PART I—GENERAL HIGHER EDUCATION PROGRAMS

Higher Education Act of 1965

(P.L. 89–329)

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".

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;

(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;

(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 persons who are beyond the age of

compulsory school attendance in the State in which the institution is located.

(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 B 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 B of title IV.

(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. In the case of a graduate medical or veterinary school outside the United States, such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B unless—

(i)(I) 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 B of title IV; and

(II) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of title IV; or

(ii) the institution has a clinical training program that was approved by a State as of January 1, 1992, or the institution's students complete their clinical

training at an approved veterinary school located in the United States.

(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.

(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 B 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 B [1] 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, unless the institution is an institution that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act;

(B) enrolls 50 percent or more of the institution's students in correspondence courses, 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

[1] So in original. Should probably be "part B of title IV".

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

(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;

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

(F) has at least 10 percent of the school's revenues from sources that are not derived from funds provided under title IV, as determined in accordance with regulations prescribed by the Secretary.

(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 paragraph (1) of section 101(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(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 paragraph (1) of section 101(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

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

In this Act:

(1) 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.

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

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

(4) ELEMENTARY SCHOOL.—The term "elementary school" has the same meaning given that term under section 9101 of the Elementary and Secondary Education Act of 1965.

(5) GIFTED AND TALENTED.—The term "gifted and talented" has the same meaning given that term under section 9101 of the Elementary and Secondary Education Act of 1965.

(6) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given that term under section 9101 of the Elementary and Secondary Education Act of 1965.

(7) 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.

(8) 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.

(9) 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.

(10) SECONDARY SCHOOL.—The term "secondary school" has the same meaning given that term under section 9101 of the Elementary and Secondary Education Act of 1965.

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

(12) 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.

(13) 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.

(14) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the same meaning given that term under section 9101 of the Elementary and Secondary Education Act of 1965.

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

(16) 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 Is-

lands, the Federated States of Micronesia, and the Republic of Palau.

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 [1] 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.—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.

(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; 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

[1] So in original. Should probably be "with".

(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] TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.

(a) 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.

(b) ELIGIBILITY.—Notwithstanding any other provision of law, an institution of higher education that is located in any of the Freely Associated States, rather than in another State, shall be eligible, if otherwise qualified, for assistance under chapter 1 of subpart 2 of part A of title IV. This subsection shall cease to be effective on September 30, 2004.

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 (hereafter in this section referred to as the "Committee"), which shall be composed of 15 members appointed by the Secretary from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and types of institutions of higher education (as defined in section 102), to assess the process of eligibility and certification of such institutions under title IV and the provision of financial aid under title IV.

(b) TERMS OF MEMBERS.—Terms of office of each member of the Committee shall be 3 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.

(c) PUBLIC NOTICE.—The Secretary shall—

(1) annually publish in the Federal Register a list containing the name of each member of the Committee and the date of the expiration of the term of office of the member; and

(2) publicly solicit nominations for each vacant position or expiring term of office on the Committee.

(d) 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) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs;

(5) 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;

(6) 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

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

(e) MEETING PROCEDURES.—The Committee shall meet not less than twice each year at the call of the Chairperson. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

(f) REPORT.—Not later than November 30 of each year, the Committee shall make an annual report through the Secretary to Congress. The annual report shall contain—

(1) a list of the members of the Committee and their addresses;

(2) a list of the functions of the Committee;

(3) a list of dates and places of each meeting during the preceding fiscal year; and

(4) a summary of the activities, findings and recommendations made by the Committee during the preceding fiscal year.

(g) TERMINATION.—The Committee shall cease to exist on September 30, 2004.

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; and

(B) 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 $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(f) NATIONAL RECOGNITION AWARDS.—

(1) PURPOSE.—It is the purpose of this subsection to provide models of innovative and effective alcohol and drug abuse prevention programs in higher education and to focus national attention on exemplary alcohol and drug abuse prevention efforts.

(2) AWARDS.—

(A) IN GENERAL.—The Secretary shall make 5 National Recognition Awards for outstanding alcohol prevention programs and 5 National Recognition Awards for outstanding drug abuse prevention programs, on an annual basis, to institutions of higher education that—

(i) have developed and implemented innovative and effective alcohol prevention programs or drug abuse prevention programs; and

(ii) with respect to an application for an alcohol prevention program award, demonstrate in the application submitted under paragraph (3) that the institution has undertaken efforts designed to change the culture of college drinking consistent with the review criteria described in paragraph (3)(C)(iii).

(B) CEREMONY.—The awards shall be made at a ceremony in Washington, D.C.

(C) DOCUMENT.—The Secretary shall publish a document describing the alcohol and drug abuse prevention programs of institutions of higher education that receive the awards under this subsection and disseminate the document nationally to all public and private secondary school guidance counselors for use by secondary school juniors and seniors preparing to enter an institution of higher education. The document shall be disseminated not later than January 1 of each academic year.

(D) AMOUNT AND USE.—Each institution of higher education selected to receive an award under this subsection shall receive an award in the amount of $50,000. Such award shall be used for the maintenance and improvement of the institution's outstanding prevention program for the academic year following the academic year for which the award is made.

(3) APPLICATION.—

(A) IN GENERAL.—Each institution of higher education desiring an award under this subsection 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—

(i) a clear description of the goals and objectives of the prevention program of the institution;

(ii) a description of program activities that focus on alcohol or drug policy issues, policy development, modification, or refinement, policy dissemination and implementation, and policy enforcement;

(iii) a description of activities that encourage student and employee participation and involvement in activity development and implementation;

(iv) the objective criteria used to determine the effectiveness of the methods used in such programs and the means used to evaluate and improve the programs' efforts;

(v) a description of special initiatives used to reduce high-risk behavior or increase low-risk behavior; and

(vi) a description of coordination and networking efforts that exist in the community in which the institution is located for purposes of such programs.

(B) APPLICATION REVIEW.—The Secretary shall appoint a committee to review applications submitted under this paragraph. The committee may include representatives of Federal departments or agencies the programs of which include alcohol abuse prevention and education efforts and drug abuse prevention and education efforts, directors or heads (or their representatives) of professional associations that focus on alcohol and drug abuse prevention efforts, and non-Federal scientists who have backgrounds in social science evaluation and research methodology and in education. Decisions of the committee shall be made directly to the Secretary without review by any other entity in the Department.

(C) REVIEW CRITERIA.—The committee described in subparagraph (B) shall develop specific review criteria for reviewing and evaluating applications submitted under this paragraph. The review criteria shall include—

(i) measures of the effectiveness of the program of the institution, that includes changes in the campus alcohol or other drug environment or the climate and changes in alcohol or other drug use before and after the initiation of the program;

(ii) measures of program institutionalization, including—

(I) an assessment of needs of the institution;

(II) the institution's alcohol and drug policies, staff and faculty development activities, drug prevention criteria, student, faculty, and campus community involvement; and

(III) whether the program will be continued after the cessation of Federal funding; and

(iii) with respect to an application for an alcohol prevention program award, criteria for determining whether the institution has policies in effect that—

(I) prohibit alcoholic beverage sponsorship of athletic events, and prohibit alcoholic beverage advertising inside athletic facilities;

(II) prohibit alcoholic beverage marketing on campus, which may include efforts to ban alcohol advertising in institutional publications or efforts to prohibit alcohol-related advertisements at campus events;

(III) establish or expand upon alcohol-free living arrangements for all college students;

(IV) establish partnerships with community members and organizations to further alcohol prevention efforts on campus and the areas surrounding campus; and

(V) establish innovative communications programs involving students and faculty in an effort to educate students about alcohol-related risks.

(4) ELIGIBILITY.—In order to be eligible to receive a National Recognition Award an institution of higher education shall—

(A) offer an associate or baccalaureate degree;

(B) have established an alcohol abuse prevention and education program or a drug abuse prevention and education program;

(C) nominate itself or be nominated by others, such as professional associations or student organizations, to receive the award; and

(D) not have received an award under this subsection during the 5 academic years preceding the academic year for which the determination is made.

(5) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection $750,000 for fiscal year 1999.

(B) AVAILABILITY.—Funds appropriated under subparagraph (A) shall remain available until expended.

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 1999 and for each of the 4 succeeding fiscal years 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 1999 and for each of the 4 succeeding fiscal years 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.

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)(i) [1];

(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 Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives 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 institutions 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

[1] So in original. Should probably be "428(a)(2)(C)(ii)".

(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) STUDENT AID RECIPIENT SURVEY.—(1) The Secretary shall survey student aid recipients on a regular cycle, but not less than once every 3 years—

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

(B) to determine the income distribution and other socioeconomic characteristics of federally aided students;

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

(D) to describe the debt burden of loan recipients and their capacity to repay their education debts; and

(E) to disseminate such information in both published and machine readable form.

(2) The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional and current and former students in all types of institutions, and should be designed and administered in consultation with the Congress and the post-secondary education community.

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 operational 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 of the operational functions 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 information systems administered by the PBO, and other functions performed by the PBO;

(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 the administration and modernization of the de-

livery system for student financial assistance under title IV.

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

(A) The administrative, accounting, and financial management functions of the delivery system for Federal student assistance, including—

(i) the collection, processing and transmission of applicant data to students, institutions and authorized third parties, as provided for in section 483;

(ii) design and technical specifications for software development and systems supporting the delivery of student financial assistance under title IV;

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

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

(v) providing all customer service, training, and user support related to systems that support those programs.

(B) Annual development of a budget for the operations and services 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 AND REPORT.—

(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 this title, 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 information and delivery systems that support those programs.

(iv) DELIVERY AND INFORMATION SYSTEM.—Developing an open, common, and integrated delivery and information system for programs authorized under this title.

(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 programs administered by the PBO.

(B) Financial and performance requirements applicable to the PBO under the Chief Financial Officer [1] 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.

[1] So in original. Should probably be "Chief Financial Officers".

(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 borrowers, institutions, lenders, guaranty agencies, secondary markets, and others involved in the delivery system of student aid under this title—

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

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

(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 Secretary shall appoint the Chief Operating Officer within 6 months after the date of enactment of the Higher Education Amendments of 1998. 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 appropriate committees of Congress.

(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 Committee on Education and the Workforce of the House

of Representatives and the Committee on Labor and Human Resources of the Senate, 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 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, 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 (2)[1].

(C) PAYMENT.—Payment of a bonus under this subparagraph (B)[2] 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,

[1] So in original. Should probably be "(4)".
[2] So in original. Should probably be "Payment of a bonus under subparagraph (B)".

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 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)(A) [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

[1] So in original. Should probably be "(1)".

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, not more than 25 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 organizational 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) REPORT.—The Secretary and the Chief Operating Officer, not later than 180 days after the date of enactment of the Higher Education Amendments of 1998, shall report to Congress on the proposed budget and sources of funding for the operation of the PBO.

(j) 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, including transition costs.

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 for information systems supporting the programs authorized under title IV to carry out the functions set forth in section 141(b)(2); and

(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.

(c) SERVICE CONTRACTS.—

(1) PERFORMANCE-BASED SERVICING CONTRACTS.—The Chief Operating Officer shall, to the extent practicable, maxi-

mize 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 title IV delivery system from any entity that has the capability and capacity to meet the requirements for the system. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides an information system or service that meets 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 on Federal Government contracts, 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 offered 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) SOLE SOURCE.—Award of the contract on a sole-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 sole-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 sole-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) SOLE-SOURCE BASIS.—The term "sole-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 that source.

(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 electronically 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).

TITLE II—TEACHER QUALITY ENHANCEMENT

PART A—TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS

SEC. 201. [20 U.S.C. 1021] PURPOSES; DEFINITIONS.

(a) PURPOSES.—The purposes of this part are to—

(1) improve student achievement;

(2) improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities;

(3) hold institutions of higher education accountable for preparing teachers who have the necessary teaching skills and are highly competent in the academic content areas in which the teachers plan to teach, such as mathematics, science, English, foreign languages, history, economics, art, civics, Government, and geography, including training in the effective uses of technology in the classroom; and

(4) recruit highly qualified individuals, including individuals from other occupations, into the teaching force.

(b) DEFINITIONS.—In this part:

(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 1 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 matter area, the disciplines or content areas in which academic majors are offered by the arts and science organizational unit.

(2) HIGH NEED LOCAL EDUCATIONAL AGENCY.—The term "high need local educational agency" means a local educational agency that serves an elementary school or secondary school located in an area in which there is—

(A) a high percentage of individuals from families with incomes below the poverty line;

(B) a high percentage of secondary school teachers not teaching in the content area in which the teachers were trained to teach; or

(C) a high teacher turnover rate.

(3) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

SEC. 202. [20 U.S.C. 1022] STATE GRANTS.

(a) IN GENERAL.—From amounts made available under section 210(1) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible States to en-

able the eligible States to carry out the activities described in subsection (d).

(b) ELIGIBLE STATE.—

(1) DEFINITION.—In this part, the term "eligible State" means—

(A) the Governor of a State; or

(B) in the case of a State for which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for teacher certification and preparation activity, such individual, entity, or agency.

(2) CONSULTATION.—The Governor and the individual, entity, or agency designated under paragraph (1) shall consult with the Governor, State board of education, State educational agency, or State agency for higher education, as appropriate, with respect to the activities assisted under this section.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible State shall, at the time of the initial grant application, submit an application to the Secretary that—

(1) meets the requirement of this section;

(2) includes a description of how the eligible State intends to use funds provided under this section; and

(3) contains such other information and assurances as the Secretary may require.

(d) USES OF FUNDS.—An eligible State that receives a grant under this section shall use the grant funds to reform teacher preparation requirements, and to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are assigned to teach, by carrying out 1 or more of the following activities:

(1) REFORMS.—Implementing reforms that hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach, and possess strong teaching skills, which may include the use of rigorous subject matter competency tests and the requirement that a teacher have an academic major in the subject area, or related discipline, in which the teacher plans to teach.

(2) CERTIFICATION OR LICENSURE REQUIREMENTS.—Reforming teacher certification or licensure requirements to ensure that teachers have the necessary teaching skills and academic content knowledge in the subject areas in which teachers are assigned to teach.

(3) ALTERNATIVES TO TRADITIONAL PREPARATION FOR TEACHING.—Providing prospective teachers with alternatives to traditional preparation for teaching through programs at colleges of arts and sciences or at nonprofit educational organizations.

(4) ALTERNATIVE ROUTES TO STATE CERTIFICATION.—Carrying out programs that—

(A) include support during the initial teaching experience; and

(B) establish, expand, or improve alternative routes to State certification of teachers for highly qualified individuals, including mid-career professionals from other occupations, paraprofessionals, former military personnel and recent college graduates with records of academic distinction.

(5) RECRUITMENT; PAY; REMOVAL.—Developing and implementing effective mechanisms to ensure that local educational agencies and schools are able to effectively recruit highly qualified teachers, to financially reward those teachers and principals whose students have made significant progress toward high academic performance, such as through performance-based compensation systems and access to ongoing professional development opportunities for teachers and administrators, and to expeditiously remove incompetent or unqualified teachers consistent with procedures to ensure due process for the teachers.

(6) SOCIAL PROMOTION.—Development and implementation of efforts to address the problem of social promotion and to prepare teachers to effectively address the issues raised by ending the practice of social promotion.

(7) RECRUITMENT.—Activities described in section 204(d).

SEC. 203. [20 U.S.C. 1023] PARTNERSHIP GRANTS.

(a) GRANTS.—From amounts made available under section 210(2) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible partnerships to enable the eligible partnerships to carry out the activities described in subsections (d) and (e).

(b) DEFINITIONS.—

(1) ELIGIBLE PARTNERSHIPS.—In this part, the term "eligible partnerships" means an entity that—

(A) shall include—

(i) a partner institution;

(ii) a school of arts and sciences; and

(iii) a high need local educational agency; and

(B) may include a Governor, State educational agency, the State board of education, the State agency for higher education, an institution of higher education not described in subparagraph (A), a public charter school, a public or private elementary school or secondary school, a public or private nonprofit educational organization, a business, a teacher organization, or a prekindergarten program.

(2) PARTNER INSTITUTION.—In this section, the term "partner institution" means a private independent or State-supported public institution of higher education, the teacher training program of which demonstrates that—

(A) graduates from the teacher training program 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 or areas 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 207(b); and

(II) using the State report card on teacher preparation required under section 207(b), after the first publication of such report card and for every year thereafter; or

(B) the teacher training program requires all the students of the program to participate in intensive clinical experience, to meet high academic standards, and—

(i) in the case of secondary school candidates, to successfully complete an academic major in the subject area in which the candidate intends to teach or to demonstrate competence through a high level of performance in relevant content areas; and

(ii) in the case of elementary school candidates, to successfully complete an academic major in the arts and sciences or to demonstrate competence through a high level of performance in core academic subject areas.

(c) 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—

(1) contain a needs assessment of all the partners with respect to teaching and learning and a description of how the partnership will coordinate with other teacher training or professional development programs, and how the activities of the partnership will be consistent with State, local, and other education reform activities that promote student achievement;

(2) contain a resource assessment that describes the resources available to the partnership, the intended use of the grant funds, including a description of how the grant funds will be fairly distributed in accordance with subsection (f), and the commitment of the resources of the partnership to the activities assisted under this part, including financial support, faculty participation, time commitments, and continuation of the activities when the grant ends; and

(3) contain a description of—

(A) how the partnership will meet the purposes of this part;

(B) how the partnership will carry out the activities required under subsection (d) and any permissible activities under subsection (e); and

(C) the partnership's evaluation plan pursuant to section 206(b).

(d) REQUIRED USES OF FUNDS.—An eligible partnership that receives a grant under this section shall use the grant funds to carry out the following activities:

(1) REFORMS.—Implementing reforms within teacher preparation programs to hold the programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach, and for promoting strong teaching skills, including working with a school of arts and sciences and integrating reliable research-based teaching methods into the curriculum, which curriculum shall include programs designed to successfully integrate technology into teaching and learning.

(2) CLINICAL EXPERIENCE AND INTERACTION.—Providing sustained and high quality preservice clinical experience including the mentoring of prospective teachers by veteran teachers, and 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) PROFESSIONAL DEVELOPMENT.—Creating opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified to teach or in which the teachers are working toward certification to teach, and that promotes strong teaching skills.

(e) ALLOWABLE USES OF FUNDS.—An eligible partnership that receives a grant under this section may use such funds to carry out the following activities:

(1) TEACHER PREPARATION AND PARENT INVOLVEMENT.—Preparing teachers to work with diverse student populations, including individuals with disabilities and limited English proficient individuals, and involving parents in the teacher preparation program reform process.

(2) DISSEMINATION AND COORDINATION.—Broadly disseminating information on effective practices used by the partnership, and coordinating with the activities of the Governor, State board of education, State higher education agency, and State educational agency, as appropriate.

(3) MANAGERIAL AND LEADERSHIP SKILLS.—Developing and implementing proven mechanisms to provide principals and superintendents with effective managerial and leadership skills that result in increased student achievement.

(4) TEACHER RECRUITMENT.—Activities described in section 204(d).

(f) SPECIAL RULE.—No individual member of an eligible partnership shall retain more than 50 percent of the funds made available to the partnership under this section.

(g) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an eligible partnership from using grant funds to coordinate with the activities of more than one Governor, State board of

education, State educational agency, local educational agency, or State agency for higher education.

SEC. 204. [20 U.S.C. 1024] TEACHER RECRUITMENT GRANTS.

(a) PROGRAM AUTHORIZED.—From amounts made available under section 210(3) for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible applicants to enable the eligible applicants to carry out activities described in subsection (d).

(b) ELIGIBLE APPLICANT DEFINED.—In this part, the term "eligible applicant" means—

(1) an eligible State described in section 202(b); or

(2) an eligible partnership described in section 203(b).

(c) APPLICATION.—Any eligible applicant desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require, including—

(1) a description of the assessment that the eligible applicant, and the other entities with whom the eligible applicant will carry out the grant activities, have undertaken to determine the most critical needs of the participating high-need local educational agencies;

(2) a description of the activities the eligible applicant will carry out with the grant; and

(3) a description of the eligible applicant's plan for continuing the activities carried out with the grant, once Federal funding ceases.

(d) USES OF FUNDS.—Each eligible applicant receiving a grant under this section shall use the grant funds—

(1)(A) to award scholarships to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program;

(B) to provide support services, if needed to enable scholarship recipients to complete postsecondary education programs; and

(C) for followup services provided to former scholarship recipients during the recipients first 3 years of teaching; or

(2) to develop and implement effective mechanisms to ensure that high need local educational agencies and schools are able to effectively recruit highly qualified teachers.

(e) SERVICE REQUIREMENTS.—The Secretary shall establish such requirements as the Secretary finds necessary to ensure that recipients of scholarships under this section who complete teacher education programs subsequently teach in a high-need local educational agency, for a period of time equivalent to the period for which the recipients receive scholarship assistance, or repay the amount of the scholarship. The Secretary shall use any such repayments to carry out additional activities under this section.

SEC. 205. [20 U.S.C. 1025] ADMINISTRATIVE PROVISIONS.

(a) DURATION; ONE-TIME AWARDS; PAYMENTS.—

(1) DURATION.—

(A) ELIGIBLE STATES AND ELIGIBLE APPLICANTS.—Grants awarded to eligible States and eligible applicants

under this part shall be awarded for a period not to exceed 3 years.

(B) ELIGIBLE PARTNERSHIPS.—Grants awarded to eligible partnerships under this part shall be awarded for a period of 5 years.

(2) ONE-TIME AWARD.—An eligible State and an eligible partnership may receive a grant under each of sections 202, 203, and 204 only once.

(3) PAYMENTS.—The Secretary shall make annual payments of grant funds awarded under this part.

(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.—In recommending applications to the Secretary for funding under this part, the panel shall—

(A) with respect to grants under section 202, give priority to eligible States serving States that—

(i) have initiatives to reform State teacher certification requirements that are designed to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are certified or licensed to teach;

(ii) include innovative reforms to hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content area in which the teachers plan to teach and have strong teaching skills; or

(iii) involve the development of innovative efforts aimed at reducing the shortage of highly qualified teachers in high poverty urban and rural areas;

(B) with respect to grants under section 203—

(i) give priority to applications from eligible partnerships that involve businesses; and

(ii) take into consideration—

(I) providing an equitable geographic distribution of the grants throughout the United States; and

(II) the potential of the proposed activities for creating improvement and positive change.

(3) SECRETARIAL SELECTION.—The Secretary shall determine, based on the peer review process, which application 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.

(c) MATCHING REQUIREMENTS.—

(1) STATE GRANTS.—Each eligible State receiving a grant under section 202 or 204 shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the

grant (in cash or in kind) to carry out the activities supported by the grant.

(2) PARTNERSHIP GRANTS.—Each eligible partnership receiving a grant under section 203 or 204 shall provide, from non-Federal sources (in cash or in kind), an amount equal to 25 percent of the grant for the first year of the grant, 35 percent of the grant for the second year of the grant, and 50 percent of the grant for each succeeding year of the grant.

(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—An eligible State or eligible partnership that receives a grant under this part may not use more than 2 percent of the grant funds for purposes of administering the grant.

(e) TEACHER QUALIFICATIONS PROVIDED TO PARENTS UPON REQUEST.—Any local educational agency or school that benefits from the activities assisted under this part shall make available, upon request and in an understandable and uniform format, to any parent of a student attending any school served by the local educational agency, information regarding the qualification of the student's classroom teacher with regard to the subject matter in which the teacher provides instruction. The local educational agency shall inform parents that the parents are entitled to receive the information upon request.

SEC. 206. [20 U.S.C. 1026] ACCOUNTABILITY AND EVALUATION.

(a) STATE GRANT ACCOUNTABILITY REPORT.—An eligible State that receives a grant under section 202 shall submit an annual accountability report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives. Such report shall include a description of the degree to which the eligible State, in using funds provided under such section, has made substantial progress in meeting the following goals:

(1) STUDENT ACHIEVEMENT.—Increasing student achievement for all students as defined by the eligible State.

(2) RAISING STANDARDS.—Raising the State academic standards required to enter the teaching profession, including, where appropriate, through the use of incentives to incorporate the requirement of an academic major in the subject, or related discipline, in which the teacher plans to teach.

(3) INITIAL CERTIFICATION OR LICENSURE.—Increasing success in the pass rate for initial State teacher certification or licensure, or increasing the numbers of highly qualified individuals being certified or licensed as teachers through alternative programs.

(4) CORE ACADEMIC SUBJECTS.—

(A) SECONDARY SCHOOL CLASSES.—Increasing the percentage of secondary school classes taught in core academic subject areas by teachers—

(i) with academic majors in those areas or in a related field;

(ii) who can demonstrate a high level of competence through rigorous academic subject area tests; or

(iii) who can demonstrate competence through a high level of performance in relevant content areas.

(B) ELEMENTARY SCHOOL CLASSES.—Increasing the percentage of elementary school classes taught by teachers—

(i) with academic majors in the arts and sciences; or

(ii) who can demonstrate competence through a high level of performance in core academic subjects.

(5) DECREASING TEACHER SHORTAGES.—Decreasing shortages of qualified teachers in poor urban and rural areas.

(6) INCREASING OPPORTUNITIES FOR PROFESSIONAL DEVELOPMENT.—Increasing opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified or licensed to teach or in which the teachers are working toward certification or licensure to teach, and that promotes strong teaching skills.

(7) TECHNOLOGY INTEGRATION.—Increasing the number of teachers prepared to integrate technology in the classroom.

(b) ELIGIBLE PARTNERSHIP EVALUATION.—Each eligible partnership receiving a grant under section 203 shall establish and include in the application submitted under section 203(c), an evaluation plan that includes strong performance objectives. The plan shall include objectives and measures for—

(1) increased student achievement for all students as measured by the partnership;

(2) increased teacher retention in the first 3 years of a teacher's career;

(3) increased success in the pass rate for initial State certification or licensure of teachers; and

(4) increased percentage of secondary school classes taught in core academic subject areas by teachers—

(A) with academic majors in the areas or in a related field; and

(B) who can demonstrate a high level of competence through rigorous academic subject area tests or who can demonstrate competence through a high level of performance in relevant content areas;

(5) increasing the percentage of elementary school classes taught by teachers with academic majors in the arts and sciences or who demonstrate competence through a high level of performance in core academic subject areas; and

(6) increasing the number of teachers trained in technology.

(c) REVOCATION OF GRANT.—

(1) REPORT.—Each eligible State or eligible partnership receiving a grant under this part shall report annually on the progress of the eligible State or eligible partnership toward meeting the purposes of this part and the goals, objectives, and measures described in subsections (a) and (b).

(2) REVOCATION.—

(A) ELIGIBLE STATES AND ELIGIBLE APPLICANTS.—If the Secretary determines that an eligible State or eligible ap-

plicant is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the second year of a grant under this part, then the grant payment shall not be made for the third year of the grant.

(B) ELIGIBLE PARTNERSHIPS.—If the Secretary determines that an eligible partnership is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the third year of a grant under this part, then the grant payments shall not be made for any succeeding year of the grant.

(d) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate the activities funded under this part and report the Secretary's findings regarding the activities to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives. The Secretary shall broadly disseminate successful practices developed by eligible States and eligible partnerships under this part, and shall broadly disseminate information regarding such practices that were found to be ineffective.

SEC. 207. [20 U.S.C. 1027] ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.

(a) DEVELOPMENT OF DEFINITIONS AND REPORTING METHODS.—Within 9 months of the date of enactment of the Higher Education Amendments of 1998, the Commissioner of the National Center for Education Statistics, in consultation with States and institutions of higher education, shall develop key definitions for terms, and uniform reporting methods (including the key definitions for the consistent reporting of pass rates), related to the performance of elementary school and secondary school teacher preparation programs.

(b) STATE REPORT CARD ON THE QUALITY OF TEACHER PREPARATION.—Each State that receives funds under this Act shall provide to the Secretary, within 2 years of the date of enactment of the Higher Education Amendments of 1998, and annually thereafter, in a uniform and comprehensible manner that conforms with the definitions and methods established in subsection (a), a State report card on the quality of teacher preparation in the State, which shall include at least the following:

(1) A description of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State.

(2) The standards and criteria that prospective teachers must meet in order to attain initial teacher certification or licensure and to be certified or licensed to teach particular subjects or in particular grades within the State.

(3) A description of the extent to which the assessments and requirements described in paragraph (1) are aligned with the State's standards and assessments for students.

(4) The percentage of teaching candidates who passed each of the assessments used by the State for teacher certification and licensure, and the passing score on each assessment that determines whether a candidate has passed that assessment.

(5) The percentage of teaching candidates who passed each of the assessments used by the State for teacher certification and licensure, disaggregated and ranked, by the teacher preparation program in that State from which the teacher candidate received the candidate's most recent degree, which shall be made available widely and publicly.

(6) Information on the extent to which teachers in the State are given waivers of State certification or licensure requirements, including the proportion of such teachers distributed across high- and low-poverty school districts and across subject areas.

(7) A description of each State's alternative routes to teacher certification, if any, and the percentage of teachers certified through alternative certification routes who pass State teacher certification or licensure assessments.

(8) For each State, a description of proposed criteria for assessing the performance of teacher preparation programs within institutions of higher education in the State, including indicators of teacher candidate knowledge and skills.

(9) Information on the extent to which teachers or prospective teachers in each State are required to take examinations or other assessments of their subject matter knowledge in the area or areas in which the teachers provide instruction, the standards established for passing any such assessments, and the extent to which teachers or prospective teachers are required to receive a passing score on such assessments in order to teach in specific subject areas or grade levels.

(c) INITIAL REPORT.—

(1) IN GENERAL.—Each State that receives funds under this Act, not later than 6 months of the date of enactment of the Higher Education Amendments of 1998 and in a uniform and comprehensible manner, shall submit to the Secretary the information described in paragraphs (1), (5), and (6) of subsection (b). Such information shall be compiled by the Secretary and submitted 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 9 months after the date of enactment of the Higher Education Amendments of 1998.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed to require a State to gather information that is not in the possession of the State or the teacher preparation programs in the State, or readily available to the State or teacher preparation programs.

(d) REPORT OF THE SECRETARY ON THE QUALITY OF TEACHER PREPARATION.—

(1) REPORT CARD.—The Secretary shall provide to Congress, and publish and make widely available, a report card on teacher qualifications and preparation in the United States, including all the information reported in paragraphs (1) through (9) of subsection (b). Such report shall identify States for which eligible States and eligible partnerships received a grant under this part. Such report shall be so provided, published and made available not later than 2 years 6 months after the date

of enactment of the Higher Education Amendments of 1998 and annually thereafter.

(2) REPORT TO CONGRESS.—The Secretary shall report to Congress—

(A) a comparison of States' efforts to improve teaching quality; and

(B) regarding the national mean and median scores on any standardized test that is used in more than 1 State for teacher certification or licensure.

(3) SPECIAL RULE.—In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification or licensure assessment during an academic year, the Secretary shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over a 3-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.

(f) INSTITUTIONAL REPORT CARDS ON THE QUALITY OF TEACHER PREPARATION.—

(1) REPORT CARD.—Each institution of higher education that conducts a teacher preparation program that enrolls students receiving Federal assistance under this Act, not later than 18 months after the date of enactment of the Higher Education Amendments of 1998 and annually thereafter, shall report to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established under subsection (a), the following information:

(A) PASS RATE.—(i) For the most recent year for which the information is available, the pass rate of the institution's graduates on the teacher certification or licensure assessments of the State in which the institution is located, but only for those students who took those assessments within 3 years of completing the program.

(ii) A comparison of the program's pass rate with the average pass rate for programs in the State.

(iii) In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification or licensure assessment during an academic year, the institution shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over a 3-year period.

(B) PROGRAM INFORMATION.—The number of students in the program, the average number of hours of supervised practice teaching required for those in the program, and the faculty-student ratio in supervised practice teaching.

(C) STATEMENT.—In States that approve or accredit teacher education programs, a statement of whether the institution's program is so approved or accredited.

(D) DESIGNATION AS LOW-PERFORMING.—Whether the program has been designated as low-performing by the State under section 208(a).

(2) REQUIREMENT.—The information described in paragraph (1) shall be reported through publications such as school catalogs and promotional materials sent to potential applicants, secondary school guidance counselors, and prospective employers of the institution's program graduates.

(3) FINES.—In addition to the actions authorized in section 487(c), the Secretary may impose a fine not to exceed $25,000 on an institution of higher education for failure to provide the information described in this subsection in a timely or accurate manner.

SEC. 208. [20 U.S.C. 1028] STATE FUNCTIONS.

(a) STATE ASSESSMENT.—In order to receive funds under this Act, a State, not later than 2 years after the date of enactment of the Higher Education Amendments of 1998, shall have in place a procedure to identify, and assist, through the provision of technical assistance, low-performing programs of teacher preparation within institutions of higher education. Such State shall provide the Secretary an annual list of such low-performing institutions that includes an identification of those institutions at-risk of being placed on such list. Such levels of performance shall be determined solely by the State and may include criteria based upon information collected pursuant to this part. Such assessment shall be described in the report under section 207(b).

(b) TERMINATION OF ELIGIBILITY.—Any institution of higher education that offers a program of teacher preparation in which the State has withdrawn the State's approval or terminated the State's financial support due to the low performance of the institution's teacher preparation 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 of Education; and

(2) shall not be permitted to accept or enroll any student that receives aid under title IV of this Act in the institution's teacher preparation program.

(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.

SEC. 209. [20 U.S.C. 1029] GENERAL PROVISIONS.

(a) METHODS.—In complying with sections 207 and 208, the Secretary shall ensure that States and institutions of higher education use fair and equitable methods in reporting and that the reporting methods protect the privacy of individuals.

(b) SPECIAL RULE.—For each State in which there are no State certification or licensure assessments, or for States that do not set minimum performance levels on those assessments—

(1) the Secretary shall, 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, the Secretary shall use such data to carry out requirements of this part related to assessments or pass rates.

(c) LIMITATIONS.—

(1) FEDERAL CONTROL PROHIBITED.—Nothing in this part 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 part.

(2) NO CHANGE IN STATE CONTROL ENCOURAGED OR REQUIRED.—Nothing in this part 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.

(3) NATIONAL SYSTEM OF TEACHER CERTIFICATION PROHIBITED.—Nothing in this part shall be construed to permit, allow, encourage, or authorize the Secretary to establish or support any national system of teacher certification.

SEC. 210. [20 U.S.C. 1030] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years, of which—

(1) 45 percent shall be available for each fiscal year to award grants under section 202;

(2) 45 percent shall be available for each fiscal year to award grants under section 203; and

(3) 10 percent shall be available for each fiscal year to award grants under section 204.

PART B—PREPARING TOMORROW'S TEACHERS TO USE TECHNOLOGY

SEC. 221. [20 U.S.C. 1041] PURPOSE AND PROGRAM AUTHORITY.

(a) PURPOSE.—It is the purpose of this part to assist consortia of public and private entities—

(1) to carry out programs that prepare prospective teachers to use advanced technology to prepare all students to meet challenging State and local academic content and student academic achievement standards; and

(2) to improve the ability of institutions of higher education to carry out such programs.

(b) PROGRAM AUTHORITY.—

(1) IN GENERAL.—The Secretary is authorized to award grants to eligible applicants, or enter into contracts or cooperative agreements with eligible applicants, on a competitive basis in order to pay for the Federal share of the cost of projects to develop or redesign teacher preparation programs to enable

prospective teachers to use advanced technology effectively in their classrooms.

(2) PERIOD OF AWARDS.—The Secretary may award grants, or enter into contracts or cooperative agreements, under this part for periods that are not more than 5 years in duration.

SEC. 222. [20 U.S.C. 1042] ELIGIBILITY.

(a) ELIGIBLE APPLICANTS.—In order to receive a grant or enter into a contract or cooperative agreement under this part, an applicant shall be a consortium that includes the following:

(1) At least one institution of higher education that awards baccalaureate degrees and prepares teachers for their initial entry into teaching.

(2) At least one State educational agency or local educational agency.

(3) One or more of the following entities:

(A) An institution of higher education (other than the institution described in paragraph (1)).

(B) A school or department of education at an institution of higher education.

(C) A school or college of arts and sciences (as defined in section 201(b)) at an institution of higher education.

(D) A professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity, with the capacity to contribute to the technology-related reform of teacher preparation programs.

(b) APPLICATION REQUIREMENTS.—In order to receive a grant or enter into a contract or cooperative agreement under this part, an eligible applicant 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 proposed project, including how the project would—

(A) ensure that individuals participating in the project would be prepared to use advanced technology to prepare all students, including groups of students who are underrepresented in technology-related fields and groups of students who are economically disadvantaged, to meet challenging State and local academic content and student academic achievement standards; and

(B) improve the ability of at least one participating institution of higher education described in section 222(a)(1) to ensure such preparation.

(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 active 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 project activities.

(4) A description of how the proposed project will be continued after Federal funds are no longer awarded under this part for the project.

(5) A plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

(c) MATCHING REQUIREMENTS.—

(1) IN GENERAL.—The Federal share of the cost of any project funded under this part shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of the cost of such project may be provided in cash or in kind, fairly evaluated, including services.

(2) ACQUISITION OF EQUIPMENT.—Not more than 10 percent of the funds awarded for a project under this part may be used to acquire equipment, networking capabilities, or infrastructure, and the non-Federal share of the cost of any such acquisition shall be provided in cash.

SEC. 223. [20 U.S.C. 1043] USE OF FUNDS.

(a) REQUIRED USES.—A consortium that receives a grant or enters into a contract or cooperative agreement under this part shall use funds made available under this part for—

(1) a project creating one or more programs that prepare prospective teachers to use advanced technology to prepare all students, including groups of students who are underrepresented in technology-related fields and groups of students who are economically disadvantaged, to meet challenging State and local academic content and student academic achievement standards; and

(2) evaluating the effectiveness of the project.

(b) PERMISSIBLE USES.—The consortium may use funds made available under this part for a project, described in the application submitted by the consortium under this part, that carries out the purpose of this part, such as the following:

(1) Developing and implementing high-quality teacher preparation programs that enable educators—

(A) to learn the full range of resources that can be accessed through the use of technology;

(B) to integrate a variety of technologies into curricula and instruction in order to expand students' knowledge;

(C) to evaluate educational technologies and their potential for use in instruction;

(D) to help students develop their technical skills; and

(E) to use technology to collect, manage, and analyze data to improve teaching and decisionmaking.

(2) Developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators.

(3) Developing achievement-based standards and assessments aligned with the standards to measure the capacity of prospective teachers to use technology effectively in their classrooms.

(4) Providing technical assistance to entities carrying out other teacher preparation programs.

(5) Developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms.

(6) Subject to section 222(c)(2), acquiring technology equipment, networking capabilities, infrastructure, software, and digital curricula to carry out the project.

SEC. 224. [20 U.S.C. 1044] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2002 and 2003.

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 351 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.

(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.

(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 learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

(12) Other activities proposed in the application submitted pursuant to subsection (c) 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 (c) of this section;

(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.—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 subdivision 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) 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 manage-

ment 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 Indian 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 College or University Assistance Act of 1978.

(2) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978.

(3) TRIBAL COLLEGE OR UNIVERSITY.—The term "Tribal College or University" has the meaning give the term "tribally controlled college or university" in section 2 of the Tribally Controlled College or University Assistance Act of 1978, and includes an institution listed in the Equity in Educational Land Grant Status Act of 1994.

(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;

(C) support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

(D) academic instruction in disciplines in which Indians are underrepresented;

(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) funds management, administrative management, and acquisition of equipment for use in strengthening funds management;

(H) joint use of facilities, such as laboratories and libraries;

(I) establishing or improving a development office to strengthen or improve contributions from alumni and the private sector;

(J) 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;

(K) 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; and

(L) other activities proposed in the application submitted pursuant to subsection (d) that—

(i) contribute to carrying out the activities described in subparagraphs (A) through (K); 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 PROCESS.—

(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.—Any Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may by regulation reasonably require. 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. Each such application shall include—

(A) a 5-year plan for improving the assistance provided by the Tribal College or University to Indian students, increasing the rates at which Indian secondary school students enroll in higher education, and increasing overall postsecondary retention rates for Indian students; and

(B) such enrollment data and other information and assurances as the Secretary may require to demonstrate compliance with paragraph (1).

(3) SPECIAL RULES.—

(A) ELIGIBILITY.—No Tribal College or University 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. 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 7306 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 7207 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; and

(H) academic tutoring and counseling programs and student support services.

(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.

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 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 360(a)(2) in 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) 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), (b), and (c), the amount allotted to each part B institution under this section shall not be less than $500,000.

(2) If the amount appropriated pursuant to section 360(a)(2)(A) for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) of this subsection 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 allocation shall be increased on the same basis as 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.

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.

(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) establish or improve a development office to strengthen and increase contributions from alumni and the private sector;

(6) assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 331; and

(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems.

(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 [1]

(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;

[1] So in original. Probably should include a colon.

(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; and

(R) Tennessee State University qualified graduate programs.

(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 the physical or natural sciences, engineering, mathematics, 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, 1998, shall continue to receive such grants, subject to the availability of appropriated funds, regardless of the eligibility of the institutions described in subparagraphs (Q) and (R) 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 or university system.

(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 $26,600,000 (or any lesser amount appropriated) shall be available only for the purposes of making grants to institutions or programs described in subparagraphs (A) through (P) of subsection (e)(1);

(2) any amount in excess of $26,600,000, but not in excess of $28,600,000, shall be available for the purpose of making grants to institutions or programs described in subparagraphs (Q) and (R) of subsection (e)(1); and

(3) any amount in excess of $28,600,000, shall be made available to each of the institutions or programs identified in subparagraphs (A) through (R) 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 1998 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 1998, 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.

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) REPAYMENT OF UNEXPENDED FUNDS.—Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial

grant awarded to an institution under part B of this title shall be repaid to the Treasury of the United States.

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 $500,000; 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 10 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 $50,000 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 assur-

ances 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 application 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.

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 universities 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,,[1] 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 a nationally recognized accrediting agency or association; 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 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

[1] So in original.

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 repayment 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 10 percent deposit of loan proceeds 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; and

(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.

(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)[1] 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 $375,000,000, of which—

(1) not more than $250,000,000 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

(2) not more than $125,000,000 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 enactment of the Higher Education Amendments of 1992, 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

[1] So in original (112 Stat. 1647). This subsection was added without a subsection heading.

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 require that the first loans for capital projects authorized under section 343 be made no later than March 31, 1994;

(3) 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;

(4)(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;

(5) may sell, exchange, or lease real or personal property and securities or obligations;

(6) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved; and

(7) 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.

[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 9 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) Two 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.

(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.

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 programs 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 304(a)(1) of the Department of Education Organization Act of 1979.

(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.

SEC. 1024.[1] [20 U.S.C. 1135b–3] MULTIAGENCY STUDY OF MINORITY SCIENCE PROGRAMS.

The Secretary, in cooperation with the heads of other departments and agencies that operate programs similar in purposes to the Minority Science Improvement Program which seek to increase minority participation and representation in scientific fields, shall submit a report to the President and Congress summarizing and evaluating such programs by January 1, 1996.

SUBPART 2—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)[2] 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; or

(4) consortia of organizations, that provide needed services to one or more minority institutions, the membership of which may include—

(A) 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;

(C) research laboratories of, or under contract with, the Department of Energy;

(D) private organizations that have science or engineering facilities; or

(E) quasi-governmental entities that have a significant scientific or engineering mission.

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

[1] Section 1024 was transferred by section 301(a)(5) of the Higher Education Amendments of 1998 (P.L. 105–244; 112 Stat. 1636), but was not redesignated by section 301(a)(7) of that Act. Section 1024 may have been intended to have been repealed by section 702 of that Act.

[2] 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).

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 support 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—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 357, 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 (E); 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 exercise 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.

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 College or University 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 institutions 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.

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 360 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, $135,000,000 (other than section 316) for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 316, $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(C) There are authorized to be appropriated to carry out section 317, $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) PART B.—(A) There are authorized to be appropriated to carry out part B (other than section 326), $135,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 326, $35,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) PART C.—There are authorized to be appropriated to carry out part C, $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(4) PART D.—(A) There are authorized to be appropriated to carry out part D (other than section 345(7), but including section 347), $110,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 345(7), such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

(5) PART E.—There are authorized to be appropriated to carry out part E, $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 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.