hispanic-serving institution that is eligible for and receives funds under this title may receive funds under part A or B of title III during the period for which funds under this title are awarded.

PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS

SEC. 511. [20 U.S.C. 1102] PURPOSES.

The purposes of this part are—

(1) to expand postbaccalaureate educational opportunities for, and improve the academic attainment of, Hispanic students; and

(2) to expand the postbaccalaureate academic offerings and enhance the program quality in the institutions of higher education that are educating the majority of Hispanic college students and helping large numbers of Hispanic and low-income students complete postsecondary degrees.

SEC. 512. [20 U.S.C. 1102a] PROGRAM AUTHORITY AND ELIGIBILITY.

(a) PROGRAM AUTHORIZED.—Subject to the availability of funds appropriated to carry out this part, the Secretary shall award grants, on a competitive basis, to eligible institutions to enable the eligible institutions to carry out the authorized activities described in section 513.

(b) ELIGIBILITY.—For the purposes of this part, an "eligible institution" means an institution of higher education that—

(1) is a Hispanic-serving institution (as defined in section 502); and

(2) offers a postbaccalaureate certificate or postbaccalaureate degree granting program.

SEC. 513. [20 U.S.C. 1102b] AUTHORIZED ACTIVITIES.

Grants awarded under this part shall be used for one or more of the following activities:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement of classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

(3) Purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials.

(4) Support for low-income postbaccalaureate students including outreach, academic support services, mentoring, scholarships, fellowships, and other financial assistance to permit the enrollment of such students in postbaccalaureate certificate and postbaccalaureate degree granting programs.

(5) Support of faculty exchanges, faculty development, faculty research, curriculum development, and academic instruction.

(6) Creating or improving facilities for Internet or other distance education technologies, including purchase or rental of telecommunications technology equipment or services.

(7) Collaboration with other institutions of higher education to expand postbaccalaureate certificate and postbaccalaureate degree offerings.

(8) Other activities proposed in the application submitted pursuant to section 514 that—

(A) contribute to carrying out the purposes of this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

SEC. 514. [20 U.S.C. 1102c] APPLICATION AND DURATION.

(a) APPLICATION.—Any eligible institution may apply for a grant under this part by submitting an application to the Secretary at such time and in such manner as the Secretary may require. Such application shall demonstrate how the grant funds will be used to improve postbaccalaureate education opportunities for Hispanic and low-income students.

(b) DURATION.—Grants under this part shall be awarded for a period not to exceed five years.

(c) LIMITATION.—The Secretary may not award more than one grant under this part in any fiscal year to any Hispanic-serving institution.

PART C—GENERAL PROVISIONS

SEC. 521. [20 U.S.C. 1103] ELIGIBILITY; APPLICATIONS.

(a) INSTITUTIONAL ELIGIBILITY.—Each Hispanic-serving institution desiring to receive assistance under this title shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Hispanic-serving institution as defined in section 502, along with such other data and information as the Secretary may by regulation require.

(b) APPLICATIONS.—

(1) APPLICATIONS REQUIRED.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution's need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title only if the Secretary determines that—

(A) the application meets the requirements of subsection (c); and

(B) the institution is eligible for assistance in accordance with the provisions of this title under which the assistance is sought.

(2) PRELIMINARY APPLICATIONS.—In carrying out paragraph (1), the Secretary may develop a preliminary application for use by Hispanic-serving institutions applying under this title prior to the submission of the principal application.

(c) CONTENTS.—A Hispanic-serving institution, in the institution's application for a grant, shall—

(1) set forth, or describe how the institution will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

(2) include a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic students and other low-income individuals;

(3) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 501(b), and in no case supplant those funds;

(4) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the institution under this title;

(6) provide that the institution will comply with the limitations set forth in section 526;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project that consists of several components (as described by the institution pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the institution);

(C) an evaluation by the institution of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the institution under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the institution pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the institution; and

(E) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (D);

(8) provide for making reports, in such form and containing such information, as the Secretary may require to carry out the Secretary's functions under this title, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded and for keeping such records and affording such access to such records, as the Secretary may find necessary to assure the correctness and verification of such reports; and

(9) include such other information as the Secretary may prescribe.

(d) PRIORITY.—With respect to applications for assistance under this section, the Secretary shall give priority to an application that contains satisfactory evidence that the Hispanic-serving institution has entered into or will enter into a collaborative arrangement with at least one local educational agency or community-based organization to provide such agency or organization with assistance (from funds other than funds provided under this title) in reducing dropout rates for Hispanic students, improving rates of academic achievement for Hispanic students, and increasing the rates at which Hispanic secondary school graduates enroll in higher education.

(e) ELIGIBILITY DATA.—The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under title IV in making eligibility determinations and shall advance the base-year for the determinations forward following each annual grant cycle.

SEC. 522. [20 U.S.C. 1103a] WAIVER AUTHORITY AND REPORTING REQUIREMENT.

(a) WAIVER REQUIREMENTS; NEED-BASED ASSISTANCE STUDENTS.—The Secretary may waive the requirements set forth in section 502(a)(2)(A)(i) in the case of an institution—

(1) that is extensively subsidized by the State in which the institution is located and charges low or no tuition;

(2) that serves a substantial number of low-income students as a percentage of the institution's total student population;

(3) that is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions; or

(5) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Hispanic Americans.

(b) WAIVER DETERMINATIONS; EXPENDITURES.—

(1) WAIVER DETERMINATIONS.—The Secretary may waive the requirements set forth in section 502(a)(2)(A)(ii) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet the requirements is due to factors which, when used in the determination of compliance with the requirements, distort such determination, and that the institution's designation as an eligible institution under part A is otherwise consistent with the purposes of this title.

(2) EXPENDITURES.—The Secretary shall submit to Congress every other year a report concerning the institutions that, although not satisfying the requirements of section 502(a)(2)(A)(ii), have been determined to be eligible institutions under part A. Such report shall—

(A) identify the factors referred to in paragraph (1) that were considered by the Secretary as factors that dis-

torted the determination of compliance with clauses (i) and (ii) of section 502(a)(2)(A); and

(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

SEC. 523. [20 U.S.C. 1103b] APPLICATION REVIEW PROCESS.

(a) REVIEW PANEL.—All applications submitted under this title by Hispanic-serving institutions shall be read by a panel of readers composed of individuals who are selected by the Secretary and who include individuals representing Hispanic-serving institutions. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application that might impair the impartiality with which the individual conducts the review under this section.

(b) INSTRUCTION.—All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title that are consistent with the provisions of this title, including—

(1) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

(2) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

(c) RECOMMENDATIONS OF PANEL.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

(d) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each Hispanic-serving institution making an application under this title of—

(1) the scores given the institution by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

SEC. 524. [20 U.S.C. 1103c] COOPERATIVE ARRANGEMENTS.

(a) GENERAL AUTHORITY.—The Secretary may make grants to encourage cooperative arrangements with funds available to carry out this title, between Hispanic-serving institutions eligible for assistance under this title, and between such institutions and institutions not receiving assistance under this title, for the activities described in sections 503 and 513 so that the resources of the cooperating institutions might be combined and shared in order to achieve the purposes of this title, to avoid costly duplicative efforts, and to enhance the development of Hispanic-serving institutions.

(b) PRIORITY.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant Hispanic-serving institution.

(c) DURATION.—Grants to Hispanic-serving institutions having a cooperative arrangement may be made under this section for a period determined under section 505.

SEC. 525. [20 U.S.C. 1103d] ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS.

(a) ASSISTANCE ELIGIBILITY.—Each Hispanic-serving institution that the Secretary determines to be an institution eligible under this title may be eligible for waivers in accordance with subsection (b).

(b) WAIVER APPLICABILITY.—

(1) IN GENERAL.—Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a Hispanic-serving institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) PROGRAMS.—The provisions of this section shall apply to any program authorized by title IV or section 604.

(c) LIMITATION.—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

SEC. 526. [20 U.S.C. 1103e] LIMITATIONS.

The funds appropriated under section 528 may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to a Hispanic-serving institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to a Hispanic-serving institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to a Hispanic-serving institution.

SEC. 527. [20 U.S.C. 1103f] PENALTIES.

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds that are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

SEC. 528. [20 U.S.C. 1103g] AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—

(1) PARTS A AND C.—There are authorized to be appropriated to carry out parts A and C $175,000,000 for fiscal year

2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(2) PART B.—There are authorized to be appropriated to carry out part B $100,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(b) USE OF MULTIPLE YEAR AWARDS.—In the event of a multiple year award to any Hispanic-serving institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the institution.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

SEC. 601. [20 U.S.C. 1121] FINDINGS; PURPOSES; CONSULTATION; SURVEY.

(a) FINDINGS.—Congress finds as follows:

(1) The security, stability, and economic vitality of the United States in a complex global era depend upon American experts in and citizens knowledgeable about world regions, foreign languages, and international affairs, as well as upon a strong research base in these areas.

(2) Advances in communications technology and the growth of regional and global problems make knowledge of other countries and the ability to communicate in other languages more essential to the promotion of mutual understanding and cooperation among nations and their peoples.

(3) Dramatic changes in the world's geopolitical and economic landscapes are creating needs for American expertise and knowledge about a greater diversity of less commonly taught foreign languages and nations of the world.

(4) Systematic efforts are necessary to enhance the capacity of institutions of higher education in the United States for—

(A) producing graduates with international and foreign language expertise and knowledge; and

(B) research regarding such expertise and knowledge.

(5) Cooperative efforts among the Federal Government, institutions of higher education, and the private sector are necessary to promote the generation and dissemination of information about world regions, foreign languages, and international affairs throughout education, government, business, civic, and nonprofit sectors in the United States.

(b) PURPOSES.—The purposes of this part are—

(1)(A) to support centers, programs, and fellowships in institutions of higher education in the United States for producing increased numbers of trained personnel and research in foreign languages, area studies, and other international studies;

(B) to develop a pool of international experts to meet national needs;

(C) to develop and validate specialized materials and techniques for foreign language acquisition and fluency, emphasizing (but not limited to) the less commonly taught languages;

(D) to promote access to research and training overseas, including through linkages with overseas institutions; and

(E) to advance the internationalization of a variety of disciplines throughout undergraduate and graduate education;

(2) to support cooperative efforts promoting access to and the dissemination of international and foreign language knowledge, teaching materials, and research, throughout education, government, business, civic, and nonprofit sectors in the United States, through the use of advanced technologies; and

(3) to coordinate the programs of the Federal Government in the areas of foreign language, area studies, and other international studies, including professional international affairs education and research.

(c) CONSULTATION.—

(1) IN GENERAL.—The Secretary shall, prior to requesting applications for funding under this title during each grant cycle, consult with and receive recommendations regarding national need for expertise in foreign languages and world regions from the head officials of a wide range of Federal agencies.

(2) CONSIDERING RECOMMENDATIONS; PROVIDING INFORMATION.—The Secretary—

(A) may take into account the recommendations described in paragraph (1); and

(B) shall—

(i) provide information collected under paragraph (1) when requesting applications for funding under this title; and

(ii) make available to applicants a list of areas identified as areas of national need.

(d) SURVEY.—The Secretary shall assist grantees in developing a survey to administer to students who have completed programs under this title to determine postgraduate employment, education, or training. All grantees, where applicable, shall administer such survey once every two years and report survey results to the Secretary.

SEC. 602. [20 U.S.C. 1122] GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS AND PROGRAMS.

(a) NATIONAL LANGUAGE AND AREA CENTERS AND PROGRAMS AUTHORIZED.—

(1) CENTERS AND PROGRAMS.—

(A) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education or consortia of such institutions for the purpose of establishing, strengthening, and operating—

(i) comprehensive foreign language and area or international studies centers and programs; and

(ii) a diverse network of undergraduate foreign language and area or international studies centers and programs.

(B) NATIONAL RESOURCES.—The centers and programs referred to in paragraph (1) shall be national resources for—

(i) teaching of any modern foreign language;

(ii) instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used;

(iii) research and training in international studies, and the international and foreign language aspects of professional and other fields of study; and

(iv) instruction and research on issues in world affairs that concern one or more countries.

(2) AUTHORIZED ACTIVITIES.—Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of—

(A) teaching and research materials;

(B) curriculum planning and development;

(C) establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the teaching and research of the center or program;

(D) bringing visiting scholars and faculty to the center to teach or to conduct research;

(E) professional development of the center's faculty and staff;

(F) projects conducted in cooperation with other centers addressing themes of world regional, cross-regional, international, or global importance;

(G) summer institutes in the United States or abroad designed to provide language and area training in the center's field or topic;

(H) support for faculty, staff, and student travel in foreign areas, regions, or countries, and for the development and support of educational programs abroad for students;

(I) supporting instructors of the less commonly taught languages; and

(J) projects that support students in the science, technology, engineering, and mathematics fields to achieve foreign language proficiency.

(3) GRANTS TO MAINTAIN LIBRARY COLLECTIONS.—The Secretary may make grants to centers described in paragraph (1) having important library collections, as determined by the Secretary, for the maintenance of such collections.

(4) OUTREACH GRANTS AND SUMMER INSTITUTES.—The Secretary may make additional grants to centers described in paragraph (1) for any one or more of the following purposes:

(A) Programs of linkage or outreach between foreign language, area studies, or other international fields, and professional schools and colleges.

(B) Programs of linkage or outreach with 2- and 4-year colleges and universities.

(C) Programs of linkage or outreach between or among—

(i) postsecondary programs or departments in foreign language, area studies, or other international fields; and

(ii) State educational agencies or local educational agencies.

(D) Partnerships or programs of linkage and outreach with departments or agencies of Federal and State governments, including Federal or State scholarship programs for students in related areas.

(E) Programs of linkage or outreach with the news media, business, professional, or trade associations.

(F) Summer institutes in area studies, foreign language, and other international fields designed to carry out the programs described in subparagraphs (A), (B), (D), and (E).

(b) FELLOWSHIPS FOR FOREIGN LANGUAGE AND AREA OR INTERNATIONAL STUDIES.—

(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary.

(2) ELIGIBLE STUDENTS.—A student receiving a stipend described in paragraph (1) shall be engaged—

(A) in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program; and

(B)(i) in the case of an undergraduate student, in the intermediate or advanced study of a less commonly taught language; or

(ii) in the case of a graduate student, in graduate study in connection with a program described in subparagraph (A), including—

(I) predissertation level study;

(II) preparation for dissertation research;

(III) dissertation research abroad; or

(IV) dissertation writing.

(c) SPECIAL RULE WITH RESPECT TO TRAVEL.—No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

(d) ALLOWANCES.—

(1) GRADUATE LEVEL RECIPIENTS.—A stipend awarded to a graduate level recipient may include allowances for dependents and for travel for research and study in the United States and abroad.

(2) UNDERGRADUATE LEVEL RECIPIENTS.—A stipend awarded to an undergraduate level recipient may include an allow-

ance for educational programs in the United States or educational programs abroad that—

(A) are closely linked to the overall goals of the recipient's course of study; and

(B) have the purpose of promoting foreign language fluency and knowledge of foreign cultures.

(e) APPLICATION.—Each institution of higher education or consortium of such institutions desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may require. Each such application shall include—

(1) an explanation of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs; and

(2) a description of how the applicant will encourage government service in areas of national need, as identified by the Secretary, as well as in areas of need in the education, business, and nonprofit sectors.

SEC. 603. [20 U.S.C. 1123] LANGUAGE RESOURCE CENTERS.

(a) LANGUAGE RESOURCE CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or consortia of such institutions, for the purpose of establishing, strengthening, and operating a small number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively.

(b) AUTHORIZED ACTIVITIES.—The activities carried out by the centers described in subsection (a)—

(1) shall include effective dissemination efforts, whenever appropriate; and

(2) may include—

(A) the conduct and dissemination of research on new and improved teaching methods, including the use of advanced educational technology;

(B) the development and dissemination of new teaching materials reflecting the use of such research in effective teaching strategies;

(C) the development, application, and dissemination of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

(D) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

(E) a significant focus on the teaching and learning needs of the less commonly taught languages, including an assessment of the strategic needs of the United States, the determination of ways to meet those needs nationally, and the publication and dissemination of instructional materials in the less commonly taught languages;

(F) the development and dissemination of materials designed to serve as a resource for foreign language teachers at the elementary and secondary school levels; and

(G) the operation of intensive summer language institutes to train advanced foreign language students, to provide professional development, and to improve language instruction through preservice and inservice language training for teachers.

(c) CONDITIONS FOR GRANTS.—Grants under this section shall reflect the purposes of this part and be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

SEC. 604. [20 U.S.C. 1124] UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

(a) INCENTIVES FOR THE CREATION OF NEW PROGRAMS AND THE STRENGTHENING OF EXISTING PROGRAMS IN UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.—

(1) AUTHORITY.—The Secretary is authorized to make grants to institutions of higher education, consortia of such institutions, or partnerships between nonprofit educational organizations and institutions of higher education, to assist such institutions, consortia or partnerships in planning, developing, and carrying out programs to improve undergraduate instruction in international studies and foreign languages. Such grants shall be awarded to institutions, consortia or partnerships seeking to create new programs or to strengthen existing programs in foreign languages, area studies, and other international fields.

(2) USE OF FUNDS.—Grants made under this section may be used for the Federal share of the cost of projects and activities which are an integral part of such a program, such as—

(A) planning for the development and expansion of undergraduate programs in international studies and foreign languages;

(B) teaching, research, curriculum development, faculty training in the United States or abroad, and other related activities, including—

(i) the expansion of library and teaching resources; and

(ii) pre-service teacher training and in-service teacher professional development;

(C) expansion of opportunities for learning foreign languages, including less commonly taught languages;

(D) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

(E) programs designed to develop or enhance linkages between 2- and 4-year institutions of higher education, or baccalaureate and post-baccalaureate programs or institutions;

(F) the development of undergraduate educational programs—

(i) in locations abroad where such opportunities are not otherwise available or that serve students for

whom such opportunities are not otherwise available; and

(ii) that provide courses that are closely related to on-campus foreign language and international curricula;

(G) the integration of new and continuing education abroad opportunities for undergraduate students into curricula of specific degree programs;

(H) the development of model programs to enrich or enhance the effectiveness of educational programs abroad, including predeparture and postreturn programs, and the integration of educational programs abroad into the curriculum of the home institution;

(I) the provision of grants for educational programs abroad that—

(i) are closely linked to the program's overall goals; and

(ii) have the purpose of promoting foreign language fluency and knowledge of world regions;

(J) the development of programs designed to integrate professional and technical education with foreign languages, area studies, and other international fields;

(K) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational programs assisted under this subsection;

(L) the conduct of summer institutes in foreign area, foreign language, and other international fields to provide faculty and curriculum development, including the integration of professional and technical education with foreign area and other international studies, and to provide foreign area and other international knowledge or skills to government personnel or private sector professionals in international activities;

(M) the development of partnerships between—

(i) institutions of higher education; and

(ii) the private sector, government, or elementary and secondary education institutions,

in order to enhance international knowledge and skills; and

(N) the use of innovative technology to increase access to international education programs.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of the programs assisted under this subsection—

(A) may be provided in cash from the private sector corporations or foundations in an amount equal to one-third of the total cost of the programs assisted under this section; or

(B) may be provided as an in-cash or in-kind contribution from institutional and noninstitutional funds, including State and private sector corporation or foundation contributions, equal to one-half of the total cost of the programs assisted under this section.

(4) SPECIAL RULE.—The Secretary may waive or reduce the required non-Federal share for institutions that—

(A) are eligible to receive assistance under part A or B of title III or under title V; and

(B) have submitted a grant application under this section that demonstrates a need for a waiver or reduction.

(5) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications from institutions of higher education, consortia or partnerships that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or, in the case of a 2-year degree granting institution, offer 2 years of postsecondary credit in a foreign language.

(6) GRANT CONDITIONS.—Grants under this subsection shall reflect the purposes of this part and be made on such conditions as the Secretary determines to be necessary to carry out this subsection.

(7) APPLICATION.—Each application for assistance under this subsection shall include—

(A) evidence that the applicant has conducted extensive planning prior to submitting the application;

(B) an assurance that the faculty and administrators of all relevant departments and programs served by the applicant are involved in ongoing collaboration with regard to achieving the stated objectives of the application;

(C) an assurance that students at the applicant institutions, as appropriate, will have equal access to, and derive benefits from, the program assisted under this subsection;

(D) an assurance that each applicant, consortium, or partnership will use the Federal assistance provided under this subsection to supplement and not supplant non-Federal funds the institution expends for programs to improve undergraduate instruction in international studies and foreign languages;

(E) a description of how the applicant will provide information to students regarding federally funded scholarship programs in related areas;

(F) an explanation of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, where applicable; and

(G) a description of how the applicant will encourage service in areas of national need, as identified by the Secretary.

(8) EVALUATION.—The Secretary may establish requirements for program evaluations and require grant recipients to submit annual reports that evaluate the progress and performance of students participating in programs assisted under this subsection.

(b) PROGRAMS OF NATIONAL SIGNIFICANCE.—The Secretary may also award grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to improving undergraduate international studies and foreign language programs.

(c) FUNDING SUPPORT.—

(1) IN GENERAL.—The Secretary may use not more than 20 percent of the total amount appropriated for this part for carrying out the purposes of this section.

(2) GRANTEES.—Of the total amount of grant funds awarded to a grantee under this section, the grantee may use not more than ten percent of such funds for the activity described in subsection (a)(2)(I).

SEC. 605. [20 U.S.C. 1125] RESEARCH; STUDIES; ANNUAL REPORT.

(a) AUTHORIZED ACTIVITIES.—The Secretary may, directly or through grants or contracts, conduct research and studies that contribute to achieving the purposes of this part. Such research and studies may include—

(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

(2) studies and surveys to assess the utilization of graduates of programs supported under this title by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

(3) evaluation of the extent to which programs assisted under this title that address national needs would not otherwise be offered;

(4) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

(5) research on more effective methods of providing instruction and achieving competency in foreign languages, area studies, or other international fields;

(6) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists;

(7) studies and surveys of the uses of technology in foreign language, area studies, and international studies programs;

(8) studies and evaluations of effective practices in the dissemination of international information, materials, research, teaching strategies, and testing techniques throughout the education community, including elementary and secondary schools;

(9) the application of performance tests and standards across all areas of foreign language instruction and classroom use;

(10) evaluation of the extent to which programs assisted under this title reflect diverse perspectives and a wide range

of views and generate debate on world regions and international affairs, as described in the grantee's application;

(11) the systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of this part; and

(12) support for programs or activities to make data collected, analyzed, or disseminated under this section publicly available and easy to understand.

(b) ANNUAL REPORT.—The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this section.

SEC. 606. [20 U.S.C. 1126] TECHNOLOGICAL INNOVATION AND COOPERATION FOR FOREIGN INFORMATION ACCESS.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education, public or nonprofit private libraries, or partnerships between such institutions and other such institutions, libraries, or nonprofit educational organizations, to develop innovative techniques or programs using electronic technologies to collect, organize, preserve, and widely disseminate information from foreign sources on world regions and countries other than the United States that address our Nation's teaching and research needs in international education and foreign languages.

(2) GRANT RECIPIENTS.—The Secretary may award grants under this section to carry out the activities authorized under this section to the following:

(A) An institution of higher education.

(B) A public or nonprofit private library.

(C) A partnership of an institution of higher education and one or more of the following:

(i) Another institution of higher education.

(ii) A library.

(iii) A nonprofit educational organization.

(b) AUTHORIZED ACTIVITIES.—Grants under this section may be used—

(1) to acquire, facilitate access to, or preserve foreign information resources in print or electronic forms;

(2) to develop new means of immediate, full-text document delivery for information and scholarship from abroad;

(3) to develop new means of or standards for shared electronic access to international data;

(4) to support collaborative projects of indexing, cataloging, and other means of bibliographic access for scholars to important research materials published or distributed outside the United States;

(5) to develop methods for the wide dissemination of resources written in non-Roman language alphabets;

(6) to assist teachers of less commonly taught languages in acquiring, via electronic and other means, materials suitable for classroom use;

(7) to promote collaborative technology based projects in foreign languages, area studies, and international studies among grant recipients under this title;

(8) to establish linkages to facilitate carrying out the activities described in this subsection between—

(A) the institutions of higher education, libraries, and partnerships receiving grants under this section; and

(B) institutions of higher education, nonprofit educational organizations, and libraries overseas; and

(9) to carry out other activities that the Secretary determines are consistent with the purpose of the grants awarded under this section.

(c) APPLICATION.—Each institution of higher education, library, or partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may reasonably require.

(d) MATCH REQUIRED.—The Federal share of the total cost of carrying out a program supported by a grant under this section shall not be more than 66⅔ percent. The non-Federal share of such cost may be provided either in-kind or in cash, and may include contributions from private sector corporations or foundations.

SEC. 607. [20 U.S.C. 1127] SELECTION OF CERTAIN GRANT RECIPIENTS.

(a) COMPETITIVE GRANTS.—The Secretary shall award grants under section 602 competitively on the basis of criteria that separately, but not less rigorously, evaluates—

(1) the applications for comprehensive foreign language and area or international studies centers and programs; and

(2) the applications for undergraduate foreign language and area or international studies centers and programs.

(b) SELECTION CRITERIA.—The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions. In keeping with the purposes of this part, the Secretary shall take into account the degree to which activities of centers, programs, and fellowships at institutions of higher education address national needs, and generate information for and disseminate information to the public. The Secretary shall also consider an applicant's record of placing students into postgraduate employment, education, or training in areas of national need and an applicant's stated efforts to increase the number of such students that go into such placements.

(c) EQUITABLE DISTRIBUTION OF GRANTS.—The Secretary shall, to the extent practicable, award grants under this part (other than section 602) in such manner as to achieve an equitable distribution of the grant funds throughout the United States, based on the merit of a proposal as determined pursuant to a peer review process involving broadly representative professionals.

SEC. 608. [20 U.S.C. 1128] EQUITABLE DISTRIBUTION OF CERTAIN FUNDS.

(a) SELECTION CRITERIA.—The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

(b) EQUITABLE DISTRIBUTION.—To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such a

manner as will achieve an equitable distribution of funds throughout the United States.

(c) SUPPORT FOR UNDERGRADUATE EDUCATION.—The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of the funds appropriated for this part (as determined by the Secretary) are used to support undergraduate education.

SEC. 609. [20 U.S.C. 1128a] AMERICAN OVERSEAS RESEARCH CENTERS.

(a) CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with any American overseas research center that is a consortium of institutions of higher education (hereafter in this section referred to as a "center") to enable such center to promote postgraduate research, exchanges and area studies.

(b) USE OF GRANTS.—Grants made and contracts entered into pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a center or program, including—

(1) the cost of faculty and staff stipends and salaries;

(2) the cost of faculty, staff, and student travel;

(3) the cost of the operation and maintenance of overseas facilities;

(4) the cost of teaching and research materials;

(5) the cost of acquisition, maintenance, and preservation of library collections;

(6) the cost of bringing visiting scholars and faculty to a center to teach or to conduct research;

(7) the cost of organizing and managing conferences; and

(8) the cost of publication and dissemination of material for the scholarly and general public.

(c) LIMITATION.—The Secretary shall only award grants to and enter into contracts with centers under this section that—

(1) receive more than 50 percent of their funding from public or private United States sources;

(2) have a permanent presence in the country in which the center is located; and

(3) are organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 which are exempt from taxation under section 501(a) of such Code.

(d) DEVELOPMENT GRANTS.—The Secretary is authorized to make grants for the establishment of new centers. The grants may be used to fund activities that, within 1 year, will result in the creation of a center described in subsection (c).

(e) APPLICATION.—Each center desiring to receive a grant or contract under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may require.

SEC. 610. [20 U.S.C. 1128b] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009, and such sums as may be necessary for each of the five succeeding fiscal years.

PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

SEC. 611. [20 U.S.C. 1130] FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business and educational community and creating an awareness among the American public of the internationalization of our economy;

(2) concerted efforts are necessary to engage business schools, language and area study programs, professional international affairs education programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

(b) PURPOSES.—It is the purpose of this part—

(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

SEC. 612. [20 U.S.C. 1130–1] CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.

(a) PROGRAM AUTHORIZED.—

(1) PURPOSE.—The purpose of this section is to coordinate the programs of the Federal Government in the areas of research, education, and training in international business and trade competitiveness.

(2) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education, or consortia of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

(A) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted;

(B) will provide instruction in critical foreign languages and international fields needed to provide under-

standing of the cultures and customs of United States trading partners; and

(C) will provide research and training in the international aspects of trade, commerce, and other fields of study.

(3) SPECIAL RULE.—In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses. Such centers shall also serve other faculty, students, and institutions of higher education located within their region.

(b) AUTHORIZED EXPENDITURES.—Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

(1) faculty and staff travel in foreign areas, regions, or countries;

(2) teaching and research materials;

(3) curriculum planning and development;

(4) bringing visiting scholars and faculty to the center to teach or to conduct research; and

(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

(c) AUTHORIZED ACTIVITIES.—

(1) MANDATORY ACTIVITIES.—Programs and activities to be conducted by centers assisted under this section shall include—

(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and degree candidates;

(C) programs, such as intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or consortia thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

(2) PERMISSIBLE ACTIVITIES.—Programs and activities to be conducted by centers assisted under this section may include—

(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program;

(B) the establishment of linkages overseas with institutions of higher education and other organizations that contribute to the educational objectives of this section;

(C) summer institutes in international business, foreign area studies, foreign language studies, and other international studies designed to carry out the purposes of subparagraph (A) of this paragraph;

(D) the development of opportunities for business students to study abroad in locations which are important to the existing and future economic well-being of the United States;

(E) outreach activities or consortia with business programs located at other institutions of higher education (including those that are eligible to receive assistance under part A or B of title III or under title V) for the purpose of providing expertise regarding the internationalization of such programs, such as assistance in research, curriculum development, faculty development, or educational exchange programs;

(F) programs encouraging the advancement and understanding of technology-related disciplines, including manufacturing software systems and technology management; and

(G) other eligible activities prescribed by the Secretary.

(d) ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—In order to be eligible for assistance under this section, an institution of higher education, or consortium of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

(2) MEMBERSHIP ON ADVISORY COUNCIL.—The center advisory council shall include—

(A) one representative of an administrative department or office of the institution of higher education;

(B) one faculty representative of the business or management school or department of such institution;

(C) one faculty representative of the international studies or foreign language school or department of such institution;

(D) one faculty representative of another professional school or department of such institution, as appropriate;

(E) one or more representatives of local or regional businesses or firms;

(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

(G) such other individuals as the institution of higher education deems appropriate, such as a representative of a community college in the region served by the center.

(3) MEETINGS.—In addition to the initial planning activities required under subsection (d)(1), the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

(e) GRANT DURATION; FEDERAL SHARE.—

(1) DURATION OF GRANTS.—The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

(2) FEDERAL SHARE.—The Federal share of the cost of planning, establishing and operating centers under this section shall be—

(A) not more than 90 percent for the first year in which Federal funds are received;

(B) not more than 70 percent for the second such year; and

(C) not more than 50 percent for the third such year and for each such year thereafter.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind.

(4) WAIVER OF NON-FEDERAL SHARE.—In the case of an institution of higher education receiving a grant under this part and conducting outreach or consortia activities with another institution of higher education in accordance with section 612(c)(2)(E), the Secretary may waive a portion of the requirements for the non-Federal share required in paragraph (2) equal to the amount provided by the institution of higher education receiving such grant to such other institution of higher education for carrying out such outreach or consortia activities. Any such waiver shall be subject to such terms and conditions as the Secretary deems necessary for carrying out the purposes of this section.

(f) GRANT CONDITIONS.—Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

(1) evidence that the institution of higher education, or consortium of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1);

(2) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies, professional

international affairs, and other professional schools or departments, as appropriate;

(3) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate, and that diverse perspectives will be made available to students in programs under this section; and

(4) assurance that the institution of higher education, or consortium of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1).

SEC. 613. [20 U.S.C. 1130a] EDUCATION AND TRAINING PROGRAMS.

(a) PROGRAM AUTHORIZED.—The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this section shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

(b) AUTHORIZED ACTIVITIES.—Eligible activities to be conducted by institutions of higher education pursuant to grants or contracts awarded under this section shall include—

(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) development of area studies programs, and interdisciplinary international programs;

(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives;

(9) development of research programs on issues of common interest to institutions of higher education and private sector

organizations and associations engaged in or promoting international economic activity;

(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies;

(11) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this section; and

(12) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of this section.

(c) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an institution of higher education submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b). Each such application shall include an assurance that, where applicable, the activities funded by the grant will reflect diverse perspectives and a wide range of views on world regions and international affairs.

(d) FEDERAL SHARE.—The Federal share under this part for each fiscal year shall not exceed 50 percent of the cost of such program.

SEC. 614. [20 U.S.C. 1130b] AUTHORIZATION OF APPROPRIATIONS.

(a) CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.—There are authorized to be appropriated such sums as may be necessary for the fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years to carry out the provisions of section 612.

(b) EDUCATION AND TRAINING PROGRAMS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2009, and such sums as may be necessary for the five succeeding fiscal years, to carry out the provisions of section 613.

PART C—INSTITUTE FOR INTERNATIONAL PUBLIC POLICY

SEC. 621. [20 U.S.C. 1131] MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary is authorized to award a grant, on a competitive basis, to an eligible recipient to enable such recipient to establish an Institute for International Public Policy (hereafter in this part referred to as the "Institute"). The Institute shall conduct a program to enhance the international competitive-

ness of the United States by increasing the participation of underrepresented populations in the international service, including private international voluntary organizations and the foreign service of the United States. Such program shall include a program for such students to study abroad in their junior year, fellowships for graduate study, internships, intensive academic programs such as summer institutes, or intensive language training.

(b) DEFINITION OF ELIGIBLE RECIPIENT.—

(1) IN GENERAL.—For the purpose of this part, the term "eligible recipient" means a consortium consisting of 1 or more of the following entities:

(A) An institution eligible for assistance under part B of title III of this Act.

(B) A tribally controlled college or university or Alaska Native or Native Hawaiian-serving institution eligible for assistance under part A or B of title III, or an institution eligible for assistance under title V.

(C) An institution of higher education that serves substantial numbers of underrepresented minority students.

(D) An institution of higher education with programs in training foreign service professionals.

(2) HOST INSTITUTION.—Each eligible recipient receiving a grant under this section shall designate an institution of higher education as the host institution for the Institute.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible recipient desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENT OF APPLICATION.—Each application submitted under paragraph (1) shall include a description of how the activities funded by the grant will reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, where applicable.

(d) DURATION.—Grants made pursuant to this section shall be awarded for a period not to exceed 5 years.

(e) MATCH REQUIRED.—The eligible recipient of a grant under this section shall contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-half the amount of the grant, which contribution may be in cash or in kind.

SEC. 622. [20 U.S.C. 1131–1] INSTITUTIONAL DEVELOPMENT.

(a) IN GENERAL.—The Institute shall award grants, from amounts available to the Institute for each fiscal year, to historically Black colleges and universities, Hispanic-serving institutions, tribally controlled colleges or universities, and minority institutions, to enable such colleges, universities, and institutions to strengthen international affairs, international business, and foreign language study programs, including the teaching of foreign languages, at such colleges, universities, and institutions, respectively, which may include collaboration with institutions of higher education that receive funding under this title.

(b) APPLICATION.—No grant may be made by the Institute unless an application is made by the college, university, or institution at such time, in such manner, and accompanied by such information as the Institute may require.

(c) DEFINITIONS.—In this section—

(1) the term "Hispanic-serving institution" has the meaning given the term in section 502; and

(2) the term "minority institution" has the meaning given the term in section 365.

SEC. 623. [20 U.S.C. 1131a] STUDY ABROAD PROGRAM.

(a) PROGRAM AUTHORITY.—The Institute shall conduct, by grant or contract, a junior year abroad program. The junior year abroad program shall be open to eligible students at institutions of higher education, including historically Black colleges and universities, tribally controlled colleges or universities, Alaska Native-serving, Native Hawaiian-serving, and Hispanic-serving institutions, and other institutions of higher education with significant minority student populations. Eligible student expenses shall be shared by the Institute and the institution at which the student is in attendance. Each student may spend not more than 9 months abroad in a program of academic study, as well as social, familial and political interactions designed to foster an understanding of and familiarity with the language, culture, economics and governance of the host country.

(b) DEFINITION OF ELIGIBLE STUDENT.—For the purpose of this section, the term "eligible student" means a student that is—

(1) enrolled full-time in a baccalaureate degree program at an institution of higher education; and

(2) entering the third year of study, or completing the third year of study in the case of a summer abroad program, at an institution of higher education which nominates such student for participation in the study abroad program.

(c) SPECIAL RULE.—An institution of higher education desiring to send a student on the study abroad program shall enter into a Memorandum of Understanding with the Institute under which such institution of higher education agrees to—

(1) provide the requisite academic preparation for students participating in the study abroad or internship programs;

(2) pay one-third the cost of each student it nominates for participation in the study abroad program; and

(3) meet such other requirements as the Secretary may from time to time, by regulation, reasonably require.

SEC. 624. [20 U.S.C. 1131b] ADVANCED DEGREE IN INTERNATIONAL RELATIONS.

The Institute shall provide, in cooperation with the other members participating in the eligible recipient consortium, a program of study leading to an advanced degree in international relations, international affairs, international economics, or other academic areas related to the Institute fellow's career objectives. The advanced degree study program shall be designed by the consortia, consistent with the fellow's career objectives, and shall be reviewed and approved by the Secretary. The Institute may grant fellowships in an amount not to exceed the level of support comparable

to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurement of need approved by the Secretary. A fellowship recipient shall agree to undertake full-time study and to enter the international service (including work with private international voluntary organizations) or foreign service of the United States.

SEC. 625. [20 U.S.C. 1131c] INTERNSHIPS.

(a) IN GENERAL.—The Institute shall enter into agreements with historically Black colleges and universities, tribally controlled colleges or universities, Alaska Native-serving, Native Hawaiian-serving, and Hispanic-serving institutions, other institutions of higher education with significant numbers of minority students, and institutions of higher education with programs in training foreign service professionals, to provide academic year internships during the junior and senior year and summer internships following the sophomore and junior academic years, by work placements with international, voluntary or government organizations or agencies, including the Agency for International Development,[67] the Department of State, the International Monetary Fund, the National Security Council, the Organization of American States, the Export-Import Bank, the Overseas Private Investment Corporation, the Department of State, Office of the United States Trade Representative, the World Bank, and the United Nations.

(b) POSTBACCALAUREATE INTERNSHIPS.—The Institute shall enter into agreements with institutions of higher education described in the first sentence of subsection (a) to conduct internships for students who have completed study for a baccalaureate degree. The internship program authorized by this subsection shall—

(1) assist the students to prepare for a master's degree program;

(2) be carried out with the assistance of the Woodrow Wilson International Center for Scholars; and

(3) contain work experience for the students designed to contribute to the students' preparation for a master's degree program.

(c) INTERAGENCY COMMITTEE ON MINORITY CAREERS IN INTERNATIONAL AFFAIRS.—

(1) ESTABLISHMENT.—There is established in the executive branch of the Federal Government an Interagency Committee on Minority Careers in International Affairs composed of not less than 7 members, including—

(A) the Under Secretary for Farm and Foreign Agricultural Services of the Department of Agriculture, or the Under Secretary's designee;

(B) the Assistant Secretary and Director General, of the United States and Foreign Commercial Service of the Department of Commerce, or the Assistant Secretary and Director General's designee;

[67] The apparent intention of section 616(1)(D) of the Higher Education Opportunity Act (P.L. 110–315) was to replace "the United States Information Agency" with "the Department of State". However, the reference to "United States Information Agency" was apparently deleted by section 1335(j) of division G of Public Law 105–277.

(C) the Under Secretary of Defense for Personnel and Readiness of the Department of Defense, or the Under Secretary's designee;

(D) the Assistant Secretary for Postsecondary Education in the Department of Education, or the Assistant Secretary's designee;

(E) the Director General of the Foreign Service of the Department of State, or the Director General's designee; and

(F) the General Counsel of the Agency for International Development, or the General Counsel's designee.

(2) FUNCTIONS.—The Interagency Committee established by this section shall—

(A) on an annual basis inform the Secretary and the Institute regarding ways to advise students participating in the internship program assisted under this section with respect to goals for careers in international affairs;

(B) locate for students potential internship opportunities in the Federal Government related to international affairs; and

(C) promote policies in each department and agency participating in the Committee that are designed to carry out the objectives of this part.

SEC. 626. [20 U.S.C. 1131c–1] FINANCIAL ASSISTANCE.

(a) AUTHORITY.—The Institute may provide financial assistance, in the form of summer stipends described in subsection (b) and Ralph Bunche scholarship assistance described in subsection (c), to low-income students to facilitate the participation of the students in the Institute's programs under this part.

(b) SUMMER STIPENDS.—

(1) REQUIREMENTS.—A student receiving a summer stipend under this section shall use such stipend to defray the student's cost of participation in a summer institute program funded under this part, including the costs of travel, living, and educational expenses necessary for the student's participation in such program.

(2) AMOUNT.—A summer stipend awarded to a student under this section shall not exceed $3,000 per summer.

(c) RALPH BUNCHE SCHOLARSHIP.—

(1) REQUIREMENTS.—A student receiving a Ralph Bunche scholarship under this section—

(A) shall be a full-time student at an institution of higher education who is accepted into a program funded under this part; and

(B) shall use such scholarship to pay costs related to the cost of attendance, as defined in section 472, at the institution of higher education in which the student is enrolled.

(2) AMOUNT AND DURATION.—A Ralph Bunche scholarship awarded to a student under this section shall not exceed $5,000 per academic year.

SEC. 627. [20 U.S.C. 1131d] REPORT.

The Institute shall prepare a report once every two years on the activities of the Institute and shall submit such report to the Secretary of Education and the Secretary of State.

SEC. 628. [20 U.S.C. 1131e] GIFTS AND DONATIONS.

The Institute is authorized to receive money and other property donated, bequeathed, or devised to the Institute with or without a condition of restriction, for the purpose of providing financial support for the fellowships or underwriting the cost of the Junior Year Abroad Program. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the report described in section 627.

SEC. 629. [20 U.S.C. 1131f] AUTHORIZATION.

There is authorized to be appropriated such sums as may be necessary for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years to carry out this part.

PART D—GENERAL PROVISIONS

SEC. 631. [20 U.S.C. 1132] DEFINITIONS.

(a) DEFINITIONS.—As used in this title—

(1) the term "area studies" means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

(2) the term "comprehensive foreign language and area or international studies center" means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and[68]

(3) the term "educational programs abroad" means programs of study, internships, or service learning outside the United States which are part of a foreign language or other international curriculum at the undergraduate or graduate education levels;

(4) the term "export education" means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures;

(5) the term "historically Black college and university" has the meaning given the term "part B institution" in section 322;

(6) the term "institution of higher education" means, in addition to institutions which meet the definition of section 101 of this Act, institutions which meet the requirements of section

[68] So in law.

101 of this Act except that (1) they are not located in the United States, and (2) they apply for assistance under this title in consortia with institutions which meet the definition of section 101 of this Act;

(7) the term "international business" means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods, investments in industries, the licensing of processes, patents and trademarks, and the supply of services;

(8) the term "internationalization of curricula" means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education;

(9) the term "tribally controlled college or university" has the meaning given the term in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801); and

(10) the term "undergraduate foreign language and area or international studies center" means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language and area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students.

(b) SPECIAL CONDITIONS.—All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

SEC. 632. [20 U.S.C. 1132–1] SPECIAL RULE.

The Secretary may waive or reduce the non-Federal share required under this title for institutions that—

(1) are eligible to receive assistance under part A or B of title III or under title V; and

(2) have submitted a grant application under this section that demonstrates a need for a waiver or reduction, as determined by the Secretary.

SEC. 633. [20 U.S.C. 1132–2] RULE OF CONSTRUCTION.

Nothing in this title shall be construed to authorize the Secretary to mandate, direct, or control an institution of higher education's specific instructional content, curriculum, or program of instruction.

SEC. 634. [20 U.S.C. 1132–3] ASSESSMENT.

The Secretary is authorized to assess and ensure compliance with all the conditions and terms of grants provided under this title.

SEC. 635. [20 U.S.C. 1132–4] EVALUATION, OUTREACH, AND INFORMATION.

The Secretary may use not more than one percent of the funds made available under this title to carry out program evaluation, national outreach, and information dissemination activities relating to the programs authorized under this title.

SEC. 636. [20 U.S.C. 1132–5] REPORT.

The Secretary shall, in consultation and collaboration with the Secretary of State, the Secretary of Defense, and the heads of other relevant Federal agencies, submit a report once every two years that identifies areas of national need in foreign language, area, and international studies as such studies relate to government, education, business, and nonprofit needs, and a plan to address those needs. The report shall be provided to the authorizing committees and made available to the public.

SEC. 637. [20 U.S.C. 1132–6] SCIENCE AND TECHNOLOGY ADVANCED FOREIGN LANGUAGE EDUCATION GRANT PROGRAM.

(a) PURPOSE.—It is the purpose of this section to support programs in institutions of higher education that—

(1) encourage students to develop—

(A) an understanding of science and technology; and

(B) foreign language proficiency;

(2) foster future international scientific collaboration;

(3) provide for professional development opportunities for elementary school and secondary school teachers of critical foreign languages to increase the number of highly qualified teachers in critical foreign languages; and

(4) increase the number of United States students who achieve the highest level of proficiency in foreign languages critical to the security and competitiveness of the Nation.

(b) DEVELOPMENT.—The Secretary shall develop a program for the awarding of grants to institutions of higher education that develop innovative programs for the teaching of foreign languages, which may include the preparation of teachers to teach foreign languages.

(c) REGULATIONS AND REQUIREMENTS.—The Secretary shall promulgate regulations for the awarding of grants under subsection (b). Such regulations may require institutions of higher education to use grant funds for, among other things—

(1) the development of an on-campus cultural awareness program by which students attend classes taught in a foreign language and study the science and technology developments and practices in a non-English speaking country;

(2) immersion programs where students take science or technology related course work in a non-English speaking country;

(3) other programs, such as summer workshops, that emphasize the intense study of a foreign language and science technology;

(4) if applicable, recruiting highly qualified teachers in critical foreign languages, and providing professional development activities for such teachers at the elementary school and secondary school levels; and

(5) providing innovative opportunities for students that will allow for critical language learning, such as immersion environments, intensive study opportunities, internships, and distance learning.

(d) GRANT DISTRIBUTION.—In distributing grants to institutions of higher education under this section, the Secretary shall give priority to—

(1) institutions that have programs focusing on curricula that combine the study of foreign languages and the study of science and technology and produce graduates who have both skills; and

(2) institutions teaching critical foreign languages.

(e) REPORT ON BEST PRACTICES.—Not later than one year after the date of enactment of this section, the Secretary shall—

(1) conduct a study to identify the best practices to strengthen the role of institutions of higher education that receive funding under title III or title V in increasing the critical foreign language education efforts in the United States; and

(2) submit a report on the results of such study to the authorizing committees.

(f) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for fiscal year 2009 and for each subsequent fiscal year.

SEC. 638. [20 U.S.C. 1132–7] REPORTING BY INSTITUTIONS.

(a) APPLICABILITY.—The data requirement in subsection (b) shall apply to an institution of higher education that receives funds for a center or program under this title if—

(1) the amount of the contribution (including cash and the fair market value of any property) received from any foreign government or from a foreign private sector corporation or foundation during any fiscal year exceeds $250,000 in the aggregate; and

(2) the aggregate contribution, or a significant part of the aggregate contribution, is to be used by a center or program receiving funds under this title.

(b) DATA REQUIRED.—The Secretary shall require an institution of higher education referred to in subsection (a) to report information listed in subsection (a) to the Secretary consistent with the requirements of section 117.

TITLE VII—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

SEC. 700. [20 U.S.C. 1133] PURPOSE.

It is the purpose of this title—

(1) to authorize national graduate fellowship programs—

(A) in order to attract students of superior ability and achievement, exceptional promise, and demonstrated fi-

nancial need, into high-quality graduate programs and provide the students with the financial support necessary to complete advanced degrees; and

(B) that are designed to—

(i) sustain and enhance the capacity for graduate education in areas of national need, including those areas critical to United States national and homeland security needs, such as science, technology, engineering, and mathematics; and

(ii) encourage talented students to pursue scholarly careers in the humanities, social sciences, and the arts; and

(2) to promote postsecondary programs.

PART A—GRADUATE EDUCATION PROGRAMS

Subpart 1—Jacob K. Javits Fellowship Program

SEC. 701. [20 U.S.C. 1134] AWARD OF JACOB K. JAVITS FELLOWSHIPS.

(a) AUTHORITY AND TIMING OF AWARDS.—The Secretary is authorized to award fellowships in accordance with the provisions of this subpart for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement, financial need, and exceptional promise. The fellowships shall be awarded to students who are eligible to receive any grant, loan, or work assistance pursuant to section 484 and intend to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is the terminal highest degree awarded in the area of study. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year following the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

(b) DESIGNATION OF FELLOWS.—Students receiving awards under this subpart shall be known as "Jacob K. Javits Fellows".

(c) INTERRUPTIONS OF STUDY.—The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program. In the case of other exceptional circumstances, such as active duty military service or personal or family member illness, the institution of higher education may also permit the fellowship recipient to interrupt periods of study for the duration of the tour of duty (in the case of military service) or for not more than 12 months (in any other case), but without payment of the stipend.

(d) PROCESS AND TIMING OF COMPETITION.—The Secretary shall make applications for fellowships under this part available not later than October 1 of the academic year preceding the academic year for which fellowships will be awarded, and shall announce the recipients of fellowships under this section not later than March 1 of the academic year preceding the academic year for which the fellowships are awarded.

(e) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with a nongovernmental agency to administer the program assisted under this part if the Secretary determines that entering into the contract is an efficient means of carrying out the program.

SEC. 702. [20 U.S.C. 1134a] ALLOCATION OF FELLOWSHIPS.

(a) FELLOWSHIP BOARD.—

(1) APPOINTMENT.—

(A) IN GENERAL.—The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (referred to in this subpart as the "Board") consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board.

(B) QUALIFICATIONS.—In making appointments under subparagraph (A), the Secretary shall—

(i) give due consideration to the appointment of individuals who are highly respected in the academic community;

(ii) appoint members who represent the various geographic regions of the United States;

(iii) ensure that individuals appointed to the Board are broadly representative of a range of disciplines in graduate education in arts, humanities, and social sciences; and

(iv) ensure that such individuals include representatives from institutions that are eligible for one or more of the grants under title III or V.

(2) DUTIES.—The Board shall—

(A) establish general policies for the program established by this subpart and oversee the program's operation;

(B) establish general criteria for the award of fellowships in academic fields identified by the Board, or, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program assisted under this subpart, by such nongovernmental entity;

(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows, except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity; and

(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

(3) CONSULTATIONS.—In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

(4) TERM.—The term of office of each member of the Board shall be 4 years, except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

(5) INITIAL MEETING; VACANCY.—The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairperson and a Vice Chairperson, who shall serve until 1 year after the date of the appointment of the Chairperson and Vice Chairperson. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

(6) QUORUM; ADDITIONAL MEETINGS.—(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out the Board's responsibilities.

(7) COMPENSATION.—Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including travel time, and while so serving away from their homes or regular places of business, the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(b) USE OF SELECTION PANELS.—The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Board to make such selections under criteria established by the Board, except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Board.

(c) FELLOWSHIP PORTABILITY.—Each recipient shall be entitled to use the fellowship in a graduate program at any accredited institution of higher education in which the recipient may decide to enroll.

SEC. 703. [20 U.S.C. 1134b] STIPENDS.

(a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this subpart such stipends as the Secretary may establish, reflecting the purpose of this program to encourage highly talented students to undertake graduate study as described in this subpart. In the case of an individual who receives such individual's first stipend under this subpart in academic year 2009–2010 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation Graduate Research Fellowship Program for such academic year, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need determined in accordance with part F of title IV.

(b) INSTITUTIONAL PAYMENTS.—

(1) IN GENERAL.—(A) The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be, for academic year 2009–2010 and succeeding academic years, the same amount as the institutional payment made for academic year 2008–2009, adjusted for academic year 2009–2010 and annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(2) SPECIAL RULES.—(A) Beginning March 1, 1992, any applicant for a fellowship under this subpart who has been notified in writing by the Secretary that such applicant has been selected to receive such a fellowship and is subsequently notified that the fellowship award has been withdrawn, shall receive such fellowship unless the Secretary subsequently makes a determination that such applicant submitted fraudulent information on the application.

(B) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

SEC. 704. [20 U.S.C. 1134c] FELLOWSHIP CONDITIONS.

(a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under the provisions of this subpart shall continue to receive payments provided in section 703 only during such periods as the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and filed at such times as the Secretary determines necessary from any per-

son awarded a fellowship under the provisions of this subpart. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

SEC. 705. [20 U.S.C. 1134d] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $30,000,000 for fiscal year 2009 and each of the five succeeding fiscal years to carry out this subpart.

Subpart 2—Graduate Assistance in Areas of National Need

SEC. 711. [20 U.S.C. 1135] GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS.

(a) GRANT AUTHORITY.—

(1) IN GENERAL.—The Secretary shall make grants to academic departments, programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree, including a master's or doctoral degree, in order to enable such institutions to provide assistance to graduate students in accordance with this subpart.

(2) ADDITIONAL GRANTS.—The Secretary may also make grants to such departments, programs and other academic units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

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

(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

(C) is not a private foundation;

(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

(E) has necessary research resources not otherwise readily available in such institutions to such students.

(b) AWARD AND DURATION OF GRANTS.—

(1) AWARDS.—The principal criterion for the award of grants shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in awarding such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

(2) DURATION AND AMOUNT.—

(A) DURATION.—The Secretary shall award a grant under this subpart for a period of 3 years.

(B) AMOUNT.—The Secretary shall award a grant to an academic department, program or unit of an institution of higher education under this subpart for a fiscal year in an amount that is not less than $100,000 and not greater than $750,000.

(3) REALLOTMENT.—Whenever the Secretary determines that an academic department, program or unit of an institution of higher education is unable to use all of the amounts available to the department, program or unit under this subpart, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments, programs and units of institutions which can use the grants authorized by this subpart.

(c) PREFERENCE TO CONTINUING GRANT RECIPIENTS.—

(1) IN GENERAL.—The Secretary shall make new grant awards under this subpart only to the extent that each previous grant recipient under this subpart has received continued funding in accordance with subsection (b)(2)(A).

(2) RATABLE REDUCTION.—To the extent that appropriations under this subpart are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded under subsection (b)(2)(A).

SEC. 712. [20 U.S.C. 1135a] INSTITUTIONAL ELIGIBILITY.

(a) ELIGIBILITY CRITERIA.—Any academic department, program or unit of an institution of higher education that offers a program of postbaccalaureate study leading to a graduate degree, including a master's or doctoral degree, in an area of national need (as designated under subsection (b)) may apply for a grant under this subpart. No department, program or unit shall be eligible for a grant unless the program of postbaccalaureate study has been in existence for at least 4 years at the time of application for assistance under this subpart.

(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with appropriate Federal and nonprofit agencies and organizations, including the National Science Foundation, the Department of Defense, the Department of Homeland Security, the National Academy of Sciences, and the Bureau of Labor Statistics, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into consideration—

(1) the extent to which the interest in the area is compelling;

(2) the extent to which other Federal programs support postbaccalaureate study in the area concerned;

(3) an assessment of how the program may achieve the most significant impact with available resources; and

(4) an assessment of current (as of the time of the designation) and future professional workforce needs of the United States.

SEC. 713. [20 U.S.C. 1135b] CRITERIA FOR APPLICATIONS.

(a) SELECTION OF APPLICATIONS.—The Secretary shall make grants to academic departments, programs and units of institutions of higher education on the basis of applications submitted in accordance with subsection (b). Applications shall be ranked on program quality by review panels of nationally recognized scholars and evaluated on the quality and effectiveness of the academic program and the achievement and promise of the students to be served. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

(b) CONTENTS OF APPLICATIONS.—An academic department, program or unit of an institution of higher education, in the department, program or unit's application for a grant, shall—

(1) describe the current academic program of the applicant for which the grant is sought;

(2) provide assurances that the applicant will provide, from other non-Federal sources, for the purposes of the fellowship program under this subpart an amount equal to at least 25 percent of the amount of the grant received under this subpart, which contribution may be in cash or in kind, fairly valued;

(3) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

(4) describe the number, types, and amounts of the fellowships that the applicant intends to offer with grant funds provided under this part;

(5) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will make awards to individuals who—

(A) have financial need, as determined under part F of title IV;

(B) have excellent academic records in their previous programs of study; and

(C) plan to pursue the highest possible degree available in their course of study at the institution;

(6) set forth policies and procedures to ensure that Federal funds made available under this subpart for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this subpart and in no case to supplant those funds;

(7) provide assurances that, in the event that funds made available to the academic department, program or unit under this subpart are insufficient to provide the assistance due a student under the commitment entered into between the academic department, program or unit and the student, the academic department, program or unit will, from any funds available to the department, program or unit, fulfill the commitment to the student;

(8) provide that the applicant will comply with the limitations set forth in section 715;

(9) provide assurances that the academic department will provide at least 1 year of supervised training in instruction for students; and

(10) include such other information as the Secretary may prescribe.

SEC. 714. [20 U.S.C. 1135c] AWARDS TO GRADUATE STUDENTS.

(a) COMMITMENTS TO GRADUATE STUDENTS.—

(1) IN GENERAL.—An academic department, program or unit of an institution of higher education shall make commitments to graduate students who are eligible students under section 484 (including students pursuing a doctoral degree after having completed a master's degree program at an institution of higher education) at any point in their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

(2) SPECIAL RULE.—No such commitments shall be made to students under this subpart unless the academic department, program or unit has determined adequate funds are available to fulfill the commitment from funds received or anticipated under this subpart, or from institutional funds.

(b) AMOUNT OF STIPENDS.—The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this subpart. The stipends the Secretary establishes shall reflect the purpose of the program under this subpart to encourage highly talented students to undertake graduate study as described in this subpart. In the case of an individual who receives such individual's first stipend under this subpart in academic year 2009–2010 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation Graduate Research Fellowship Program for such academic year, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need as determined under part F of title IV.

(c) TREATMENT OF INSTITUTIONAL PAYMENTS.—An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this subpart in amounts that exceed the institutional payments made by the Secretary pursuant to section 715(a) may count such excess toward the amounts the institution is required to provide pursuant to section 713(b)(2).

(d) ACADEMIC PROGRESS REQUIRED.—Notwithstanding the provisions of subsection (a), no student shall receive an award—

(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded; or

(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

SEC. 715. [20 U.S.C. 1135d] ADDITIONAL ASSISTANCE FOR COST OF EDUCATION.

(a) INSTITUTIONAL PAYMENTS.—

(1) IN GENERAL.—The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be, for 2009–2010 and succeeding academic years, the same amount as the institutional payment made for 2008–2009 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(2) REDUCTION.—The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(b) USE FOR OVERHEAD PROHIBITED.—Funds made available pursuant to this subpart may not be used for the general operational overhead of the academic department or program.

SEC. 716. [20 U.S.C. 1135e] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $35,000,000 for fiscal year 2009 and each of the five succeeding fiscal years to carry out this subpart.

Subpart 3—Thurgood Marshall Legal Educational Opportunity Program

SEC. 721. [20 U.S.C. 1136] LEGAL EDUCATIONAL OPPORTUNITY PROGRAM.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as the "Thurgood Marshall Legal Educational Opportunity Program" designed to provide low-income, minority, or disadvantaged secondary school and college students with the information, preparation, and financial assistance to gain access to and complete law school study and admission to law practice.

(b) ELIGIBILITY.—A secondary school student or college student is eligible for assistance under this section if the student is—

(1) from a low-income family;

(2) a minority; or

(3) from an economically or otherwise disadvantaged background.

(c) CONTRACT OR GRANT AUTHORIZED.—The Secretary is authorized to enter into a contract with, or make a grant to, the Council on Legal Education Opportunity, for a period of not less than 5 years—

(1) to identify secondary school and college students who are from low-income families, are minorities, or are from disadvantaged backgrounds described in subsection (b)(3);

(2) to prepare such students for successful completion of a baccalaureate degree and for study at accredited law schools, and to assist them with the development of analytical skills, writing skills, and study methods to enhance the students' suc-

cess in, and promote the students' admission to and completion of, law school;

(3) to assist such students to select the appropriate law school, make application for entry into law school, and receive financial assistance for such study;

(4) to provide support services to such students who are first-year law students to improve retention and success in law school studies;

(5) to motivate and prepare such students—

(A) with respect to law school studies and practice in low-income communities; and

(B) to provide legal services to low-income individuals and families; and

(6) to award Thurgood Marshall Fellowships to eligible law school students—

(A) who participated in summer institutes under subsection (d)(6) and who are enrolled in an accredited law school; or

(B) who have successfully completed a comparable summer institute program that is certified by the Council on Legal Education Opportunity.

(d) SERVICES PROVIDED.—In carrying out the purposes described in subsection (c), the contract or grant shall provide for the delivery of services through pre-college programs, undergraduate prelaw information resource centers, summer institutes, midyear seminars, and other educational activities, conducted under this section. Such services may include—

(1) information and counseling regarding—

(A) accredited law school academic programs, especially tuition, fees, and admission requirements;

(B) course work offered and required for law school graduation;

(C) faculty specialties and areas of legal emphasis; and

(D) pre-college and undergraduate preparatory courses in analytical and writing skills, study methods, and course selection;

(2) summer academic programs for secondary school students who have expressed interest in a career in the law;

(3) tutoring and academic counseling, including assistance in preparing for bar examinations;

(4) prelaw mentoring programs, involving law school faculty, members of State and local bar associations, and retired and sitting judges, justices, and magistrates;

(5) assistance in identifying preparatory courses and material for the law school aptitude or admissions tests;

(6) summer institutes for Thurgood Marshall Fellows that expose the Fellows to a rigorous curriculum that emphasizes abstract thinking, legal analysis, research, writing, and examination techniques; and

(7) midyear seminars and other educational activities that are designed to reinforce reading, writing, and studying skills of Thurgood Marshall Fellows and Associates.

(e) DURATION OF THE PROVISION OF SERVICES.—The services described in subsection (d) may be provided—

(1) prior to the period of law school study, including before and during undergraduate study;

(2) during the period of law school study; and

(3) during the period following law school study and prior to taking a bar examination.

(f) SUBCONTRACTS AND SUBGRANTS.—For the purposes of planning, developing, or delivering one or more of the services described in subsection (d), the Council on Legal Education Opportunity shall enter into subcontracts with, and make subgrants to, institutions of higher education, law schools, public and private agencies and organizations, national and State bar associations, and combinations of such institutions, schools, agencies, organizations, and associations.

(g) FELLOWSHIPS AND STIPENDS.—The Secretary shall annually establish the maximum fellowship to be awarded, and the maximum stipend to be paid (including allowances for participant travel and for the travel of the dependents of the participant), to Thurgood Marshall Fellows or Associates for the period of participation in summer institutes, midyear seminars, and bar preparation seminars. A Thurgood Marshall Fellow or Associate may be eligible for such a fellowship or stipend only if the Fellow or Associate maintains satisfactory academic progress toward the Juris Doctor or Bachelor of Laws degree, as determined by the respective institutions (except with respect to a law school graduate enrolled in a bar preparation course).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2009 and each of the five succeeding fiscal years.

Subpart 4—Masters Degree Programs at Historically Black Colleges and Universities and Predominantly Black Institutions

SEC. 723. [20 U.S.C. 1136a] MASTERS DEGREE PROGRAMS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

(a) GRANT PROGRAM AUTHORIZED.—

(1) IN GENERAL.—Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the institutions listed in subsection (b)(1) that is determined by the Secretary to be making a substantial contribution to graduate education opportunities at the masters level in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines for Black Americans.

(2) ASSURANCE OF NON-FEDERAL MATCHING FUNDS.—No grant in excess of $1,000,000 may be made under this section unless the institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules

described in subsection (f), the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.

(3) MINIMUM AWARD.—Subject to subsections (f) and (g), the amount awarded to each eligible institution listed in subsection (b)(1) for a fiscal year shall be not less than $500,000.

(4) DURATION OF GRANTS.—A grant awarded under this section shall be for a period of not more than six years, but may be periodically renewed for a period to be determined by the Secretary.

(b) INSTITUTIONAL ELIGIBILITY.—

(1) IN GENERAL.—Institutions eligible for grants under subsection (a) are the following:

(A) Albany State University.
(B) Alcorn State University.
(C) Claflin University.
(D) Coppin State University.
(E) Elizabeth City State University.
(F) Fayetteville State University.
(G) Fisk University.
(H) Fort Valley State University.
(I) Grambling State University.
(J) Kentucky State University.
(K) Mississippi Valley State University.
(L) Savannah State University.
(M) South Carolina State University.
(N) University of Arkansas, Pine Bluff.
(O) Virginia State University.
(P) West Virginia State University.
(Q) Wilberforce University.
(R) Winston-Salem State University.

(2) QUALIFIED MASTERS DEGREE PROGRAM.—

(A) IN GENERAL.—For the purposes of this section, the term "qualified masters degree program" means a masters degree program that provides a program of instruction in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented and has students enrolled in such program of instruction at the time of application for a grant under this section.

(B) ENROLLMENT EXCEPTION.—Notwithstanding the enrollment requirement contained in subparagraph (A), an institution may use an amount equal to not more than 10 percent of the institution's grant under this section for the development of a new qualified masters degree program.

(3) INSTITUTIONAL CHOICE.—The president or chancellor of the institution may decide which graduate school or qualified masters degree program will receive funds under the grant in any one fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.

(4) ONE GRANT PER INSTITUTION.—The Secretary shall not award more than one grant under this section in any fiscal year to any institution of higher education.

(c) APPLICATION.—An eligible institution listed in subsection (b)(1) desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may require. The application shall—

(1) demonstrate how the grant funds under this section will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

(2) provide, in the case of applications for grants in excess of $1,000,000, the assurances required under subsection (a)(2) and specify the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(d) USES OF FUNDS.—A grant under this section may be used for—

(1) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

(4) scholarships, fellowships, and other financial assistance for needy graduate students to permit the enrollment of the students in, and completion of, a masters degree in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented;

(5) establishing or improving a development office to strengthen and increase contributions from alumni and the private sector;

(6) assisting in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 331;

(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems;

(8) acquisition of real property that is adjacent to the campus in connection with the construction, renovation, or improvement of, or an addition to, campus facilities;

(9) education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under title IV;

(10) tutoring, counseling, and student service programs designed to improve academic success;

(11) faculty professional development, faculty exchanges, and faculty participation in professional conferences and meetings; and

(12) other activities proposed in the application submitted under subsection (c) that—

(A) contribute to carrying out the purposes of this section; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(e) INTERACTION WITH OTHER GRANT PROGRAMS.—No institution that is eligible for and receives an award under section 326, 512, or 724 for a fiscal year shall be eligible to apply for a grant, or receive grant funds, under this section for the same fiscal year.

(f) FUNDING RULE.—Subject to subsection (g), of the amount appropriated to carry out this section for any fiscal year—

(1) the first $9,000,000 (or any lesser amount appropriated) shall be available only for the purposes of making minimum grants under subsection (a)(3) to eligible institutions listed in subparagraphs (A) through (R) of subsection (b)(1), except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced;

(2) after the application of paragraph (1), an amount shall be available for the purpose of making minimum grants under subsection (a)(3) to eligible institutions listed in subsection (b)(1) that do not receive a grant under paragraph (1), if any, except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced; and

(3) any amount in excess of $9,000,000 shall be made available to each of the eligible institutions identified in subparagraphs (A) through (R) of subsection (b)(1), pursuant to a formula developed by the Secretary that uses the following elements:

(A) The ability of the institution to match Federal funds with non-Federal funds.

(B) The number of students enrolled in the qualified masters degree program at the eligible institution in the previous academic year.

(C) The average cost of attendance per student, for all full-time students enrolled in the qualified masters degree program at such institution.

(D) The number of students in the previous year who received a degree in the qualified masters degree program at such institution.

(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving masters degrees in the disciplines related to the programs for the previous year.

(g) HOLD HARMLESS RULE.—Notwithstanding paragraphs (2) and (3) of subsection (f), no eligible institution identified in subsection (b)(1) that receives a grant under this section for fiscal year 2009 and that is eligible to receive a grant for a subsequent fiscal year shall receive a grant amount for any such subsequent fiscal year that is less than the grant amount received for fiscal year 2009, unless—

(1) the amount appropriated is not sufficient to provide such grant amounts to all such institutions and programs that received grants under this section for such fiscal year and that are eligible to receive a grant in such subsequent fiscal year; or

(2) the institution cannot provide sufficient matching funds to meet the requirements of this section.

SEC. 724. [20 U.S.C. 1136b] MASTERS DEGREE PROGRAMS AT PREDOMINANTLY BLACK INSTITUTIONS.

(a) GRANT PROGRAM AUTHORIZED.—

(1) IN GENERAL.—Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the institutions listed in subsection (b)(1) that is determined by the Secretary to be making a substantial contribution to graduate education opportunities at the masters level in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines for Black Americans.

(2) ASSURANCE OF NON-FEDERAL MATCHING FUNDS.—No grant in excess of $1,000,000 may be made under this section unless the institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f), the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.

(3) MINIMUM AWARD.—Subject to subsections (f) and (g), the amount awarded to each eligible institution listed in subsection (b)(1) for a fiscal year shall be not less than $500,000.

(4) DURATION OF GRANTS.—A grant awarded under this section shall be for a period of not more than six years, but may be periodically renewed for a period to be determined by the Secretary.

(b) INSTITUTIONAL ELIGIBILITY.—

(1) IN GENERAL.—Institutions eligible for grants under subsection (a) are the following:

(A) Chicago State University.

(B) Columbia Union College.

(C) Long Island University, Brooklyn campus.

(D) Robert Morris College.

(E) York College, The City University of New York.

(2) QUALIFIED MASTERS DEGREE PROGRAM.—

(A) IN GENERAL.—For the purposes of this section, the term "qualified masters degree program" means a masters degree program that provides a program of instruction in mathematics, engineering, the physical or natural sciences, computer science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented and has students enrolled in such program of instruction at the time of application for a grant under this section.

(B) ENROLLMENT EXCEPTION.—Notwithstanding the enrollment requirement contained in subparagraph (A), an institution may use an amount equal to not more than 10 percent of the institution's grant under this section for the development of a new qualified masters degree program.

(3) INSTITUTIONAL CHOICE.—The president or chancellor of the institution may decide which graduate school or qualified masters degree program will receive funds under the grant in any one fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.

(4) ONE GRANT PER INSTITUTION.—The Secretary shall not award more than one grant under this section in any fiscal year to any institution of higher education.

(c) APPLICATION.—An eligible institution listed in subsection (b)(1) desiring a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may require. The application shall—

(1) demonstrate how the grant funds under this section will be used to improve graduate educational opportunities for Black and low-income students and lead to greater financial independence; and

(2) provide, in the case of applications for grants in excess of $1,000,000, the assurances required under subsection (a)(2) and specify the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(d) USES OF FUNDS.—A grant under this section may be used for—

(1) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

(4) scholarships, fellowships, and other financial assistance for needy graduate students to permit the enrollment of the students in, and completion of, a masters degree in mathematics, engineering, the physical or natural sciences, computer

science, information technology, nursing, allied health, or other scientific disciplines in which African Americans are underrepresented;

(5) establishing or improving a development office to strengthen and increase contributions from alumni and the private sector;

(6) assisting in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 331;

(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems;

(8) acquisition of real property that is adjacent to the campus in connection with the construction, renovation, or improvement of, or an addition to, campus facilities;

(9) education or financial information designed to improve the financial literacy and economic literacy of students or the students' families, especially with regard to student indebtedness and student assistance programs under title IV;

(10) tutoring, counseling, and student service programs designed to improve academic success;

(11) faculty professional development, faculty exchanges, and faculty participation in professional conferences and meetings; and

(12) other activities proposed in the application submitted under subsection (c) that—

(A) contribute to carrying out the purposes of this section; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(e) INTERACTION WITH OTHER GRANT PROGRAMS.—No institution that is eligible for and receives an award under section 326, 512, or 723 for a fiscal year shall be eligible to apply for a grant, or receive grant funds, under this section for the same fiscal year.

(f) FUNDING RULE.—Subject to subsection (g), of the amount appropriated to carry out this section for any fiscal year—

(1) the first $2,500,000 (or any lesser amount appropriated) shall be available only for the purposes of making minimum grants under subsection (a)(3) to eligible institutions listed in subparagraphs (A) through (E) of subsection (b)(1), except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced;

(2) after the application of paragraph (1), an amount shall be available for the purpose of making minimum grants under subsection (a)(3) to eligible institutions described in subsection (b)(1) that do not receive a grant under paragraph (1), if any, except that if the amount appropriated is not sufficient to pay the minimum grant awards to all such eligible institutions, the amount of the minimum award to each such eligible institution shall be ratably reduced; and

(3) any amount in excess of $2,500,000 shall be made available to each of the eligible institutions identified in subparagraphs (A) through (E) of subsection (b)(1), pursuant to a formula developed by the Secretary that uses the following elements:

(A) The ability of the institution to match Federal funds with non-Federal funds.

(B) The number of students enrolled in the qualified masters degree program at the eligible institution in the previous academic year.

(C) The average cost of attendance per student, for all full-time students enrolled in the qualified masters degree program at such institution.

(D) The number of students in the previous year who received a degree in the qualified masters degree program at such institution.

(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving masters degrees in the disciplines related to the programs for the previous year.

(g) HOLD HARMLESS RULE.—Notwithstanding paragraphs (2) and (3) of subsection (f), no eligible institution identified in subsection (b)(1) that receives a grant under this section for fiscal year 2009 and that is eligible to receive a grant in a subsequent fiscal year shall receive a grant amount in any such subsequent fiscal year that is less than the grant amount received for fiscal year 2009, unless—

(1) the amount appropriated is not sufficient to provide such grant amounts to all such institutions and programs that received grants under this section for such fiscal year and that are eligible to receive a grant in such subsequent fiscal year; or

(2) the institution cannot provide sufficient matching funds to meet the requirements of this section.

SEC. 725. [20 U.S.C. 1136c] AUTHORIZATION OF APPROPRIATIONS.

(a) MASTERS DEGREE PROGRAMS AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—There are authorized to be appropriated to carry out section 723 such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(b) MASTERS DEGREE PROGRAMS AT PREDOMINANTLY BLACK INSTITUTIONS.—There are authorized to be appropriated to carry out section 724 such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

Subpart 5—General Provisions

SEC. 731. [20 U.S.C. 1137] ADMINISTRATIVE PROVISIONS FOR SUBPARTS 1 THROUGH 4.

(a) COORDINATED ADMINISTRATION.—In carrying out the purpose described in section 700(1), the Secretary shall provide for coordinated administration and regulation of graduate programs assisted under subparts 1 through 4 with other Federal programs

providing assistance for graduate education in order to minimize duplication and improve efficiency to ensure that the programs are carried out in a manner most compatible with academic practices and with the standard timetables for applications for, and notifications of acceptance to, graduate programs.

(b) HIRING AUTHORITY.—For purposes of carrying out subparts 1 through 4, the Secretary shall appoint, without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such parts. The employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) USE FOR RELIGIOUS PURPOSES PROHIBITED.—No institutional payment or allowance under section 703(b) or 715(a) shall be paid to a school or department of divinity as a result of the award of a fellowship under subpart 1 or 2, respectively, to an individual who is studying for a religious vocation.

(d) EVALUATION.—The Secretary shall evaluate the success of assistance provided to individuals under subpart 1, 2, 3, or 4 with respect to graduating from their degree programs, and placement in faculty and professional positions.

PART B—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 741. [20 U.S.C. 1138] FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

(a) AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, combinations of such institutions, and other public and private nonprofit institutions and agencies, to enable such institutions, combinations, and agencies to improve postsecondary education opportunities by—

(1) the encouragement of reform and improvement of, and innovation in, postsecondary education and the provision of educational opportunity for all students, including nontraditional students;

(2) the creation of institutions, programs, and joint efforts involving paths to career and professional training, including—

(A) efforts that provide academic credit for programs; and

(B) combinations of academic and experiential learning;

(3) the establishment and continuation of institutions, programs, consortia, collaborations, and other joint efforts based on communications technology, including those efforts that utilize distance education and technological advancements to educate and train postsecondary students (including health professionals serving medically underserved populations);

(4) the carrying out, in postsecondary educational institutions, of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering postsecondary institutions and pursuing programs of postsecondary study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties;

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto;

(9) the introduction of reforms in remedial education, including English language instruction, to customize remedial courses to student goals and help students progress rapidly from remedial courses into core courses and through postsecondary program completion;

(10) the provision of support and assistance to partnerships between institutions of higher education and secondary schools with a significant population of students identified as late-entering limited English proficient students, to establish programs that—

(A) result in increased secondary school graduation rates of limited English proficient students; and

(B) increase the number of participating late-entering limited English proficient students who pursue postsecondary education;

(11) the creation of consortia that join diverse institutions of higher education to design and offer curricular and cocurricular interdisciplinary programs at the undergraduate and graduate levels, sustained for not less than a 5 year period, that—

(A) focus on poverty and human capability; and

(B) include—

(i) a service-learning component; and

(ii) the delivery of educational services through informational resource centers, summer institutes, midyear seminars, and other educational activities that stress the effects of poverty and how poverty can be alleviated through different career paths;

(12) the provision of support and assistance for demonstration projects to provide comprehensive support services to ensure that homeless students, or students who were in foster care or were a ward of the court at any time before the age of 13, enroll and succeed in postsecondary education, including providing housing to such students during periods when housing at the institution of higher education is closed or generally unavailable to other students; and

(13) the support of efforts to work with institutions of higher education, and nonprofit organizations, that seek to pro-

mote cultural diversity in the entertainment media industry, including through the training of students in production, marketing, and distribution of culturally relevant content.

(b) PLANNING GRANTS.—The Secretary is authorized to make planning grants to institutions of higher education for the development and testing of innovative techniques in postsecondary education. Such grants shall not exceed $20,000.

(c) CENTER FOR BEST PRACTICES TO SUPPORT SINGLE PARENT STUDENTS.—

(1) PROGRAM AUTHORIZED.—The Secretary is authorized to award one grant or contract to an institution of higher education to enable such institution to establish and maintain a center to study and develop best practices for institutions of higher education to support single parents who are also students attending such institutions.

(2) INSTITUTION REQUIREMENTS.—The Secretary shall award the grant or contract under this subsection to a four-year institution of higher education that has demonstrated expertise in the development of programs to assist single parents who are students at institutions of higher education, as shown by the institution's development of a variety of targeted services to such students, including on-campus housing, child care, counseling, advising, internship opportunities, financial aid, and financial aid counseling and assistance.

(3) CENTER ACTIVITIES.—The center funded under this section shall—

(A) assist institutions implementing innovative programs that support single parents pursuing higher education;

(B) study and develop an evaluation protocol for such programs that includes quantitative and qualitative methodologies;

(C) provide appropriate technical assistance regarding the replication, evaluation, and continuous improvement of such programs; and

(D) develop and disseminate best practices for such programs.

(d) PROHIBITION.—

(1) IN GENERAL.—No funds made available under this part shall be used to provide direct financial assistance in the form of grants or scholarships to students who do not meet the requirements of section 484(a).

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a student who does not meet the requirements of section 484(a) from participating in programs funded under this part.

(e) PRIORITY.—In making grants under this part to any institution of higher education after the date of enactment of theHigher Education Opportunity Act, the Secretary may give priority to institutions that meet or exceed the most current version of ASHRAE/IES Standard 90.1 (as such term is used in section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) for any new facilities construction or major renovation of the institution after such date, except that this subsection shall

not apply with respect to barns or greenhouses or similar structures owned by the institution.

(f) SCHOLARSHIP PROGRAM FOR FAMILY MEMBERS OF VETERANS OR MEMBERS OF THE MILITARY.—

(1) AUTHORIZATION.—The Secretary shall enter into a contract with a nonprofit organization with demonstrated success in carrying out the activities described in this subsection to carry out a program to provide postsecondary education scholarships for eligible students.

(2) DEFINITION OF ELIGIBLE STUDENT.—In this subsection, the term "eligible student" means an individual who is enrolled as a full-time or part-time student at an institution of higher education (as defined in section 102) and is—

(A) a dependent student who is a child of—

(i) an individual who is—

(I) serving on active duty during a war or other military operation or national emergency (as defined in section 481); or

(II) performing qualifying National Guard duty during a war or other military operation or national emergency (as defined in section 481); or

(ii) a veteran who—

(I) served or performed, as described in clause (i), since September 11, 2001; and

(II) died, or has been disabled, as a result of such service or performance; or

(B) an independent student who—

(i) is a spouse of an individual who is—

(I) serving on active duty during a war or other military operation or national emergency (as defined in section 481); or

(II) performing qualifying National Guard duty during a war or other military operation or national emergency (as defined in section 481);

(ii) was (at the time of death of the veteran) a spouse of a veteran who—

(I) served or performed, as described in clause (i), since September 11, 2001; and

(II) died as a result of such service or performance; or

(iii) is a spouse of a veteran who—

(I) served or performed, as described in clause (i), since September 11, 2001; and

(II) has been disabled as a result of such service or performance.

(3) AWARDING OF SCHOLARSHIPS.—Scholarships awarded under this subsection shall be awarded based on need with priority given to eligible students who are eligible to receive Federal Pell Grants under subpart 1 of part A of title IV.

(4) MAXIMUM SCHOLARSHIP AMOUNT.—The maximum scholarship amount awarded to an eligible student under this subsection for an award year shall be the lesser of $5,000, or the student's cost of attendance (as defined in section 472).

(5) AMOUNTS FOR SCHOLARSHIPS.—All of the amounts appropriated to carry out this subsection for a fiscal year shall be used for scholarships awarded under this subsection, except that the nonprofit organization receiving a contract under this subsection may use not more than one percent of such amounts for the administrative costs of the contract.

SEC. 742. [20 U.S.C. 1138a] BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

(a) ESTABLISHMENT.—There is established a National Board of the Fund for the Improvement of Postsecondary Education (in this part referred to as the "Board"). The Board shall consist of 15 members appointed by the Secretary for overlapping 3-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for 6 consecutive years shall thereafter be ineligible for appointment to the Board during a 2-year period following the expiration of such sixth year.

(b) MEMBERSHIP.—The Secretary shall designate one of the members of the Board as Chairperson of the Board. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

(c) DUTIES.—The Board shall—

(1) advise the Secretary on priorities for the improvement of postsecondary education and make such recommendations as the Board may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

(2) advise the Secretary on the operation of the Fund for the Improvement of Postsecondary Education, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

(3) meet at the call of the Chairperson, except that the Board shall meet whenever one-third or more of the members request in writing that a meeting be held.

(d) INFORMATION AND ASSISTANCE.—The Secretary shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

SEC. 743. [20 U.S.C. 1138b] ADMINISTRATIVE PROVISIONS.

The Secretary may appoint, for terms not to exceed 3 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 7 technical employees to administer this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 744. [20 U.S.C. 1138c] SPECIAL PROJECTS.

(a) GRANT AUTHORITY.—The Secretary is authorized to make grants to institutions of higher education, or consortia thereof, and such other public agencies and nonprofit organizations as the Sec-

retary deems necessary for innovative projects concerning one or more areas of particular national need identified by the Secretary.

(b) APPLICATION.—No grant shall be made under this part unless an application is made at such time, in such manner, and contains or is accompanied by such information as the Secretary may require.

(c) AREAS OF NATIONAL NEED.—Areas of national need shall include, at a minimum, the following:

(1) Institutional restructuring to improve learning and promote productivity, efficiency, quality improvement, and cost reduction.

(2) Improvements in academic instruction and student learning, including efforts designed to assess the learning gains made by postsecondary students.

(3) Articulation between two- and four-year institutions of higher education, including developing innovative methods for ensuring the successful transfer of students from two- to four-year institutions of higher education.

(4) Development, evaluation, and dissemination of model courses, including model courses that—

(A) provide students with a broad and integrated knowledge base;

(B) include, at a minimum, broad survey courses in English literature, American and world history, American political institutions, economics, philosophy, college-level mathematics, and the natural sciences; and

(C) include study of a foreign language that leads to reading and writing competency in the foreign language.

(5) International cooperation and student exchanges among postsecondary educational institutions.

(6) Support of centers to incorporate education in quality and safety into the preparation of medical and nursing students, through grants to medical schools, nursing schools, and osteopathic schools. Such grants shall be used to assist in providing courses of instruction that specifically equip students to—

(A) understand the causes of, and remedies for, medical error, medically induced patient injuries and complications, and other defects in medical care;

(B) engage effectively in personal and systemic efforts to continually reduce medical harm; and

(C) improve patient care and outcomes, as recommended by the Institute of Medicine of the National Academies.

SEC. 745. [20 U.S.C. 1138d] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART D—PROGRAMS TO PROVIDE STUDENTS WITH DISABILITIES WITH A QUALITY HIGHER EDUCATION[69]

SEC. 760. [20 U.S.C. 1140] DEFINITIONS.

In this part:

(1) COMPREHENSIVE TRANSITION AND POSTSECONDARY PROGRAM FOR STUDENTS WITH INTELLECTUAL DISABILITIES.—The term "comprehensive transition and postsecondary program for students with intellectual disabilities" means a degree, certificate, or nondegree program that meets each of the following:

(A) Is offered by an institution of higher education.

(B) Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an institution of higher education in order to prepare for gainful employment.

(C) Includes an advising and curriculum structure.

(D) Requires students with intellectual disabilities to participate on not less than a half-time basis as determined by the institution, with such participation focusing on academic components, and occurring through 1 or more of the following activities:

(i) Regular enrollment in credit-bearing courses with nondisabled students offered by the institution.

(ii) Auditing or participating in courses with nondisabled students offered by the institution for which the student does not receive regular academic credit.

(iii) Enrollment in noncredit-bearing, nondegree courses with nondisabled students.

(iv) Participation in internships or work-based training in settings with nondisabled individuals.

(E) Requires students with intellectual disabilities to be socially and academically integrated with non-disabled students to the maximum extent possible.

(2) STUDENT WITH AN INTELLECTUAL DISABILITY.—The term "student with an intellectual disability" means a student—

(A) with a cognitive impairment, characterized by significant limitations in—

(i) intellectual and cognitive functioning; and

(ii) adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and

(B) who is currently, or was formerly, eligible for a free appropriate public education under the Individuals with Disabilities Education Act.

[69] Title VII does not contain a part C.

Subpart 1—Demonstration Projects to Support Postsecondary Faculty, Staff, and Administrators in Educating Students with Disabilities

SEC. 761. [20 U.S.C. 1140a] PURPOSE.

It is the purpose of this subpart to support model demonstration projects to provide technical assistance or professional development for postsecondary faculty, staff, and administrators in institutions of higher education to enable such faculty, staff, and administrators to provide students with disabilities with a quality postsecondary education.

SEC. 762. [20 U.S.C. 1140b] GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS AUTHORIZED.

(a) COMPETITIVE GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS AUTHORIZED.—

(1) IN GENERAL.—From amounts appropriated under section 765, the Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to institutions of higher education to enable the institutions to carry out the activities under subsection (b).

(2) AWARDS FOR PROFESSIONAL DEVELOPMENT AND TECHNICAL ASSISTANCE.—Not less than two grants, contracts, cooperative agreements, or a combination of such awards shall be awarded to institutions of higher education that provide professional development and technical assistance in order for students with learning disabilities to receive a quality postsecondary education.

(b) DURATION; ACTIVITIES.—

(1) DURATION.—A grant, contract, or cooperative agreement under this subpart shall be awarded for a period of three years.

(2) AUTHORIZED ACTIVITIES.—A grant, contract, or cooperative agreement awarded under this subpart shall be used to carry out one or more of the following activities:

(A) TEACHING METHODS AND STRATEGIES.—The development of innovative, effective, and efficient teaching methods and strategies, consistent with the principles of universal design for learning, to provide postsecondary faculty, staff, and administrators with the skills and supports necessary to teach and meet the academic and programmatic needs of students with disabilities, in order to improve the retention of such students in, and the completion by such students of, postsecondary education. Such methods and strategies may include in-service training, professional development, customized and general technical assistance, workshops, summer institutes, distance learning, and training in the use of assistive and educational technology.

(B) EFFECTIVE TRANSITION PRACTICES.—The development of innovative and effective teaching methods and strategies to provide postsecondary faculty, staff, and administrators with the skill and supports necessary to ensure the successful and smooth transition of students with

disabilities from secondary school to postsecondary education.

(C) SYNTHESIZING RESEARCH AND INFORMATION.—The synthesis of research and other information related to the provision of postsecondary educational services to students with disabilities, including data on the impact of a postsecondary education on subsequent employment of students with disabilities. Such research, information, and data shall be made publicly available and accessible.

(D) DISTANCE LEARNING.—The development of innovative and effective teaching methods and strategies to provide postsecondary faculty, staff, and administrators with the ability to provide accessible distance education programs or classes that would enhance the access of students with disabilities to postsecondary education, including the use of accessible curricula and electronic communication for instruction and advising.

(E) DISABILITY CAREER PATHWAYS.—

(i) IN GENERAL.—The provision of information, training, and technical assistance to secondary and postsecondary faculty, staff, and administrators with respect to disability-related fields that would enable such faculty, staff, and administrators to—

(I) encourage interest and participation in such fields, among students with disabilities and other students;

(II) enhance awareness and understanding of such fields among students with disabilities and other students;

(III) provide educational opportunities in such fields for students with disabilities and other students;

(IV) teach practical skills related to such fields to students with disabilities and other students; and

(V) offer work-based opportunities in such fields to students with disabilities and other students.

(ii) DEVELOPMENT.—The training and support described in subclauses (I) through (V) of clause (i) may include offering students—

(I) credit-bearing postsecondary-level coursework; and

(II) career and educational counseling.

(F) PROFESSIONAL DEVELOPMENT AND TRAINING SESSIONS.—The conduct of professional development and training sessions for postsecondary faculty, staff, and administrators from other institutions of higher education to enable such individuals to meet the educational needs of students with disabilities.

(G) ACCESSIBILITY OF EDUCATION.—Making postsecondary education more accessible to students with disabilities through curriculum development, consistent with the principles of universal design for learning.

(3) MANDATORY EVALUATION AND DISSEMINATION.—An institution of higher education awarded a grant, contract, or cooperative agreement under this subpart shall evaluate and disseminate to other institutions of higher education, the information obtained through the activities described in subparagraphs (A) through (G) of paragraph (2).

(c) CONSIDERATIONS IN MAKING AWARDS.—In awarding grants, contracts, or cooperative agreements under this subpart, the Secretary shall consider the following:

(1) GEOGRAPHIC DISTRIBUTION.—Providing an equitable geographic distribution of such awards.

(2) RURAL AND URBAN AREAS.—Distributing such awards to urban and rural areas.

(3) RANGE AND TYPE OF INSTITUTION.—Ensuring that the activities to be assisted are developed for a range of types and sizes of institutions of higher education.

(4) PRIOR EXPERIENCE OR EXCEPTIONAL PROGRAMS.—Distributing the awards to institutions of higher education with demonstrated prior experience in, or exceptional programs for, meeting the postsecondary educational needs of students with disabilities.

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than one year after the date of enactment of the Higher Education Opportunity Act, the Secretary shall prepare and submit to the authorizing committees, and make available to the public, a report on all demonstration projects awarded grants under this part for any of fiscal years 1999 through 2008, including a review of the activities and program performance of such demonstration projects based on existing information as of the date of the report.

(2) SUBSEQUENT REPORT.—Not later than three years after the date of the first award of a grant under this subpart after the date of enactment of the Higher Education Opportunity Act, the Secretary shall prepare and submit to the authorizing committees, and make available to the public, a report that—

(A) reviews the activities and program performance of the demonstration projects authorized under this subpart; and

(B) provides guidance and recommendations on how effective projects can be replicated.

SEC. 763. [20 U.S.C. 1140c] APPLICATIONS.

Each institution of higher education desiring to receive a grant, contract, or cooperative agreement under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

(1) a description of the activities authorized under this subpart that the institution proposes to carry out, and how such institution plans to conduct such activities in order to further the purpose of this subpart;

(2) a description of how the institution consulted with a broad range of people within the institution to develop activities for which assistance is sought;

(3) a description of how the institution will coordinate and collaborate with the office that provides services to students with disabilities within the institution; and

(4) a description of the extent to which the institution will work to replicate the research-based and best practices of institutions of higher education with demonstrated effectiveness in serving students with disabilities.

SEC. 764. [20 U.S.C. 1140d] RULE OF CONSTRUCTION.

Nothing in this subpart shall be construed to impose any additional duty, obligation, or responsibility on an institution of higher education or on the institution's faculty, administrators, or staff than is required under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

SEC. 765. [20 U.S.C. 1140e] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

Subpart 2—Transition Programs for Students with Intellectual Disabilities Into Higher Education

SEC. 766. [20 U.S.C. 1140f] PURPOSE.

It is the purpose of this subpart to support model demonstration programs that promote the successful transition of students with intellectual disabilities into higher education.

SEC. 767. [20 U.S.C. 1140g] MODEL COMPREHENSIVE TRANSITION AND POSTSECONDARY PROGRAMS FOR STUDENTS WITH INTELLECTUAL DISABILITIES.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From amounts appropriated under section 769(a), the Secretary shall annually award grants, on a competitive basis, to institutions of higher education (or consortia of institutions of higher education), to enable the institutions or consortia to create or expand high quality, inclusive model comprehensive transition and postsecondary programs for students with intellectual disabilities.

(2) ADMINISTRATION.—The program under this section shall be administered by the office in the Department that administers other postsecondary education programs.

(3) DURATION OF GRANTS.—A grant under this section shall be awarded for a period of 5 years.

(b) APPLICATION.—An institution of higher education (or a consortium) desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) AWARD BASIS.—In awarding grants under this section, the Secretary shall—

(1) provide for an equitable geographic distribution of such grants;

(2) provide grant funds for model comprehensive transition and postsecondary programs for students with intellectual disabilities that will serve areas that are underserved by programs of this type; and

(3) give preference to applications submitted under subsection (b) that agree to incorporate into the model comprehensive transition and postsecondary program for students with intellectual disabilities carried out under the grant one or more of the following elements:

(A) The formation of a partnership with any relevant agency serving students with intellectual disabilities, such as a vocational rehabilitation agency.

(B) In the case of an institution of higher education that provides institutionally owned or operated housing for students attending the institution, the integration of students with intellectual disabilities into the housing offered to nondisabled students.

(C) The involvement of students attending the institution of higher education who are studying special education, general education, vocational rehabilitation, assistive technology, or related fields in the model program.

(d) USE OF FUNDS.—An institution of higher education (or consortium) receiving a grant under this section shall use the grant funds to establish a model comprehensive transition and postsecondary program for students with intellectual disabilities that—

(1) serves students with intellectual disabilities;

(2) provides individual supports and services for the academic and social inclusion of students with intellectual disabilities in academic courses, extracurricular activities, and other aspects of the institution of higher education's regular postsecondary program;

(3) with respect to the students with intellectual disabilities participating in the model program, provides a focus on—

(A) academic enrichment;

(B) socialization;

(C) independent living skills, including self-advocacy skills; and

(D) integrated work experiences and career skills that lead to gainful employment;

(4) integrates person-centered planning in the development of the course of study for each student with an intellectual disability participating in the model program;

(5) participates with the coordinating center established under section 777(b) in the evaluation of the model program;

(6) partners with one or more local educational agencies to support students with intellectual disabilities participating in the model program who are still eligible for special education and related services under the Individuals with Disabilities Education Act, including the use of funds available under part B of such Act to support the participation of such students in the model program;

(7) plans for the sustainability of the model program after the end of the grant period; and

(8) creates and offers a meaningful credential for students with intellectual disabilities upon the completion of the model program.

(e) MATCHING REQUIREMENT.—An institution of higher education (or consortium) that receives a grant under this section shall provide matching funds toward the cost of the model comprehensive transition and postsecondary program for students with intellectual disabilities carried out under the grant. Such matching funds may be provided in cash or in-kind, and shall be in an amount of not less than 25 percent of the amount of such costs.

(f) REPORT.—Not later than five years after the date of the first grant awarded under this section, the Secretary shall prepare and disseminate a report to the authorizing committees and to the public that—

(1) reviews the activities of the model comprehensive transition and postsecondary programs for students with intellectual disabilities funded under this section; and

(2) provides guidance and recommendations on how effective model programs can be replicated.

SEC. 768. [20 U.S.C. 1140h] RULE OF CONSTRUCTION.

Nothing in this subpart shall be construed to reduce or expand—

(1) the obligation of a State or local educational agency to provide a free appropriate public education, as defined in section 602 of the Individuals with Disabilities Education Act; or

(2) eligibility requirements under any Federal, State, or local disability law, including the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), or the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.).

SEC. 769. [20 U.S.C. 1140i] AUTHORIZATION OF APPROPRIATIONS AND RESERVATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(b) RESERVATION OF FUNDS.—For any fiscal year for which appropriations are made for this subpart, the Secretary shall reserve funds to enter into a cooperative agreement to establish the coordinating center under section 777(b), in an amount that is—

(1) not less than $240,000 for any year in which the amount appropriated to carry out this subpart is $8,000,000 or less; or

(2) equal to 3 percent of the amount appropriated to carry out this subpart for any year in which such amount appropriated is greater than $8,000,000.

Subpart 3—Commission on Accessible Materials; Programs to Support Improved Access to Materials

SEC. 771. [20 U.S.C. 1140k] DEFINITION OF STUDENT WITH A PRINT DISABILITY.

In this subpart, the term "student with a print disability" means a student with a disability who experiences barriers to accessing instructional material in nonspecialized formats, including an individual described insection 121(d)(2)of title 17, United States Code.

SEC. 772. [20 U.S.C. 1140l] ESTABLISHMENT OF ADVISORY COMMISSION ON ACCESSIBLE INSTRUCTIONAL MATERIALS IN POSTSECONDARY EDUCATION FOR STUDENTS WITH DISABILITIES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a commission to be known as the Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities (in this section referred to as the "Commission").

(2) MEMBERSHIP.—

(A) TOTAL NUMBER OF MEMBERS.—The Commission shall include not more than 19 members, who shall be appointed by the Secretary in accordance with subparagraphs (B) and (C).

(B) MEMBERS OF THE COMMISSION.—The Commission members shall include one representative from each of the following categories:

(i) The Office of Postsecondary Education of the Department.

(ii) The Office of Special Education and Rehabilitative Services of the Department.

(iii) The Office for Civil Rights of the Department.

(iv) The Library of Congress National Digital Information and Infrastructure Preservation Program Copyright Working Group.

(v) The Association on Higher Education and Disability.

(vi) The Association of American Publishers.

(vii) The Association of American University Presses.

(viii) The National Council on Disability.

(ix) Recording for the Blind and Dyslexic.

(x) National organizations representing individuals with visual impairments.

(xi) National organizations representing individuals with learning disabilities.

(C) ADDITIONAL MEMBERS OF THE COMMISSION.—The Commission members shall include two representatives from each of the following categories:

(i) Staff from institutions of higher education with demonstrated experience teaching or supporting students with print disabilities, including representatives

from both two-year and four-year institutions of higher education of different sizes.

(ii) Producers of accessible materials, publishing software, and supporting technologies in specialized formats, such as Braille, audio or synthesized speech, and digital media.

(iii) Individuals with visual impairments, including not less than one currently enrolled postsecondary student.

(iv) Individuals with dyslexia or other learning disabilities related to reading, including not less than one currently enrolled postsecondary student.

(D) TIMING.—The Secretary shall appoint the members of the Commission not later than 60 days after the Commission is established under paragraph (1).

(3) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a chairperson and vice chairperson from among the members of the Commission.

(4) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet at the call of the Chairperson.

(B) FIRST MEETING.—Not later than 60 days after the appointment of the members of the Commission under paragraph (2)(D), the Commission shall hold the Commission's first meeting.

(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(b) DUTIES OF THE COMMISSION.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a comprehensive study to—

(i) assess the barriers and systemic issues that may affect, and technical solutions available that may improve, the timely delivery and quality of accessible instructional materials for postsecondary students with print disabilities, as well as the effective use of such materials by faculty and staff; and

(ii) make recommendations related to the development of a comprehensive approach to improve the opportunities for postsecondary students with print disabilities to access instructional materials in specialized formats in a timeframe comparable to the availability of instructional materials for postsecondary nondisabled students.

(B) EXISTING INFORMATION.—To the extent practicable, in carrying out the study under this paragraph, the Commission shall identify and use existing research, recommendations, and information.

(C) RECOMMENDATIONS.—

(i) IN GENERAL.—The Commission shall develop recommendations—

(I) to inform Federal regulations and legislation;

(II) to support the model demonstration programs authorized under section 773;

(III) to identify best practices in systems for collecting, maintaining, processing, and disseminating materials in specialized formats to students with print disabilities at costs comparable to instructional materials for postsecondary nondisabled students;

(IV) to improve the effective use of such materials by faculty and staff, while complying with applicable copyright law; and

(V) to modify the definitions of instructional materials, authorized entities, and eligible students, as such terms are used in applicable Federal law, for the purpose of improving services to students with disabilities.

(ii) CONSIDERATIONS.—In developing the recommendations under clause (i), the Commission shall consider—

(I) how students with print disabilities may obtain instructional materials in accessible formats—

(aa) within a timeframe comparable to the availability of instructional materials for nondisabled students; and

(bb) to the maximum extent practicable, at costs comparable to the costs of such materials for nondisabled students;

(II) the feasibility and technical parameters of establishing standardized electronic file formats, such as the National Instructional Materials Accessibility Standard as defined in section 674(e)(3) of the Individuals with Disabilities Education Act, to be provided by publishers of instructional materials to producers of materials in specialized formats, institutions of higher education, and eligible students;

(III) the feasibility of establishing a national clearinghouse, repository, or file-sharing network for electronic files in specialized formats and files used in producing instructional materials in specialized formats, and a list of possible entities qualified to administer such clearinghouse, repository, or network;

(IV) the feasibility of establishing market-based solutions involving collaborations among publishers of instructional materials, producers of materials in specialized formats, and institutions of higher education;

(V) solutions utilizing universal design; and

(VI) solutions for low-incidence, high-cost requests for instructional materials in specialized formats.

(2) REPORT.—Not later than one year after the Commission's first meeting, the Commission shall submit a report to the Secretary and the authorizing committees detailing the findings and recommendations of the study conducted under paragraph (1).

(3) DISSEMINATION OF INFORMATION.—In carrying out the study under paragraph (1), the Commission shall disseminate information concerning the issues that are the subject of the study through—

(A) the National Technical Assistance Center established under subpart 4; and

(B) other means, as determined by the Commission.

(c) TERMINATION OF THE COMMISSION.—The Commission shall terminate on the date that is 90 days after the date on which the Commission submits the report under subsection (b)(2) to the Secretary and the authorizing committees.

SEC. 773. [20 U.S.C. 1140m] MODEL DEMONSTRATION PROGRAMS TO SUPPORT IMPROVED ACCESS TO POSTSECONDARY INSTRUCTIONAL MATERIALS FOR STUDENTS WITH PRINT DISABILITIES.

(a) PURPOSE.—It is the purpose of this section to support model demonstration programs for the purpose of encouraging the development of systems to improve the quality of postsecondary instructional materials in specialized formats and such materials' timely delivery to postsecondary students with print disabilities, including systems to improve efficiency and reduce duplicative efforts across multiple institutions of higher education.

(b) DEFINITION OF ELIGIBLE PARTNERSHIP.—In this section, the term "eligible partnership" means a partnership that—

(1) shall include—

(A) an institution of higher education with demonstrated expertise in meeting the needs of students with print disabilities, including the retention of such students in, and such students' completion of, postsecondary education; and

(B) a public or private entity, other than an institution of higher education, with—

(i) demonstrated expertise in developing accessible instructional materials in specialized formats for postsecondary students with print disabilities; and

(ii) the technical development expertise necessary for the efficient dissemination of such materials, including procedures to protect against copyright infringement with respect to the creation, use, and distribution of instructional materials in specialized formats; and

(2) may include representatives of the publishing industry.

(c) PROGRAM AUTHORIZED.—From amounts appropriated under section 775, the Secretary shall award grants or contracts, on a competitive basis, to not less than one eligible partnership to enable the eligible partnership to support the activities described in subsection (f) and, as applicable, subsection (g).

(d) APPLICATION.—An eligible partnership that desires a grant or contract under this section shall submit an application at such

time, in such manner, and in such format as the Secretary may prescribe. The application shall include information on how the eligible partnership will implement activities under subsection (f) and, as applicable, subsection (g).

(e) PRIORITY.—In awarding grants or contracts under this section, the Secretary shall give priority to any applications that include the development and implementation of the procedures and approaches described in paragraphs (2) and (3) of subsection (g).

(f) REQUIRED ACTIVITIES.—An eligible partnership that receives a grant or contract under this section shall use the grant or contract funds to carry out the following:

(1) Supporting the development and implementation of the following:

(A) Processes and systems to help identify, and verify eligibility of, postsecondary students with print disabilities in need of instructional materials in specialized formats.

(B) Procedures and systems to facilitate and simplify request methods for accessible instructional materials in specialized formats from eligible students described in subparagraph (A), which may include a single point-of-entry system.

(C) Procedures and systems to coordinate among institutions of higher education, publishers of instructional materials, and entities that produce materials in specialized formats, to efficiently facilitate—

(i) requests for such materials;

(ii) the responses to such requests; and

(iii) the delivery of such materials.

(D) Delivery systems that will ensure the timely provision of instructional materials in specialized formats to eligible students, which may include electronic file distribution.

(E) Systems to reduce duplicative conversions and improve sharing of the same instructional materials in specialized formats for multiple eligible students at multiple institutions of higher education.

(F) Procedures to protect against copyright infringement with respect to the development, use, and distribution of instructional materials in specialized formats while maintaining accessibility for eligible students, which may include digital technologies such as watermarking, fingerprinting, and other emerging approaches.

(G) Awareness, outreach, and training activities for faculty, staff, and students related to the acquisition and dissemination of instructional materials in specialized formats and instructional materials utilizing universal design.

(2) Providing recommendations on how effective procedures and systems described in paragraph (1) may be disseminated and implemented on a national basis.

(g) AUTHORIZED APPROACHES.—An eligible partnership that receives a grant or contract under this section may use the grant or contract funds to support the development and implementation of the following:

(1) Approaches for the provision of instructional materials in specialized formats limited to instructional materials used in smaller categories of postsecondary courses, such as introductory, first-, and second-year courses.

(2) Approaches supporting a unified search for instructional materials in specialized formats across multiple databases or lists of available materials.

(3) Market-based approaches for making instructional materials in specialized formats directly available to eligible students at prices comparable to standard instructional materials.

(h) REPORT.—Not later than three years after the date of the first grant or contract awarded under this section, the Secretary shall submit to the authorizing committees a report that includes—

(1) the number of grants and contracts and the amount of funds distributed under this section;

(2) a summary of the purposes for which the grants and contracts were provided and an evaluation of the progress made under such grants and contracts;

(3) a summary of the activities implemented under subsection (f) and, as applicable, subsection (g), including data on the number of postsecondary students with print disabilities served and the number of instructional material requests executed and delivered in specialized formats; and

(4) an evaluation of the effectiveness of programs funded under this section.

(i) MODEL EXPANSION.—The Secretary may, on the basis of the reports under subsection (h) and section 772(b)(2) and any evaluations of the projects funded under this section, expand the program under this section to additional grant or contract recipients that use other programmatic approaches and serve different geographic regions, if the Secretary finds that the models used under this section—

(1) are effective in improving the timely delivery and quality of materials in specialized formats; and

(2) provide adequate protections against copyright infringement.

SEC. 774. [20 U.S.C. 1140n] RULE OF CONSTRUCTION.

Nothing in this subpart shall be construed to limit or preempt any State law requiring the production or distribution of postsecondary instructional materials in accessible formats to students with disabilities.

SEC. 775. [20 U.S.C. 1140o] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(b) PRIORITY.—For the first fiscal year for which funds are made available under this section, the Secretary shall give priority to allocating funding for the purposes of section 772.

Subpart 4—National Technical Assistance Center; Coordinating Center

SEC. 776. [20 U.S.C. 1140p] PURPOSE.

It is the purpose of this subpart to provide technical assistance and information on best and promising practices to students with disabilities, the families of students with disabilities, and entities awarded grants, contracts, or cooperative agreements under subpart 1, 2, or 3 to improve the postsecondary recruitment, transition, retention, and completion rates of students with disabilities.

SEC. 777. [20 U.S.C. 1140q] NATIONAL TECHNICAL ASSISTANCE CENTER; COORDINATING CENTER.

(a) NATIONAL CENTER.—

(1) IN GENERAL.—From amounts appropriated under section 778, the Secretary shall award a grant to, or enter into a contract or cooperative agreement with, an eligible entity to provide for the establishment and support of a National Center for Information and Technical Support for Postsecondary Students with Disabilities (in this subsection referred to as the "National Center"). The National Center shall carry out the duties set forth in paragraph (4).

(2) ADMINISTRATION.—The program under this section shall be administered by the office in the Department that administers other postsecondary education programs.

(3) ELIGIBLE ENTITY.—In this subpart, the term "eligible entity" means an institution of higher education, a nonprofit organization, or partnership of two or more such institutions or organizations, with demonstrated expertise in—

(A) supporting students with disabilities in postsecondary education;

(B) technical knowledge necessary for the dissemination of information in accessible formats;

(C) working with diverse types of institutions of higher education, including community colleges; and

(D) the subjects supported by the grants, contracts, or cooperative agreements authorized in subparts 1, 2, and 3.

(4) DUTIES.—The duties of the National Center shall include the following:

(A) ASSISTANCE TO STUDENTS AND FAMILIES.—The National Center shall provide information and technical assistance to students with disabilities and the families of students with disabilities to support students across the broad spectrum of disabilities, including—

(i) information to assist individuals with disabilities who are prospective students of an institution of higher education in planning for postsecondary education while the students are in secondary school;

(ii) information and technical assistance provided to individualized education program teams (as defined in section 614(d)(1) of the Individuals with Disabilities Education Act) for secondary school students with disabilities, and to early outreach and student services programs, including programs authorized under sub-

parts 2, 4, and 5 of part A of title IV, to support students across a broad spectrum of disabilities with the successful transition to postsecondary education;

(iii) research-based supports, services, and accommodations which are available in postsecondary settings, including services provided by other agencies such as vocational rehabilitation;

(iv) information on student mentoring and networking opportunities for students with disabilities; and

(v) effective recruitment and transition programs at postsecondary educational institutions.

(B) ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION.—The National Center shall provide information and technical assistance to faculty, staff, and administrators of institutions of higher education to improve the services provided to, the accommodations for, the retention rates of, and the completion rates of, students with disabilities in higher education settings, which may include—

(i) collection and dissemination of best and promising practices and materials for accommodating and supporting students with disabilities, including practices and materials supported by the grants, contracts, or cooperative agreements authorized under subparts 1, 2, and 3;

(ii) development and provision of training modules for higher education faculty on exemplary practices for accommodating and supporting postsecondary students with disabilities across a range of academic fields, which may include universal design for learning and practices supported by the grants, contracts, or cooperative agreements authorized under subparts 1, 2, and 3; and

(iii) development of technology-based tutorials for higher education faculty and staff, including new faculty and graduate students, on best and promising practices related to support and retention of students with disabilities in postsecondary education.

(C) INFORMATION COLLECTION AND DISSEMINATION.—The National Center shall be responsible for building, maintaining, and updating a database of disability support services information with respect to institutions of higher education, or for expanding and updating an existing database of disabilities support services information with respect to institutions of higher education. Such database shall be available to the general public through a website built to high technical standards of accessibility practicable for the broad spectrum of individuals with disabilities. Such database and website shall include available information on—

(i) disability documentation requirements;

(ii) support services available;

(iii) links to financial aid;

(iv) accommodations policies;

(v) accessible instructional materials;

(vi) other topics relevant to students with disabilities; and

(vii) the information in the report described in subparagraph (E).

(D) DISABILITY SUPPORT SERVICES.—The National Center shall work with organizations and individuals with proven expertise related to disability support services for postsecondary students with disabilities to evaluate, improve, and disseminate information related to the delivery of high quality disability support services at institutions of higher education.

(E) REVIEW AND REPORT.—Not later than three years after the establishment of the National Center, and every two years thereafter, the National Center shall prepare and disseminate a report to the Secretary and the authorizing committees analyzing the condition of postsecondary success for students with disabilities. Such report shall include—

(i) a review of the activities and the effectiveness of the programs authorized under this part;

(ii) annual enrollment and graduation rates of students with disabilities in institutions of higher education from publicly reported data;

(iii) recommendations for effective postsecondary supports and services for students with disabilities, and how such supports and services may be widely implemented at institutions of higher education;

(iv) recommendations on reducing barriers to full participation for students with disabilities in higher education; and

(v) a description of strategies with a demonstrated record of effectiveness in improving the success of such students in postsecondary education.

(F) STAFFING OF THE CENTER.—In hiring employees of the National Center, the National Center shall consider the expertise and experience of prospective employees in providing training and technical assistance to practitioners.

(b) COORDINATING CENTER.—

(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term "eligible entity" means an entity, or a partnership of entities, that has demonstrated expertise in the fields of—

(A) higher education;

(B) the education of students with intellectual disabilities;

(C) the development of comprehensive transition and postsecondary programs for students with intellectual disabilities; and

(D) evaluation and technical assistance.

(2) IN GENERAL.—From amounts appropriated under section 778, the Secretary shall enter into a cooperative agreement, on a competitive basis, with an eligible entity for the purpose of establishing a coordinating center for institutions of

higher education that offer inclusive comprehensive transition and postsecondary programs for students with intellectual disabilities, including institutions participating in grants authorized under subpart 2, to provide—

(A) recommendations related to the development of standards for such programs;

(B) technical assistance for such programs; and

(C) evaluations for such programs.

(3) ADMINISTRATION.—The program under this subsection shall be administered by the office in the Department that administers other postsecondary education programs.

(4) DURATION.—The Secretary shall enter into a cooperative agreement under this subsection for a period of five years.

(5) REQUIREMENTS OF COOPERATIVE AGREEMENT.—The eligible entity entering into a cooperative agreement under this subsection shall establish and maintain a coordinating center that shall—

(A) serve as the technical assistance entity for all comprehensive transition and postsecondary programs for students with intellectual disabilities;

(B) provide technical assistance regarding the development, evaluation, and continuous improvement of such programs;

(C) develop an evaluation protocol for such programs that includes qualitative and quantitative methodologies for measuring student outcomes and program strengths in the areas of academic enrichment, socialization, independent living, and competitive or supported employment;

(D) assist recipients of grants under subpart 2 in efforts to award a meaningful credential to students with intellectual disabilities upon the completion of such programs, which credential shall take into consideration unique State factors;

(E) develop recommendations for the necessary components of such programs, such as—

(i) academic, vocational, social, and independent living skills;

(ii) evaluation of student progress;

(iii) program administration and evaluation;

(iv) student eligibility; and

(v) issues regarding the equivalency of a student's participation in such programs to semester, trimester, quarter, credit, or clock hours at an institution of higher education, as the case may be;

(F) analyze possible funding streams for such programs and provide recommendations regarding the funding streams;

(G) develop model memoranda of agreement for use between or among institutions of higher education and State and local agencies providing funding for such programs;

(H) develop mechanisms for regular communication, outreach and dissemination of information about comprehensive transition and postsecondary programs for stu-

dents with intellectual disabilities under subpart 2 between or among such programs and to families and prospective students;

(I) host a meeting of all recipients of grants under subpart 2 not less often than once each year; and

(J) convene a workgroup to develop and recommend model criteria, standards, and components of such programs as described in subparagraph (E), that are appropriate for the development of accreditation standards, which workgroup shall include—

(i) an expert in higher education;

(ii) an expert in special education;

(iii) a disability organization that represents students with intellectual disabilities;

(iv) a representative from the National Advisory Committee on Institutional Quality and Integrity; and

(v) a representative of a regional or national accreditation agency or association.

(6) REPORT.—Not later than five years after the date of the establishment of the coordinating center under this subsection, the coordinating center shall report to the Secretary, the authorizing committees, and the National Advisory Committee on Institutional Quality and Integrity on the recommendations of the workgroup described in paragraph (5)(J).

SEC. 778. [20 U.S.C. 1140r] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART E—COLLEGE ACCESS CHALLENGE GRANT PROGRAM

SEC. 781. [20 U.S.C. 1141] COLLEGE ACCESS CHALLENGE GRANT PROGRAM.

(a) AUTHORIZATION AND APPROPRIATION.—There are authorized to be appropriated, and there are appropriated, to carry out this section $150,000,000 for each of the fiscal years 2010 through 2014. The authority to award grants under this section shall expire at the end of fiscal year 2014. In addition to the amount authorized and appropriated under the preceding sentence, there are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(b) PROGRAM AUTHORIZED.—

(1) GRANTS AUTHORIZED.—From amounts appropriated under subsection (a), the Secretary shall, subject to the availability of appropriations, award grants, from allotments under subsection (c), to States (and to philanthropic organization, as appropriate under paragraph (3)) having applications approved under subsection (d), to enable the State (or philanthropic organization) to pay the Federal share of the costs of carrying out the activities and services described in subsection (f).

(2) FEDERAL SHARE; NON-FEDERAL SHARE.—

(A) FEDERAL SHARE.—The amount of the Federal share under this section for a fiscal year shall be equal to ⅔ of the costs of the activities and services described in subsection (f) that are carried out under the grant.

(B) NON-FEDERAL SHARE.—The amount of the non-Federal share under this section shall be equal to ⅓ of the costs of the activities and services described in subsection (f). The non-Federal share may be in cash or in-kind, and may be provided from State resources, contributions from private organizations, or both.

(3) REDUCTION FOR FAILURE TO PAY NON-FEDERAL SHARE.—If a State fails to provide the full non-Federal share required under this subsection, the Secretary shall reduce the amount of the grant payment under this section proportionately, and may award the proportionate reduction amount of the grant directly to a philanthropic organization, as defined in subsection (i), to carry out this section.

(4) TEMPORARY INELIGIBILITY FOR SUBSEQUENT PAYMENTS.—

(A) IN GENERAL.—The Secretary shall determine a grantee to be temporarily ineligible to receive a grant payment under this section for a fiscal year if—

(i) the grantee fails to submit an annual report pursuant to subsection (h) for the preceding fiscal year; or

(ii) the Secretary determines, based on information in such annual report, that the grantee is not effectively meeting the conditions described under subsection (g) and the goals of the application under subsection (d).

(B) REINSTATEMENT.—If the Secretary determines that a grantee is ineligible under subparagraph (A), the Secretary may enter into an agreement with the grantee setting forth the terms and conditions under which the grantee may regain eligibility to receive payments under this section.

(c) DETERMINATION OF ALLOTMENT.—

(1) AMOUNT OF ALLOTMENT.—Subject to paragraph (2), in making grant payments to grantees under this section, the allotment to each grantee for a fiscal year shall be equal to the sum of—

(A) the amount that bears the same relation to 50 percent of the amount appropriated under subsection (a) for such fiscal year as the number of residents in the State aged 5 through 17 who are living below the poverty line applicable to the resident's family size (as determined under section 673(2) of the Community Services Block Grant Act) bears to the total number of such residents in all States; and

(B) the amount that bears the same relation to 50 percent of the amount appropriated under subsection (a) for such fiscal year as the number of residents in the State aged 15 through 44 who are living below the poverty line applicable to the individual's family size (as determined

under section 673(2) of the Community Services Block Grant Act) bears to the total number of such residents in all States.

(2) MINIMUM AMOUNT.—The allotment for each State under this section for a fiscal year shall not be an amount that is less than 1.0 percent of the total amount appropriated under subsection (a) for such fiscal year.

(d) SUBMISSION AND CONTENTS OF APPLICATION.—

(1) IN GENERAL.—For each fiscal year for which a grantee desires a grant payment under subsection (b), the State agency with jurisdiction over higher education, or another agency designated by the Governor or chief executive of the State to administer the program under this section, or a philanthropic organization, in accordance with subsection (b)(3), shall submit an application to the Secretary at such time, in such manner, and containing the information described in paragraph (2).

(2) APPLICATION.—An application submitted under paragraph (1) shall include the following:

(A) A description of the grantee's capacity to administer the grant under this section and report annually to the Secretary on the activities and services described in subsection (f).

(B) A description of the grantee's plan for using the grant funds to meet the requirements of subsections (f) and (g), including plans for how the grantee will make special efforts to—

(i) provide such benefits to students in the State that are underrepresented in postsecondary education; or

(ii) in the case of a philanthropic organization that operates in more than one State, provide benefits to such students in each such State for which the philanthropic organization is receiving grant funds under this section.

(C) A description of how the grantee will provide or coordinate the provision of the non-Federal share from State resources or private contributions.

(D) A description of—

(i) the structure that the grantee has in place to administer the activities and services described in subsection (f); or

(ii) the plan to develop such administrative capacity.

(e) SUBGRANTS TO NONPROFIT ORGANIZATIONS.—A State receiving a payment under this section may elect to make a subgrant to one or more nonprofit organizations in the State, including an eligible not-for-profit holder (as described in section 435(p)), or those nonprofit organizations that have agreements with the Secretary under section 428(b), or a partnership of such organizations, to carry out activities or services described in subsection (f), if the nonprofit organization or partnership—

(1) was in existence on the day before the date of the enactment of this Act; and

(2) as of such day, was participating in activities and services related to increasing access to higher education, such as those activities and services described in subsection (f).

(f) ALLOWABLE USES.—

(1) IN GENERAL.—Subject to paragraph (3), a grantee may use a grant payment under this section only for the following activities and services, pursuant to the conditions under subsection (g):

(A) Information for students and families regarding—

(i) the benefits of a postsecondary education;

(ii) postsecondary education opportunities;

(iii) planning for postsecondary education; and

(iv) career preparation.

(B) Information on financing options for postsecondary education and activities that promote financial literacy and debt management among students and families.

(C) Outreach activities for students who may be at risk of not enrolling in or completing postsecondary education.

(D) Assistance in completion of the Free Application for Federal Student Aid or other common financial reporting form under section 483(a) of the Higher Education Act of 1965.

(E) Need-based grant aid for students.

(F) Professional development for guidance counselors at middle schools and secondary schools, and financial aid administrators and college admissions counselors at institutions of higher education, to improve such individuals' capacity to assist students and parents with—

(i) understanding—

(I) entrance requirements for admission to institutions of higher education; and

(II) State eligibility requirements for Academic Competitiveness Grants or National SMART Grants under section 401A, and other financial assistance that is dependent upon a student's coursework;

(ii) applying to institutions of higher education;

(iii) applying for Federal student financial assistance and other State, local, and private student financial assistance and scholarships;

(iv) activities that increase students' ability to successfully complete the coursework required for a postsecondary degree, including activities such as tutoring or mentoring; and

(v) activities to improve secondary school students' preparedness for postsecondary entrance examinations.

(G) Student loan cancellation or repayment (as applicable), or interest rate reductions, for borrowers who are employed in a high-need geographical area or a high-need profession in the State, as determined by the State.

(2) PROHIBITED USES.—Funds made available under this section shall not be used to promote any lender's loans.

(3) USE OF FUNDS FOR ADMINISTRATIVE PURPOSES.—A grantee may use not more than 6 percent of the total amount of the sum of the Federal share provided under this section and the non-Federal share required under this section for administrative purposes relating to the grant under this section.

(g) SPECIAL CONDITIONS.—

(1) AVAILABILITY TO STUDENTS AND FAMILIES.—A grantee receiving a grant payment under this section shall—

(A) make the activities and services described in subparagraphs (A) through (F) of subsection (f)(1) that are funded under the payment available to all qualifying students and families in the State;

(B) allow students and families to participate in the activities and services without regard to—

(i) the postsecondary institution in which the student enrolls;

(ii) the type of student loan the student receives;

(iii) the servicer of such loan; or

(iv) the student's academic performance;

(C) not charge any student or parent a fee or additional charge to participate in the activities or services; and

(D) in the case of an activity providing grant aid, not require a student to meet any condition other than eligibility for Federal financial assistance under title IV of the Higher Education Act of 1965, except as provided for in the loan cancellation or repayment or interest rate reductions described in subsection (f)(1)(G).

(2) PRIORITY.—A grantee receiving a grant payment under this section shall, in carrying out any activity or service described in subsection (f)(1) with the grant funds, prioritize students and families who are living below the poverty line applicable to the individual's family size (as determined under section 673(2) of the Community Services Block Grant Act).

(3) DISCLOSURES.—

(A) ORGANIZATIONAL DISCLOSURES.—In the case of a State that has chosen to make a payment to an eligible not-for-profit holder in the State in accordance with subsection (e), the holder shall clearly and prominently indicate the name of the holder and the nature of the holder's work in connection with any of the activities carried out, or any information or services provided, with such funds.

(B) INFORMATIONAL DISCLOSURES.—Any information about financing options for higher education provided through an activity or service funded under this section shall—

(i) include information to students and the students' parents of the availability of Federal, State, local, institutional, and other grants and loans for postsecondary education; and

(ii) present information on financial assistance for postsecondary education that is not provided under title IV of the Higher Education Act of 1965 in a man-

ner that is clearly distinct from information on student financial assistance under such title.

(4) COORDINATION.—A grantee receiving a grant payment under this section shall attempt to coordinate the activities carried out with the grant payment with any existing activities that are similar to such activities, and with any other entities that support the existing activities in the State.

(h) REPORT.—A grantee receiving a payment under this section shall prepare and submit an annual report to the Secretary on the activities and services carried out under this section, and on the implementation of such activities and services. The report shall include—

(1) each activity or service that was provided to students and families over the course of the year;

(2) the cost of providing each activity or service;

(3) the number, and percentage, if feasible and applicable, of students who received each activity or service; and

(4) the total contributions from private organizations included in the grantee's non-Federal share for the fiscal year.

(i) DEFINITIONS.—In this section:

(1) PHILANTHROPIC ORGANIZATION.—The term "philanthropic organization" means a non-profit organization—

(A) that does not receive funds under title IV of the Higher Education Act of 1965 or under the Elementary and Secondary Education Act of 1965;

(B) that is not a local educational agency or an institution of higher education;

(C) that has a demonstrated record of dispersing grant aid to underserved populations to ensure access to, and participation in, higher education;

(D) that is affiliated with an eligible consortium (as defined in paragraph (2)) to carry out this section; and

(E) the primary purpose of which is to provide financial aid and support services to students from underrepresented populations to increase the number of such students who enter and remain in college.

(2) ELIGIBLE CONSORTIUM.—The term "eligible consortium" means a partnership of 2 or more entities that have agreed to work together to carry out this section that—

(A) includes—

(i) a philanthropic organization, which serves as the manager of the consortium;

(ii) a State that demonstrates a commitment to ensuring the creation of a Statewide system to address the issues of early intervention and financial support for eligible students to enter and remain in college; and

(iii) at the discretion of the philanthropic organization described in clause (i), additional partners, including other non-profit organizations, government entities (including local municipalities, school districts, cities, and counties), institutions of higher education, and other public or private programs that provide mentoring or outreach programs; and

(B) conducts activities to assist students with entering and remaining in college, which may include—

(i) providing need-based grants to students;

(ii) providing early notification to low-income students of their potential eligibility for Federal financial aid (which may include assisting students and families with filling out FAFSA forms), as well as other financial aid and other support available from the eligible consortium;

(iii) encouraging increased student participation in higher education through mentoring or outreach programs; and

(iv) conducting marketing and outreach efforts that are designed to—

(I) encourage full participation of students in the activities of the consortium that carry out this section; and

(II) provide the communities impacted by the activities of the consortium with a general knowledge about the efforts of the consortium.

(3) GRANTEE.—The term "grantee" means—

(A) a State awarded a grant under this section; or

(B) with respect to such a State that has failed to meet the non-Federal share requirement of subsection (b), a philanthropic organization awarded the proportionate reduction amount of such a grant under subsection (b)(3).

TITLE VIII—ADDITIONAL PROGRAMS

PART A—PROJECT GRAD

SEC. 801. [20 U.S.C. 1161a] PROJECT GRAD.

(a) PURPOSES.—The purposes of this section are—

(1) to provide support and assistance to programs implementing integrated education reform services in order to improve secondary school graduation, postsecondary program attendance, and postsecondary completion rates for low-income students; and

(2) to promote the establishment of new programs to implement such integrated education reform services.

(b) DEFINITIONS.—In this section:

(1) LOW-INCOME STUDENT.—The term "low-income student" means a student who is determined by a local educational agency to be from a low-income family using the measures described in section 1113(a)(5) of the Elementary and Secondary Education Act of 1965.

(2) FEEDER PATTERN.—The term "feeder pattern" means a secondary school and the elementary schools and middle schools that channel students into that secondary school.

(c) CONTRACT AUTHORIZED.—From the amount appropriated to carry out this section, the Secretary is authorized to award a five-year contract to Project GRAD USA (referred to in this section as the "contractor"), a nonprofit education organization that has as its

primary purpose the improvement of secondary school graduation and postsecondary attendance and completion rates for low-income students. Such contract shall be used to carry out the requirements of subsection (d) and to implement and sustain integrated education reform services through subcontractor activities described in subsection (e)(3) at existing Project GRAD program sites and to promote the expansion to new sites.

(d) REQUIREMENTS OF CONTRACT.—The Secretary shall enter into an agreement with the contractor that requires that the contractor shall—

(1) enter into subcontracts with nonprofit educational organizations that serve a substantial number or percentage of low-income students (referred to in this subsection as "subcontractors"), under which the subcontractors agree to implement the Project GRAD programs described in subsection (e) and provide matching funds for such programs;

(2) directly carry out—

(A) activities to implement and sustain the literacy, mathematics, classroom management, social service, and postsecondary access programs further described in subsection (e)(3);

(B) activities to build the organizational and management capacity of the subcontractors to effectively implement and sustain the programs;

(C) activities for the purpose of improving and expanding the programs, including activities—

(i) to further articulate a program for one or more grade levels and across grade levels;

(ii) to tailor a program for a particular target audience; and

(iii) to provide tighter integration across programs;

(D) activities for the purpose of implementing new Project GRAD program sites;

(E) activities for the purpose of promoting greater public awareness of integrated education reform services to improve secondary school graduation and postsecondary attendance rates for low-income students; and

(F) other activities directly related to improving secondary school graduation and postsecondary attendance and completion rates for low-income students; and

(3) use contract funds available under this section to pay—

(A) the amount determined under subsection (f); and

(B) costs associated with carrying out the activities and providing the services, as provided in paragraph (2) of this subsection.

(e) SUPPORTED PROGRAMS.—

(1) DESIGNATION.—The subcontractor programs referred to in this subsection shall be known as Project GRAD programs.

(2) FEEDER PATTERNS.—Each subcontractor shall implement a Project GRAD program and shall, with the agreement of the contractor—

(A) identify or establish not less than one feeder pattern of public schools; and

(B) provide the integrated educational reform services described in paragraph (3) at each identified feeder pattern.

(3) INTEGRATED EDUCATION REFORM SERVICES.—The services provided through a Project GRAD program may include—

(A) research-based programs in reading, mathematics, and classroom management;

(B) campus-based social services programs, including a systematic approach to increase family and community involvement in the schools served by the Project GRAD program;

(C) a postsecondary access program that includes—

(i) providing postsecondary scholarships for students who meet established criteria;

(ii) proven approaches for increasing student and family postsecondary awareness; and

(iii) assistance for students in applying for higher education financial aid; and

(D) such other services identified by the contractor as necessary to increase secondary school graduation and postsecondary attendance and completion rates.

(f) USE OF FUNDS.—Of the funds made available to carry out this section, not more than five percent of such funds, or $4,000,000, whichever is less, shall be used by the contractor to pay for administration of the contract.

(g) CONTRIBUTION AND MATCHING REQUIREMENT.—

(1) IN GENERAL.—The contractor shall provide to each subcontractor an average of $200 for each student served by the subcontractor in the Project GRAD program, adjusted to take into consideration—

(A) the resources or funds available in the area where the subcontractor will implement the Project GRAD program; and

(B) the need for the Project GRAD program in such area to improve student outcomes, including reading and mathematics achievement, secondary school graduation, and postsecondary attendance and completion rates.

(2) MATCHING REQUIREMENT.—Each subcontractor shall provide funds for the Project GRAD program in an amount that is equal to the amount received by the subcontractor from the contractor. Such matching funds may be provided in cash or in kind, fairly evaluated.

(3) WAIVER AUTHORITY.—The contractor may waive, in whole or in part, the requirement of paragraph (2) for a subcontractor, if the subcontractor—

(A) demonstrates that the subcontractor would not otherwise be able to participate in the program; and

(B) enters into an agreement with the contractor with respect to the amount to which the waiver will apply.

(h) EVALUATION.—

(1) EVALUATION BY THE SECRETARY.—The Secretary shall select an independent entity to evaluate, every three years, the performance of students who participate in a Project GRAD program under this section. The evaluation shall—

(A) be conducted using a rigorous research design for determining the effectiveness of the Project GRAD programs funded under this section; and

(B) compare reading and mathematics achievement, secondary school graduation, and postsecondary attendance and completion rates of students who participate in a Project GRAD program funded under this section with those indicators for students of similar backgrounds who do not participate in such program.

(2) EVALUATION BY CONTRACTOR AND SUBCONTRACTORS.—The contractor shall require each subcontractor to prepare an in-depth report of the results and the use of funds of each Project GRAD program funded under this section that includes—

(A) data on the reading and mathematics achievement of students involved in the Project GRAD program;

(B) data on secondary school graduation and postsecondary attendance and completion rates; and

(C) such financial reporting as required by the Secretary to review the effectiveness and efficiency of the program.

(3) AVAILABILITY OF EVALUATIONS.—Copies of any evaluation or report prepared under this subsection shall be made available to—

(A) the Secretary; and

(B) the authorizing committees.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART B—MATHEMATICS AND SCIENCE SCHOLARS PROGRAM

SEC. 802. [20 U.S.C. 1161b] MATHEMATICS AND SCIENCE SCHOLARS PROGRAM.

(a) PROGRAM AUTHORIZED.—From the amounts appropriated under subsection (f), the Secretary is authorized to award grants to States, on a competitive basis, to enable the States to encourage students to pursue a rigorous course of study, beginning in secondary school and continuing through the students' postsecondary education, in science, technology, engineering, mathematics, or a health-related field.

(b) APPLICATIONS.—

(1) IN GENERAL.—A State that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. A State may submit an application to receive a grant under subsection (c) or (d), or both.

(2) CONTENTS OF APPLICATION.—Each application shall include a description of—

(A) the program or programs for which the State is applying;

(B) if applicable, the priority set by the Governor pursuant to subsection (c)(4) or (d)(3); and

(C) how the State will meet the requirements of subsection (e).

(c) MATHEMATICS AND SCIENCE SCHOLARS PROGRAM.—

(1) GRANT FOR SCHOLARSHIPS.—The Secretary shall award grants under this subsection to provide scholarship support to eligible students.

(2) ELIGIBLE STUDENTS.—A student is eligible for a scholarship under this subsection if the student—

(A) meets the requirements of section 484(a);

(B) is a full-time student in the student's first year of undergraduate study; and

(C) has completed a rigorous secondary school curriculum in mathematics and science.

(3) RIGOROUS CURRICULUM.—Each participating State shall determine the requirements for a rigorous secondary school curriculum in mathematics and science described in paragraph (2)(C).

(4) PRIORITY FOR SCHOLARSHIPS.—The Governor of a State may set a priority for awarding scholarships under this subsection for particular eligible students, such as students attending schools in high-need local educational agencies (as defined in section 200), students who are from groups underrepresented in the fields of mathematics, science, and engineering, students served by local educational agencies that do not meet or exceed State standards in mathematics and science, or other high-need students.

(5) AMOUNT AND DURATION OF SCHOLARSHIP.—The Secretary shall award a grant under this subsection to provide scholarships—

(A) in an amount that does not exceed $5,000 per student; and

(B) for not more than one year of undergraduate study.

(d) STEM OR HEALTH-RELATED SCHOLARS PROGRAM.—

(1) GRANT FOR SCHOLARSHIPS.—The Secretary shall award grants under this subsection to provide scholarship support to eligible students.

(2) ELIGIBLE STUDENTS.—A student is eligible for scholarship under this subsection if the student—

(A) meets the requirements of section 484(a);

(B) is a full-time student who has completed at least the first year of undergraduate study;

(C) is enrolled in a program of undergraduate instruction leading to a bachelor's degree with a major in science, technology, engineering, mathematics, or a health-related field; and

(D) has obtained a cumulative grade point average of at least a 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) at the end of the most recently completed term.

(3) PRIORITY FOR SCHOLARSHIPS.—The Governor of a State may set a priority for awarding scholarships under this sub-

section for students agreeing to work in areas of science, technology, engineering, mathematics, or health-related fields.

(4) AMOUNT AND DURATION OF SCHOLARSHIP.—The Secretary shall award a grant under this subsection to provide scholarships—

(A) in an amount that does not exceed $5,000 per student for an academic year; and

(B) in an aggregate amount that does not exceed $20,000 per student.

(e) MATCHING REQUIREMENT.—In order to receive a grant under this section, a State shall provide matching funds for the scholarships awarded under this section in an amount equal to 50 percent of the Federal funds received.

(f) AUTHORIZATION.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

(g) DEFINITION.—The term "Governor" means the chief executive officer of a State.

PART C—BUSINESS WORKFORCE PARTNERSHIPS FOR JOB SKILL TRAINING IN HIGH-GROWTH OCCUPATIONS OR INDUSTRIES

SEC. 803. [20 U.S.C. 1161c] BUSINESS WORKFORCE PARTNERSHIPS FOR JOB SKILL TRAINING IN HIGH-GROWTH OCCUPATIONS OR INDUSTRIES.

(a) PURPOSE.—The purpose of this section is to provide grants to institutions of higher education partnering with employers to—

(1) provide relevant job skill training in high-growth and high-wage industries or occupations to nontraditional students; and

(2) strengthen ties between degree credit offerings at institutions of higher education and business and industry workforce needs.

(b) AUTHORIZATION.—

(1) IN GENERAL.—From the amounts appropriated under subsection (k), the Secretary shall award grants, on a competitive basis, to eligible partnerships for the purpose provided in subsection (a).

(2) DURATION.—The Secretary shall award grants under this section for a period of not less than 36 months and not more than 60 months.

(3) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds available to the eligible partnership for carrying out the activities described in subsection (c).

(c) USE OF FUNDS.—In consultation with all of the members of an eligible partnership, grant funds provided under this section may be used to—

(1) expand or create for-credit academic programs or programs of training that provide relevant job skill training for high-growth and high-wage occupations or industries, includ-

ing offerings connected to registered apprenticeship programs and entrepreneurial training opportunities;

(2) in consultation with faculty in the appropriate departments of an institution of higher education, adapt college offerings to the schedules and needs of working students, such as the creation of evening, weekend, modular, compressed, or distance learning formats;

(3) purchase equipment that will facilitate the development of academic programs or programs of training that provide training for high-growth and high-wage occupations or industries;

(4) strengthen outreach efforts that enable students, including students with limited English proficiency, to attend institutions of higher education with academic programs or programs of training focused on high-growth and high-wage occupations or industries;

(5) expand worksite learning and training opportunities, including registered apprenticeships as appropriate; and

(6) support other activities the Secretary determines to be consistent with the purpose of this section.

(d) APPLICATION.—

(1) IN GENERAL.—Each eligible partnership that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall include a description of—

(A) how the eligible partnership, through the institution of higher education, will provide relevant job skill training for students to enter high-growth and high-wage occupations or industries; and

(B) how the eligible partnership has consulted with employers and, where applicable, labor organizations to identify local high-growth and high-wage occupations or industries.

(e) AWARD BASIS.—In awarding grants under this section, the Secretary shall—

(1) give priority to applications focused on serving nontraditional students;

(2) ensure an equitable distribution of grant funds under this section among urban and rural areas of the United States; and

(3) take into consideration the capability of an institution of higher education that is participating in an eligible partnership to—

(A) offer one- or two-year high-quality programs of instruction and job skill training for students entering a high-growth and high-wage occupation or industry;

(B) involve the local business community, and to place graduates in employment in high-growth and high-wage occupations or industries in the community; and

(C) serve adult workers or displaced workers.

(f) ADMINISTRATIVE COSTS.—A grantee under this section may use not more than five percent of the grant amount to pay administrative costs associated with activities funded by the grant.

(g) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to grantees under this section throughout the grant period.

(h) EVALUATION.—The Secretary shall conduct an evaluation of the effectiveness of the program under this section based on performance standards developed in consultation with the Department of Labor, and shall disseminate to the public the findings of such evaluation and information related to promising practices developed under this section.

(i) REPORT TO CONGRESS.—Not later than 36 months after the first grant is awarded under this section, the Comptroller General shall report to the authorizing committees recommendations—

(1) for changes to this Act and related Acts, such as the Carl D. Perkins Career and Technical Education Act of 2006 and the Workforce Investment Act of 1998 (including titles I and II), to help create and sustain business and industry workforce partnerships at institutions of higher education [70]; and

(2) for other changes to this Act and related Acts to otherwise strengthen the links between business and industry workforce needs, workforce development programs, and other degree credit offerings at institutions of higher education.

(j) DEFINITIONS.—In this section:

(1) [71] ELIGIBLE PARTNERSHIP.—

(A) IN GENERAL.—The term "eligible partnership" means a partnership that includes—

(i) one or more institutions of higher education, one of which serves as the fiscal agent and grant recipient for the eligible partnership;

(ii) except as provided in subparagraph (B), an employer, group of employers, local board (as such term is defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), or workforce intermediary, or any combination thereof; and

(iii) where applicable, one or more labor organizations that represent workers locally in the businesses or industries that are the focus of the partnership, including as a result of such an organization's representation of employees at a worksite at which the partnership proposes to conduct activities under this section.

(B) STATE AND LOCAL BOARDS.—Notwithstanding subparagraph (A), if an institution of higher education that is participating in an eligible partnership under this section

[70] Effective on July 1, 2015, section 512(n)(5)(A) of Public Law 113–128 provides for an amendment to strike "for changes to this Act and related Acts, such as the Carl D. Perkins Career and Technical Education Act of 2006 and the Workforce Investment Act of 1998 (including titles I and II), to help create and sustain business and industry workforce partnerships at institutions of higher education" and insert "for changes to this Act and related Acts, such as the Carl D. Perkins Career and Technical Education Act of 2006 and the Workforce Innovation and Opportunity Act (including titles I and II), to help create and sustain business and industry workforce partnerships at institutions of higher education".

[71] For version of law for section 803(j)(1), as amended by section 512(n)(5)(B) of Public Law 113–128, see note below.

is located in a State that does not operate local boards, an eligible partnership may include a State board (as such term is defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)).

(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an eligible partnership that is in existence on the date of enactment of the Higher Education Opportunity Act from applying for a grant under this section.

[Note: Section 512(n)(5)(B) of Public Law 113–128 provides for amendments to subparagraphs (A)(ii) and (B) of section 803(j)(1). Section 506(a) of such Public Law provides as follows: "[e]xcept as otherwise provided in this Act, this Act, including the amendments made by this Act, shall take effect on the first day of the first full program year after the date of enactment of this Act [enactment date is July 22, 2014]". The effective date for the execution of such amendment is July 1, 2015. Upon such date, paragraph (1) (as amended) reads as follows:]

(1) ELIGIBLE PARTNERSHIP.—

(A) IN GENERAL.—The term "eligible partnership" means a partnership that includes—

(i) one or more institutions of higher education, one of which serves as the fiscal agent and grant recipient for the eligible partnership;

(ii) except as provided in subparagraph (B), an employer, group of employers, local board (as such term is defined in section 3 of the Workforce Innovation and Opportunity Act), or workforce intermediary, or any combination thereof; and

(iii) where applicable, one or more labor organizations that represent workers locally in the businesses or industries that are the focus of the partnership, including as a result of such an organization's representation of employees at a worksite at which the partnership proposes to conduct activities under this section.

(B) STATE AND LOCAL BOARDS.—Notwithstanding subparagraph (A), if an institution of higher education that is participating in an eligible partnership under this section is located in a State that does not operate local boards, an eligible partnership may include a State board (as such term is defined in section 3 of the Workforce Innovation and Opportunity Act).

(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an eligible partnership that is in existence on the date of enactment of the Higher Education Opportunity Act from applying for a grant under this section.

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(2) NONTRADITIONAL STUDENT.—The term "nontraditional student" means a student—

(A) who is an independent student, as defined in section 480(d);

(B) who attends an institution of higher education—

(i) on less than a full-time basis;

(ii) via evening, weekend, modular, or compressed courses; or

(iii) via distance education methods; and

(C) who—

(i) enrolled for the first time in an institution of higher education three or more years after completing high school; or

(ii) works full-time.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART D—CAPACITY FOR NURSING STUDENTS AND FACULTY

SEC. 804. [20 U.S.C. 1161d] CAPACITY FOR NURSING STUDENTS AND FACULTY.

(a) AUTHORIZATION.—From the amounts appropriated under subsection (f), the Secretary shall award grants to institutions of higher education that offer—

(1) an accredited registered nursing program at the baccalaureate or associate degree level to enable such program to expand the faculty and facilities of such program to accommodate additional students in such program; or

(2) an accredited graduate-level nursing program to accommodate advanced practice degrees for registered nurses or to accommodate students enrolled in such program to become teachers of nursing students.

(b) DETERMINATION OF NUMBER OF STUDENTS AND APPLICATION.—Each institution of higher education that offers a program described in subsection (a) that desires to receive a grant under this section shall—

(1) determine, for the four academic years preceding the academic year for which the determination is made, the average number of matriculated nursing program students, in each of the institution's accredited associate, baccalaureate, or advanced nursing degree programs at such institution for such academic years;

(2) submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require, including the average number in each of the institution's accredited nursing programs determined under paragraph (1); and

(3) with respect to the partnerships described in subsection (c)(2)(B), provide assurances that—

(A) the individuals enrolled in the program will—

(i) be registered nurses in pursuit of a master's or doctoral degree in nursing; and

(ii) have a contractual obligation with the hospital or health facility that is in partnership with the institution of higher education;

(B) the hospital or health facility of employment will be the clinical site for the accredited school of nursing program, if the program requires a clinical site;

(C) individuals enrolled in the program will—

(i) maintain their employment on at least a part-time basis with the hospital or health facility that allowed them to participate in the program; and

(ii) receive an income from the hospital or health facility, as at least a part-time employee, and release times or flexible schedules, to accommodate their program requirements, as necessary; and

(D) upon completion of the program, recipients of scholarships described in subsection (c)(2)(B)(ii)(III) will be required to teach for two years in an accredited school of nursing for each year of support the individual received under this section.

(c) GRANT AMOUNT; AWARD BASIS.—

(1) GRANT AMOUNT.—For each academic year after academic year 2009–2010, the Secretary is authorized to provide to each institution of higher education awarded a grant under this section an amount that is equal to $3,000 multiplied by the number by which—

(A) the number of matriculated nursing program students at such institution for such academic year, exceeds

(B) the average number determined with respect to such institution under subsection (b)(1).

(2) DISTRIBUTION OF GRANTS AMONG DIFFERENT DEGREE PROGRAMS.—

(A) IN GENERAL.—Subject to subparagraph (D), from the funds available to award grants under this section for each fiscal year, the Secretary shall—

(i) use 20 percent of such funds to award grants under this section to institutions of higher education for the purpose of accommodating advanced practice degrees or students in accredited graduate-level nursing programs;

(ii) use 40 percent of such funds to award grants under this section to institutions of higher education for the purpose of expanding accredited registered nurse programs at the baccalaureate degree level; and

(iii) use 40 percent of such funds to award grants under this section to institutions of higher education for the purpose of expanding accredited registered nurse programs at the associate degree level.

(B) OPTIONAL USES OF FUNDS.—Grants awarded under this section may be used to support partnerships with hospitals or health facilities to—

(i) improve the alignment between nursing education and the emerging challenges of health care delivery by—

(I) the purchase of distance learning technologies and expanding methods of delivery of instruction to include alternatives to onsite learning; and

(II) the collection, analysis, and dissemination of data on educational outcomes and best practices identified through the activities described in this section; and

(ii) ensure that students can earn a salary while obtaining an advanced degree in nursing with the goal of becoming nurse faculty by—

(I) funding release time for qualified nurses enrolled in the graduate nursing program;

(II) providing for faculty salaries; or

(III) providing scholarships to qualified nurses in pursuit of an advanced degree with the goal of becoming faculty members in an accredited nursing program.

(C) CONSIDERATIONS IN MAKING AWARDS.—In awarding grants under this section, the Secretary shall consider the following:

(i) GEOGRAPHIC DISTRIBUTION.—Providing an equitable geographic distribution of such grants.

(ii) URBAN AND RURAL AREAS.—Distributing such grants to urban and rural areas.

(iii) RANGE AND TYPE OF INSTITUTION.—Ensuring that the activities to be assisted are developed for a range of types and sizes of institutions of higher education, including institutions providing alternative methods of delivery of instruction in addition to on-site learning.

(D) DISTRIBUTION OF EXCESS FUNDS.—If, for a fiscal year, funds described in clause (i), (ii), or (iii) of subparagraph (A) remain available after the Secretary awards grants under this section to all applicants for the particular category of accredited nursing programs described in such clause, the Secretary shall use equal amounts of the remaining funds to award grants under this section to applicants that applied under the other categories of nursing programs.

(E) LIMITATION.—Of the amount appropriated to carry out this section, the Secretary may award not more than ten percent of such amount for the optional purposes under subparagraph (B).

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

(1) HEALTH FACILITY.—The term "health facility" means an Indian health service center, a Native Hawaiian health center, a hospital, a federally qualified health center, a rural health clinic, a nursing home, a home health agency, a hospice program, a public health clinic, a State or local department of public health, a skilled nursing facility, or an ambulatory surgical center.

(2) PUBLIC HEALTH SERVICE ACT.—The terms "accredited" and "school of nursing" have the meanings given those terms in section 801 of the Public Health Service Act (42 U.S.C. 296).

(e) PROHIBITION.—

(1) IN GENERAL.—Funds provided under this section may not be used for the construction of new facilities.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit funds provided under this section from being used for the repair or renovation of facilities.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART E—AMERICAN HISTORY FOR FREEDOM

SEC. 805. [20 U.S.C. 1161e] AMERICAN HISTORY FOR FREEDOM.

(a) GRANTS AUTHORIZED.—From the amounts appropriated under subsection (f), the Secretary is authorized to award three-year grants, on a competitive basis, to eligible institutions to establish or strengthen postsecondary academic programs or centers that promote and impart knowledge of—

(1) traditional American history;

(2) the history and nature of, and threats to, free institutions; or

(3) the history and achievements of Western civilization.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE INSTITUTION.—The term "eligible institution" means an institution of higher education as defined in section 101.

(2) FREE INSTITUTION.—The term "free institution" means an institution that emerged out of Western civilization, such as democracy, constitutional government, individual rights, market economics, religious freedom and religious tolerance, and freedom of thought and inquiry.

(3) TRADITIONAL AMERICAN HISTORY.—The term "traditional American history" means—

(A) the significant constitutional, political, intellectual, economic, and foreign policy trends and issues that have shaped the course of American history; and

(B) the key episodes, turning points, and leading figures involved in the constitutional, political, intellectual, diplomatic, and economic history of the United States.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall include a description of—

(A) how funds made available under this section will be used for the activities set forth under subsection (e), including how such activities will increase knowledge with respect to traditional American history, free institutions, or Western civilization;

(B) how the eligible institution will ensure that information about the activities funded under this section is widely disseminated pursuant to subsection (e)(1)(B);

(C) any activities to be undertaken pursuant to subsection (e)(2)(A), including identification of entities intended to participate;

(D) how funds made available under this section shall be used to supplement and not supplant non-Federal funds available for the activities described in subsection (e); and

(E) such fiscal controls and accounting procedures as may be necessary to ensure proper disbursement of and accounting for funding made available to the eligible institution under this section.

(d) AWARD BASIS.—In awarding grants under this section, the Secretary shall take into consideration the capability of the eligible institution to—

(1) increase access to quality programming that expands knowledge of traditional American history, free institutions, or Western civilization;

(2) involve personnel with strong expertise in traditional American history, free institutions, or Western civilization; and

(3) sustain the activities funded under this section after the grant has expired.

(e) USE OF FUNDS.—

(1) REQUIRED USE OF FUNDS.—Funds provided under this section shall be used to—

(A) establish or strengthen academic programs or centers focused on traditional American history, free institutions, or Western civilization, which may include—

(i) design and implementation of programs of study, courses, lecture series, seminars, and symposia;

(ii) development, publication, and dissemination of instructional materials;

(iii) research;

(iv) support for faculty teaching in undergraduate and, if applicable, graduate programs;

(v) support for graduate and postgraduate fellowships, if applicable; or

(vi) teacher preparation initiatives that stress content mastery regarding traditional American history, free institutions, or Western civilization; and

(B) conduct outreach activities to ensure that information about the activities funded under this section is widely disseminated—

(i) to undergraduate students (including students enrolled in teacher education programs, if applicable);

(ii) to graduate students (including students enrolled in teacher education programs, if applicable);

(iii) to faculty;

(iv) to local educational agencies; and

(v) within the local community.

(2) ALLOWABLE USES OF FUNDS.—Funds provided under this section may be used to support—

(A) collaboration with entities such as—

(i) local educational agencies, for the purpose of providing elementary and secondary school teachers an opportunity to enhance their knowledge of tradi-

tional American history, free institutions, or Western civilization; and

(ii) nonprofit organizations whose mission is consistent with the purpose of this section, such as academic organizations, museums, and libraries, for assistance in carrying out activities described under subsection (a); and

(B) other activities that meet the purposes of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART F—TEACH FOR AMERICA

SEC. 806. [20 U.S.C. 1161f] TEACH FOR AMERICA.

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

(1) GRANTEE.—The term "grantee" means Teach For America, Inc.

[Paragraph (2) was repealed by section 9214(c)(12)(A) of Public Law 114-95.]

(3) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term "high-need local educational agency" has the meaning given such term in section 200.

(b) GRANTS AUTHORIZED.—From the amounts appropriated under subsection (f), the Secretary is authorized to award a five-year grant to Teach For America, Inc., the national teacher corps of outstanding recent college graduates who commit to teach for two years in underserved communities in the United States, to implement and expand its program of recruiting, selecting, training, and supporting new teachers.

(c) REQUIREMENTS.—In carrying out the grant program under subsection (b), the Secretary shall enter into an agreement with the grantee under which the grantee agrees to use the grant funds provided under this section to—

(1) provide teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act, to high-need local educational agencies in urban and rural communities;

(2) pay the costs of recruiting, selecting, training, and supporting new teachers; and

(3) serve a substantial number and percentage of underserved students.

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Grant funds provided under this section shall be used by the grantee to carry out each of the following activities:

(A) Recruiting and selecting teachers through a highly selective national process.

(B) Providing preservice training to such teachers through a rigorous summer institute that includes hands-on teaching experience and significant exposure to education coursework and theory.

(C) Placing such teachers in schools and positions designated by high-need local educational agencies as high-need placements serving underserved students.

(D) Providing ongoing professional development activities for such teachers' first two years in the classroom, including regular classroom observations and feedback, and ongoing training and support.

(2) LIMITATION.—The grantee shall use all grant funds received under this section to support activities related directly to the recruitment, selection, training, and support of teachers as described in subsection (b), except that funds may be used for non-programmatic costs in accordance with subsection (f)(2).

(e) REPORTS AND EVALUATIONS.—

(1) ANNUAL REPORT.—The grantee shall provide to the Secretary an annual report that includes—

(A) data on the number and quality of the teachers provided to local educational agencies through a grant under this section;

(B) an externally conducted analysis of the satisfaction of local educational agencies and principals with the teachers so provided; and

(C) comprehensive data on the background of the teachers chosen, the training such teachers received, the placement sites of such teachers, the professional development of such teachers, and the retention of such teachers.

(2) STUDY.—

(A) IN GENERAL.—From funds appropriated under subsection (f), the Secretary shall provide for a study that examines the achievement levels of the students taught by the teachers assisted under this section.

(B) STUDENT ACHIEVEMENT GAINS COMPARED.—The study shall compare, within the same schools, the achievement gains made by students taught by teachers who are assisted under this section with the achievement gains made by students taught by teachers who are not assisted under this section.

(C) REQUIREMENTS.—The Secretary shall provide for such a study not less than once every three years, and each such study shall include multiple placement sites and multiple schools within placement sites.

(D) PEER REVIEW STANDARDS.—Each such study shall meet the peer review standards of the education research community. Further, the peer review standards shall ensure that reviewers are practicing researchers and have expertise in assessment systems, accountability, psychometric measurement and statistics, and instruction.

(3) ACCOUNTING, FINANCIAL REPORTING, AND INTERNAL CONTROL SYSTEMS.—

(A) IN GENERAL.—The grantee shall contract with an independent auditor to conduct a comprehensive review of the grantee's accounting, financial reporting, and internal control systems. Such review shall assess whether that grantee's accounting, financial reporting, and internal control systems are designed to—

(i) provide information that is complete, accurate, and reliable;

(ii) reasonably detect and prevent material misstatements, as well as fraud, waste, and abuse; and

(iii) provide information to demonstrate the grantee's compliance with related Federal programs, as applicable.

(B) REVIEW REQUIREMENTS.—Not later than 90 days after the grantee receives funds to carry out this section for the first fiscal year in which funds become available to carry out this section after the date of enactment of theHigher Education Opportunity Act, the independent auditor shall complete the review required by this paragraph.

(C) REPORT.—Not later than 120 days after the grantee receives funds to carry out this section for the first fiscal year in which funds become available to carry out this section after the date of enactment of theHigher Education Opportunity Act, the independent auditor shall submit a report to the authorizing committees and the Secretary of the findings of the review required under this paragraph, including any recommendations of the independent auditor, as appropriate, with respect to the grantee's accounting, financial reporting, and internal control systems.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—The amount authorized to be appropriated to carry out this section shall not exceed—

(A) $20,000,000 for fiscal year 2009;

(B) $25,000,000 for fiscal year 2010; and

(C) such sums as may be necessary for each of the four succeeding fiscal years.

(2) LIMITATION.—The grantee shall not use more than 5 percent of Federal funds made available under this section for non-programmatic costs to carry out this section.

PART G—PATSY T. MINK FELLOWSHIP PROGRAM

SEC. 807. [20 U.S.C. 1161g] PATSY T. MINK FELLOWSHIP PROGRAM.

(a) PURPOSE; DESIGNATION.—

(1) IN GENERAL.—It is the purpose of this section to provide, through eligible institutions, a program of fellowship awards to assist highly qualified minorities and women to acquire the doctoral degree, or highest possible degree available, in academic areas in which such individuals are underrep-

resented for the purpose of enabling such individuals to enter the higher education professoriate.

(2) DESIGNATION.—Each recipient of a fellowship award from an eligible institution receiving a grant under this section shall be known as a "Patsy T. Mink Graduate Fellow".

(b) ELIGIBLE INSTITUTION.—In this section, the term "eligible institution" means an institution of higher education, or a consortium of such institutions, that offers a program of postbaccalaureate study leading to a graduate degree.

(c) PROGRAM AUTHORIZED.—

(1) GRANTS BY SECRETARY.—

(A) IN GENERAL.—From the amounts appropriated under subsection (f), the Secretary shall award grants to eligible institutions to enable such institutions to make fellowship awards to individuals in accordance with the provisions of this section.

(B) PRIORITY CONSIDERATION.—In awarding grants under this section, the Secretary shall consider the eligible institution's prior experience in producing doctoral degree, or highest possible degree available, holders who are minorities and women, and shall give priority consideration in making grants under this section to those eligible institutions with a demonstrated record of producing minorities and women who have earned such degrees.

(2) APPLICATIONS.—

(A) IN GENERAL.—An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) APPLICATIONS MADE ON BEHALF.—The following entities may submit an application on behalf of an eligible institution:

(i) A graduate school or department of such institution.

(ii) A graduate school or department of such institution in collaboration with an undergraduate college or school of such institution.

(iii) An organizational unit within such institution that offers a program of postbaccalaureate study leading to a graduate degree, including an interdisciplinary or an interdepartmental program.

(C) PARTNERSHIP.—In developing a grant application and carrying out the grant activities authorized under this section, an eligible institution may partner with a nonprofit organization with a demonstrated record of helping minorities and women earn postbaccalaureate degrees.

(3) SELECTION OF APPLICATIONS.—In awarding grants under paragraph (1), the Secretary shall—

(A) take into account—

(i) the number and distribution of minority and female faculty nationally;

(ii) the current and projected need for highly trained individuals in all areas of the higher education professoriate; and

(iii) the present and projected need for highly trained individuals in academic career fields in which minorities and women are underrepresented in the higher education professoriate; and

(B) consider the need to prepare a large number of minorities and women generally in academic career fields of high national priority, especially in areas in which such individuals are traditionally underrepresented in college and university faculty.

(4) DISTRIBUTION AND AMOUNTS OF GRANTS.—

(A) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among public and private eligible institutions that apply for grants under this section and that demonstrate an ability to achieve the purpose of this section.

(B) SPECIAL RULE.—To the maximum extent practicable, the Secretary shall use not less than 30 percent of the amount appropriated pursuant to subsection (f) to award grants to eligible institutions that are eligible for assistance under title III or title V, or to consortia of eligible institutions that include at least one eligible institution that is eligible for assistance under title III or title V.

(C) ALLOCATION.—In awarding grants under this section, the Secretary shall allocate appropriate funds to those eligible institutions whose applications indicate an ability to significantly increase the numbers of minorities and women entering the higher education professoriate and that commit institutional resources to the attainment of the purpose of this section.

(D) NUMBER OF FELLOWSHIP AWARDS.—An eligible institution that receives a grant under this section shall make not less than ten fellowship awards.

(E) INSUFFICIENT FUNDS.—If the amount appropriated is not sufficient to permit all grantees under this section to provide the minimum number of fellowships required by subparagraph (D), the Secretary may, after awarding as many grants to support the minimum number of fellowships as such amount appropriated permits, award grants that do not require the grantee to award the minimum number of fellowships required by such subparagraph.

(5) INSTITUTIONAL ALLOWANCE.—

(A) IN GENERAL.—

(i) NUMBER OF ALLOWANCES.—In awarding grants under this section, the Secretary shall pay to each eligible institution awarded a grant, for each individual awarded a fellowship by such institution under this section, an institutional allowance.

(ii) AMOUNT.—Except as provided in subparagraph (C), for academic year 2009–2010 and succeeding academic years, an institutional allowance under this paragraph shall be in an amount equal to the amount of institutional allowance made to an institution of

higher education under section 715 for such academic year.

(B) USE OF FUNDS.—Institutional allowances may be expended at the discretion of the eligible institution and may be used to provide, except as prohibited under subparagraph (D), academic support and career transition services for individuals awarded fellowships by such institution.

(C) REDUCTION.—The institutional allowance paid under subparagraph (A) shall be reduced by the amount the eligible institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(D) USE FOR OVERHEAD PROHIBITED.—Funds made available under this section may not be used for general operational overhead of the academic department or institution receiving funds under this section.

(d) FELLOWSHIP RECIPIENTS.—

(1) AUTHORIZATION.—An eligible institution that receives a grant under this section shall use the grant funds to make fellowship awards to minorities and women who are enrolled at such institution in a doctoral degree program, or program for the highest possible degree available, and—

(A) intend to pursue a career in instruction at—

(i) an institution of higher education (as the term is defined in section 101);

(ii) an institution of higher education (as the term is defined in section 102(a)(1)); and

(iii) a proprietary institution of higher education (as the term is defined in section 102(b)); and

(B) sign an agreement with the Secretary agreeing—

(i) to begin employment at an institution described in subparagraph (A) not later than three years after receiving the doctoral degree or highest possible degree available, which three-year period may be extended by the Secretary for extraordinary circumstances; and

(ii) to be employed by such institution for one year for each year of fellowship assistance received under this section.

(2) REPAYMENT FOR FAILURE TO COMPLY.—In the event that any recipient of a fellowship under this section fails or refuses to comply with the agreement signed pursuant to paragraph (1)(B), the sum of the amounts of any fellowship received by such recipient shall, upon a determination of such a failure or refusal to comply, be treated as a Federal Direct Unsubsidized Stafford Loan under part D of title IV, and shall be subject to repayment, together with interest thereon accruing from the date of the grant award, in accordance with terms and conditions specified by the Secretary in regulations under this section.

(3) WAIVER AND MODIFICATION.—

(A) REGULATIONS.—The Secretary shall promulgate regulations setting forth criteria to be considered in grant-

ing a waiver for the service requirement under paragraph (1)(B).

(B) CONTENT.—The criteria under subparagraph (A) shall include whether compliance with the service requirement by the fellowship recipient would be—

(i) inequitable and represent an extraordinary hardship; or

(ii) deemed impossible because the individual is permanently and totally disabled at the time of the waiver request.

(4) AMOUNT OF FELLOWSHIP AWARDS.—Fellowship awards under this section shall consist of a stipend in an amount equal to the level of support provided to fellows under the National Science Foundation Graduate Research Fellowship Program, except that such stipend shall be adjusted as necessary so as not to exceed the fellow's tuition and fees or demonstrated need (as determined by the institution of higher education where the graduate student is enrolled), whichever is greater.

(5) ACADEMIC PROGRESS REQUIRED.—An individual student shall not be eligible to receive a fellowship award—

(A) except during periods in which such student is enrolled, and such student is maintaining satisfactory academic progress in, and devoting essentially full time to, study or research in the pursuit of the degree for which the fellowship support was awarded; and

(B) if the student is engaged in gainful employment, other than part-time employment in teaching, research, or similar activity determined by the eligible institution to be consistent with and supportive of the student's progress toward the appropriate degree.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an eligible institution that receives a grant under this section—

(1) to grant a preference to or to differentially treat any applicant for a faculty position as a result of the institution's participation in the program under this section; or

(2) to hire a Patsy T. Mink Fellow who completes this program and seeks employment at such institution.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART H—IMPROVING COLLEGE ENROLLMENT BY SECONDARY SCHOOLS

SEC. 808. [20 U.S.C. 1161h] IMPROVING COLLEGE ENROLLMENT BY SECONDARY SCHOOLS.

(a) IN GENERAL.—From the amounts appropriated under subsection (c), the Secretary shall award a grant to one nonprofit organization described in subsection (b) to enable the nonprofit organization—

(1) to make publicly available the year-to-year postsecondary education enrollment rate trends of secondary school students, disaggregated by secondary school, in compliance with section 444 of the General Education Provisions Act (commonly known as the "Family Educational Rights and Privacy Act of 1974");

(2) to identify not less than 50 urban local educational agencies and five States with significant rural populations, each serving a significant population of low-income students, and to carry out a comprehensive assessment in the agencies and States of the factors known to contribute to improved postsecondary education enrollment rates, which factors shall include—

(A) the local educational agency's and State's leadership strategies and capacities;

(B) the secondary school curriculum and class offerings of the local educational agency and State;

(C) the professional development used by the local educational agency and the State to assist teachers, guidance counselors, and administrators in supporting the transition of secondary students to postsecondary education;

(D) secondary school student attendance and other factors demonstrated to be associated with enrollment into postsecondary education;

(E) the use of data systems by the local educational agency and the State to measure postsecondary education enrollment rates and the incentives in place to motivate the efforts of faculty and students to improve student and schoolwide outcomes; and

(F) strategies to mobilize student leaders to build a college-bound culture; and

(3) to provide comprehensive services to improve the schoolwide postsecondary education enrollment rates of each of not less than ten local educational agencies and States, with the federally funded portion of each project declining by not less than 20 percent each year beginning in the second year of the comprehensive services, that—

(A) participated in the needs assessment described in paragraph (2); and

(B) demonstrated a willingness and commitment to improving the postsecondary education enrollment rates of the local educational agency or State, respectively.

(b) GRANT RECIPIENT CRITERIA.—The recipient of the grant awarded under subsection (a) shall be a nonprofit organization with demonstrated expertise—

(1) in increasing schoolwide postsecondary enrollment rates in low-income communities nationwide by providing curriculum, training, and technical assistance to secondary school staff and student peer influencers; and

(2) in a postsecondary education transition data management system.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be

necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART I—EARLY CHILDHOOD EDUCATION PROFESSIONAL DEVELOPMENT AND CAREER TASK FORCE

SEC. 811. [20 U.S.C. 1161i] PURPOSE.

The purposes of this part are—

(1) to improve the quality of the early childhood education workforce by creating a statewide early childhood education professional development and career task force for early childhood education program staff, directors, administrators, and faculty; and

(2) to create—

(A) a coherent system of core competencies, pathways to qualifications, credentials, degrees, quality assurances, access, and outreach, for early childhood education program staff, directors, administrators, and faculty that is linked to compensation commensurate with experience and qualifications;

(B) articulation agreements that enable early childhood education professionals to transition easily among degrees; and

(C) compensation initiatives for individuals working in an early childhood education program that reflect the individuals' credentials, degrees, and experience.

SEC. 812. [20 U.S.C. 1161i–1] DEFINITION OF EARLY CHILDHOOD EDUCATION PROGRAM.

In this part, the term "early childhood education program" means—

(1) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including a migrant or seasonal Head Start program or an Indian Head Start program;

(2) a State licensed or regulated child care program; or

(3) a State prekindergarten program or a program authorized under section 619 or part C of the Individuals with Disabilities Education Act, that serves children from birth through age six and that addresses the children's cognitive (including language, early literacy, and pre-numeracy), social, emotional, and physical development.

SEC. 813. [20 U.S.C. 1161i–2] GRANTS AUTHORIZED.

(a) IN GENERAL.—From the amounts appropriated under section 818, the Secretary is authorized to award grants to States in accordance with the provisions of this part to enable such States—

(1) to establish a State Task Force described in section 814; and

(2) to support activities of the State Task Force described in section 815.

(b) COMPETITIVE BASIS.—Grants under this part shall be awarded on a competitive basis.

(c) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this part, the Secretary shall take into consideration providing an equitable geographic distribution of such grants.

(d) DURATION.—Grants under this part shall be awarded for a period of five years.

SEC. 814. [20 U.S.C. 1161i–3] STATE TASK FORCE ESTABLISHMENT.

(a) STATE TASK FORCE ESTABLISHED.—The Governor of a State receiving a grant under this part shall establish, or designate an existing entity to serve as, the State Early Childhood Education Professional Development and Career Task Force (hereafter in this part referred to as the "State Task Force").

(b) MEMBERSHIP.—The State Task Force shall include a representative of a State agency, an institution of higher education (including an associate or a baccalaureate degree granting institution of higher education), an early childhood education program, a nonprofit early childhood organization, a statewide early childhood workforce scholarship or supplemental initiative, the State Head Start collaboration director, and any other entity or individual the Governor determines appropriate.

SEC. 815. [20 U.S.C. 1161i–4] STATE TASK FORCE ACTIVITIES.

(a) ACTIVITIES.—The State Task Force shall—

(1) coordinate and communicate regularly with the State Advisory Council on Early Care and Education (hereafter in this part referred to as "State Advisory Council") or a similar State entity charged with creating a comprehensive system of early care and education in the State, for the purposes of—

(A) integrating recommendations for early childhood professional development and career activities into the plans of the State Advisory Council; and

(B) assisting in the implementation of professional development and career activities that are consistent with the plans described in subparagraph (A);

(2) conduct a review of opportunities for and barriers to high-quality professional development, training, and higher education degree programs, in early childhood development and learning, including a periodic statewide survey concerning the demographics of individuals working in early childhood education programs in the State, which survey shall include information disaggregated by—

(A) race, gender, and ethnicity;

(B) compensation levels;

(C) type of early childhood education program setting;

(D) specialized knowledge of child development;

(E) years of experience in an early childhood education program;

(F) attainment of—

(i) academic credit for coursework;

(ii) an academic degree;

(iii) a credential;

(iv) licensure; or

(v) certification in early childhood education; and

(G) specialized knowledge in the education of children with limited English proficiency and students with disabilities; and

(3) develop a plan for a comprehensive statewide professional development and career system for individuals working in early childhood education programs or for early childhood education providers, which plan may include—

(A) methods of providing outreach to early childhood education program staff, directors, and administrators, including methods for how outreach is provided to non-English speaking providers, in order to enable the providers to be aware of opportunities and resources under the statewide plan;

(B) developing a unified data collection and dissemination system for early childhood education training, professional development, and higher education programs;

(C) increasing the participation of early childhood educators in high-quality training and professional development by assisting in paying the costs of enrollment in and completion of such training and professional development courses;

(D) increasing the participation of early childhood educators in undergraduate and graduate education programs leading to degrees in early childhood education by providing assistance to pay the costs of enrollment in and completion of such programs, which assistance—

(i) shall only be provided to an individual who—

(I) in the case of an individual pursuing an undergraduate or graduate degree, enters into an agreement under which the individual agrees to work, for a reasonable number of years after receiving such a degree, in an early childhood education program that is located in a low-income area; and

(II) has a family income equal to or less than the annually adjusted national median family income as determined by the Bureau of the Census; and

(ii) shall be provided in an amount that does not exceed $17,500;

(E) supporting professional development activities and a career lattice for a variety of early childhood professional roles with varying professional qualifications and responsibilities for early childhood education personnel, including strategies to enhance the compensation of such personnel;

(F) supporting articulation agreements between two- and four-year public and private institutions of higher education and mechanisms to transform other training, professional development, and experience into academic credit;

(G) developing mentoring and coaching programs to support new educators in and directors of early childhood education programs;

(H) providing career development advising with respect to the field of early childhood education, including informing an individual regarding—

(i) entry into and continuing education requirements for professional roles in the field;

(ii) available financial assistance for postsecondary education; and

(iii) professional development and career advancement in the field;

(I) enhancing the capacity and quality of faculty and coursework in postsecondary programs that lead to an associate, baccalaureate, or graduate degree in early childhood education;

(J) consideration of the availability of on-line graduate level professional development offered by institutions of higher education with experience and demonstrated expertise in establishing programs in child development, in order to improve the skills and expertise of individuals working in early childhood education programs; and

(K) developing or enhancing a system of quality assurance with respect to the early childhood education professional development and career system, including standards or qualifications for individuals and entities who offer training and professional development in early childhood education.

(b) PUBLIC HEARINGS.—The State Task Force shall hold public hearings and provide an opportunity for public comment on the activities described in the statewide plan described in subsection (a)(3).

(c) PERIODIC REVIEW.—The State Task Force shall meet periodically to review implementation of the statewide plan and to recommend any changes to the statewide plan the State Task Force determines necessary.

SEC. 816. [20 U.S.C. 1161i–5] STATE APPLICATION AND REPORT.

(a) IN GENERAL.—Each State desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall include a description of—

(1) the membership of the State Task Force;

(2) the activities for which the grant assistance will be used;

(3) other Federal, State, local, and private resources that will be available to support the activities of the State Task Force described in section 815;

(4) the availability within the State of training, early childhood educator preparation, professional development, compensation initiatives, and career systems, related to early childhood education; and

(5) the resources available within the State for such training, educator preparation, professional development, compensation initiatives, and career systems.

(b) REPORT TO THE SECRETARY.—Not later than two years after receiving a grant under this part, a State shall submit a report to the Secretary that shall describe—

(1) other Federal, State, local, and private resources that will be used in combination with a grant under this section to develop or expand the State's early childhood education professional development and career activities;

(2) the ways in which the State Advisory Council (or similar State entity) will coordinate the various State and local activities that support the early childhood education professional development and career system; and

(3) the ways in which the State Task Force will use funds provided under this part and carry out the activities described in section 815.

SEC. 817. [20 U.S.C. 1161i–6] EVALUATIONS.

(a) STATE EVALUATION.—Each State receiving a grant under this part shall—

(1) evaluate the activities that are assisted under this part in order to determine—

(A) the effectiveness of the activities in achieving State goals;

(B) the impact of a career lattice for individuals working in early childhood education programs;

(C) the impact of the activities on licensing or regulating requirements for individuals in the field of early childhood development;

(D) the impact of the activities, and the impact of the statewide plan described in section 815(a)(3), on the quality of education, professional development, and training related to early childhood education programs that are offered in the State;

(E) the change in compensation and retention of individuals working in early childhood education programs within the State resulting from the activities; and

(F) the impact of the activities on the demographic characteristics of individuals working in early childhood education programs; and

(2) submit a report at the end of the grant period to the Secretary regarding the evaluation described in paragraph (1).

(b) SECRETARY'S EVALUATION.—Not later than September 30, 2013, the Secretary, in consultation with the Secretary of Health and Human Services, shall prepare and submit to the authorizing committees an evaluation of the State reports submitted under subsection (a)(2).

SEC. 818. [20 U.S.C. 1161i–7] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART J—IMPROVING SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION WITH A FOCUS ON ALASKA NATIVE AND NATIVE HAWAIIAN STUDENTS

SEC. 819. [20 U.S.C. 1161j] IMPROVING SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION WITH A FOCUS ON ALASKA NATIVE AND NATIVE HAWAIIAN STUDENTS.

(a) PURPOSE.—The purposes of this section are—

(1) to develop or expand programs for the development of professionals in the fields of science, technology, engineering, and mathematics; and

(2) to focus resources on meeting the educational and cultural needs of Alaska Natives and Native Hawaiians.

(b) DEFINITIONS.—In this section:

(1) ALASKA NATIVE.—The term "Alaska Native" has the meaning given such term in section 6306 of the Elementary and Secondary Education Act of 1965.

(2) ELIGIBLE PARTNERSHIP.—The term "eligible partnership" means a partnership that includes—

(A) one or more colleges, schools, or departments of engineering;

(B) one or more colleges of science or mathematics;

(C) one or more institutions of higher education that offer two-year degrees; and

(D) one or more private entities that—

(i) conduct career awareness activities showcasing local technology professionals;

(ii) encourage students to pursue education in science, technology, engineering, and mathematics from elementary school through postsecondary education, and careers in those fields, with the assistance of local technology professionals;

(iii) develop internships, apprenticeships, and mentoring programs in partnership with relevant industries; and

(iv) assist with placement of interns and apprentices.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 101(a).

(4) NATIVE HAWAIIAN.—The term "Native Hawaiian" has the meaning given the term in section 6207 of the Elementary and Secondary Education Act of 1965.

(c) GRANT AUTHORIZED.—From the amounts appropriated to carry out this section under subsection (i), the Secretary is authorized to award a grant to an eligible partnership to enable the eligible partnership to expand programs for the development of science, technology, engineering, or mathematics professionals, from elementary school through postsecondary education, including existing programs for Alaska Native and Native Hawaiian students.

(d) USES OF FUNDS.—Grant funds under this section shall be used for one or more of the following:

(1) Development or implementation of cultural, social, or educational transition programs to assist students to transition into college life and academics in order to increase such students' retention rates in the fields of science, technology, engineering, or mathematics, with a focus on Alaska Native or Native Hawaiian students.

(2) Development or implementation of academic support or supplemental educational programs to increase the graduation rates of students in the fields of science, technology, engineering, or mathematics, with a focus on Alaska Native and Native Hawaiian students.

(3) Development or implementation of internship programs, carried out in coordination with educational institutions and private entities, to prepare students for careers in the fields of science, technology, engineering, or mathematics, with a focus on programs that serve Alaska Native or Native Hawaiian students.

(4) Such other activities as are consistent with the purpose of this section.

(e) APPLICATION.—Each eligible partnership that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(f) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to an eligible partnership that, on the day before the date of enactment of theHigher Education Opportunity Act, provides one or more programs in which 30 percent or more of the program participants are Alaska Native or Native Hawaiian.

(g) PERIOD OF GRANT.—A grant under this section shall be awarded for a period of five years.

(h) EVALUATION AND REPORT.—Each eligible partnership that receives a grant under this section shall conduct an evaluation to determine the effectiveness of the programs funded under the grant and shall provide a report regarding the evaluation to the Secretary not later than six months after the end of the grant period.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART K—PILOT PROGRAMS TO INCREASE COLLEGE PERSISTENCE AND SUCCESS

SEC. 820. [20 U.S.C. 1161k] PILOT PROGRAMS TO INCREASE COLLEGE PERSISTENCE AND SUCCESS.

(a) GRANTS AUTHORIZED.—From the amounts appropriated under subsection (i), the Secretary is authorized to award grants in accordance with this section, on a competitive basis, to eligible institutions to enable the institutions to develop programs to increase the persistence and success of low-income college students.

(b) APPLICATIONS.—

(1) IN GENERAL.—An eligible institution seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information

as the Secretary may require. An eligible institution may submit an application to receive a grant under subsection (c) or (d) or both.

(2) EVALUATION CONDITION.—Each eligible institution seeking a grant under this section shall agree to participate in the evaluation described in subsection (f).

(3) PRIORITY FOR REPLICATION OF EVIDENCE-BASED POLICIES AND PRACTICES.—In awarding grants for the program under subsection (d), the Secretary shall give priority to applications submitted by eligible institutions that propose to replicate policies and practices that have proven effective in increasing persistence and degree completion by low-income students or students in need of developmental education.

(c) PILOT PROGRAM TO INCREASE PERSISTENCE AND SUCCESS IN COMMUNITY COLLEGES.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE INSTITUTION.—The term "eligible institution" means an institution of higher education, as defined in section 101, that provides a one- or two-year program of study leading to a degree or certificate.

(B) ELIGIBLE STUDENT.—The term "eligible student" means a student who—

(i) is eligible to receive assistance under section 401;

(ii) is enrolled at least half-time;

(iii) is not younger than age 19;

(iv) is the parent of at least one dependent child, which dependent child is age 18 or younger;

(v) has a secondary school diploma or its recognized equivalent; and

(vi) does not have a degree or certificate from an institution of higher education.

(2) USES OF FUNDS.—

(A) SUPPORT.—The Secretary shall award grants under this subsection to eligible institutions to enable such institutions to provide additional monetary and nonmonetary support to eligible students to enable the eligible students to maintain enrollment and complete degree or certificate programs.

(B) REQUIRED USES.—Each eligible institution receiving a grant under this subsection shall use the grant funds—

(i) to provide scholarships in accordance with paragraph (3); and

(ii) to provide counseling services in accordance with paragraph (4).

(C) ALLOWABLE USES OF FUNDS.—Grant funds provided under this subsection may be used—

(i) to conduct outreach to make students aware of the scholarships and counseling services available under this subsection and to encourage the students to participate in the program assisted under this subsection; and

(ii) to provide incentives of $20 or less to applicants who complete the process of applying for assistance under this subsection, as compensation for the student's time.

(3) SCHOLARSHIP REQUIREMENTS.—

(A) IN GENERAL.—Each scholarship awarded under this subsection shall—

(i) be awarded for one academic year consisting of two semesters or the equivalent;

(ii) require the student to maintain, during the scholarship period, at least half-time enrollment and at least a 2.0 grade point average or the equivalent;

(iii) be awarded in the amount of $1,000 for each of two semesters (prorated for quarters or other equivalents), or $2,000 for an academic year;

(iv) not exceed the student's cost of attendance, as defined in section 472; and

(v) be paid, for each of the two semesters, in increments of—

(I) $250 upon enrollment (prorated for quarters or other equivalents);

(II) $250 upon passing midterm examinations or comparable assessments (prorated for quarters or other equivalents); and

(III) $500 upon passing courses (prorated for quarters or other equivalents).

(B) NUMBER.—An eligible institution may award an eligible student not more than two scholarships under this subsection.

(4) COUNSELING SERVICES.—

(A) IN GENERAL.—Each eligible institution receiving a grant under this subsection shall use the grant funds to provide students at the institution with a counseling staff dedicated to students participating in the program under this subsection. Each such counselor shall—

(i) have a caseload of less than 125 students;

(ii) use a proactive, team-oriented approach to counseling;

(iii) hold a minimum of two meetings with each student each semester; and

(iv) provide referrals to and follow-up with other student services staff, including financial aid and career services.

(B) COUNSELING SERVICES AVAILABILITY.—The counseling services provided under this subsection shall be available to participating students during the daytime and evening hours.

(d) STUDENT SUCCESS GRANT PILOT PROGRAM.—

(1) DEFINITIONS.—

(A) ELIGIBLE INSTITUTION.—In this subsection, the term "eligible institution" means an institution of higher education in which, during the three-year period preceding the year in which the institution is applying for a grant under this subsection, an average of not less than 50 per-

cent of the institution's entering first-year students are assessed as needing developmental courses to bring reading, writing, or mathematics skills up to college level.

(B) ELIGIBLE STUDENT.—In this subsection, the term "eligible student" means a student who—

(i) is eligible to receive assistance under section 401;

(ii) is a first-year student at the time of entering the program;

(iii) is assessed as needing developmental education to bring reading, writing, or mathematics skills up to college level; and

(iv) is selected by an eligible institution to participate in the program.

(2) STUDENT SUCCESS GRANT AMOUNT.—The Secretary shall award grants under this subsection to eligible institutions in an amount equal to $1,500 multiplied by the number of students the institution selects to participate in the program in such year. An institution shall not select more than 200 students to participate in the program under this subsection during such year.

(3) REQUIRED USES.—An eligible institution that receives a grant under this subsection shall use the grant funds to assign a student success coach to each first-year student participating in the program to provide intensive career and academic advising, ongoing personal help in navigating college services (such as financial aid and registration), and assistance in connecting to community resources that can help students overcome family and personal challenges to success. Student success coaches—

(A) shall work with not more than 50 new students during any academic period;

(B) may be employees of academic departments, student services offices, community-based organizations, or other entities as determined appropriate by the institution; and

(C) shall meet with each eligible student selected for the program before registration for courses.

(4) ALLOWABLE USES.—An eligible institution that receives a grant under this subsection may use the grant funds to provide services and program innovations for students participating in the program, including the following:

(A) College and career success courses provided at no charge to participating students. These courses may cover college success topics, including how to take notes, how to study, how to take tests, and how to budget time, and may also include a substantial career exploration component. Institutions may use such courses to help students develop a college and career success plan, so that by the end of the first semester the students have a clear sense of their career goals and what classes to take to achieve such goals.

(B) Work-study jobs with private employers in the students' fields of study.

(C) Learning communities that ensure that students participating in the program are clustered together for at least two courses beginning in the first semester after enrolling and have other opportunities to create and maintain bonds that allow them to provide academic and social support to each other.

(D) Curricular redesign, which may include such innovations as blended or accelerated remediation classes that help student success grant recipients to attain college-level reading, writing, or math skills (or a combination thereof) more rapidly than traditional remediation formats allow, and intensive skills refresher classes, offered prior to each semester, to help students who have tested into remedial coursework to reach entry level assessment scores for the postsecondary programs they wish to enter.

(E) Instructional support, such as learning labs, supplemental instruction, and tutoring.

(F) Assistance with support services, such as child care and transportation.

(5) REQUIRED NON-FEDERAL SHARE.—Each institution participating in the program under this subsection shall provide a non-Federal share of 25 percent of the amount of the grant to carry out the activities of the program. The non-Federal share under this subsection may be provided in cash or in kind.

(e) PERIOD OF GRANT.—The Secretary may award a grant under subsection (c) or (d) of this section for a period of five years.

(f) TECHNICAL ASSISTANCE AND EVALUATION.—

(1) CONTRACTOR.—From the funds appropriated under this section, the Secretary shall enter into a contract with one or more private, nonprofit entities to provide technical assistance to grantees and to conduct the evaluations required under paragraph (3).

(2) EVALUATIONS.—The evaluations required under paragraph (3) shall be conducted by entities that are capable of designing and carrying out independent evaluations that identify the impact of the activities carried out by eligible institutions under this section on improving persistence and success of student participants under this section.

(3) CONDUCT OF EVALUATIONS.—The Secretary shall conduct an evaluation of the impact of the persistence and success grant programs as follows:

(A) PROGRAM TO INCREASE PERSISTENCE IN COMMUNITY COLLEGES.—The evaluation of the program under subsection (c) shall be conducted using a random assignment research design with the following requirements:

(i) When students are recruited for the program, all students will be told about the program and the evaluation.

(ii) Baseline data will be collected from all applicants for assistance under subsection (c).

(iii) Students will be assigned randomly to two groups, which will consist of—

(I) a program group that will receive the scholarship and the additional counseling services; and

(II) a control group that will receive whatever regular financial aid and counseling services are available to all students at the institution of higher education.

(B) STUDENT SUCCESS GRANT PROGRAM.—Eligible institutions receiving a grant to carry out the program under subsection (d) shall work with the evaluator to track persistence and completion outcomes for students in such program, specifically the proportion of these students who take and complete developmental education courses, the proportion who take and complete college-level coursework, and the proportion who complete certificates and degrees. The data shall be broken down by gender, race, ethnicity, and age and the evaluator shall assist institutions in analyzing these data to compare program participants to comparable nonparticipants, using statistical techniques to control for differences in the groups.

(g) REPORT.—The Secretary shall—

(1) provide a report to the authorizing committees that includes the evaluation and information on best practices and lessons learned during the pilot programs described in this section; and

(2) disseminate the report to the public by making the report available on the Department's website.

(h) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds available to the institution to carrying out the activities described in subsections (c) and (d).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years. The Secretary may use not more than two percent of the amounts appropriated to provide the technical assistance and conduct the evaluations required under subsection (f).

PART L—STUDENT SAFETY AND CAMPUS EMERGENCY MANAGEMENT

SEC. 821. [20 U.S.C. 1161l] STUDENT SAFETY AND CAMPUS EMERGENCY MANAGEMENT.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From the amounts appropriated under subsection (f), the Secretary is authorized to award grants, on a competitive basis, to institutions of higher education or consortia of institutions of higher education to enable institutions of higher education or consortia to pay the Federal share of the cost of carrying out the authorized activities described in subsection (c).

(2) CONSULTATION WITH THE ATTORNEY GENERAL AND THE SECRETARY OF HOMELAND SECURITY.—Where appropriate, the Secretary shall award grants under this section in consultation

with the Attorney General and the Secretary of Homeland Security.

(3) DURATION.—The Secretary shall award each grant under this section for a period of two years.

(4) LIMITATION ON INSTITUTIONS AND CONSORTIA.—An institution of higher education or consortium shall be eligible for only one grant under this section.

(b) FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the activities described in subsection (c) shall be 50 percent.

(2) NON-FEDERAL SHARE.—An institution of higher education or consortium that receives a grant under this section shall provide the non-Federal share, which may be provided from State and local resources dedicated to emergency preparedness and response.

(c) AUTHORIZED ACTIVITIES.—Each institution of higher education or consortium receiving a grant under this section may use the grant funds to carry out one or more of the following:

(1) Developing and implementing a state-of-the-art emergency communications system for each campus of an institution of higher education or consortium, in order to contact students via cellular, text message, or other state-of-the-art communications methods when a significant emergency or dangerous situation occurs. An institution or consortium using grant funds to carry out this paragraph shall also, in coordination with the appropriate State and local emergency management authorities—

(A) develop procedures that students, employees, and others on a campus of an institution of higher education or consortium will be directed to follow in the event of a significant emergency or dangerous situation; and

(B) develop procedures the institution of higher education or consortium shall follow to inform, in a reasonable and timely manner, students, employees, and others on a campus in the event of a significant emergency or dangerous situation, which procedures shall include the emergency communications system described in this paragraph.

(2) Supporting measures to improve safety at the institution of higher education or consortium, such as—

(A) security assessments;

(B) security training of personnel and students at the institution of higher education or consortium;

(C) where appropriate, coordination of campus preparedness and response efforts with local law enforcement, local emergency management authorities, and other agencies, to improve coordinated responses in emergencies among such entities;

(D) establishing a hotline that allows a student or staff member at an institution or consortium to report another student or staff member at the institution or consortium who the reporting student or staff member believes may be a danger to the reported student or staff member or to others; and

(E) acquisition and installation of access control, video surveillance, intrusion detection, and perimeter security technologies and systems.

(3) Coordinating with appropriate local entities for the provision of mental health services for students and staff of the institution of higher education or consortium, including mental health crisis response and intervention services for students and staff affected by a campus or community emergency.

(d) APPLICATION.—Each institution of higher education or consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(e) TECHNICAL ASSISTANCE.—The Secretary shall coordinate technical assistance provided by State and local emergency management agencies, the Department of Homeland Security, and other agencies as appropriate, to institutions of higher education or consortia that request assistance in developing and implementing the activities assisted under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

SEC. 822. [20 U.S.C. 1161l–1] MODEL EMERGENCY RESPONSE POLICIES, PROCEDURES, AND PRACTICES.

The Secretary, in consultation with the Attorney General and the Secretary of Homeland Security, shall continue to—

(1) advise institutions of higher education on model emergency response policies, procedures, and practices; and

(2) disseminate information concerning those policies, procedures, and practices.

SEC. 823. [20 U.S.C. 1161l–2] PREPARATION FOR FUTURE DISASTERS PLAN BY THE SECRETARY.

The Secretary shall continue to coordinate with the Secretary of Homeland Security and other appropriate agencies to develop and maintain procedures to address the preparedness, response, and recovery needs of institutions of higher education in the event of a natural or manmade disaster with respect to which the President has declared a major disaster or emergency (as such terms are defined in section 824).

SEC. 824. [20 U.S.C. 1161l–3] EDUCATION DISASTER AND EMERGENCY RELIEF LOAN PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary, in consultation with the Secretary of Homeland Security, is authorized to establish an Education Disaster and Emergency Relief Loan Program for institutions of higher education impacted by a major disaster or emergency declared by the President.

(b) USE OF ASSISTANCE.—The Secretary shall, subject to the availability of appropriations, provide loans under this section to institutions of higher education after the declaration of a major disaster or emergency by the President. Loan funds provided under this section may be used for construction, replacement, renovation, and operations costs resulting from a major disaster or emergency declared by the President.

(c) APPLICATION REQUIREMENTS.—To be considered for a loan under this section, an institution of higher education shall—

(1) submit a financial statement and other appropriate data, documentation, or evidence requested by the Secretary that indicates that the institution incurred losses resulting from the impact of a major disaster or emergency declared by the President, and the monetary amount of such losses;

(2) demonstrate that the institution had appropriate insurance policies prior to the major disaster or emergency and filed claims, as appropriate, related to the major disaster or emergency; and

(3) demonstrate that the institution attempted to minimize the cost of any losses by pursuing collateral source compensation from the Federal Emergency Management Agency prior to seeking a loan under this section, except that an institution of higher education shall not be required to receive collateral source compensation from the Federal Emergency Management Agency prior to being eligible for a loan under this section.

(d) AUDIT.—The Secretary may audit a financial statement submitted under subsection (c) and an institution of higher education shall provide any information that the Secretary determines necessary to conduct such an audit.

(e) REDUCTION IN LOAN AMOUNTS.—To determine the amount of a loan to make available to an institution of higher education under this section, the Secretary shall calculate the monetary amount of losses incurred by such institution as a result of a major disaster or emergency declared by the President, and shall reduce such amount by the amount of collateral source compensation the institution has already received from insurance, the Federal Emergency Management Agency, and the Small Business Administration.

(f) ESTABLISHMENT OF LOAN PROGRAM.—Prior to disbursing any loans under this section, the Secretary shall prescribe regulations that establish the Education Disaster and Emergency Relief Loan Program, including—

(1) terms for the loan program;

(2) procedures for an application for a loan;

(3) minimum requirements for the loan program and for receiving a loan, including—

(A) online forms to be used in submitting a request for a loan;

(B) information to be included in such forms; and

(C) procedures to assist in filing and pursuing a loan; and

(4) any other terms and conditions the Secretary may prescribe after taking into consideration the structure of other existing capital financing loan programs under this Act.

(g) DEFINITIONS.—In this section:

(1) INSTITUTION AFFECTED BY A GULF HURRICANE DISASTER.—The term "institution affected by a Gulf hurricane disaster" means an institution of higher education that—

(A) is located in an area affected by a Gulf hurricane disaster; and

(B) is able to demonstrate that the institution—

(i) incurred physical damage resulting from the impact of a Gulf hurricane disaster; and

(ii) was not able to fully reopen in existing facilities or to fully reopen to the pre-hurricane levels for 30 days or more on or after August 29, 2005.

(2) AREA AFFECTED BY A GULF HURRICANE DISASTER; GULF HURRICANE DISASTER.—The terms "area affected by a Gulf hurricane disaster" and "Gulf hurricane disaster" have the meanings given such terms in section 209 of the Higher Education Hurricane Relief Act of 2005 (Public Law 109–148, 119 Stat. 2808).

(3) EMERGENCY.—The term "emergency" has the meaning given such term in section 102(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(1)).

(4) INSTITUTIONS OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 101.

(5) MAJOR DISASTER.—The term "major disaster" has the meaning given the term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

(h) EFFECTIVE DATE.—Loans provided to institutions of higher education pursuant to this section shall be available only with respect to major disasters or emergencies declared by the President that occur after the date of the enactment of theHigher Education Opportunity Act, except that loans may be provided pursuant to this section to an institution affected by a Gulf hurricane disaster with respect to such disaster.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

SEC. 825. [20 U.S.C. 1161l–4] GUIDANCE ON MENTAL HEALTH DISCLOSURES FOR STUDENT SAFETY.

(a) GUIDANCE.—The Secretary shall continue to provide guidance that clarifies the role of institutions of higher education with respect to the disclosure of education records, including to a parent or legal guardian of a dependent student, in the event that such student demonstrates that the student poses a significant risk of harm to himself or herself or to others, including a significant risk of suicide, homicide, or assault. Such guidance shall further clarify that an institution of higher education that, in good faith, discloses education records or other information in accordance with the requirements of this Act and section 444 of the General Education Provisions Act (commonly known as the "Family Educational Rights and Privacy Act of 1974") shall not be liable to any person for that disclosure.

(b) INFORMATION TO CONGRESS.—The Secretary shall provide an update to the authorizing committees on the Secretary's activities under subsection (a) not later than 180 days after the date of enactment of theHigher Education Opportunity Act.

SEC. 826. [20 U.S.C. 1161l–5] RULE OF CONSTRUCTION.

Nothing in this part shall be construed—

(1) to provide a private right of action to any person to enforce any provision of this section;

(2) to create a cause of action against any institution of higher education or any employee of the institution for any civil liability; or

(3) to affect section 444 of the General Education Provisions Act (commonly known as the "Family Educational Rights and Privacy Act of 1974") or the regulations issued under section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2note).

PART M—LOW TUITION

SEC. 830. [20 U.S.C. 1161m] INCENTIVES AND REWARDS FOR LOW TUITION.

(a) REWARDS FOR LOW TUITION.—

(1) GRANTS.—From funds made available under subsection (e), the Secretary shall award grants to institutions of higher education that, for academic year 2009–2010 or any succeeding academic year—

(A) have an annual tuition and fee increase, expressed as a percentage change, for the most recent academic year for which satisfactory data is available, that is in the lowest 20 percent of such increases for each category described in subsection (b);

(B) are public institutions of higher education that have tuition and fees that are in the lowest quartile of institutions in each category described in subsection (b)(1), (b)(4), or (b)(7); or

(C) are public institutions of higher education that have a tuition and fee increase of less than $600 for a first-time, full-time undergraduate student.

(2) USE OF FUNDS.—Funds awarded to an institution of higher education under paragraph (1) shall be distributed by the institution in the form of need-based grant aid to students who are eligible for Federal Pell Grants, except that no student shall receive an amount under this section that would cause the amount of total financial aid received by such student to exceed the cost of attendance of the institution.

(b) CATEGORIES OF INSTITUTIONS.—The categories of institutions described in subsection (a) shall be the following:

(1) four-year public institutions of higher education;

(2) four-year private, nonprofit institutions of higher education;

(3) four-year private, for-profit institutions of higher education;

(4) two-year public institutions of higher education;

(5) two-year private, nonprofit institutions of higher education;

(6) two-year private, for-profit institutions of higher education;

(7) less than two-year public institutions of higher education;

(8) less than two-year private, nonprofit institutions of higher education; and

(9) less than two-year private, for-profit institutions of higher education.

(c) REWARDS FOR GUARANTEED TUITION.—

(1) BONUS.—For each institution of higher education that the Secretary determines complies with the requirements of paragraph (2) or (3) of this subsection, the Secretary shall provide to such institution a bonus amount. Such institution shall award the bonus amount in the form of need-based aid first to students who are eligible for Federal Pell Grants who were in attendance at the institution during the award year that such institution satisfied the eligibility criteria for maintaining low tuition and fees, then to students who are eligible for Federal Pell Grants who were not in attendance at the institution during such award year.

(2) FOUR-YEAR INSTITUTIONS.—An institution of higher education that provides a program of instruction for which it awards a bachelor's degree complies with the requirements of this paragraph if—

(A) for a public institution of higher education, such institution's tuition and fees are in the lowest quartile of institutions in the same category as described under subsection (b); or

(B) for any institution of higher education, such institution guarantees that for any academic year (or the equivalent) beginning on or after July 1, 2009, and for each of the four succeeding continuous academic years, the tuition and fees charged to an undergraduate student will not exceed—

(i) for a public institution of higher education, $600 per year for a full-time undergraduate student; or

(ii) for any other institution of higher education—

(I) the amount that the student was charged for an academic year at the time the student first enrolled in the institution of higher education, plus

(II) the percentage change in tuition and fees at the institution for the three most recent academic years for which data is available, multiplied by the amount determined under subclause (I).

(3) LESS-THAN FOUR-YEAR INSTITUTIONS.—An institution of higher education that does not provide a program of instruction for which it awards a bachelor's degree complies with the requirements of this paragraph if—

(A) for a public institution of higher education, such institution's tuition is in the lowest quartile of institutions in the same category as described under subsection (b); or

(B) for any institution of higher education, such institution guarantees that for any academic year (or the equivalent) beginning on or after July 1, 2009, and for each of the 1.5 succeeding continuous academic years, the

tuition and fees charged to an undergraduate student will not exceed—

(i) for a public institution of higher education, $600 per year for a full-time undergraduate student; or

(ii) for any other institution of higher education—

(I) the amount that the student was charged for an academic year at the time the student first enrolled in the institution of higher education, plus

(II) the percentage change in tuition and fees at the institution for the three most recent academic years for which data is available, multiplied by the amount determined under subclause (I).

(d) DEFINITIONS.—In this section, the terms "tuition and fees" and "net price" have the meaning given to such terms in section 132 of this Act.

(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART N—COOPERATIVE EDUCATION

SEC. 831. [20 U.S.C. 1161n] STATEMENT OF PURPOSE; DEFINITION.

(a) PURPOSE.—It is the purpose of this part to award grants to institutions of higher education or consortia of such institutions to encourage such institutions to develop and make available to their students work experience that will aid such students in future careers and will enable such students to support themselves financially while in school.

(b) DEFINITION.—In this part the term "cooperative education" means the provision of alternating or parallel periods of academic study and public or private employment to give students work experiences related to their academic or occupational objectives and an opportunity to earn the funds necessary for continuing and completing their education.

SEC. 832. [20 U.S.C. 1161n–1] RESERVATIONS.

(a) RESERVATIONS.—Of the amount appropriated to carry out this part in each fiscal year—

(1) not less than 50 percent shall be available for awarding grants to institutions of higher education and consortia of such institutions described in section 833(a)(1)(A) for cooperative education under section 833;

(2) not less than 25 percent shall be available for awarding grants to institutions of higher education described in section 833(a)(1)(B) for cooperative education under section 833;

(3) not to exceed 11 percent shall be available for demonstration projects under paragraph (1) of section 834(a);

(4) not to exceed 11 percent shall be available for training and resource centers under paragraph (2) of section 834(a); and

(5) not to exceed 3 percent shall be available for research under paragraph (3) of section 834(a).

(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under this part shall not be used for the payment of compensation of students for employment by employers participating in a program under this part.

SEC. 833. [20 U.S.C. 1161n–2] GRANTS FOR COOPERATIVE EDUCATION.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized, from the amount available to carry out this section under section 835 in each fiscal year and in accordance with the provisions of this part—

(A) to award grants to institutions of higher education or consortia of such institutions that have not received a grant under this paragraph in the ten-year period preceding the date for which a grant under this section is requested to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or consortia of institutions; and

(B) to award grants to institutions of higher education that are operating an existing cooperative education program as determined by the Secretary to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions.

(2) PROGRAM REQUIREMENT.—Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving students work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

(3) AMOUNT OF GRANTS.—

(A) The amount of each grant awarded pursuant to paragraph (1)(A) to any institution of higher education or consortia of such institutions in any fiscal year shall not exceed $500,000.

(B)(i) Except as provided in clauses (ii) and (iii), the Secretary shall award grants in each fiscal year to each institution of higher education described in paragraph (1)(B) that has an application approved under subsection (b) in an amount that bears the same ratio to the amount reserved pursuant to section 832(a)(2) for such fiscal year as the number of unduplicated students placed in cooperative education jobs during the preceding fiscal year by such institution of higher education (other than cooperative education jobs under section 834 and as determined by the Secretary) bears to the total number of all such students placed in such jobs during the preceding fiscal year by all such institutions.

(ii) No institution of higher education shall receive a grant pursuant to paragraph (1)(B) in any fiscal year in an amount that exceeds 25 percent of such institution's cooperative edu-

cation program's personnel and operating budget for the preceding fiscal year.

(iii) The minimum annual grant amount that an institution of higher education is eligible to receive under paragraph (1)(B) is $1,000 and the maximum annual grant amount is $75,000.

(4) LIMITATION.—The Secretary shall not award grants pursuant to subparagraphs (A) and (B) of paragraph (1) to the same institution of higher education or consortia of such institution in any one fiscal year.

(5) USES.—Grants awarded under paragraph (1)(B) shall be used exclusively—

(A) to expand the quality of and participation in a cooperative education program;

(B) for outreach to potential participants in new curricular areas; and

(C) for outreach to potential participants including underrepresented and nontraditional populations.

(b) APPLICATIONS.—Each institution of higher education or consortium of such institutions desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

(1) set forth the program or activities for which a grant is authorized under this section;

(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant, and the amount of grant funds to be used for such program or activities;

(3) provide that the applicant will expend, during the fiscal year for which the grant is awarded for the purpose of such program or activities, not less than the amount expended for such purpose during the previous fiscal year;

(4) describe the plans which the applicant will carry out to assure, and contain a formal statement of the institution's commitment that assures, that the applicant will continue the cooperative education program beyond the five-year period of Federal assistance described in subsection (c)(1) at a level that is not less than the total amount expended for such program during the first year such program was assisted under this section;

(5) provide that, in the case of an institution of higher education that provides a two-year program that is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate or associate degree candidates and who carry at least one-half of the normal full-time academic workload;

(6) provide that the applicant will—

(A) make such reports as may be necessary to ensure that the applicant is complying with the provisions of this section, including reports for the second and each succeeding fiscal year for which the applicant receives a grant with respect to the impact of the cooperative education program in the previous fiscal year, including—

(i) the number of unduplicated student applicants in the cooperative education program;

(ii) the number of unduplicated students placed in cooperative education jobs;

(iii) the number of employers who have hired cooperative education students;

(iv) the income for students derived from working in cooperative education jobs; and

(v) the increase or decrease in the number of unduplicated students placed in cooperative education jobs in each fiscal year compared to the previous fiscal year; and

(B) keep such records as may be necessary to ensure that the applicant is complying with the provisions of this part, including the notation of cooperative education employment on the student's transcript;

(7) describe the extent to which programs in the academic disciplines for which the application is made have satisfactorily met the needs of public and private sector employers;

(8) describe the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit;

(9) describe the plans that the applicant will carry out to evaluate the applicant's cooperative education program at the end of the grant period;

(10) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part;

(11) demonstrate a commitment to serving underserved populations at the institution; and

(12) include such other information as may be necessary to carry out the provisions of this part.

(c) DURATION OF GRANTS; FEDERAL SHARE.—

(1) DURATION OF GRANTS.—No individual institution of higher education may receive, individually or as a participant in a consortium of such institutions—

(A) a grant pursuant to subsection (a)(1)(A) for more than five fiscal years; or

(B) a grant pursuant to subsection (a)(1)(B) for more than five fiscal years.

(2) FEDERAL SHARE.—The Federal share of a grant under subsection (a)(1)(A) may not exceed—

(A) 85 percent of the cost of carrying out the program or activities described in the application in the first year the applicant receives a grant under this section;

(B) 70 percent of such cost in the second such year;

(C) 55 percent of such cost in the third such year;

(D) 40 percent of such cost in the fourth such year; and

(E) 25 percent of such cost in the fifth such year.

(3) SPECIAL RULE.—Notwithstanding any other provision of law, the Secretary may not waive the provisions of paragraphs (1) and (2).

(d) MAINTENANCE OF EFFORT.—If the Secretary determines that a recipient of funds under this section has failed to maintain the fiscal effort described in subsection (b)(3), then the Secretary may elect not to make grant payments under this section to such recipient.

(e) FACTORS FOR SPECIAL CONSIDERATION OF APPLICATIONS.—

(1) IN GENERAL.—In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education or consortia of such institutions for programs that show the greatest promise of success based on—

(A) the extent to which programs in the academic discipline with respect to which the application is made have satisfactorily met the needs of public and private sector employers;

(B) the strength of the commitment of the institution of higher education or consortium of such institutions to cooperative education as demonstrated by the plans and formalized institutional commitment statement which such institution or consortium has made to continue the program after the termination of Federal financial assistance;

(C) the extent to which the institution or consortium of institutions is committed to extending cooperative education for students who can benefit; and

(D) such other factors as are consistent with the purpose of this part.

(2) ADDITIONAL SPECIAL CONSIDERATION.—The Secretary shall also give special consideration to applications from institutions of higher education or consortia of such institutions that demonstrate a commitment to serving underserved populations attending such institutions.

SEC. 834. [20 U.S.C. 1161n–3] DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH.

(a) AUTHORIZATION.—From the amounts appropriated under section 835, the Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts—

(1) from the amounts available in each fiscal year under section 832(a)(3), for the conduct of demonstration projects designed to demonstrate or determine the effectiveness of innovative methods of cooperative education;

(2) from the amounts available in each fiscal year under section 832(a)(4), for the conduct of training and resource centers designed to—

(A) train personnel in the field of cooperative education;

(B) improve materials used in cooperative education programs if such improvement is conducted in conjunction with other activities described in this paragraph;

(C) provide technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

(D) encourage model cooperative education programs that furnish education and training in occupations in which there is a national need;

(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with one or more institutions of higher education in order to—

(i) assist the institution that is not the institution carrying out the cooperative education program to develop and expand an existing program of cooperative education; or

(ii) establish and improve or expand comprehensive cooperative education programs; and

(F) encourage model cooperative education programs in the fields of science and mathematics for women and minorities who are underrepresented in such fields; and

(3) from the amounts available in each fiscal year under section 832(a)(5), for the conduct of research relating to cooperative education.

(b) ADMINISTRATIVE PROVISION.—

(1) IN GENERAL.—To carry out this section, the Secretary may—

(A) make grants to or contracts with institutions of higher education or consortia of such institutions; and

(B) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will contribute to the objectives of this section.

(2) LIMITATION.—

(A) CONTRACTS WITH INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may use not more than three percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(A).

(B) CONTRACTS WITH OTHER AGENCIES OR ORGANIZATIONS.—The Secretary may use not more than three percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(B).

(c) SUPPLEMENT NOT SUPPLANT.—A recipient of a grant or contract under this section may use the funds provided only to supplement funds made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.

SEC. 835. [20 U.S.C. 1161n–4] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART O—COLLEGE PARTNERSHIP GRANTS

SEC. 841. [20 U.S.C. 1161o] COLLEGE PARTNERSHIP GRANTS AUTHORIZED.

(a) GRANTS AUTHORIZED.—From the amount appropriated to carry out this section, the Secretary shall award grants to eligible partnerships for the purposes of developing and implementing articulation agreements.

(b) ELIGIBLE PARTNERSHIPS.—For purposes of this part, an eligible partnership shall include at least two institutions of higher education, or a system of institutions of higher education, and may include either or both of the following:

(1) A consortia of institutions of higher education.

(2) A State higher education agency.

(c) PRIORITY.—The Secretary shall give priority to eligible partnerships that—

(1) are located in a State that has employed strategies described in section 486A(b)(1); or

(2) include—

(A) one or more junior or community colleges (as defined by section 312(f)) that award associate's degrees; and

(B) one or more institutions of higher education that offer a baccalaureate or post-baccalaureate degree not awarded by the institutions described in subparagraph (A) with which it is partnered.

(d) MANDATORY USE OF FUNDS.—Grants awarded under this part shall be used for—

(1) the development of policies and programs to expand opportunities for students to earn bachelor's degrees, by facilitating the transfer of academic credits between institutions and expanding articulation and guaranteed transfer agreements between institutions of higher education, including through common course numbering and general education core curriculum;

(2) academic program enhancements; and

(3) programs to identify and remove barriers that inhibit student transfers, including technological and informational programs.

(e) OPTIONAL USE OF FUNDS.—Grants awarded under this part may be used for—

(1) support services to students participating in the program, such as tutoring, mentoring, and academic and personal counseling; and

(2) any service that facilitates the transition of students between the partner institutions.

(f) PROHIBITION.—No funds provided under this section shall be used to financially compensate an institution for the purposes of entering into an articulation agreement or for accepting students transferring into such institution.

(g) APPLICATIONS.—Any eligible partnership that desires to obtain a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information or assurances as the Secretary may require.

(h) DEFINITION.—For purposes of this section, the term "articulation agreement" means an agreement between institutions of higher education that specifies the acceptability of courses in transfer toward meeting specific degree requirements.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART P—JOBS TO CAREERS

SEC. 851. [20 U.S.C. 1161p] GRANTS TO CREATE BRIDGES FROM JOBS TO CAREERS.

(a) PURPOSE.—The purpose of this section is to provide grants on a competitive basis to institutions of higher education for the purpose of improving developmental education to help students move more rapidly into for-credit occupational courses and into better jobs that may require a certificate or degree.

(b) AUTHORIZATION OF PROGRAM.—From amounts appropriated to carry out this section, the Secretary shall award grants, on a competitive basis, to institutions of higher education, as defined in section 101(a), to create workforce bridge programs between developmental courses and for-credit courses in occupational certificate programs that are articulated to degree programs. Such workforce bridge programs shall focus on—

(1) improving developmental education, including English language instruction, by customizing developmental education to student career goals; and

(2) helping students move rapidly from developmental coursework into for-credit occupational courses and through program completion.

(c) APPLICATION.—An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(d) PRIORITIES.—The Secretary shall give priority to applications that—

(1) are from institutions of higher education in which not less than 50 percent of the institution's entering first-year students who are subject to mandatory assessment are assessed as needing developmental courses to bring reading, writing, or mathematics skills up to college level; and

(2) propose to replicate practices that have proven effective with adults, or propose to collaborate with adult education providers.

(e) REQUIRED ACTIVITY.—An institution of higher education that receives a grant under this section shall use the grant funds to create workforce bridge programs to customize developmental education curricula, including English language instruction, to reflect the content of for-credit occupational certificate or degree programs, or clusters of such programs, in which developmental education students are enrolled or plan to enroll. Such workforce bridge programs shall integrate the curricula and the instruction of the developmental and college-level coursework.

(f) PERMISSIBLE ACTIVITIES.—An institution of higher education that receives a grant under this section may use the grant funds to carry out one or more of the following activities:

(1) Designing and implementing innovative ways to improve retention in and completion of developmental education courses, including enrolling students in cohorts, accelerating course content, dually enrolling students in developmental and college-level courses, tutoring, providing counseling and other supportive services, and giving small, material incentives for attendance and performance.

(2) In consultation with faculty in the appropriate departments, reconfiguring courses offered on-site during standard academic terms for modular, compressed, or other alternative schedules, or for distance-learning formats, to meet the needs of working adults.

(3) Developing counseling strategies that address the needs of students in remedial education courses, and including counseling students on career options and the range of programs available, such as certificate programs that are articulated to degree programs and programs designed to facilitate transfer to four-year institutions of higher education.

(4) Improving the quality of teaching in remedial courses through professional development, reclassification of such teaching positions, or other means the institution of higher education determines appropriate.

(5) Any other activities the institution of higher education and the Secretary determine will promote retention of, and completion by, students attending institutions of higher education.

(g) GRANT PERIOD.—Grants made under this section shall be for a period of not less than three years and not more than five years.

(h) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to recipients of, and applicants for, grants under this section.

(i) REPORT AND SUMMARY.—Each institution of higher education that receives a grant under this section shall report to the Secretary on the effectiveness of the program in enabling students to move rapidly from developmental coursework into for-credit occupational courses and through program completion. The Secretary shall summarize the reports, identify best practices, and disseminate the information from such summary and identification to the public.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART Q—RURAL DEVELOPMENT GRANTS FOR RURAL-SERVING COLLEGES AND UNIVERSITIES

SEC. 861. [20 U.S.C. 1161q] GRANTS TO RURAL-SERVING INSTITUTIONS OF HIGHER EDUCATION.

(a) PURPOSES.—The purposes of this section are—

(1) to increase enrollment and graduation rates of secondary school graduates and nontraditional students from rural areas at two-year and four-year institutions of higher education, and their articulation from two-year degree programs into four-year degree programs; and

(2) to promote economic growth and development in rural America through partnership grants to consortia of rural-serving institutions of higher education, local educational agencies, and regional employers.

(b) DEFINITIONS.—For the purposes of this section:

(1) RURAL-SERVING INSTITUTION OF HIGHER EDUCATION.—The term "rural-serving institution of higher education" means an institution of higher education that primarily serves rural areas.

(2) RURAL AREA.—The term "rural area" means an area that is defined, identified, or otherwise recognized as rural by a governmental agency of the State in which the area is located.

(3) NONTRADITIONAL STUDENT.—The term "nontraditional student" means an individual who—

(A) delays enrollment in an institution of higher education by three or more years after secondary school graduation;

(B) attends an institution of higher education part-time; or

(C) attends an institution of higher education and—

(i) works full-time;

(ii) is an independent student, as defined in section 480;

(iii) has one or more dependents other than a spouse;

(iv) is a single parent; or

(v) does not have a secondary school diploma or the recognized equivalent of such a diploma.

(4) REGIONAL EMPLOYER.—The term "regional employer" means an employer within a rural area.

(c) PARTNERSHIP.—

(1) REQUIRED PARTNERS.—A rural-serving institution of higher education, or a consortium of rural-serving institutions of higher education, that receives a grant under this section shall carry out the activities of the grant in partnership with—

(A) one or more local educational agencies serving a rural area; and

(B) one or more regional employers or local boards (as such term is defined in section 3 of the Workforce Innovation and Opportunity Act) serving a rural area.

(2) OPTIONAL PARTNERS.—A rural-serving institution of higher education, or a consortium of rural-serving institutions of higher education, that receives a grant under this section, may carry out the activities of the grant in partnership with—

(A) an educational service agency (as defined in section 8101 of the Elementary and Secondary Education Act of 1965); or

(B) a nonprofit organization with demonstrated expertise in rural education at the secondary and postsecondary levels.

(d) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From amounts made available under subsection (g), the Secretary is authorized to award grants, on a competitive basis, to eligible rural-serving institutions of higher education or a consortium of such institutions, to carry out the activities described in subsection (f).

(2) DURATION.—A grant awarded under this section shall be awarded for a period not to exceed three years.

(3) MAXIMUM AND MINIMUM GRANTS.—No grant awarded under this section shall be less than $200,000.

(4) SPECIAL CONSIDERATIONS.—In awarding grants under this section, the Secretary shall give special consideration to applications that demonstrate the most potential and propose the most promising and innovative approaches for—

(A) increasing the percentage of graduates of rural secondary schools attending rural-serving institutions of higher education;

(B) meeting the employment needs of regional employers with graduates of rural-serving institutions of higher education; and

(C) improving the health of the regional economy of a rural area through a partnership of local educational agencies serving the rural area, rural-serving institutions of higher education, and regional employers.

(5) LIMITATION.—A rural-serving institution of higher education shall not receive more than one grant under this section.

(e) APPLICATIONS.—Each rural-serving institution of higher education desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(f) REQUIRED USE OF FUNDS.—A rural-serving institution of higher education that receives a grant under this section shall use grant funds for at least three of the following four purposes:

(1) To improve postsecondary enrollment rates for rural secondary school students at rural-serving institutions of higher education, which may include—

(A) programs to provide students and families with counseling related to applying for postsecondary education, and Federal and State financial assistance for postsecondary education;

(B) programs that provide students and families of rural high schools access and exposure to campuses, classes, programs, and internships of rural-serving institutions

of higher education, including covering the cost of transportation to and from such institutions; and

(C) other initiatives that assist students and families in applying for and developing interest in attending rural-serving institutions of higher education.

(2) To increase enrollment rates of nontraditional students in degree programs at rural-serving institutions of higher education, which may include—

(A) programs to provide nontraditional students with counseling related to applying for postsecondary education, and Federal and State financial assistance for postsecondary education;

(B) community outreach initiatives to encourage nontraditional students to enroll in a rural-serving institution of higher education; and

(C) programs to improve the enrollment of nontraditional students in two-year degree programs and the transition of nontraditional students articulating from two-year degree programs to four-year degree programs.

(3) To create or strengthen academic programs at rural-serving institutions of higher education to prepare graduates to enter into high-need occupations in the regional and local economies.

(4) To provide additional career training to students of rural-serving institutions of higher education in fields relevant to the regional economy.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as many be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART R—CAMPUS-BASED DIGITAL THEFT PREVENTION

SEC. 871. [20 U.S.C. 1161r] CAMPUS-BASED DIGITAL THEFT PREVENTION.

(a) PROGRAM AUTHORITY.—From the amounts appropriated under subsection (d), the Secretary may make grants to institutions of higher education, or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, education, and cost-effective technological solutions, to reduce and eliminate the illegal downloading and distribution of intellectual property. Such grants or contracts may also be used for the support of higher education centers that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

(b) AWARDS.—Grants and contracts shall be awarded under this section on a competitive basis.

(c) APPLICATIONS.—An institution of higher education or a consortium of such institutions that desires to receive a grant or contract under this section shall submit an application to the Sec-

retary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART S—TRAINING FOR REALTIME WRITERS

SEC. 872. [20 U.S.C. 1161s] PROGRAM TO PROMOTE TRAINING AND JOB PLACEMENT OF REALTIME WRITERS.

(a) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—From the amounts appropriated to carry out this section, the Secretary shall award grants, on a competitive basis, to eligible entities under paragraph (2) to promote training and placement of individuals, including individuals who have completed a court reporting training program, as realtime writers in order to meet the requirements for closed captioning of video programming set forth in section 713 of the Communications Act of 1934 (47 U.S.C. 613) and the rules prescribed thereunder.

(2) ELIGIBLE ENTITIES.—For purposes of this section, an eligible entity is a court reporting program that—

(A) has a curriculum capable of training realtime writers qualified to provide captioning services;

(B) is accredited by an accrediting agency or association recognized by the Secretary; and

(C) is participating in student aid programs under title IV.

(3) PRIORITY IN GRANTS.—In determining whether to make grants under this section, the Secretary shall give a priority to eligible entities that, as determined by the Secretary—

(A) possess the most substantial capability to increase their capacity to train realtime writers;

(B) demonstrate the most promising collaboration with educational institutions, businesses, labor organizations, or other community groups having the potential to train or provide job placement assistance to realtime writers; or

(C) propose the most promising and innovative approaches for initiating or expanding training or job placement assistance efforts with respect to realtime writers.

(4) DURATION OF GRANT.—A grant under this section shall be for a period of up to five years.

(5) MAXIMUM AMOUNT OF GRANT.—The amount of a grant provided under this subsection to an eligible entity may not exceed $1,500,000 for the period of the grant.

(b) APPLICATION.—

(1) IN GENERAL.—To receive a grant under subsection (a), an eligible entity shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall contain the information set forth under paragraph (2).

(2) INFORMATION.—Information in the application of an eligible entity for a grant under subsection (a) shall include the following:

(A) A description of the training and assistance to be funded using the grant amount, including how such training and assistance will increase the number of realtime writers.

(B) A description of performance measures to be utilized to evaluate the progress of individuals receiving such training and assistance in matters relating to enrollment, completion of training, and job placement and retention.

(C) A description of the manner in which the eligible entity will ensure that recipients of scholarships, if any, funded by the grant will be employed and retained as realtime writers.

(D) A description of the manner in which the eligible entity intends to continue providing the training and assistance to be funded by the grant after the end of the grant period, including any partnerships or arrangements established for that purpose.

(E) A description of how the eligible entity will work with local boards (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801))[72] to ensure that training and assistance to be funded with the grant will further local workforce goals, including the creation of educational opportunities for individuals who are from economically disadvantaged backgrounds or are displaced workers.

(F) Additional information, if any, on the eligibility of the eligible entity for priority in the making of grants under subsection (a)(3).

(G) Such other information as the Secretary may require.

(c) USE OF FUNDS.—

(1) IN GENERAL.—An eligible entity receiving a grant under subsection (a) shall use the grant amount for purposes relating to the recruitment, training and assistance, and job placement of individuals, including individuals who have completed a court reporting training program, as realtime writers, including—

(A) recruitment;

(B) subject to paragraph (2), the provision of scholarships;

(C) distance learning;

(D) further developing and implementing both English and Spanish curricula to more effectively train individuals in realtime writing skills, and education in the knowledge necessary for the delivery of high quality closed captioning services;

[72] Effective on July 1, 2015, section 512(n)(7) of Public Law 113–128 provides for an amendment to strike "local boards (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801))" and insert "local boards (as defined in section 3 of the Workforce Innovation and Opportunity Act)".

(E) mentoring students to ensure successful completion of the realtime training and providing assistance in job placement;

(F) encouraging individuals with disabilities to pursue a career in realtime writing; and

(G) the employment and payment of personnel for the purposes described in this paragraph.

(2) SCHOLARSHIPS.—

(A) AMOUNT.—The amount of a scholarship under paragraph (1)(B) shall be based on the amount of need of the scholarship recipient for financial assistance, as determined in accordance with part F of title IV.

(B) AGREEMENT.—Each recipient of a scholarship under paragraph (1)(B) shall enter into an agreement with the school in which the recipient is enrolled to provide realtime writing services for the purposes described in subsection (a)(1) for a period of time appropriate (as determined by the Secretary) for the amount of the scholarship received.

(C) COURSEWORK AND EMPLOYMENT.—The Secretary shall establish requirements for coursework and employment for recipients of scholarships under paragraph (1)(B), including requirements for repayment of scholarship amounts in the event of failure to meet such requirements for coursework and employment. The Secretary may waive, in whole or in part, the requirements for repayment of scholarship amounts on the basis of economic conditions which may affect the ability of scholarship recipients to find work as realtime writers.

(3) ADMINISTRATIVE COSTS.—The recipient of a grant under this section may not use more than five percent of the grant amount to pay administrative costs associated with activities funded by the grant. The Secretary shall use not more than five percent of the amount available for grants under this section in any fiscal year for administrative costs of the program.

(4) SUPPLEMENT NOT SUPPLANT.—Grant amounts under this section shall supplement and not supplant other Federal or non-Federal funds of the grant recipient for purposes of promoting the training and placement of individuals as realtime writers.

(d) REPORT.—

(1) IN GENERAL.—Each eligible entity receiving a grant under subsection (a) shall submit to the Secretary, at the end of the grant period, a report on the activities of such entity with respect to the use of grant amounts during the grant period.

(2) REPORT INFORMATION.—Each report of an eligible entity under paragraph (1) shall include—

(A) an assessment by the entity of the effectiveness of activities carried out using such funds in increasing the number of realtime writers, using the performance measures submitted by the eligible entity in the application for the grant under subsection (b)(2); and

(B) a description of the best practices identified by the eligible entity for increasing the number of individuals who are trained, employed, and retained in employment as realtime writers.

(3) SUMMARIES.—The Secretary shall summarize the reports submitted under paragraph (2) and make such summary available on the Department's website.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART T—CENTERS OF EXCELLENCE FOR VETERAN STUDENT SUCCESS

SEC. 873. [20 U.S.C. 1161t] MODEL PROGRAMS FOR CENTERS OF EXCELLENCE FOR VETERAN STUDENT SUCCESS.

(a) PURPOSE.—It is the purpose of this section to encourage model programs to support veteran student success in postsecondary education by coordinating services to address the academic, financial, physical, and social needs of veteran students.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—Subject to the availability of appropriations under subsection (f), the Secretary shall award grants to institutions of higher education to develop model programs to support veteran student success in postsecondary education.

(2) GRANT PERIOD.—A grant awarded under this section shall be awarded for a period of three years.

(c) USE OF GRANTS.—

(1) REQUIRED ACTIVITIES.—An institution of higher education receiving a grant under this section shall use such grant to carry out a model program that includes—

(A) establishing a Center of Excellence for Veteran Student Success on the campus of the institution to provide a single point of contact to coordinate comprehensive support services for veteran students;

(B) establishing a veteran student support team, including representatives from the offices of the institution responsible for admissions, registration, financial aid, veterans benefits, academic advising, student health, personal or mental health counseling, career advising, disabilities services, and any other office of the institution that provides support to veteran students on campus;

(C) providing a coordinator whose primary responsibility is to coordinate the model program carried out under this section;

(D) monitoring the rates of veteran student enrollment, persistence, and completion; and

(E) developing a plan to sustain the Center of Excellence for Veteran Student Success after the grant period.

(2) OTHER AUTHORIZED ACTIVITIES.—An institution of higher education receiving a grant under this section may use such grant to carry out any of the following activities with respect to veteran students:

(A) Outreach and recruitment of such students.

(B) Supportive instructional services for such students, which may include—

(i) personal, academic, and career counseling, as an ongoing part of the program;

(ii) tutoring and academic skill-building instruction assistance, as needed; and

(iii) assistance with special admissions and transfer of credit from previous postsecondary education or experience.

(C) Assistance in obtaining student financial aid.

(D) Housing support for veteran students living in institutional facilities and commuting veteran students.

(E) Cultural events, academic programs, orientation programs, and other activities designed to ease the transition to campus life for veteran students.

(F) Support for veteran student organizations and veteran student support groups on campus.

(G) Coordination of academic advising and admissions counseling with military bases and national guard units in the area.

(H) Other support services the institution determines to be necessary to ensure the success of veterans in achieving educational and career goals.

(d) APPLICATION; SELECTION.—

(1) APPLICATION.—To be considered for a grant under this section, an institution of higher education shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

(2) SELECTION CONSIDERATIONS.—In awarding grants under this section, the Secretary shall consider—

(A) the number of veteran students enrolled at an institution of higher education; and

(B) the need for model programs to address the needs of veteran students at a wide range of institutions of higher education, including the need to provide—

(i) an equitable distribution of such grants to institutions of higher education of various types and sizes;

(ii) an equitable geographic distribution of such grants; and

(iii) an equitable distribution of such grants among rural and urban areas.

(e) EVALUATION AND ACCOUNTABILITY PLAN.—The Secretary shall develop an evaluation and accountability plan for model programs funded under this section to objectively measure the impact of such programs, including a measure of whether postsecondary education enrollment, persistence, and completion for veterans increases as a result of such programs.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART U—UNIVERSITY SUSTAINABILITY PROGRAMS

SEC. 881. [20 U.S.C. 1161u] SUSTAINABILITY PLANNING GRANTS AUTHORIZED.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From the amounts appropriated to carry out this section, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall make grants to eligible entities to establish sustainability programs to design and implement sustainability practices, including in the areas of energy management, greenhouse gas emissions reductions, green building, waste management, purchasing, transportation, and toxics management, and other aspects of sustainability that integrate campus operations with multidisciplinary academic programs and are applicable to the private and government sectors.

(2) PERIOD OF GRANT.—The provision of payments under a grant under paragraph (1) shall extend over a period of not more than four fiscal years.

(3) DEFINITION OF ELIGIBLE ENTITY.—For purposes of this part, the term "eligible entity" means—

(A) an institution of higher education; or

(B) a nonprofit consortium, association, alliance, or collaboration operating in partnership with one or more institutions of higher education that received funds for the implementation of work associated with sustainability programs under this part.

(b) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant under subsection (a)(1), an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may reasonably require.

(2) ASSURANCES.—Such application shall include assurances that the eligible entity—

(A) has developed a plan, including an evaluation component, for the program component established pursuant to subsection (c);

(B) shall use Federal funds received from a grant under subsection (a) to supplement, not supplant, non-Federal funds that would otherwise be available for projects funded under this section;

(C) shall provide, with respect to any fiscal year in which such entity receives funds from a grant under subsection (a)(1), non-Federal funds or an in-kind contribution in an amount equal to 20 percent of funds from such grant, for the purpose of carrying out the program component established pursuant to subsection (c); and

(D) shall collaborate with business, government, and the nonprofit sectors in the development and implementation of its sustainability plan.

(c) USE OF FUNDS.—

(1) INDIVIDUAL INSTITUTIONS.—Grants made under subsection (a) may be used by an eligible entity that is an indi-

vidual institution of higher education for the following purposes:

(A) To develop and implement administrative and operations practices at an institution of higher education that test, model, and analyze principles of sustainability.

(B) To establish multidisciplinary education, research, and outreach programs at an institution of higher education that address the environmental, social, and economic dimensions of sustainability.

(C) To support research and teaching initiatives that focus on multidisciplinary and integrated environmental, economic, and social elements.

(D) To establish initiatives in the areas of energy management, greenhouse gas emissions reductions, green building, waste management, purchasing, toxics management, transportation, and other aspects of sustainability.

(E) To support student, faculty, and staff work at an institution of higher education to implement, research, and evaluate sustainable practices.

(F) To expand sustainability literacy on campus.

(G) To integrate sustainability curricula in all programs of instruction, particularly in business, architecture, technology, manufacturing, engineering, and science programs.

(2) PARTNERSHIPS.—Grants made under subsection (a) may be used by an eligible entity that is a nonprofit consortium, association, alliance, or collaboration operating in partnership with one or more institutions of higher education for the following purposes:

(A) To conduct faculty, staff and administrator training on the subjects of sustainability and institutional change.

(B) To compile, evaluate, and disseminate best practices, case studies, guidelines and standards regarding sustainability.

(C) To conduct efforts to engage external stakeholders such as business, alumni, and accrediting agencies in the process of building support for research, education, and technology development for sustainability.

(D) To conduct professional development programs for faculty in all disciplines to enable faculty to incorporate sustainability content in their courses.

(E) To create the analytical tools necessary for institutions of higher education to assess and measure their individual progress toward fully sustainable campus operations and fully integrating sustainability into the curriculum.

(F) To develop educational benchmarks for institutions of higher education to determine the necessary rigor and effectiveness of academic sustainability programs.

(d) REPORTS.—An eligible entity that receives a grant under subsection (a) shall submit to the Secretary, for each fiscal year in which the entity receives amounts from such grant, a report that describes the work conducted pursuant to subsection (c), research

findings and publications, administrative savings experienced, and an evaluation of the program.

(e) ALLOCATION REQUIREMENT.—The Secretary may not make grants under subsection (a) to any eligible entity in a total amount that is less than $250,000 or more than $2,000,000.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART V—MODELING AND SIMULATION PROGRAMS

SEC. 891. [20 U.S.C. 1161v] MODELING AND SIMULATION.

(a) PURPOSE; DEFINITION.—

(1) PURPOSE.—The purpose of this section is to promote the study of modeling and simulation at institutions of higher education, through the collaboration with new and existing programs, and specifically to promote the use of technology in such study through the creation of accurate models that can simulate processes or recreate real life, by—

(A) establishing a task force at the Department of Education to raise awareness of and define the study of modeling and simulation;

(B) providing grants to institutions of higher education to develop new modeling and simulation degree programs; and

(C) providing grants for institutions of higher education to enhance existing modeling and simulation degree programs.

(2) DEFINITION.—In this section, the term "modeling and simulation" means a field of study related to the application of computer science and mathematics to develop a level of understanding of the interaction of the parts of a system and of a system as a whole.

(b) ESTABLISHMENT OF TASK FORCE.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a task force within the Department to study modeling and simulation and to support the development of the modeling and simulation field. The activities of such task force shall include—

(A) helping to define the study of modeling and simulation (including the content of modeling and simulation classes and programs);

(B) identifying best practices for such study;

(C) identifying core knowledge and skills that individuals who participate in modeling and simulation programs should acquire; and

(D) providing recommendations to the Secretary with respect to—

(i) the information described in subparagraphs (A) through (C); and

(ii) a system by which grants under this section will be distributed.

(2) TASK FORCE MEMBERSHIP.—The membership of the task force under this subsection shall be composed of representatives from—

(A) institutions of higher education with established modeling and simulation degree programs;

(B) the National Science Foundation;

(C) Federal Government agencies that use modeling and simulation extensively, including the Department of Defense, the National Institutes of Health, the Department of Homeland Security, the Department of Health and Human Services, the Department of Energy, and the Department of Transportation;

(D) private industries with a primary focus on modeling and simulation;

(E) national modeling and simulation organizations; and

(F) the Office of Science and Technology Policy.

(c) ENHANCING MODELING AND SIMULATION AT INSTITUTIONS OF HIGHER EDUCATION.—

(1) ENHANCEMENT GRANTS AUTHORIZED.—

(A) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to eligible institutions to enhance modeling and simulation degree programs at such eligible institutions.

(B) DURATION OF GRANT.—A grant awarded under this subsection shall be awarded for a three-year period, and such grant period may be extended for not more than two years if the Secretary determines that an eligible institution has demonstrated success in enhancing the modeling and simulation degree program at such eligible institution.

(C) MINIMUM GRANT AMOUNT.—Subject to the availability of appropriations, a grant awarded to an eligible institution under this subsection shall not be less than $750,000.

(D) NON-FEDERAL SHARE.—Each eligible institution receiving a grant under this subsection shall provide, from non-Federal sources, in cash or in-kind, an amount equal to 25 percent of the amount of the grant to carry out the activities supported by the grant. The Secretary may waive the non-Federal share requirement under this subparagraph for an eligible institution if the Secretary determines a waiver to be appropriate based on the financial ability of the institution.

(2) ELIGIBLE INSTITUTIONS.—For the purposes of this subsection, an eligible institution is an institution of higher education that—

(A) has an established modeling and simulation degree program, including a major, minor, or career-track program; or

(B) has an established modeling and simulation certificate or concentration program.

(3) APPLICATION.—To be considered for a grant under this subsection, an eligible institution shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall include—

(A) a letter from the president or provost of the eligible institution that demonstrates the institution's commitment to the enhancement of the modeling and simulation program at the institution of higher education;

(B) an identification of designated faculty responsible for the enhancement of the institution's modeling and simulation program; and

(C) a detailed plan for how the grant funds will be used to enhance the modeling and simulation program of the institution.

(4) USES OF FUNDS.—A grant awarded under this subsection shall be used by an eligible institution to carry out the plan developed in accordance with paragraph (3)(C) to enhance modeling and simulation programs at the institution, which may include—

(A) in the case of an institution that is eligible under paragraph (2)(B), activities to assist in the establishment of a major, minor, or career-track modeling and simulation program at the eligible institution;

(B) expanding the multidisciplinary nature of the institution's modeling and simulation programs;

(C) recruiting students into the field of modeling and simulation through the provision of fellowships or assistantships;

(D) creating new courses to complement existing courses and reflect emerging developments in the modeling and simulation field;

(E) conducting research to support new methodologies and techniques in modeling and simulation; and

(F) purchasing equipment necessary for modeling and simulation programs.

(d) ESTABLISHING MODELING AND SIMULATION PROGRAMS.—

(1) ESTABLISHMENT GRANTS AUTHORIZED.—

(A) IN GENERAL.—The Secretary is authorized to award grants to institutions of higher education to establish a modeling and simulation program, including a major, minor, career-track, certificate, or concentration program.

(B) DURATION OF GRANT.—A grant awarded under this subsection shall be awarded for a three-year period, and such grant period may be extended for not more than two years if the Secretary determines that an eligible institution has demonstrated success in establishing a modeling and simulation degree program at such eligible institution.

(C) MINIMUM GRANT AMOUNT.—Subject to the availability of appropriations, a grant awarded to an eligible institution under this subsection shall not be less than $750,000.

(D) NON-FEDERAL SHARE.—Each eligible institution receiving a grant under this subsection shall provide, from non-Federal sources, in cash or in-kind, an amount equal to 25 percent of the amount of the grant to carry out the activities supported by the grant. The Secretary may waive the non-Federal share requirement under this subparagraph for an eligible institution if the Secretary determines a waiver to be appropriate based on the financial ability of the institution.

(2) APPLICATION.—To apply for a grant under this subsection, an eligible institution shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall include—

(A) a letter from the president or provost of the eligible institution that demonstrates the institution's commitment to the establishment of a modeling and simulation program at the institution of higher education;

(B) a detailed plan for how the grant funds will be used to establish a modeling and simulation program at the institution; and

(C) a description of how the modeling and simulation program established under this subsection will complement existing programs and fit into the institution's current program and course offerings.

(3) USES OF FUNDS.—A grant awarded under this subsection may be used by an eligible institution to—

(A) establish, or work toward the establishment of, a modeling and simulation program, including a major, minor, career-track, certificate, or concentration program at the eligible institution;

(B) provide adequate staffing to ensure the successful establishment of the modeling and simulation program, which may include the assignment of full-time dedicated or supportive faculty; and

(C) purchase equipment necessary for a modeling and simulation program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years. Of the amounts authorized to be appropriated for each fiscal year—

(1) $1,000,000 is authorized to carry out the activities of the task force established pursuant to subsection (b); and

(2) of the amount remaining after the allocation for paragraph (1)—

(A) 50 percent is authorized to carry out the grant program under subsection (c); and

(B) 50 percent is authorized to carry out the grant program under subsection (d).

PART W—PATH TO SUCCESS

SEC. 892. [20 U.S.C. 1161w] PATH TO SUCCESS.

(a) PURPOSE.—The purpose of this section is to encourage community supported programs that—

(1) leverage and enhance community support for at-risk young adults by facilitating the transition of such young adults who are eligible individuals into productive learning environments where such young adults can obtain the life, social, academic, career, and technical skills and credentials necessary to strengthen the Nation's workforce;

(2) provide counseling, as appropriate, for eligible individuals participating in the programs to allow the eligible individuals to build a relationship with one or more guidance counselors during the period that the individuals are enrolled in the programs, including providing referrals and connections to community resources that help eligible individuals transition back into the community with the necessary life, social, academic, career, and technical skills after being in detention, or incarcerated, particularly resources related to health, housing, job training, and workplace readiness;

(3) provide training and education for eligible individuals participating in the programs, to allow such individuals to assist community officials and law enforcement agencies with the deterrence and prevention of gang and youth violence by participating in seminars, training, and workshops throughout the community; and

(4) provide each eligible individual participating in the programs with individual attention based on a curriculum that matches the interests and abilities of the individual to the resources of the program.

(b) REENTRY EDUCATION PROGRAM.—

(1) GRANT PROGRAM ESTABLISHED.—From the amounts appropriated under subsection (g), the Secretary is authorized to award grants to community colleges to enter into and maintain partnerships with juvenile detention centers and secure juvenile justice residential facilities to provide assistance, services, and education to eligible individuals who reenter the community and pursue, in accordance with the requirements of this section, at least one of the following:

(A) A certificate of completion for a specialized area of study, such as career and technical training and other alternative postsecondary educational programs.

(B) An associate's degree.

(2) GRANT PERIOD.—A grant awarded under this part shall be for one four-year period, and may be renewed for an additional period as the Secretary determines to be appropriate.

(3) APPLICATION.—A community college desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require. Such application shall include—

(A) an assessment of the existing community resources available to serve at-risk youth;

(B) a detailed description of the program and activities the community college will carry out with such grant; and

(C) a proposed budget describing how the community college will use the funds made available by such grant.

(4) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to community colleges that propose to serve the highest number of priority individuals, and, among such community colleges, shall give priority to community colleges that the Secretary determines will best carry out the purposes of this part, based on the applications submitted in accordance with paragraph (3).

(c) ALLOWABLE USES OF FUNDS.—A community college awarded a grant under this part may use such grant to—

(1) pay for tuition and transportation costs of eligible individuals;

(2) establish and carry out an education program that includes classes for eligible individuals that—

(A) provide marketable life and social skills to such individuals;

(B) meet the education program requirements under subsection (d), including as appropriate, courses necessary for the completion of a secondary school diploma or the recognized equivalent;

(C) promote the civic engagement of such individuals; and

(D) facilitate a smooth reentry of such individuals into the community;

(3) create and carry out a mentoring program that is—

(A) specifically designed to help eligible individuals with the potential challenges of the transitional period from detention to release;

(B) created in consultation with guidance counselors, academic advisors, law enforcement officials, and other community resources; and

(C) administered by a program coordinator, selected and employed by the community college, who shall oversee each individual's development and shall serve as the immediate supervisor and reporting officer to whom the academic advisors, guidance counselors, and volunteers shall report regarding the progress of each such individual;

(4) facilitate employment opportunities for eligible individuals by entering into partnerships with public and private entities to provide opportunities for internships, apprenticeships, and permanent employment, as possible, for such individuals; and

(5) provide training for eligible individuals participating in the programs, to allow such individuals to assist community officials and law enforcement agencies with the deterrence and prevention of gang and youth violence by participating in seminars and workshop series throughout the community.

(d) EDUCATION PROGRAM REQUIREMENTS.—An education program established and carried out under subsection (c) shall—

(1) include classes that are required for completion of a certificate, diploma, or degree described in subparagraph (A) or

(B) of subsection (b)(1), including as appropriate courses necessary for the completion of a secondary school diploma or the recognized equivalent;

(2) provide a variety of academic programs, with various completion requirements, to accommodate the diverse academic backgrounds, learning styles, and academic and career interests of the eligible individuals who participate in the education program;

(3) offer flexible academic programs that are designed to improve the academic development and achievement of eligible individuals, and to avoid high attrition rates for such individuals; and

(4) provide for a uniquely designed education plan for each eligible individual participating in the program, which shall require such individual to receive, at a minimum, a certificate or degree described in subparagraph (A) or (B) of subsection (b)(1) to successfully complete such program.

(e) REPORTS.—Each community college awarded a grant under this part shall submit to the Secretary a report—

(1) documenting the results of the program carried out with such grant; and

(2) evaluating the effectiveness of activities carried out through such program.

(f) DEFINITIONS.—In this section:

(1) COMMUNITY COLLEGE.—The term "community college" has the meaning given the term "junior or community college" in section 312(f).

(2) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means an individual who—

(A) is 16 to 25 years of age (inclusive); and

(B)(i) has been convicted of a criminal offense; and

(ii) is detained in, or has been released from, a juvenile detention center or secure juvenile justice residential facility.

(3) GANG-RELATED OFFENSE.—

(A) IN GENERAL.—The term "gang-related offense" means an offense that involves the circumstances described in subparagraph (B) and that is—

(i) a Federal or State felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than five years;

(ii) a Federal or State crime of violence that has as an element the use or attempted use of physical force against the person of another for which the maximum penalty is not less than six months; or

(iii) a conspiracy to commit an offense described in clause (i) or (ii).

(B) CIRCUMSTANCES.—The circumstances described in this subparagraph are that the offense described in subparagraph (A) was committed by a person who—

(i) participates in a criminal street gang (as defined insection 521(a)of title 18, United States Code) with knowledge that such gang's members engage in

or have engaged in a continuing series of offenses described in subparagraph (A); and

(ii) intends to promote or further the felonious activities of the criminal street gang or maintain or increase the person's position in the gang.

(4) PRIORITY INDIVIDUAL.—The term "priority individual" means an individual who—

(A) is an eligible individual;

(B) has been convicted of a gang-related offense; and

(C) has served or is serving a period of detention in a juvenile detention center or secure juvenile justice residential facility for such offense.

(5) GUIDANCE COUNSELOR.—The term "guidance counselor" means an individual who works with at-risk youth on a one-on-one basis, to establish a supportive relationship with such at-risk youth and to provide such at-risk youth with academic assistance and exposure to new experiences that enhance their ability to become responsible citizens.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART X—SCHOOL OF VETERINARY MEDICINE COMPETITIVE GRANT PROGRAM

SEC. 893. [20 U.S.C. 1161x] SCHOOL OF VETERINARY MEDICINE COMPETITIVE GRANT PROGRAM.

(a) IN GENERAL.—From the amounts appropriated under subsection (g), the Secretary of Health and Human Services shall award competitive grants to eligible entities for the purpose of improving public health preparedness through increasing the number of veterinarians in the workforce.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be—

(A) a public or other nonprofit school of veterinary medicine that is accredited by a nationally recognized accrediting agency or association recognized by the Secretary of Education pursuant to part H of title IV;

(B) a public or nonprofit, department of comparative medicine, department of veterinary science, school of public health, or school of medicine that is accredited by a nationally recognized accrediting agency or association recognized by the Secretary of Education pursuant to part H of title IV and that offers graduate training for veterinarians in a public health practice area as determined by the Secretary of Health and Human Services; or

(C) a public or nonprofit entity that—

(i) conducts recognized residency training programs for veterinarians that are approved by a veterinary specialty organization that is recognized by the American Veterinary Medical Association; and

(ii) offers postgraduate training for veterinarians in a public health practice area as determined by the Secretary of Health and Human Services; and

(2) prepare and submit to the Secretary of Health and Human Services an application, at such time, in such manner, and containing such information as the Secretary of Health and Human Services may require.

(c) CONSIDERATION OF APPLICATIONS.—The Secretary of Health and Human Services shall establish procedures to ensure that applications under subsection (b)(2) are rigorously reviewed and that grants are competitively awarded based on—

(1) the ability of the applicant to increase the number of veterinarians who are trained in specified public health practice areas as determined by the Secretary of Health and Human Services;

(2) the ability of the applicant to increase capacity in research on high priority disease agents; or

(3) any other consideration the Secretary of Health and Human Services determines necessary.

(d) PREFERENCE.—In awarding grants under subsection (a), the Secretary of Health and Human Services shall give preference to applicants that demonstrate a comprehensive approach by involving more than one school of veterinary medicine, department of comparative medicine, department of veterinary science, school of public health, school of medicine, or residency training program that offers postgraduate training for veterinarians in a public health practice area as determined by the Secretary of Health and Human Services.

(e) USE OF FUNDS.—Amounts received under a grant under this section shall be used by a grantee to increase the number of veterinarians in the workforce through paying costs associated with the expansion of academic programs at schools of veterinary medicine, departments of comparative medicine, departments of veterinary science, or entities offering residency training programs, or academic programs that offer postgraduate training for veterinarians or concurrent training for veterinary students in specific areas of specialization, which costs may include minor renovation and improvement in classrooms, libraries, and laboratories.

(f) DEFINITION OF PUBLIC HEALTH PRACTICE AREA.—In this section, the term "public health practice area" includes the areas of bioterrorism and emergency preparedness, environmental health, food safety and food security, regulatory medicine, diagnostic laboratory medicine, and biomedical research.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years. Amounts appropriated under this subsection shall remain available until expended.

PART Y—EARLY FEDERAL PELL GRANT COMMITMENT DEMONSTRATION PROGRAM

SEC. 894. [20 U.S.C. 1161y] EARLY FEDERAL PELL GRANT COMMITMENT DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM AUTHORITY.—

(1) IN GENERAL.—The Secretary is authorized to carry out an Early Federal Pell Grant Commitment Demonstration Program under which—

(A) the Secretary awards grants to four State educational agencies, in accordance with paragraph (2), to pay the administrative expenses incurred in participating in the demonstration program under this section; and

(B) the Secretary awards Federal Pell Grants to participating students in accordance with this section and consistent with section 401.

(2) GRANTS.—

(A) IN GENERAL.—From amounts appropriated under subsection (h) for a fiscal year, the Secretary is authorized to award grants to four State educational agencies to enable the State educational agencies to pay the administrative expenses incurred in participating in the demonstration program under this section by carrying out a demonstration project under which eighth grade students described in subsection (b)(1)(B) receive a commitment early in the students' academic careers to receive a Federal Pell Grant.

(B) EQUAL AMOUNTS.—The Secretary shall award grants under this section in equal amounts to each of the four participating State educational agencies.

(b) DEMONSTRATION PROJECT REQUIREMENTS.—Each of the four demonstration projects assisted under this section shall meet the following requirements:

(1) PARTICIPANTS.—

(A) IN GENERAL.—The State educational agency shall make participation in the demonstration project available to two cohorts of students, which shall consist of—

(i) one cohort of eighth grade students who begin participating in the first academic year for which funds have been appropriated to carry out this section; and

(ii) one cohort of eighth grade students who begin participating in the academic year succeeding the academic year described in clause (i).

(B) STUDENTS IN EACH COHORT.—Each cohort of students shall consist of not more than 10,000 eighth grade students who qualify for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) STUDENT DATA.—The State educational agency shall ensure that student data from local educational agencies serving students who participate in the demonstration project, as well as student data from local educational agencies serving a

comparable group of students who do not participate in the demonstration project, are available for evaluation of the demonstration project, and are made available in accordance with the requirements of section 444 of the General Education Provisions Act (commonly known as the "Family Educational Rights and Privacy Act of 1974").

(3) FEDERAL PELL GRANT COMMITMENT.—Each student who participates in the demonstration project receives a commitment from the Secretary to receive a Federal Pell Grant during the first academic year that the student is in attendance at an institution of higher education as an undergraduate, provided that the student applies for Federal financial aid (via the FAFSA or EZ FAFSA) for such academic year.

(4) APPLICATION PROCESS.—Each State educational agency shall establish an application process to select local educational agencies within the State to participate in the demonstration project in accordance with subsection (d)(2).

(5) LOCAL EDUCATIONAL AGENCY PARTICIPATION.—Subject to the 10,000 statewide student limitation described in paragraph (1), a local educational agency serving students, not less than 50 percent of whom are eligible for a free or reduced price school lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), shall be eligible to participate in the demonstration project.

(c) STATE EDUCATIONAL AGENCY APPLICATIONS.—

(1) IN GENERAL.—Each State educational agency desiring to participate in the demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) CONTENTS.—Each application shall include—

(A) a description of the proposed targeted information campaign for the demonstration project and a copy of the plan described in subsection (f)(2);

(B) a description of the student population that will receive an early commitment to receive a Federal Pell Grant under this section;

(C) an assurance that the State educational agency will fully cooperate with the ongoing evaluation of the demonstration project; and

(D) such other information as the Secretary may require.

(d) SELECTION CONSIDERATIONS.—

(1) SELECTION OF STATE EDUCATIONAL AGENCIES.—In selecting State educational agencies to participate in the demonstration program under this section, the Secretary shall consider—

(A) the number and quality of State educational agency applications received;

(B) a State educational agency's—

(i) financial responsibility;

(ii) administrative capability;

(iii) commitment to focusing resources, in addition to any resources provided on students who receive as-

sistance under part A of title I of the Elementary and Secondary Education Act of 1965;

(iv) ability and plans to run an effective and thorough targeted information campaign for students served by local educational agencies eligible to participate in the demonstration project; and

(v) ability to ensure the participation in the demonstration project of a diverse group of students, including with respect to ethnicity and gender.

(2) LOCAL EDUCATIONAL AGENCY.—In selecting local educational agencies to participate in a demonstration project under this section, the State educational agency shall consider—

(A) the number and quality of local educational agency applications received;

(B) a local educational agency's—

(i) financial responsibility;

(ii) administrative capability;

(iii) commitment to focusing resources on students who receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965;

(iv) ability and plans to run an effective and thorough targeted information campaign for students served by the local educational agency; and

(v) ability to ensure the participation in the demonstration project of a diverse group of students.

(e) EVALUATION.—

(1) IN GENERAL.—From amounts appropriated under subsection (h) for a fiscal year, the Secretary shall reserve not more than $1,000,000 to award a grant or contract to an organization outside the Department for an independent evaluation of the impact of the demonstration program assisted under this section.

(2) COMPETITIVE BASIS.—The grant or contract shall be awarded on a competitive basis.

(3) MATTERS EVALUATED.—The evaluation described in this subsection shall—

(A) determine the number of students who were encouraged by the demonstration program to pursue higher education;

(B) identify the barriers to the effectiveness of the demonstration program;

(C) assess the cost-effectiveness of the demonstration program in improving access to higher education;

(D) identify the reasons why participants in the demonstration program either received or did not receive a Federal Pell Grant;

(E) identify intermediate outcomes related to postsecondary education attendance, such as whether participants—

(i) were more likely to take a college-preparatory curriculum while in secondary school;

(ii) submitted any applications to institutions of higher education; and

(iii) took the PSAT, SAT, or ACT;

(F) identify the number of students participating in the demonstration program who pursued an associate's degree or a bachelor's degree, or other postsecondary education;

(G) compare the findings of the demonstration program with respect to participants to comparison groups (of similar size and demographics) that did not participate in the demonstration program; and

(H) identify the impact of the demonstration program on the parents of students eligible to participate in the program.

(4) DISSEMINATION.—The findings of the evaluation shall be reported to the Secretary, who shall widely disseminate the findings to the public.

(f) TARGETED INFORMATION CAMPAIGN.—

(1) IN GENERAL.—Each State educational agency receiving a grant under this section shall, in cooperation with the participating local educational agencies within the State and the Secretary, develop a targeted information campaign for the demonstration project assisted under this section.

(2) PLAN.—Each State educational agency receiving a grant under this section shall include in the application submitted under subsection (c) a written plan for the State educational agency proposed targeted information campaign. The plan shall include the following:

(A) OUTREACH.—A description of the outreach to students and the students' families at the beginning and end of each academic year of the demonstration project, at a minimum.

(B) DISTRIBUTION.—A description of how the State educational agency plans to provide the outreach described in subparagraph (A) and to provide the information described in subparagraph (C).

(C) INFORMATION.—The annual provision by the State educational agency to all students and families participating in the demonstration project of information regarding—

(i) the estimated statewide average cost of attendance for an institution of higher education for each academic year, which cost data shall be disaggregated by—

(I) type of institution, including—

(aa) two-year public degree-granting institutions of higher education;

(bb) four-year public degree-granting institutions of higher education; and

(cc) four-year private degree-granting institutions of higher education;

(II) component, including—

(aa) tuition and fees; and

(bb) room and board;

(ii) Federal Pell Grants, including—

(I) the Federal Pell Grant amount, determined under section 401(b)(2)(A), for which a student may be eligible for each award year;

(II) when and how to apply for a Federal Pell Grant; and

(III) what the application process for a Federal Pell Grant requires;

(iii) State-specific postsecondary education savings programs;

(iv) State merit-based financial aid;

(v) State need-based financial aid; and

(vi) Federal financial aid available to students, including eligibility criteria for such aid and an explanation of the Federal financial aid programs under title IV, such as the Student Guide published by the Department (or any successor to such document).

(3) COHORTS.—The information described in paragraph (2)(C) shall be provided annually to the two successive cohorts of students described in subsection (b)(1)(A) for the duration of the students' participation in the demonstration project.

(4) RESERVATION.—Each State educational agency receiving a grant under this section shall reserve not more than 15 percent of the grant funds received each fiscal year to carry out the targeted information campaign described in this subsection.

(g) SUPPLEMENT, NOT SUPPLANT.—A State educational agency shall use grant funds received under this section only to supplement the funds that would, in the absence of such grant funds, be made available from non-Federal sources for students participating in the demonstration project under this section, and not to supplant such funds.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART Z—HENRY KUUALOHA GIUGNI KUPUNA MEMORIAL ARCHIVES

SEC. 895. [20 U.S.C. 1161z] HENRY KUUALOHA GIUGNI KUPUNA MEMORIAL ARCHIVES.

(a) GRANTS AUTHORIZED.—From the amounts appropriated under subsection (c), the Secretary is authorized to award a grant to the University of Hawaii Academy for Creative Media for the establishment, maintenance, and periodic modernization of the Henry Kuualoha Giugni Kupuna Memorial Archives at the University of Hawaii.

(b) USE OF FUNDS.—The Henry Kuualoha Giugni Kupuna Memorial Archives shall use the grant funds received under this section—

(1) to facilitate the acquisition of a secure web-accessible repository of Native Hawaiian historical data rich in ethnic and cultural significance to the United States for preservation and access by future generations;

(2) to award scholarships to facilitate access to postsecondary education for students who cannot afford such education;

(3) to support programmatic efforts associated with the web-based media projects of the archives;

(4) to create educational materials, from the contents of the archives, that are applicable to a broad range of indigenous students, such as Native Hawaiians, Alaskan Natives, and Native American Indians;

(5) to develop outreach initiatives that introduce the archival collections to elementary schools and secondary schools;

(6) to develop supplemental web-based resources that define terms and cultural practices innate to Native Hawaiians;

(7) to rent, lease, purchase, maintain, or repair educational facilities to house the archival collections;

(8) to rent, lease, purchase, maintain, or repair computer equipment for use by elementary schools and secondary schools in accessing the archival collections;

(9) to provide preservice and in-service teacher training to develop a core group of kindergarten through grade 12 teachers who are able to provide instruction in a way that is relevant to the unique background of indigenous students, such as Native Hawaiians, Alaskan Natives, and Native American Indians, in order to—

(A) facilitate greater understanding by teachers of the unique background of indigenous students; and

(B) improve student achievement; and

(10) to increase the economic and financial literacy of postsecondary education students through the dissemination of best practices used at other institutions of higher education regarding debt and credit management and economic decision-making.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

PART AA—MASTERS AND POSTBACCALAUREATE PROGRAMS

SEC. 897. [20 U.S.C. 1161aa] MASTERS DEGREE PROGRAMS.

In addition to any amounts appropriated under section 725, there are authorized to be appropriated, and there are appropriated, out of any funds in the Treasury not otherwise appropriated, $11,500,000 for fiscal year 2009 and for each of the five succeeding fiscal years to carry out subpart 4 of part A of title VII in order to provide grants under sections 723 and 724, in the minimum amount authorized under such sections, to all institutions eligible for grants under such sections.

SEC. 898. [20 U.S.C. 1161aa–1] POSTBACCALAUREATE PROGRAMS.

In addition to any amounts appropriated under part B of title V, there are authorized to be appropriated, and there are appropriated, out of any funds in the Treasury not otherwise appro-

priated, $11,500,000 for fiscal year 2009 and for each of the five succeeding fiscal years to carry out part B of title V.