with the names of the Senator from Illinois (Mr. DEMPSEY) who were added as cosponsors of S. 991, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to limit the availability of benefits under an employer’s nonqualified deferred compensation plans in the event that a plan of the employer’s defined benefit pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of nonqualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans.

S. 1038
At the request of Mr. SARBANES, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1018, a bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes.

S. 1039
At the request of Ms. CANTWELL, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1031, a bill to enhance the reliability of the electric system.

S.J. RES. 17
At the request of Mr. LUGAR, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S.J. Res. 17, a joint resolution honoring the life and legacy of Frederick William Augustus von Steuben and recognizing his contributions on the 275th anniversary of his birth.

S.J. RES. 18
At the request of Mr. MCCONNELL, the names of the Senator from Utah (Mr. BENNETT) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S.J. RES. 140
At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S.J. Res. 18, supra.

At the request of Mr. NELSON of Florida, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 619 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mr. FRIST (for himself, Mr. BINGAMAN, Mr. LUGAR, Ms. CANTWELL, Mr. COCHRAN, Ms. COLLINS, Mr. COCHRAN, Mrs. MURRAY, and Mrs. FEINSTEIN):

S. 1049. A bill to amend title XXI of the Social Security Act to provide grants to promote innovative outreach and enrollment under the medicaid and SCHIP programs, and for other purposes; to the Committee on Finance.

Mr. FRIST. Mr. President, today, Senator BINGAMAN and I introduced the "Covering Kids Act of 2005." The legislation provides $100 million in funding to a host of entities including the States, local communities, schools, faith-based organizations, Indian tribes, safety net providers. The goal is to increase enrollment of eligible children in Medicaid and the State Children's Health Insurance Program (SCHIP).

I believe that all Americans should have the security of lifelong, affordable access to health care, especially America's children. Programs like SCHIP help provide a critical safety net.

But, unfortunately, there are still too many families who are not aware of the coverage available to them, or face barriers to enrollment. In fact, over 5.6 million kids are eligible for Medicaid and SCHIP, but are not enrolled. The Covering Kids Act will help close that gap.

The legislation will fund innovative outreach and enrollment efforts to expand coverage among minority and underserved children, and to those living in rural areas. It will also give states additional flexibility to streamline enrollment in these programs, reducing administrative costs for the government and eliminating paperwork and hassles for families.

Covering children is the right thing to do. And by ensuring that children have access to preventive care, it is also one of the best ways of reducing long-term strain on America’s health care system.

Since arriving in the Senate in 1995, I have advanced worked hard to expand
coverage to uninsured Americans and improve health care for those in need. I have sponsored numerous pieces of bipartisan legislation including: the “Closing the Health Care Gap Act of 2004,” the “Pediatric Research Equity Act of 2003,” the “Birth Defects and Developmental Disabilities Prevention Act of 2003,” and the “Children’s Health Act of 2000.” Last Congress, we took a critical step forward in expanding affordable health coverage to millions more Americans by authorizing tax-exempt bonds to support the State Children’s Health Insurance Program, and as part of the Medicare Modernization Act of 2003.

Today, we build on that record of progress.

I first proposed expanding outreach efforts to help lower income children in July of last year. Today, I join with Senator JEFF BINGAMAN and other co-sponsors in taking a critical step toward fulfilling that goal.

I also want to applaud the President for his leadership on this issue. President Bush has made the expansion of Medicaid and SCHIP coverage a cornerstone of his agenda. I am confident that with his leadership, and the efforts of my colleagues on the other side of the aisle, we can help millions of kids who need coverage by passing this common sense legislation. All of our children should have access to the affordable quality health care.

I’m proud to introduce this bipartisan legislation with Senators BINGAMAN, RICHARD J. DURBIN, SPENCER SMITH, COLLINS, COCHRAN, and MURRAY. I look forward to working with them, and with all of my colleagues, to strengthen our Nation’s health care system and expand affordable health coverage.

I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1694

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED,

SECTION 1. SHORT TITLE. This Act may be cited as the “Covering Kids Act.”

SEC. 2. GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT UNDER MEDICAID AND SCHIP.

(a) GRANTS FOR EXPANDED OUTREACH ACTIVITIES.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

SEC. 211. EXPANDED OUTREACH ACTIVITIES.

(1) GRANTS FOR INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS.—

(1) IN GENERAL.—The Secretary shall award grants to eligible entities to—

(A) expand outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

(B) promote understanding of the importance of health insurance coverage for prenatal care and children.

(2) WITHSTAND BONUSES.—The Secretary may reserve a portion of the funds appropriated under subsection (g) for a fiscal year for the purpose of awarding performance bonuses during the succeeding fiscal year to eligible entities that meet enrollment goals or other criteria established by the Secretary.

(b) PRIORITY FOR AWARD OF GRANTS.—

(1) IN GENERAL.—In making grants under subsection (a)(1), the Secretary shall give priority to—

(A) eligible entities that propose to target geographic areas with high rates of—

(i) eligible but unenrolled children, including such children who reside in rural areas; or

(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

(B) eligible entities that plan to engage in outreach efforts with respect to individuals described in subparagraph (A) and that are—

(i) Federal health safety net organizations; or

(ii) faith-based organizations or consortia.

(2) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (a)(1) shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a)(1) shall submit an application to the Secretary in such form and manner as the Secretary may require. Such application shall include—

(1) quality and outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section with respect to the activities are meeting their goals; and

(2) an assurance that the entity shall—

(A) conduct an assessment of the effectiveness of such activities against such performance measures; and

(B) cooperate with the collection and reporting of enrollment data and other information that may be required by the Secretary to conduct such assessments to the Secretary, in such form and manner as the Secretary shall require.

(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS: ANNUAL REPORT. The Secretary shall—

(1) disseminate to eligible entities and make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(2)(B); and

(2) submit an annual report to Congress on the outreach activities funded by grants awarded under this section.

(e) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be supplemental, but only if—

(1) a State either—

(A) has not already achieved the level of enrollment for which a grant is awarded under this section; or

(B) uses the increase in enrollment resulting from a grant awarded under this section to substantially improve the enrollment of eligible children that the State has not previously enrolled.

(f) DEFINITIONS.—In this section:

(A) ELIGIBLE ENTITY.—The term ‘eligible entity’ includes—

(i) regional or local non-profit community-based organizations; or

(ii) a State or its local government.

(B) A Federal health safety net organization.

(C) A national, local, or community-based public or nonprofit private organization.

(D) A Tribal organization or consortium, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 256b(a)(4)).

(E) An elementary or secondary school.

SEC. 3. STATE OPTION TO PROVIDE FOR SIMPLIFIED DETERMINATIONS OF A CHILD’S FINANCIAL ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER MEDICAID OR CHILD HEALTH ASSISTANCE UNDER SCHIP.

(a) MEDICAID.—Section 1902(a)(56) of the Social Security Act (42 U.S.C. 1396a(a)(56)) is amended by striking “(a)(10)(A)(ii)(IX), or (a)(10)(A)(ii)(XIV), and applying for child health assistance under title XXI.”

(b) EXTENDING USE OF OUTSTATIONED WORKERS TO ACCEPT TITLE XXI APPLICATIONS.—Section 1962(a)(55) of the Social Security Act (42 U.S.C. 1396b(a)(55)) is amended by striking “(a)(10)(A)(ii)(IX), or (a)(10)(A)(ii)(XIV), and applying for child health assistance under title XXI.”
Mr. BINGAMAN. Mr. President, I am that would promote what is legislation today with Senators FRIST, government, help increase insurance coverage, and potentially reduce costs across a number of federal programs. One Tuesday, May 17, Senate Majority Leader BILL FRIST and Senator JEFF BINGAMAN will introduce bipartisan legislation to help close this coverage gap leveraging Kids Act of 2005” seeks to increase health coverage among uninsured, low-income children by providing grants to States, faith-based organizations, safety net providers, schools, and other community and non-profit organizations to conduct innovative Medicaid and SCHIP outreach and enrollment efforts. Grants may also be used to promote the understanding of the important role that health insurance coverage plays in ensuring quality health care for pregnant women and children. The legislation appropriates $50 million dollars in fiscal year 2006 and an additional $50 million in fiscal year 2007 in addition to already appropriated SCHIP funds for these additional outreach and enrollment efforts. Ten percent of grant funding would be set aside for grants to the Indian Health Service, tribal organizations, and urban Indian programs for outreach and enrollment into Native American children. Outreach funds may be carried over into subsequent fiscal years until the entire $100 million is awarded to grantees. In making grants, the Secretary of Health and Human Services, HHS, must give priority to grantees that propose to target geographic areas with high numbers of children who are eligible but not enrolled in Medicaid and SCHIP, including those who live in rural areas and those areas with large numbers of racial and ethnic minorities and other health disparity populations. The Secretary is required to disseminate to eligible grantees as well as to the public enrollment data and other measurements of the effectiveness of these outreach programs. The Secretary also is required to submit an annual report to Congress describing the impact of these efforts on expanding access to affordable health care. Further, the legislation also allows States additional flexibility to streamline Medicaid and SCHIP enrollment processes. Because two-thirds of uninsured children live in families that receive payments under other government programs, the legislation gives States the option of using income and resource eligibility determinations made by a program providing nutrition or other public assistance. (c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2005. "(i) the agency has fiscal liabilities or responsibilities affected or potentially affected by such determination; and
(ii) any information furnished by the agency under this title or of child health assistance under title XXI to a child who, without the application of this paragraph, would qualify for such assistance;" 
(3) The effective date of the obligation under subsection (a)(8) to furnish medical assistance with reasonable promptness after the submission of an initial application that is evaluated or for which evaluation is requested pursuant to this paragraph:

"(i) to authorize the denial of medical assistance under this title or for child health assistance under title XXI by a State or local government for the purpose of conducting additional efforts in outreach and enrollment. The legislation provides $100 million in grants over the next two years to community and faith-based organizations such as community health centers, disproportionate share hospitals, tribal providers or organizations, schools, or State or local governments for the purposes of conducting innovative outreach and enrollment efforts. The bill includes language from legislation introduced by Senator LUGAR and me that would promote what is called “Express Lane Eligibility.” This approach uses two strategies to find and enroll eligible but uninsured children in other public benefit programs like school lunch and food stamps; 2 expediting their enrollment in Medicaid and SCHIP. In combination, these two common-sense ideas could have a dramatic impact on reducing the uninsured rate among our Nation’s children, which we must do. According to the American College of Physicians, uninsured children, when compared to insured children, are: up to 6 times more likely to have gone without needed medical, dental, or other health care; 2 times more likely to have gone without a physician visit during the previous year; up to 4 times more likely to have difficulty seeking medical care; up to 10 times less likely to have a regular source of medical care; 1.7 times less likely to receive medical treatment for asthma; and, up to 30 percent less likely to receive medical treatment for dental problems. Another study estimated that the 15 percent rise in the number of children eligible for Medicaid between 1984 and 1992 decreased child mortality by 5 percent. I would add that the expansion of coverage occurred during the Reagan and George H.W. Bush administrations with strong Democratic congressional support, so this is clearly a bipartisan issue that deserves further bipartisan action once again. In fact, during the last presidential campaign, President Bush made very few promises when it came to reducing the number of uninsured in this country. However, he did make the promise to reduce the number of uninsured by conducting additional efforts in outreach and enrollment. As he said in a speech in Pennsylvania on October 21, 2004, “We’ll keep our commitment to America’s children by helping them get a healthy start in life. I’ll work with governors and community leaders and religious leaders to make sure every eligible child is enrolled in our government’s low-income health insurance program. We will not allow a lack of attention, or information, to stand between millions of children and the health care they need.” I agree and hope that with the support of the Administration and the Majority Leader in his introduction of this bipartisan legislation today that we can secure passage of this year. Despite the passage of the States Children’s Health Insurance Program, or SCHIP, which has, in combination with Medicaid, caused a reduction in the rate of uninsured children in recent years, it is estimated that 5-6 million of the remaining 9.2 million uninsured children are eligible for but unenrolled in either Medicaid or SCHIP. In New York, there are an estimated 80,000,
or 15.2 percent, of the children in my State without health insurance despite the fact that Medicaid and SCHIP cover children all the way up to 235 percent of the poverty level. Thus, ineligibility for coverage is no longer a barrier for the vast majority of uninsured. As the Institute has said, "A major challenge today is how to reach and enroll the millions of children who are eligible but who remain uninsured." The biggest problems are knowledge gaps, confusion about program rules, and problems created by bureaucratic barriers to coverage. The State of California has taken some important strides to eliminate some of these barriers through what they call their Express Lane Eligibility, or ELE, initiative, which allowed the sharing of income-eligibility information across public programs. Unfortunately, Down Horner, Beth Marrow, and Wendy Lazarus of the Children’s Partnership in California found in their report entitled "Building an On-Ramp to Children’s Health Coverage: A Report on California’s Express Lane Eligibility Program": "A clear lesson from California’s experience is that there is only so far a state can go in putting an ELE system in place. In the end, existing Federal rules tend to thwart efforts to create a truly efficient process. In California, instead of allowing Medi-Cal to use a school lunch program’s income determination, both school lunch and Medi-Cal account a family’s income based on their own rules.”

If we can engage in innovative enrollment and outreach activities and promote ELE types of activities in the states, it clearly could have a profound impact on reducing the uninsured rate among our nation’s children. I would like to express my thanks to the Majority Leader and his staff for working through a number of issues with me prior to the introduction of this legislation. I think the bill is stronger, as a result, and look forward to working with him on trying to get the bill enacted in this Congress.

By Mr. DODD (for himself and Mr. BOND):

S. 1051. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Children and Family HIV/AIDS Research and Care Act of 2005. This bipartisan legislation is similar to a bill that was introduced last year. This legislation will address the special needs of children and youth with HIV/AIDS—needs that are too often overlooked both domestically and internationally. It recognizes the simple fact that when it comes to HIV prevention, research, care, and treatment, children and youth are not just small adults. To give them a chance for a healthy future, we must ensure that their unique needs are met. I want to thank my good friend Senator BOND of Missouri for joining me in introducing this important legislation. I am very pleased to work with him to move this bill forward.

Children’s growing bodies are especially susceptible to the rapid advancement of HIV infection. Because their immune systems are still immature, the diseases typically progress more rapidly and differently in children than in adults. For example, children with HIV infection are more prone to neurological abnormalities and certain opportunistic infections than adults. In addition, because children’s bodies are growing and developing, HIV/AIDS can have profound effects on children’s physical growth and ability to reach developmental milestones such as crawling, walking and learning to talk. While it is definitively shown that initiating drug treatment in children in a timely manner promotes normal growth and development, and prolongs life, treating children with HIV/AIDS presents particular challenges. Appropriately formulated medications for children can often be toxic and too little will not effectively suppress the virus. Over time, under-dosing can lead to drug resistance, a particularly serious concern for children who will need to use these medications for years, if not decades.

Appropriate HIV/AIDS care and treatment for children and youth also requires that attention be paid to their social development needs. Children and youth have unique concerns regarding disclosure and stigma that may be exacerbated by frequent absences from school and social activities, and the onset of sexual maturity. Working with schools and other social and community institutions is imperative to promoting a sense of normalcy. Because children are not typically medical decision-makers, developing long-term care projects with parents and other caregivers is also crucial to successful care and treatment. At the same time, maximizing each child’s own ability to take active participation in different aspects of his or her own care can increase a child’s sense of ownership over treatment, improving adherence and overall health.

By reauthorizing and expanding Title IV of the Ryan White CARE Act this legislation will help to ensure that the unique care and treatment needs of children are addressed. This program is a lifeline for more than 53,000 children, and youth affected by HIV/AIDS served annually by Title IV-funded projects. Through 91 grants in 35 states, the District of Columbia, Puerto Rico and the Virgin Islands, Title IV projects provide medical care, case management, support services, mental health, transportation, child care, and other crucial services to families affected by HIV/AIDS. This legislation is the smallest of the four titles of the Ryan White CARE Act, yet reaches the highest proportion of minorities.

Key to the success of Title IV projects is the model of “family-centered care.” This model of care treats the whole family as the client, whether several family members are infected by HIV, or just a parent or child. The family-centered care model is crucial to developing strong partnerships between consumers and providers, leading to better health outcomes for women, children, and youth. By allowing affected family members to receive services, as well as the infected individuals, related projects meet at the family level, thereby prolonging life, improving quality of life, and saving money by keeping people out of the hospital.

I would like to take a moment to recognize the work done by the Children, Youth and Family AIDS Network of Connecticut, which provides Title IV services to more than 500 children, youth, women, and families affected by HIV/AIDS in my home state. Just earlier today, I had an opportunity to meet with some of these individuals. They made it clear just how important these services are to their quality of life.

While recommitting the Health Resources and Services Administration (HRSA) to family-centered care and the unique work of Title IV, this legislation will also expand the innovative strategies Title IV projects have used to prevent mother-to-child HIV transmission. Since 1994, when the administration of preventive drug interventions was shown to significantly reduce perinatal HIV transmission, the number of newborns infected with HIV has decreased dramatically. Yet mother-to-child transmission does continue to occur, largely due to missed opportunities for identifying HIV-positive pregnant women and providing the supportive services needed to ensure adherence to recommended treatment regimens. We propose to fund demonstration grants to assess the effectiveness of two strategies in reducing mother-to-child transmission: (1) increasing routine, voluntary HIV testing of pregnant women and (2) increasing access to prenatal care, intensive case management, and supportive services for HIV-positive pregnant women.

In addition, this bill will encourage research into key care and treatment questions affecting the pediatric populations. These include: the long-term health effects of preventive drug regimens on HIV-exposed children; the
Since history suggests that a vaccine may prove to be the most effective, affordable, long-term approach to stopping the spread of HIV, this legislation will not ensure that children are not an afterthought when it comes to the development of an HIV vaccine. Currently, some of the populations hardest hit by the pandemic—infants and youth—are at risk of being left behind in the search for an effective vaccine. Because we cannot assume that a vaccine tested in adults will also be safe and effective when used in pediatric populations, it will be important to ensure that promising vaccines are tested in infants and youth as early as is medically and ethically appropriate. Failure to begin planning for the inclusion of these groups in clinical trials could mean significant delays in the availability of a pediatric HIV vaccine, at the cost of countless thousands of lives. This legislation will enable us to begin now to address the logistical, regulatory, medical, and ethical issues presented by pediatric testing of HIV vaccines so that children can share in the benefits of any advances in vaccines.

I want to thank several organizations for lending their expertise to the development of this legislation, in particular the Elizabeth Glaser Pediatric AIDS Foundation, the AIDS Alliance for Children, Youth and Families, and the American Academy of Pediatrics, all of whom endorse this bill.

HIV/AIDS is the single greatest health care catastrophe facing the world today. We need to do much more to prevent and treat this disease, including, ultimately, a cure for this horrible illness. This legislation is by no means sufficient to reach that goal, but it is a step towards ensuring that children are not left behind as we make progress, and then when we do finally eradicate HIV/AIDS once and for all, children and youth are able to benefit immediately. I urge all of my colleagues to join us in support of this legislation.

Mr. BOND. Mr. President, currently, more than 1 million children and youth under the age of 13 are living with HIV or AIDS in the United States and of the more than 40,000 Americans newly infected with HIV each year, half are young people under the age of 25 years old. When we think about this devastating virus we do not often associate it with children, especially infants or newborn babies, but the fact is this disease does not discriminate on the basis of age. It affects children in very specific and very different ways than adults.

For instance, the medical experience of children with HIV/AIDS can differ significantly from that of adults. Because children’s immune systems are still immature, the disease typically progresses more rapidly in children than in adults and can have different manifestations. For example, the majorities of children with HIV have neurological abnormalities and are more susceptible to certain opportunistic infections than adults. In addition, because children’s bodies are growing and developing, HIV/AIDS can have profound effects on children’s physical growth and ability to reach developmental milestones such as crawling, walking and learning to walk.

Medication for young children living with HIV/AIDS can also be very different than that of an adult living with HIV/AIDS. For example, children of certain ages cannot swallow pills and require liquid formulations of life-saving HIV/AIDS drugs that are not always readily available. In addition, dosing and safety information for these powerful drugs are often strikingly different for children than adults, and for younger children, this information is typically completely missing. This lack of information puts children at risk by requiring health care providers to estimate correct dosing. Too much or too little medication could mean significant delays in the treatment of HIV/AIDS, which is why I am introducing, with my colleague Senator Dodd, The Children and Family HIV/AIDS Research and Care Act.

This legislation will address those needs of children and adolescents living with HIV/AIDS by reauthorizing the Ryan White CARE Act of 1990 and expanding its focus on reaching and caring for adolescents with HIV/AIDS. Moreover, this legislation will continue to work to reduce mother-to-child transmission of HIV, by promoting routine, voluntary prenatal HIV testing and intensive care management for HIV-positive pregnant women. In addition, because children are at risk of being left behind in the search for an effective HIV vaccine, the legislation funds funding and regulating HIV vaccine research to develop plans and guidelines for including pediatric populations in clinical trials as quickly as is medically and ethically appropriate. This legislation will also encourage research on key remaining pediatric research questions, including how to provide safer and more effective treatment options for children with HIV/AIDS.

For a young person living with HIV or AIDS there is no cure and there is no remission. It is with them at home, on the playground, in the classroom, and at a Friday night sleepover. It will be with them as they enter high school, go to college and get their first job. For a person born with this virus it is a permanent part of their life. This bill will help to ensure that the needs of infants, children, and adolescents living with HIV/AIDS are not overlooked.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. ROCKEFELLER, Mr. DORGAN, Ms. SNOWE, Mrs. BOXER, Ms. CANTWELL, Mr. LAUTenberg, Mr. FISHER, Mrs. CLINTON, and Mr. SCHUMER):

S. 1052. A bill to improve transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, I am pleased to join my good friend, Senator INOUYE, Co-Chairman of the Commerce Committee, and several of our colleagues, today in introducing the “Transportation Security Improvement Act of 2005.” The Commerce Committee is committed to ensuring its oversight responsibilities with respect to the security of all major modes of transportation.

It has been four years since Congress enacted landmark aviation and maritime transportation security laws after the September 11 attacks. We must remain diligent in carrying out our responsibility to secure the Nation’s domestic transportation system so as to ensure consumer trust and the uninterrupted flow of commerce. Recent reorganizations and budgetary decisions affecting the Transportation Security Administration (TSA) have effectively marginalized maritime and surface transportation security, suggested reprivatization of aviation security, and offered inadequate funding for the security of all modes.

The bill that we introduce today recognizes transportation security as a national security function and an economic necessity. The legislation would address security vulnerabilities that exist within our aviation, maritime, rail, and surface transportation systems. More specifically, the bill would, among other things: make notable changes to aviation security policy, including prohibiting the Administration from increasing passenger fees without the approval of Congress; eliminate the existing cap of 45,000 full time equivalent aviation security screening employees; enhance maritime cargo security by subjecting foreign commercial shipments before they reach U.S. shores; require TSA to conduct a railroad sector threat assessment and submit prioritized recommended solutions for improving rail security; make improvements to bus and motor carrier security by subjecting foreign commercial drivers transporting hazardous materials into the U.S. to submit to security background checks; and encourage the deployment of rail car tracking equipment for high-hazard materials rail shipments.

This is an important first step toward bolstering our nation’s security with respect to transportation and I...
Mr. INOUYE. Mr. President, I rise as a leader of the Transportation Security Improvement Act of 2005 introduced today by my colleague and Chairman, TED STEVENS, along with Senators JAY ROCKEFELLER, OLYMPIA SNOWE, FRANK LAUTENBERG, BYRON DORGAN, BARBARA BOXER, MARILYN CANTWELL, MARK PRYOR, HILLARY CLINTON, and CHUCK SCHUMER.

Nearly 4 years after the enactment of landmark aviation and maritime security laws, it is time to build upon that foundation, make needed improvements and enhancements to our transportation security efforts across all modes, and reestablish the requisite funding levels. Most importantly, we must restore the sense of urgency that is essential if we are to keep our transportation systems, and our economy, strong, vibrant, and secure. We have worked hard to develop this legislation, and we will continue to improve it with the assistance of committee members and the Department of Homeland Security, as we move forward through the legislative process.

Over the past 3½ years, the administration and Congress have slowly lost the sense of immediacy that once allowed us to recognize that transportation security is a matter of national security. The administration’s budget and priorities indicate that they are overlooking glaring security vulnerabilities, disregarding the continuing threats and risks that are report almost daily, and underestimating the economic consequences that would undoubtedly result from another attack on our transportation systems. I am hopeful that the new leadership will reinvigorate transportation security.

The economic importance of those systems can hardly be overstated: 95 percent of the Nation’s cargo comes through the ports; our rail system and our motor carriers move all of those goods from our coasts and borders throughout the interior U.S. to retail outlets and manufacturers that rely on on-time delivery; our aviation system carried 629.7 million domestic passengers during 2004 and averaged 1.8 million passengers per day in January this year; approximately 24 million passengers ride Amtrak annually, and there are nearly 3.4 billion passenger and commuter rail trips in this country each year. The loss of our aviation system for just 4 days after the September 11th attacks sent shockwaves throughout the economy that are still being felt today. The al Qaeda attack on the passenger trains in Madrid, Spain, killing nearly 200 people and injuring 1,800, unfortunately proved that rail remains a viable target for terrorists. If there is an incident at any one seaport, the whole system for moving cargo into and out of the country would screech to a halt, as we scramble to ensure security at other ports. In addition to the horrible loss of life, the resulting economic damage would be widespread, catastrophic and possibly irreversible. We cannot afford to risk this kind of damage to the nation’s economy as a result of a lack of preparedness and forethought.

The terrorists that seek to do us harm are cunning, dynamic, and most of all, patient. While they have not successfully struck our homeland since September 11, it is a matter of time that they are not preparing to do so. They work 24 hours a day, studying what we do and how we do it. It is imperative that we stay ahead of them.

That means we must constantly anticipate, innovate, and plan. We must continually research and implement the most effective technologies. We must recruit, train and deploy the most skilled security force. Simply put, our entire economy relies on a well-functioning, secure, transportation system.

The Transportation Security Administration, TSA, is in the unique position to ensure that this system, and the passengers and cargo that use it, are well protected. And, in keeping with transportation security’s impact on the nation’s physical and economic security, it is the responsibility of the federal government to properly finance that protection.

Following passage of our new aviation security laws, the Transportation Security Administration, TSA, was assembled quickly, performed with an enormous task, and expected to produce immediate results. It has performed admirably, despite the administration’s near-constant reorganization of the agency with little to no input from Congress. While we take seriously recent reports about financial mismanagement and the limits of the human capacity to detect security breaches, we cannot and must not use these inadequacies as justification to cast aside the critical work of this agency. There are some in Congress that have never been comfortable with the new Federal role in transportation security, and they look to every negative report to help usher in a return to private security screening companies. We contend, however, that transportation security must not be judged only by the bottom-line commercial pressures of the private sector. Transportation security is a unique national security function and an economic necessity. And under the terms of its responsibility, it must remain a primary responsibility of the federal government.

The need for Congressional action to secure all forms of transportation infrastructure across the country remains essential, and I, along with many of my colleagues on the Senate Commerce Committee, have expressed great reservations about the direction our Nation is now headed on matters of transportation security.

As I noted during the Senate’s consideration of the nomination of Michael Chertoff to be the Secretary of the Department of Homeland Security, the administration’s budget demonstrates the lost sense of urgency. It shifts critical work away from the TSA. It erodes the Agency’s limited focus and accountability. It undermines the effectiveness of our maritime and land security efforts. It underfunds efforts on all modes, but particularly port and rail.

The legislation we are introducing today renews the importance and commitment transportation security deserves. It identifies the numerous, lingering shortcomings that currently exist, re-dedicates our efforts on maritime and surface transportation security, and provides the guidance necessary to adequately defend the nation’s infrastructure.

The TSA should not focus almost exclusively on aviation, nor should it be transformed into a glorified, security screeners training and placement agency. The TSA is essential, and it possesses critical expertise that must be cultivated and put to use. We believe that the TSA, as outlined by our bill, can and will be the difference between a flourishing economy fueled by smooth-running transportation systems and an economy crippled by transportation systems that could fall victim to terrorist attacks.

As such, the Transportation Security Improvement Act of 2005 will authorize the TSA for the next 3 fiscal years and re-dedicate the agency to its mission of providing specialized security for all modes of transportation. It provides further direction to the agency’s cargo security functions, strengthens aviation, maritime, rail, hazardous materials, and pipeline security efforts, and enhances interagency cooperation. While the proposal incorporates several Commerce Committee and Senate-passed bills or initiatives from the past year, the Committee and the full Congress, it also puts forth new ideas to enhance transportation security across all modes.

We recognize that Secretary Chertoff has had only a short time to make changes and that his comprehensive review is pending. Our legislation provides the flexibility necessary to address his findings and prerogatives. However, it is incumbent upon Congress to provide guidance and clarify the expectations.

On the matter of port security, our legislation seeks to improve interagency cooperation with the further development of joint operation command centers. It clarifies the roles and responsibilities for cargo security programs, while establishing criteria for contingency response plans to resume the flow of commerce in the event of a seaport attack. By setting a minimum floor for research and development funding related to maritime and land security, the bill further encourages the development of effective technologies that detect terrorist threats. Conversely, the administration has
continued to consolidate critical infrastructure grant programs, which we believe will effectively decrease funding for port security and eliminate the appropriate expertise necessary to review grant proposals and distribute the funds accordingly.

In addressing aviation security, we continue to be concerned that current budget proposals diminish the TSA’s authority and squander its expertise. Airport directors are still struggling to receive the technological and capital improvements that would increase the efficiency and effectiveness of the current security system and lower costs considerably. Instead of addressing these shortcomings with aggressive support, the administration has chosen to place a greater burden on the airlines through increased security fees at the same moment that the carriers are facing the most difficult financial period in their history. Not only has the industry lost more than $30 billion cumulatively since 2000, the Federal government has had to bail out the carriers twice. Increasing the carriers’ financial burden is ill conceived and counterproductive.

Quickly and consistently, we also hear of some of our colleagues’ desire to return to the same privatized security apparatus that proved disastrously inadequate on September 11, 2001. These efforts are short-sighted, defy our effort to consolidate the progress we have made since September 11. Those seeking to return to the old system, at times, claim that the system is no better than pre-September 11. We all know that is not the case. We also know that with new technology, we can improve screener performance. There is no doubt that human factors limit the capabilities of screeners, but as we fund and deploy new equipment, the security system will continue to improve. Our bill seeks to consolidate the current workforce by directing a more appropriate use of the TSA’s resources and through improved training. It would also stimulate efforts to streamline and improve collections of existing airline and passenger security fees to promote a more efficient and healthy aviation industry.

On rail security, our legislation will incorporate an updated version of the Rail Security Act of 2004, which the Senate passed by unanimous consent in February. This Act, codified at 49 U.S.C. § 24121, is designed to address the need for improved security in the rail industry by providing funding for the construction and maintenance of protection barriers and for other activities to improve the security of rail systems. The bill authorizes $1 billion in grants to rail systems to design and implement solutions to address the immediate and long-term security needs of rail systems.

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acted into law as a rightful part of his
and which I hope we can now see en-
proceed. This is a topic first
vulnerabilities of intercity buses and
make it a priority to better pro-
prove the security of the highway sys-
timelines for this Act is as follows:

Be it enacted by the Senate and House of Rep-
porters of the United States of America in
congress assembled,

S. 1052

SECTION 1. SHORT TITLE. TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Transportation Security Improvement Act of 2005”.

(b) TABLE OF CONTENTS.—The table of con-

ACCOUNTS AND MEDICAL REIMBURSEMENTS.

Sec. 201. Post-fiscal year 2006 air carrier se-

Sec. 202. Alternative collection methods for

Sec. 203. Screener training review.

Sec. 204. Employee orientation internship pro-

Sec. 205. Repair station security.

Sec. 206. Waiver process for certain employ-


Sec. 205. Rail security risk assessment.

Sec. 206. Systemwide Amtrak security up-

Sec. 301. Short title.

Sec. 302. Rail security risk assessment.

Sec. 303. Systemwide Amtrak security up-

Sec. 304. Freight and fire safety improvements.

Sec. 305. Freight and passenger rail security upgrades.

Sec. 306. Rail security research and develop-

Sec. 307. Oversight and grant procedures.

Sec. 308. Amtrak plan to assist families of

Sec. 309. Northern Border rail passenger re-

Sec. 310. Rail worker security training pro-

Sec. 311. Whistleblower protection program.

Sec. 312. High hazard material security threat mitigation plans.

Sec. 313. Memorandum of agreement.

Sec. 314. Rail security enhancements.

Sec. 315. Welded rail and tank car safety im-

Sec. 316. Report regarding impact on secu-

Sec. 317. Study of foreign rail transport sec-

Sec. 318. Passenger, baggage, and cargo

Sec. 319. Public awareness.

Sec. 320. Railroad high hazard material

TITLE IV—IMPROVED RAIL SECURITY

Sec. 301. Authorization of Appropriations.

Sec. 302. Rail transportation security risk

Sec. 303. Systemwide Amtrak security up-
the Secretary of Homeland Security, (Transportation Security Administration)—

(1) for Aviation Security—

(A) $5,000,000,000 for fiscal year 2006; and

(B) $5,500,000,000 for fiscal year 2007; and

(C) $5,500,000,000 for fiscal year 2008;

(2) for Maritime and Land Security—

(A) $394,000,000 for fiscal year 2006; and

(B) $394,000,000 for fiscal year 2007; and

(C) $354,000,000 for fiscal year 2008;

(3) for Intelligence—

(A) $30,000,000 for fiscal year 2006;

(B) $29,000,000 for fiscal year 2007; and

(C) $35,000,000 for fiscal year 2008;

(4) for Research and Development—

(A) $30,000,000 for fiscal year 2006;

(B) $30,000,000 for fiscal year 2007; and

(C) $30,000,000 for fiscal year 2008;

(5) for Administration—

(A) $530,000,000 for fiscal year 2006;

(B) $530,000,000 for fiscal year 2007; and

(C) $540,000,000 for fiscal year 2008.

SEC. 102. DEPARTMENT OF TRANSPORTATION AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Transportation to carry out title III of this Act and sections 20118 and 24516 of title 49, United States Code, as added by title II of this Act—

(1) $261,000,000 for fiscal year 2006; and

(2) $258,000,000 for fiscal year 2007; and

(3) $258,000,000 for fiscal year 2008.

SEC. 103. INTERMODAL PERSONNEL LIMITATIONS NOT TO APPLY.

(a) In General.—Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

(b) Aviation Security.—Notwithstanding any provision of law imposing a limitation on the number of employees in the Transportation Security Administration to a maximum number of permanent positions, the Secretary of Homeland Security shall recruit and hire such personnel into the Administration as may be necessary—

(1) to provide appropriate levels of aviation security; and

(2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced.

SEC. 104. INTERMODAL REGIONAL SECURITY MANAGERS.

(a) Establishment, Designation, and Stationing.—The Under Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security, is authorized to establish, designate, and station Regional Security Managers, to be filled by at least 8 regional areas of the nation, as divided on a geographical basis. The Under Secretary shall designate individuals as Managers for, and station those Managers from, the region.

(b) Duties and Powers.—The regional offices shall—

(1) receive intelligence information related to maritime and land security within the region;

(2) assist in the development and implementation of vulnerability, threat, and risk assessments, security plans, the identification of critical infrastructure for the region undertaken by the Transportation Security Administration and the Department of Homeland Security, or other public or private entity when appropriate;

(3) serve as the regional coordinator of the Assistant Secretary’s response to terrorist incidents at maritime and land assets, operations and infrastructure within the region;

(4) coordinate efforts related to maritime and land security with other Department officials, State and local law enforcement, and other public and private entities;

(5) coordinate with other regional managers;

(b) assitant the Assistant Secretary in prioritizing maritime and land security improvements for efforts funded by the Transportation Security Administration or the Department of Homeland Security within the region;

(7) engage in research and promote public awareness of maritime and land security efforts when appropriate.

SEC. 105. SECURITY THREAT ASSESSMENT COORDINATION POLICY.


(b) Format.—The Secretary may submit the report in both classified and redacted formats if such action is appropriate or necessary.

SEC. 106. REORGANIZATIONS.

The Secretary of Homeland Security shall notify the Senate Committee on Commerce, Science, and Transportation, and the Senate Committee on Homeland Security and Governmental Affairs, and the House of Representatives Committee on Homeland Security in writing not less than 15 days before—

(1) reorganizing or renaming offices;

(2) reorganizing programs or activities; or

(3) contracting out or privatizing any functions or activities presently performed by Federal employees.

TITLE II—IMPROVED AVIATION SECURITY

SEC. 201. POLICIES AND PROCEDURES FOR 2006 AIR CARRIER SECURITY FEES.

(a) Air Carrier Security Service Fees Subject to Congressional Review.—Section 44940(a)(2) of title 49, United States Code, is amended by adding at the end the following:

“(D) FISCAL YEARS 2007 AND LATER.—The Under Secretary may not impose a fee under subparagraph (A) after September 30, 2006, unless—

(1) the fee is imposed by rule promulgated by the Under Secretary; and

(2) the Under Secretary submits the rule to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not less than 60 days before its proposed effective date.

“(E) APPLICATION OF CHAPTER 8 OF TITLE 5.—Chapter 8 of title 5 applies to any rule promulgated by the Under Secretary imposing a fee under subparagraph (A) after September 30, 2006.”.

(b) Report on Transportation Security Funding.—Beginning with calendar year 2006, the Secretary of Homeland Security, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on fees, substantially similar to the fee imposed under section 44940(a)(2) of title 49, United States Code, that are imposed under authority of law on competing modes of regularly-scheduled commercial passenger transportation by airplane, rail, or water, from the Secretary.

(c) Development of Alternatives.—If the Secretary determines that a system of direct collection of such fees from passengers at airports is feasible, the Secretary shall conduct a determination on fewer than 3 airports within 1 year after submitting the report required by subsection (b) to the Congress.

SEC. 202. ALTERNATIVE COLLECTION METHODS FOR PASSENGER SECURITY FEE.

(a) In General.—

(1) Study.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall study the feasibility of creating a pass-through the passenger service fee authorized by section 44940(a) of title 49, United States Code, directly from passengers at, or before they reach, the airport through a system developed by the Assistant Secretary, including the use of vending kiosks, other automated vending devices, the Internet, or other remote vending sites.

(b) Solicitation of Proposals.—In carrying out this subsection the Secretary shall solicit proposals for such alternative collection mechanisms.

SEC. 203. SCREENER TRAINING REVIEW.

Within 6 months after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall transmit a report on the adequacy of training for Transportation Security Administration screeners to the Congress. The report shall address any multi-hour weekly training requirement for such screeners, including an assessment of the degree to which a requirement is observed and whether the requirement is appropriate, workable, and desirable.

The Assistant Secretary shall specifically address any multi-hour weekly training requirement for such screeners, including an assessment of the degree to which a requirement is observed and whether the requirement is appropriate, workable, and desirable.

The Inspector General of the Department of Homeland Security shall review the report submitted under this section.

SEC. 204. EMPLOYEE RETENTION INTERNSHIP PROGRAM.

The Assistant Secretary of Homeland Security (Transportation Security Administration) shall establish a pilot program at no fewer than 3 airports for training students to perform screening of passengers and property under section 44901 of title 49, United States Code. The program shall be an internship program that allows full-time undergraduate students from public and private secondary schools located in nearby communities. Under the program, the participants—

(1) shall be compensated for training and services time while participating in the program, and

(2) shall be required to agree, as a condition of participation in the program, to accept employment as a screener upon successful completion of the internship and upon graduation from the high school.

SEC. 205. REPAIR STATION SECURITY.

(a) Certification of Foreign Repair Stations. —If the Under Secretary of Homeland Security (Transportation Security Administration) does not issue the regulations required by section 49924(e) of title 49,
United States Code, within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration may not certify any foreign repair station under part 145 of title 14, Code of Federal Regulations after such 90th day.

(b) 6-MONTH DEADLINE FOR SECURITY REVIEW AND AUDIT.—Subsections (a) and (d) of section 46204 of title 49, United States Code, are each amended by striking "18 months" and inserting "6 months".

SEC. 306. WAIVER PROCESS FOR CERTAIN EMERGENCY DISQUALIFICATIONS

Section 44906 of title 49, United States Code, is amended by adding at the end the following:

"(1) WAIVER PROCESS.—

"(I) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall establish a process to permit an individual who was convicted of a crime listed in subsection (b) to obtain a waiver from the Under Secretary to permit that individual's employment.

"(II) FACTORS.—In deciding whether to grant a waiver under this subsection, the Under Secretary shall give consideration to the circumstances of the disqualifying crime, restitution made by the individual, and other factors that would tend to indicate that the individual does not pose a security or terrorism risk.

"(2) APPEALS PROCESS.—The Under Secretary shall establish a process that includes an opportunity for a hearing for individuals who are denied waivers under this subsection.

"(3) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—

"(A) Information submitted to or obtained by the Attorney General or the Secretary under this section about an individual may not be disclosed to the public, including the individual's employer.

"(B) Any information submitted to or obtained under this section shall be maintained confidentially by the Under Secretary and may be used only for making determinations under this section. The Under Secretary may share any such information with other Federal law enforcement agencies. An individual's employer may only be informed whether or not the individual has been granted unescorted access under this section.

"(C) Any information submitted to or obtained under this section shall remain available until such time that the information is no longer needed by the Government.

"(4) PLANS.—The report required by subsection (c) shall include—

"(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide increased security support at high or severe threat levels of alert;

"(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and

"(C) a contingency plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide increased security support at high or severe threat levels of alert.

"(5) APPEALS.—An individual denied a waiver under this section about an individual may not certify any foreign repair station under part 145 of title 14, Code of Federal Regulations after such 90th day.

"(6) to obtain train tracking and interoperability technologies.

"(7) to conduct rail-related research and development, including research on the development of enhanced countermeasures to address security awareness, emergency response, and passenger evacuation training.

"(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, sections and stations located outside of New York City, Baltimore, and Washington, DC, are provided with security upgrades that are coordinated to the maximum extent possible.

"(d) CONDITIONS.—The Secretary of Transportation shall disburse funds to Amtrak in accordance with the conditions contained in this Act.

"(e) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $5,000,000 for fiscal year 2006.

SEC. 307. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL.—Subject to subsection (c) the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), is authorized to make grants to Amtrak—

"(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

"(2) to secure Amtrak stations;

"(3) to secure Amtrak trains;

"(4) to obtain a watch list identification system approved by the Secretary;

"(5) to train and provide Amtrak police and security officers, including canine units; and

"(6) to expand emergency preparedness efforts.

"(b) CONDITIONS.—The Secretary of Transportation shall disburse funds to Amtrak in accordance with the conditions contained in this Act.

"(c) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section—

"(1) $63,500,000 for fiscal year 2006;

"(2) $30,000,000 for fiscal year 2007; and

"(3) $30,000,000 for fiscal year 2008.

Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 308. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security (Transportation Security Administration) for the purposes of carrying out subsection (a) the following amounts:

"(1) $12,000,000 for fiscal year 2006;

"(2) $20,000,000 for fiscal year 2007; and

"(3) $20,000,000 for fiscal year 2008.

Grants to Amtrak under this section are subject to the requirements of the Hazard Mitigation Grant Program.
and lighting systems, and emergency access and egress for passengers—

(A) $190,000,000 for fiscal year 2006;
(B) $190,000,000 for fiscal year 2007;
(C) $190,000,000 for fiscal year 2008;

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $19,000,000 for fiscal year 2006;
(B) $19,000,000 for fiscal year 2007;
(C) $19,000,000 for fiscal year 2008;

(3) For the Washington, DC, Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $13,333,000 for fiscal year 2006;
(B) $13,333,000 for fiscal year 2007;
(C) $13,333,000 for fiscal year 2008;

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which the plans are submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary’s notification, submit a modified plan for the Secretary’s review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to Amtrak any deficiencies and require Amtrak to correct the deficiencies.

(g) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment described in paragraph (f) the Secretary of Homeland Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section shall be made to an eligible entity, no grants under this section shall be made to any entity that fails to meet the conditions set forth in section 303(b) of this Act.

(h) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

(1) $120,000,000 for fiscal year 2006;
(2) $120,000,000 for fiscal year 2007; and
(3) $120,000,000 for fiscal year 2008.

(3) For a project authorized by this section—

(A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials that are subject to the regulations of the Secretary of Transportation, in conjunction with the Under Secretary of Science and Technology, if the Under Secretary—

(1) consider the extent to which rail carriers other than Amtrak use or plan to use the tunnels;
FOREIGN RELATIONS OF THE UNITED STATES

S. 24316. Plans to address needs of families of the end the following:

United States Code, is amended by adding at
the date of enactment of this Act.

grant procedures established under section
that the applicant have a security plan), and
this Act, including application and qualifica-
the Secretary shall prescribe procedures and
capital projects and related program man-
into contracts for the review of proposed
under the Rail Security Act of 2005 to enter
amounts made available for capital projects
with the Assistant Secretary of Homeland
subsection shall remain available until ex-
Out of funds appropriated pursuant to sec-
the Secretary may award grants to the enti-
involved in any rail passenger accident in-
18 months.
A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.
An assurance that Amtrak will pro-
may take, or the obligations that Amtrak
may have, in providing assistance to the families of passengers involved in a rail pas-
senger accident.

FUNDING.—Out of funds appropriated
pursuant to section 102 of the Rail Security
Act of 2005, there shall be made available
to the Secretary of Transportation, the Amtrak,
and the National Railroad Passenger Cor-
poration, shall transmit a report to the Se-
ate Committee on Commerce, Science, and
Judiciary, and the Senate Committee on Trans-
portation and Infrastructure that contains—
(1) a description of the current system for screening passengers and baggage on pas-
senger rail service between the United States and Canada;
(2) an assessment of the current program to provide preclearance of United States passengers between the United States and Canada as outlined in "The Agreement on Air Trans-
port Preclearance between the Government of Canada and the Government of the United
States of America", dated January 18, 2001;
(3) an assessment of the current program to provide preclearance of freight railroad
traffic between the United States and Can-
da as outlined in the "Declaration of Prin-
ciple for the Improved Security of Rail Ship-
ments by Canadian National Railway and Cana-
dadian Pacific Railways to the United States and
the United States", dated April 2, 2003;
(4) information on progress by the Depart-
ment of Homeland Security and other Fed-
eral agencies towards finalizing a bilateral
protocol with Canada that would provide for preclearance of passengers on trains oper-
itating between the United States and Canada;
(5) a description of legislative, regulatory,
budgetary, or policy barriers within the United States Government to providing pre-
screened passenger lists for rail passengers traveling between the United States and
Canada to the Department of Homeland Sec-
urity;
(6) a description of the position of the Gov-
ernment of Canada and relevant Canadian agencies with respect to preclearance of such
passengers;
(7) a draft of any changes in existing Fed-
eral law necessary to provide for pre-screen-
ing of such passengers and providing pre-
screened passenger lists to the Department of Homeland Security; and
(8) an analysis of the feasibility of rein-
 stating United States Customs and Border
Patrol inspections on board international Amtrak trains.

S. 210. RAIL WORKER SECURITY TRAINING
PROGRAM.

(a) IN GENERAL.—Not later than 60 days
after the date of enactment of this Act, the
Secretary of Homeland Security and the Sec-
retary of Transportation, in consultation with
appropriate law enforcement, security, and
terrorism experts, representatives of railroad
providers, and nonprofit employee orga-
nizations that represent rail workers,
shall develop and issue detailed guidance for
a rail worker security training program to
railroad employers for potential threat conditions.

(b) PROGRAM ELEMENTS.—The guidance
developed under subsection (a) shall require
such a program to include, at a minimum,
elements as appropriate to passenger and
freight rail service, that address the fol-
lowing:
(1) Crowd control and riot control training
and exercises regarding various threat conditions, including
(2) Crew communication and coordination.
(3) Appropriate responses to defend oneself.
(4) Use of protective devices.
(5) Evacuation procedures.
(6) Psychology of terrorists to cope with
hijacker behavior and passenger responses.
(7) A description of legislative, regulatory,
budgetary, or policy barriers within the United States Government to providing pre-
screened passenger lists for rail passengers traveling between the United States and
Canada to the Department of Homeland Sec-
urity;
(8) a description of the position of the Gov-
ernment of Canada and relevant Canadian agencies with respect to preclearance of such
passengers;
(9) a draft of any changes in existing Fed-
eral law necessary to provide for pre-screen-
ing of such passengers and providing pre-
screened passenger lists to the Department of Homeland Security; and
(10) an analysis of the feasibility of rein-
 stating United States Customs and Border
Patrol inspections on board international Amtrak trains.
(8) Any other subject the Secretary considers appropriate.

(c) Railroad Carrier Programs.—Not later than 60 days after the Secretary issues guidance for subsection (b) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for approval. Not later than 90 days after receiving a railroad carrier’s program under this subsection, the Secretary shall review the program and approve it or require changes to the program to make any revisions the Secretary considers necessary for the program to meet the guidance requirements.

(d) Training.—Not later than 180 days after the Secretary approves the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program.

(e) Updates.—The Secretary shall update the training guidance issued under subsection (a) from time to time to reflect new or different security threats, and require railroad carriers to revise their programs accordingly and provide additional training to their front-line workers.

(f) Front-Line Workers Defined.—In this section, the term “front-line workers” means security personnel, dispatchers, train operators, other onboard employees, maintenance and support personnel, bridge tenders, and other appropriate employees of railroad carriers.

(g) Other Employees.—The Secretary of Homeland Security shall issue guidance and best practices for a rail shipper employee security program, including the elements listed under subsection (b) as appropriate.

SEC. 311. WHISTLEBLOWER PROTECTION PROGRAM.

(a) In General.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following:

118. Whistleblower protection for rail security matters

“(a) Discrimination Against Employer.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee because the employee (or any person acting pursuant to a request of the employee)

(1) exercised, caused to be exercised, or is about to exercise or cause to be exercised, the privilege of furnishing information to, or appearing as a witness before, or testifying before Congress or at any Federal or State proceeding regarding a perceived threat to security;

(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

“(b) Dispute Resolution.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153b). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after the date of enactment of this Act, except that if the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this Act, the Board, its delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

“(c) Procedural Requirements.—Except as provided in subsection (b), the procedure set forth in this title, including the burdens of proof, applies to any complaint brought under this section.

“(d) Election of Remedy.—An employee of a railroad carrier, and the Secretary of Transportation may, under both this section and another provision of law for the same allegedly unlawful act of the carrier,

“(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

“(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.

“(e) Disclosures of Identity.—

“(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

“(f) Definitions.—In this section:

“(1) the term ‘high-consequence target’ means a building, buildings, infrastructure, public space, or natural resource designated by the Secretary of Homeland Security that is the target of terrorism or where a terrorist attack would have catastrophic impact.

“(2) the term ‘catastrophic impact zone’ means an area immediately adjacent to, or under, or above an active railroad right-of-way used to ship high hazardous materials in trains, or the potential release of a high hazardous material transported would likely cause—

(A) loss of life; or

(B) significant damage to property or structures.

“(3) The term ‘rail carrier’ has the meaning given that term by section 101025(b) of title 49, United States Code.

SEC. 312. HIGH HAZARD MATERIAL SECURITY THREAT MITIGATION PLANS.

(a) In General.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazardous material to submit a high hazard material security threat mitigation plans containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets.

(b) Implementation.—A high hazard material security threat mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier’s right-of-way when the threat levels of the Homeland Security Advisory System, as prescribed in part 172.800, title 49, Federal Code of Regulations, exceed the specific role, delineations of responsibilities, and resources of the Department of Transportation and the Department of Homeland Security, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(c) Coordination.—The Secretary shall coordinate with the Secretary of Homeland Security, the Assistant Secretary of Homeland Security (Transportation Security Administration), the Transportation Security Administration, and the Assistant Secretary of Homeland Security (Transportation Security Administration) to promote and coordinate security planning and provide coordination and support for the implementation of this section.

(d) Definitions.—In this section:

“(1) the term ‘high-consequence target’ means a building, buildings, infrastructure, public space, or natural resource designated by the Secretary of Homeland Security that is the target of terrorism or where a terrorist attack would have catastrophic impact.

“(2) the term ‘catastrophic impact zone’ means an area immediately adjacent to, or under, or above an active railroad right-of-way used to ship high hazardous materials in trains, or the potential release of a high hazardous material transported would likely cause—

(A) loss of life; or

(B) significant damage to property or structures.

“(3) The term ‘rail carrier’ has the meaning given that term by section 101025(b) of title 49, United States Code.

SEC. 313. RAIL SAFETY REGULATIONS.

(a) Memorandum of Agreement.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute and develop an memorandum of agreement between the two departments, to be submitted in September of the year following the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) Rail Safety Regulations.—Section 20101(a) of title 49, United States Code, is amended by striking the first place it appears and inserting “, including security.”.

SEC. 314. RAIL SECURITY ENHANCEMENTS.

(a) In General.—Section 20101 of title 49, United States Code, is amended—

(1) by inserting “(a) In General.—” before “Under”;

(2) by striking “rail carrier” each place it appears and inserting “any rail carrier”; and

(3) by adding at the end the following:

“Nothing in this subsection shall preclude a rail police officer from performing any activities not covered by subsection (a) that may be performed by any other employee of a railroad, provided that the rail police officer does not use his or her position as a rail police officer in performing such activities.”.

Review of Rail Safety Regulations.

Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 315. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) Track Standards.—

(1) In General.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall require each rail track owner using continuous welded rail track to include procedures...
ANALYSIS AND REPORT.—Within 1 year after expenditure, such sums to remain available until the Federal Railroad Administration shall—

(a) REVIEW.—The Federal Railroad Administration shall (1) establish a program to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this Act, and (2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this Act.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) require the Administration to conduct a study to—

(A) establish a program to rank those cars according to the risk of catastrophic fracture and separation;

(B) ensure that the Administration shall—

(1) establish a program to rank those cars according to the risk of catastrophic fracture and separation;

(2) implement measures to eliminate or mitigate this risk; and

(3) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure setting forth the measures implemented.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Government $1,000,000 for fiscal year 2006 to carry out this section, such sums to remain available until expended.

SEC. 319. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, the Assistant Secretary of Transportation Security Administration, and State and local government officials, shall conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulance and police, fire, and other emergency vehicles, to perform their essential functions in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress and to the National Commission on Terrorist Attacks Upon the United States (the Commission).

SEC. 320. RAILROAD HIGH HAZARD MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS.—(1) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop a program that will encourage the equipping of rail carriers with wireless communications systems (as defined in section 1113(g) of this Act) to enhance the ability of railroad operators to improve their awareness of events that may pose a threat to public safety and security in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report on the implementation of the program established under this section.

SEC. 317. STUDY OF FOREIGN RAIL TRANSPORTATION SECURITY.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2005, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation security in the United States, the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to develop effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective under the study.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 318. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Secretary shall—

(1) establish a program to rank those cars according to the risk of catastrophic fracture and separation;

(2) implement measures to eliminate or mitigate this risk; and

(3) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure setting forth the measures implemented.

(4) report the results of the study, together with any recommendations that the Secretary of Homeland Security may have for implementing a rail passenger screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(h)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $1,000,000 for each of fiscal years 2006, 2007, and 2008.

TITLES IV—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

SEC. 401. BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.

(a) FOREIGN DRIVERS.—(1) IN GENERAL.—No commercial motor vehicle operator registered to operate in Mexico or Canada may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States unless the operator has undergone a background check similar to the background checks required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(b) OTHER DRIVERS.—In this subsection:

(A) HAZARDOUS MATERIALS.—The term "hazardous material" has the meaning given that term in section 5102(2) of title 49, United States Code.

(B) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given that term by section 31101 of title 49, United States Code.

(c) FUNDING.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Department of Homeland Security's hazardous materials transportation program required by paragraph (1), the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of the potential security threats associated with hazardous materials, including railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide training to railroad employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding programs for such purposes.

(2) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—Nothing in this section shall be construed to prohibit the Secretary of Homeland Security from requiring a background check (as defined in section 5102(4) of title 49, United States Code), if appropriate considering the potential security implications, designated for a commercial motor vehicle operator seeking a threat assessment under part 1572 of title 49, Code of Federal Regulations, if the Transportation Security Administration, in an initial notification of the threat assessment or a final notification of the threat assessment, served on the applicant determines that the applicant does not meet the standards set forth in section 1572.5(g) of title 49, Code of Federal Regulations.

(3) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—Nothing in this section shall be construed to prohibit the Secretary of Homeland Security from requiring a background check (as defined in section 5102(4) of title 49, United States Code), if appropriate considering the potential security implications, designated for a commercial motor vehicle operator seeking a threat assessment under part 1572 of title 49, Code of Federal Regulations, if the Transportation Security Administration, in an initial notification of the threat assessment or a final notification of the threat assessment, served on the applicant determines that the applicant does not meet the standards set forth in section 1572.5(g) of title 49, Code of Federal Regulations.

(4) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—

(A) has issued a notification of no security threat under section 1572.5(g) of title 49, Code of Federal Regulations, and

(B) has performed a security threat assessment under section 1572.5(g) of title 49, Code of Federal Regulations, is deemed to have met the requirements of any other background check program equivalent to, or less stringent than, the background check performed under section 5102(4) of title 49, United States Code.
of title 49, United States Code, that is required for purposes of any Federal law applicable to transportation workers.

(B) DETERMINATION BY ASSISTANT SECRETARY.—With respect to any rulemaking proceeding initiated after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall initiate a rulemaking proceeding, including notice and opportunity for comment, that sets forth the background checks and other similar security or threat assessment requirements applicable to transportation workers under Federal law to which subparagraph (A) applies.

(C) FUTURE RULEMAKINGS.—The Assistant Secretary of Homeland Security shall modify the definition of that term under section 1572.5(d) of title 49, Code of Federal Regulations, within 180 days after the date of enactment of this Act, to make such definition more stringent than the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations, then the Secretary shall also provide an opportunity for the public to comment on the regulations, within 180 days after the date of enactment of this Act, to make such definition more stringent than the standards set forth in section 1572.141 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may appeal that denial in a manner substantially similar to, and to the same extent as, an individual who received an initial notification of a threat assessment under part 1572 of that title.

(d) CLARIFICATION OF TERM DEFINED IN REGULATIONS.—The term "severe transportation security threat", as defined in section 1572.3 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security shall modify the definition of that term to reflect that sentence.

(e) BACKGROUND CHECK CAPACITY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall transmit a report by October 1, 2005, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security and Governmental Affairs, to detail the capacity of fingerprint-based threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.

SEC. 402. WRITTEN PLANS FOR HAZARDOUS MATERIALS SECURITY TRAINING.—(a) IN GENERAL.—Within 180 days after the date of enactment of this Act the Assistant Secretary of Homeland Security (Transportation Security Administration) shall establish a program to train and certify individuals to conduct security assessments for short-term truck leasing companies on the appropriate contents of employee security training efforts designed to enable employees to recognize terrorist threats and criminal activity; and

(b) CONTENTS.—The truck leasing security training guidelines shall—

(1) include an outline for short-term truck leasing companies on the appropriate contents of employee security training efforts designed to enable employees to recognize terrorist threats and criminal activity; and

(2) contain a list of best practices developed by the Assistant Secretary.

(c) ORGANIZATION.—The Assistant Secretary, through each Federal maritime and land regional security manager, shall hold public information and outreach sessions to present the truck leasing security training guidelines to short-term truck leasing companies.

(d) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

(1) $2,000,000 for fiscal year 2006;

(2) $2,000,000 for fiscal year 2007; and

(3) $2,000,000 for fiscal year 2008.

SEC. 403. MOTOR CARRIER HIGH HAZARD MATERIALS SECURITY TRAINING.—(a) WIRELESS COMMUNICATIONS.—Within 2 years after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation, shall require, consistent with the recommendations and findings contained in the report on the Hazardous Materials Security and Safety Operations and the Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004, concerning the compatibility of wireless technologies and high hazard materials (as defined in section 305(g) of this Act) in quantities equal to or greater than the quantities specified in part 397 of title 49, Federal Regulations, to be equipped with wireless terrestrial or satellite telecommunications technology that provides—

(1) continuous communications; vehicle position location and tracking capabilities; and

(2) a feature that allows a driver of such vehicle to broadcast an emergency message.

(b) EXEMPTIONS.—The Assistant Secretary may grant a 2-year waiver of this requirement for a motor carrier for the commercial motor vehicles it operates if—

(1) adequate technology is not readily available; and

(2) available technology is not sufficiently reliable or

(3) the size of a motor carrier or the frequency with which it transports high hazard material shipments makes the requirement overly burdensome.

(c) ASSISTANCE PROGRAM.—The Assistant Secretary may develop an assistance program to provide technical guidance and grants necessary for motor carriers who receive waivers under subsection (b)(5) to expedite compliance with subsection (a) of this section.

SEC. 404. TRUCK LEASING SECURITY TRAINING PLAN.—(a) IN GENERAL.—Within 180 days after the date of enactment of this Act the Assistant Secretary of Homeland Security (Transportation Security Administration) shall establish a program to train and certify employees of short-term truck leasing companies on the appropriate contents of employee security training efforts designed to enable employees to recognize terrorist threats and criminal activity; and

(b) CONTENTS.—The truck leasing security training guidelines shall—

(1) include an outline for short-term truck leasing companies on the appropriate contents of employee security training efforts designed to enable employees to recognize terrorist threats and criminal activity; and

(2) contain a list of best practices developed by the Assistant Secretary.

(c) ORGANIZATION.—The Assistant Secretary, through each Federal maritime and land regional security manager, shall hold public information and outreach sessions to present the truck leasing security training guidelines to short-term truck leasing companies.

(d) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

(1) $2,000,000 for fiscal year 2006;

(2) $2,000,000 for fiscal year 2007; and

(3) $2,000,000 for fiscal year 2008.

SEC. 405. HAZARDOUS MATERIALS SECURITY INSTRUCTION GUIDELINES.—(a) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall establish a program to train and certify employees of short-term truck leasing companies on the appropriate contents of employee security training efforts designed to enable employees to recognize terrorist threats and criminal activity; and

(b) CONTENTS.—The truck leasing security training guidelines shall—

(1) include an outline for short-term truck leasing companies on the appropriate contents of employee security training efforts designed to enable employees to recognize terrorist threats and criminal activity; and

(2) contain a list of best practices developed by the Assistant Secretary.

(c) ORGANIZATION.—The Assistant Secretary, through each Federal maritime and land regional security manager, shall hold public information and outreach sessions to present the truck leasing security training guidelines to short-term truck leasing companies.

(d) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

(1) $2,000,000 for fiscal year 2006;

(2) $2,000,000 for fiscal year 2007; and

(3) $2,000,000 for fiscal year 2008.
of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives, amending the provisions of title IV of the Secretary of Homeland Security Act of 2002 (49 U.S.C. 1510 note; 112 Stat. 393). The Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure shall report on the estimated total cost to establish and annually operate the national public sector response system under subsection (a), together with any recommendations for generating private sector participation and investment in the development and operation of the national public sector response system.

SEC. 409. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.

(a) DEVELOPMENT.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop a national public sector response system to receive security alerts, emergency messages, and other information that can be used by the national public sector operation reporting and response systems.

(b) CAPABILITY.—The national public sector response system shall be able to receive, process, and provide actionable information to appropriate first responders, law enforcement and public safety, and homeland security officials, as appropriate, regarding accidents, threats, thefts, or other safety and security risks or incidents. In developing this system, the Secretary shall consult with the Transportation Security Administration and other appropriate agencies and departments.

(c) CHARACTERISTICS.—The national public sector response system shall:

(1) be an exception-based system;
(2) provide alerts regarding negative driver verification alerts, out-of-route alerts, driver panic or emergency alerts, or tampering or release alerts;
(3) be an automated call-in system that allows for the secure transmission of information by mobile phone, telephone, and email to the Secretary of Homeland Security;
(4) provide for the secure transmission of information by mobile phone, telephone, and email to the Secretary of Homeland Security.

(2) FORM.—The Secretary may submit a report to the Committee on Transportation and Infrastructure, the Committee on Commerce, Science, and Transportation, and the Committee on Homeland Security on the national public sector response system.

SEC. 410. OVER-THE-Road BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration), shall establish a program for making grants to private operators of over-the-road buses for extraordinary security-related improvements to their operations, including:

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to enhance their security;
(2) providing enhanced protection to the driver;
(3) acquiring, upgrading, installing, or operating communications equipment or software to collect information from or provide information to passenger and driver information through the national public sector response system and other government agencies;
(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;
(5) hiring and training security officers;
(6) providing training and security services for collection, storage, or exchange of passenger and driver information through operating equipment, software, or accessorial equipment on over-the-road buses and railroads, shall provide the information listed in subsection (b) to the national public sector response system.

(b) GRANT REQUIREMENTS.—A grant under this section may be used to provide reimbursement to private operators of over-the-road buses for extraordinary security-related costs for improvements described in paragraphs (1) through (9) of subsection (a), determined by the Assistant Secretary to have been incurred by such operators since September 11, 2001.

(c) REQUIREMENTS.—A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Security Act of 2002 (49 U.S.C. 5310 note; 112 Stat. 393).

(f) PLAN REQUIREMENT.—
(1) IN GENERAL.—The Assistant Secretary may not make a grant under this section to a private operator of over-the-road buses until the operator has first submitted to the Assistant Secretary—

(a) a plan for making security improvements described in subsection (a) and the Assistant Secretary has approved the plan; and

(b) any information or data specified as the Assistant Secretary may require in order to determine the extent of security improvements to be made by the operator after the date of enactment of this Act.

(2) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal or facility other than the applicant, the applicant shall demonstrate to the satisfaction of the Assistant Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

(g) OVER-THE-ROAD BUS DEFINED.—In this section, the term ‘over-the-road bus’ means a bus characterized by an elevated passenger deck located over a baggage compartment.

(h) BUS SECURITY ASSESSMENT.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Assistant Secretary shall consult with the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and other Federal departments and agencies in accordance with the requirements of this section.

(2) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(A) an assessment of the over-the-road bus security grant program;

(B) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(C) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(D) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(E) an assessment of ongoing research and the need for additional research on over-road security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of comprising the driver and passengers;

(F) an assessment of industry best practices to enhance security.

(3) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Assistant Secretary shall consult with the over-the-road bus management and labor representatives, public safety and law enforcement officers, and the National Academy of Sciences.

(i) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section—

(1) $100,000,000 for fiscal year 2006;

(2) $250,000,000 for fiscal year 2007; and

(3) $300,000,000 for fiscal year 2008.

Amounts made available pursuant to this subsection shall remain available until expended.

TITLE V—IMPROVED MARITIME SECURITY

SEC. 501. EMBASSY OF ADDITIONAL JOINT OPERATIONAL CENTERS FOR SECURITY ASSESSMENT.

(a) IN GENERAL.—In order to improve inter-agency cooperation, unity of command, and the sharing of intelligence information in a common mission to provide greater protection for port and intermodal transportation systems against acts of terrorism, the Secretary, acting through the Commandant of the Coast Guard, shall establish joint operational centers for port security at all Class I ports to the extent practicable within 2 years after the date of enactment of this Act.

(b) CHARACTERISTICS.—The joint operational center shall be based on the most appropriate compositional and operational characteristics of the pilot project joint operational centers in Miami, Florida, Norfolk-Hampton Roads, Virginia, Charleston, South Carolina, and San Diego, California;

(2) be adapted to meet the security needs, requirements, and resources of the individual port area at which each is operating;

(3) provide for participation by the United States Customs and Border Protection Agency, the Transportation Security Administration, the Department of Defense, and other Federal agencies, as determined to be appropriate by the Secretary of Homeland Security, and State and local law enforcement or port security agencies and personnel; and

(4) be incorporated in the implementation of—

(A) maritime transportation security plans developed under section 70103 of title 46, United States Code;

(B) maritime intelligence activities under section 70113 of that title;

(C) short and long range vessel tracking under sections 70114 and 70115 of that title;

(D) secure transportation systems under section 70116 of that title;

(E) the Bureau of Customs and Border Protection’s screening and high-risk cargo inspection programs; and

(F) the transportation security incident response plans required by section 70104 of that title.

(c) 2005 ACT REPORT REQUIREMENT.—Nothing in this section relieves the Commandant of the Coast Guard from compliance with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004. The Commandant shall utilize the information within the report required by that section in carrying out the requirements of this section.

(d) BUDGET AND COST-SHARING ANALYSIS.—Within 180 days after the date of enactment of this Act, the Assistant Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the Committee on Transportation and Infrastructure of the House of Representatives a proposed budget analysis for implementing subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the joint operation of the centers.

SEC. 502. AMTS PLAN TO INCLUDE SALVAGE RESPONSE PLAN.

Section 70101(b)(2) of title 46, United States Code, is amended—

(1) by striking “and” after the semicolon in subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting at the end of subparagraph (E) the following:

“(F) include a salvage response plan—

(i) to identify salvage equipment capable of restoring operating capacity; and

(ii) to ensure that the flow of cargo through United States ports is re-established as efficiently and quickly as possible after a transportation incident.”

SEC. 503. PRIORITY TO CERTAIN VESSELS IN POST-INCIDENT RESUMPTION OF CARGO SEARCHES.

Section 70103(a)(2)(J) of title 46, United States Code, is amended by inserting after “incident.” the following: “The plan shall provide, to the extent practicable, preference for the reestablishment of the flow of cargo through United States ports after a transportation incident.”

SEC. 504. ASSISTANCE FOR FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by adding at the end of subsection (b) the following:

“(c) FOREIGN ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—The Administrator of the Maritime Administration, in coordination with the Secretary of State and the Secretary of Energy, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are available to implement port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.

(2) CARIBBEAN BASIN.—The Administrator, in coordination with the Secretary of State and in consultation with the Organization of American States, shall place particular emphasis on utilizing programs to facilitate the implementation of port security antiterrorism measures at the ports located in the Caribbean Basin, such as ports in the United States that pose unique security and safety threats to the United States due to—

(A) the strategic location of such ports between the United States and Central American States; and

(B) the relative openness of such ports; and

(C) the significant number of shipments of narcotics to the United States that are moved through such ports.”

(b) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation a report on the security of ports in the Caribbean Basin. The report shall include the following:

(1) An assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security.

(2) An estimate of the number of ports in the Caribbean Basin that will not be secured by January 1, 2006, and an estimate of the financial impact in the United States in any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States.

(3) An assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin.

SEC. 505. IMPROVED DATA USED FOR TARGETED CARGO SEARCHES.

(a) IN GENERAL.—In order to provide the best possible data for the automated targeted system or any other system that identifies suspicious cargo for inspection, the Secretary of Homeland Security shall require importers shipping goods to the United States via cargo container to submit cargo data complying with the notification requirements under section 4.7 of the Customs Regulations (19 C.F.R. 4.7).
(b) DEADLINE.—The requirement imposed under subsection (a) shall apply to goods entered after December 31, 2006.

c. AUTHORIZATION OF APPROPRIATIONS.—There shall be appropriated to the Secretary of Homeland Security $5,000,000 for each of fiscal years 2006, 2007, and 2008 to carry out the automated targeting system program to identify high-risk oceanborne container cargo for inspection. The amounts authorized by this subsection shall be in addition to any other amounts authorized to be appropriated to carry out that program.

d. EVALUATION BY COMPTROLLER GENERAL.—

(1) IN GENERAL.—The Comptroller General shall evaluate action taken by the Department of Homeland Security to address the deficiencies in its automated targeting system strategy identified in the Government Accountability Office’s report entitled “Homeland Security Challenges Remain in the Targeting of Ocean-Going Cargo Containers for Inspection” (GAO-04-352NI). In making the evaluation, the Comptroller General shall assess whether all key elements of a balanced, integrated, and recognized modeling practices have been incorporated in the Department’s strategy, including—

(A) threat, criticality, vulnerability, and risk assessments;
(B) external peer review of the automated targeting system;
(C) a mandatory random sampling program;
(D) simulated events to test the targeting strategy; and
(E) effectiveness reviews of risk mitigation actions.

(2) REPORT.—The Comptroller General shall transmit a report to the Senate Committee on Transportation and Infrastructure and the House of Representatives Committee on Transportation and Infrastructure, within 1 year after the date of enactment of this Act containing the results of the evaluation, together with any recommendations the Comptroller General deems appropriate.

SEC. 506. INCREASE IN NUMBER OF CUSTOMS INSPECTORS Assigned overseas.

(a) IN GENERAL.—The Secretary of Homeland Security shall substantially increase the number of United States Customs Service inspectors assigned to international port facilities outside the United States under the Container Security Initiative and United States Customs Service responsibility for inspecting intermodal shipping containers being shipped to the United States.

(b) STAFFING CRITERIA.—In carrying out subsection (a) the Secretary of Homeland Security shall determine the appropriate level for assignment and density of customs inspectors at selected international port facilities by a threat, vulnerability, and risk analysis which, at a minimum, considers—

(1) the nature of terrorist threats;
(2) the ability of the host government to assist in both manning and providing equipment and resources;
(3) terrorist intelligence known of importers, shippers, or manufacturers; and
(4) other criteria as determined in consultation with the relevant shipping industry, security, and shipping container security.

c. MINIMUM NUMBERS.—The total number of customs inspectors assigned to international port facilities shall not be less than the number determined as a result of the threat, vulnerability, and risk assessment analysis which is validated by the Administrator of the Transportation Security Oversight Board, developed and maintained, and published by the Department of Homeland Security within 180 days after the date of enactment of this Act.

d. PLAN.—The Secretary shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, with timelines, for phasing inspectors into selected port facilities within 180 days after the enactment of this Act.

SEC. 507. RANDOM INSPECTION OF CONTAINERS.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security shall develop and implement a plan for random inspection of containers in addition to any targeted or pre-shipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Under Secretary.

(b) CIVIL PENALTY FOR ERRONEOUS MANIFEST.

(1) IN GENERAL.—Except as provided in paragraph (2), if the Under Secretary determines on the basis of an inspection conducted under subsection (a) that there is a discrepancy between the contents of a shipping container and the manifest for that container, the Under Secretary may impose a civil penalty.

(2) MANIFEST DISCREPANCY REPORTING.—The Under Secretary may not impose a civil penalty under paragraph (1) if a manifest discrepancy exists with respect to the discrepancy within the time limits established by Customs Directive No. 3240–067A (or any subsequently issued directive governing the matter) for filing a manifest discrepancy report.

SEC. 508. CARGO SECURITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to firearms, arrests, and seizure of property), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesigning the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesigning the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70121; and

(4) by inserting after section 70120 the following:

“§ 70121. Container security initiative

(a) IN GENERAL.—Pursuant to the standards established under subsection (b)(1) of section 70116—

(1) the Secretary of Homeland Security shall promulgate standards and procedures for—

(A) the inspection of cargo in a foreign port intended for shipment to the United States by physical examination or nonintrusive examination by technological means; and

(B) evaluating and screening cargo prior to loading in a foreign port for shipment to the United States, either directly or via a foreign port;

(2) the Commissioner of Customs and Border Protection shall—

(A) execute inspection and screening protocols with other appropriate government agencies to ensure that the standards and procedures promulgated under paragraph (1) are implemented in an effective manner; and

(B) in consultation with the Transportation Security Oversight Board, develop and maintain an antiterrorism cargo identification, tracking, and screening system for containerized cargo shipped to and from the United States, either directly or via a foreign port.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section.

SEC. 509. SECURE SYSTEMS OF INTERNATIONAL INTERMODAL TRANSPORTATION.

(a) IN GENERAL.—Section 70116(a) of title 46, United States Code, is amended—

(1) by striking “transportation.” and inserting “transportation—”

(2) to facilitate the movement of such goods through the entire supply chain through an expedited security and clearance program.

(b) PROGRAM ELEMENTS.—In establishing and conducting the program under subsection (a) the Assistant Secretary shall—

(1) establish standards and procedures for verifying whether the goods placed in a container for shipping, that the container is free of unauthorized hazardous chemical, biological, or nuclear materials; and securing the containers after the contents are so verified;

(2) establish standards and procedures for ensuring that security and monitoring that security remain in place from the point, at which the goods are loaded to the point at which it is unloaded;

(3) develop performance standards to enhance the physical security of shipping containers, including performance standards for locks as part of the container security initiative;

(4) establish standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

(5) incorporate any other measures the Assistant Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.

SEC. 510. SECURE SYSTEMS OF INTERNATIONAL INTERMODAL TRANSPORTATION USER FEES.

The Secretary of Homeland Security shall conduct a study of the feasibility and desirability of establishing a system of ocean-borne and port-related intermodal transportation user fees that could be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for the improvement and maintenance of enhanced port security. The Assistant Secretary shall submit a report...
containing the Assistant Secretary’s findings, conclusions, and recommendations (including legislative recommendations if appropriate) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

SEC. 510. TECHNOLOGY FOR MARITIME TRANSPORTATION SECURITY.

(a) MINIMUM TECHNOLOGY IMPLEMENTATION AUTHORITY.—Section 70107(i)(2)(B) of title 46, United States Code, is amended by inserting “not less than” after “Secretary”.

(b) SET-ASIDES FOR RESEARCH AND DEVELOPMENT.—Beginning with the 4th fiscal year after the date of enactment of this Act, not less than

1. 1 percent of the amounts appropriated to the Transportation Security Administration and the Directorate of Science and Technology for research and development for the fiscal year are obligated or expended for maritime security related projects or programs; and

2. 2 percent of such amounts are obligated or expended for rail security related projects or programs.

(c) STRATEGIC PLAN.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall promulgate a strategic plan for transportation research and development. The Secretary shall update the plan no less frequently than every 2 years thereafter.

(2) CONTENTS.—In the strategic plan, the Secretary shall—

(A) ensure that the research needs for security of all modes of transportation, including aviation, maritime, rail, pipeline, and transit security, are addressed;

(B) identify goals and include measurable objectives;

(C) include an adequate amount of basic research;

(D) define the research and development roles of the Transportation Security Administration and the Directorate of Science and Technology, respectively, to ensure that—

(i) they are aligned;

(ii) the efficient use of research funds is maximized; and

(iii) duplication of projects is prevented or minimized;

(E) coordinate transportation research and development under the plan with the transportation research and development activities of other Federal agencies, including the Department of Transportation and the National Aeronautics and Space Administration; and

(F) base the plan on vulnerability and criticality assessments.

(3) ANNUAL EVALUATION.—The Homeland Security Science and Technology Advisory Committee, within the plan, shall be submitted to Congress by the 15th each year, measure progress under the plan against the goals set forth in the plan, and recommend changes to the transportation security research program under the plan.

(4) ANNUAL REPORT TO CONGRESS.—The Secretary shall transmit a copy of the strategic plan, any revisions of that plan, and a copy of the annual evaluations and recommendations made by the Advisory Committee to Congress.

(d) NIST TRANSPORTATION SECURITY PROGRAM.—The Secretary of Homeland Security may transfer up to $15,000,000 each fiscal year for the first 3 fiscal years after the date of enactment of this Act, to the National Institute of Standards and Technology to be obligated or expended for a focused program in transportation security under section 28 of the National Institute of Science and Technology Act (15 U.S.C. 276m).

(e) SECURE WORKFORCE INITIATIVE.—Section 70107 of title 46, United States Code, is amended by inserting the following:

“(j) SECURE WORKFORCE INITIATIVE.—

“(1) IN GENERAL.—The Secretary shall develop a program in conjunction with technical and operational leaders representing State and local port security workforces. The program shall focus on teaching port workers to utilize new technologies and processes to improve port security through the application of new technologies, information technologies, detection devices, incident response training, and other advanced technologies.

“(2) AUTHORITY FOR APPOINTMENTS.—There are authorized to be appropriated to the Secretary of Homeland Security $15,000,000 for each of fiscal years 2005 through 2009 to carry out the program developed under paragraph (1).

“(f) ESTABLISHMENT OF COMPETITIVE RESEARCH PROGRAM.—

“(1) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

“SEC. 314. COMPETITIVE RESEARCH PROGRAM.

“(a) IN GENERAL.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish a competitive research program within the Directorate.

“(2) DIRECTOR.—The program shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

“(3) DUTIES OF DIRECTOR.—In the administration of the program, the Director shall—

(A) establish a competitive research program to award grants to States with academic facilities that have not fully developed security-related science and technology to support burgeoning research efforts by the faculty or link them to established investigators;

(B) provide for conferences, workshops, outreach, and technical assistance to researchers and institutions of higher education in States on topics related to developing science and technology expertise in areas of high interest and relevance to the Department;

(C) monitor the efforts of States to develop programs that support the Department’s mission;

(D) implement a merit review program, consistent with program objectives, to ensure the quality of research conducted with Program funding; and

(E) provide the Secretary with reports on the progress and achievements of the Program to the Secretary.

“(b) ASSISTANCE UNDER THE PROGRAM.—

“(1) Secured.—The Secretary shall provide assistance under the program for research and development projects that are related to, or qualify as, homeland security research (as defined in section 307(a)(2)) under the program.

“(2) FORM OF ASSISTANCE.—Assistance under the program can take the form of grants, contracts, or cooperative arrangements.

“(3) APPLICATIONS.—Applicants shall submit proposals or applications in such form, at such times, and containing such information as the Secretary may require.

“(c) IMPLEMENTATION.—

“(1) START-UP PHASES.—For the first 3 fiscal years beginning after the date of enactment of the Border Infrastructure and Technology Integration Act of 2004, assistance under the program shall be limited to institutional arrangements in States in which an institution of higher education with a grant from, or a contract or cooperative agreement with, the National Science Foundation under section 113 of the National Science Foundation Act of 1988 (42 U.S.C. 1862) is located.

“(D) SECURE WORKFORCE INITIATIVE.—

“(A) IN GENERAL.—Beginning with the 4th fiscal year after the date of enactment of this Act, the Director shall rank order the States in the list of States (as defined in section 214(i) other than Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands) in descending order in terms of the average amount of funds received by institutions of higher education (as that term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001)) or universities, colleges, or other institutions of higher education located in the lowest third of those ranked under subparagraph (A) for that fiscal year.

“(E) DETERMINATION OF LOCATION.—For purposes of this paragraph, an institution of higher education shall be considered to be located in the State in which its home campus is located, except that assistance provided under the program to a division, institute, or other facility located in another State for use in that State shall be considered to have been provided to an institution of higher education located in that other State.

“(F) MULTIYEAR ASSISTANCE.—For purposes of this paragraph, assistance under the program that is provided on a multi-year basis shall be counted as provided in each such year in the amount so provided for that year.

“(G) FUNDING.—The Secretary shall ensure that no less than 5 percent of the amount appropriated for each fiscal year to the Acceleration Fund for Research and Development of Homeland Security Technologies established by section 307(c)(1) is allocated to the program established by subsection (a).”.

(2) CONFORMING AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 313 the following:

“Sec. 314. Competitive research program.”.

SEC. 511. DEADLINE FOR TRANSPORTATION SECURITY CARDS.

The Secretary shall issue a final rule under section 70105 of title 46, United States Code, no later than January 1, 2006.

SEC. 512. EVALUATION AND REPORT.

Within 90 days after the date of enactment of this Act the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing—

(1) an evaluation of the Operation Safe Commerce program and the Customs-Trade Partnership Against Terrorism program;

(2) a report on the establishment and implementation of performance standards for oceanborne and intermodal cargo seals and locks under section 70116(b) of title 46, United States Code;

(3) a report on progress made and current operational practices for monitoring oceanborne cargo through the entire supply chain;

(4) recommendations as to how inspection and screening procedures developed for

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oceanborne cargo might be adapted for application to the shipment of domestically-produced cargo within the United States;

(6) a status report on progress in preparing the plan for implementing secure systems of transportation required by section 804(c) of the Coast Guard and Maritime Transportation Act of 2004 (Pub. L. 108-293; 118 Stat. 1086);

(7) a report on the security of noncontainment cargo including roll-on roll-off cargo, break bulk cargo, and liquid and dry bulk cargo;

(8) a report on whether the increased use of waterborne transportation in the domestic movement of hazardous materials would be an effective means to enhance the safety of hazardous material shipments.

SEC. 513. PORT SECURITY GRANTS.

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking "for making a fair and equitable allocation of funds" and inserting "based on risk and vulnerability".

(b) of 1996 are met.—Section 70107(e) of title 46, United States Code, is amended by adding at the end the following: "(5) LETTERS OF INTENT.—The Secretary may accept, subject to the Secretary's conditions, requests for funding to port sponsors from the Fund.".

SEC. 514. WORK SToppAGES AND EMPLOYEE-Employer DISPUTES.

Section 70106 is amended by inserting after "area," the following: "In this paragraph, the term 'economic dispute' does not include a work stoppage or other nonviolent employer-related action resulting from an employee-employer dispute."

SEC. 515. APPEAL OF DENIAL OF WAIVER FOR FEDERAL SECURITY CARD.

Section 70108(c)(3) of title 46, United States Code, is amended by inserting "or a waiver under paragraph (2)" after "card".

By Mr. LOTT:

S. 1053. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 are subject to subsection (c) of section 323(e)(1) of title 2, United States Code.

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "527 Reform Act of 2005."

SEC. 2. TREATMENT OF SECTION 527 ORGANIZATIONS.

(a) Definition of Political Committee.—Section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) is amended by striking the period at the end of subparagraph (C) and inserting "; or" and by adding at the end the following:

"(D) any applicable 527 organization.".

(b) Definition of Applicable 527 Organization.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) is amended by adding at the end the following new paragraph:

"(27) Applicable 527 organization.—For purposes of paragraph (4)(D)—

(A) "Applicable 527 organization" means a committee, club, association, or group of persons that—

"(1) has given notice to the Secretary of the Treasury under section 527(1) of the Internal Revenue Code of 1986 that it is to be treated as an organization described in section 527(b)(1) of such Code,

"(2) is not described in subparagraph (B),

"(3) is not an applicable 527 organization,

"(4) is not a political committee, or

"(5) is not treated as an electioneering 成员 in section 527(b)(1) of such Code;"

"(B) EXCEPTED ORGANIZATIONS.—A committee, club, association, or other group of persons described in subparagraph (A) is described in this subparagraph if the organization—

"(i) was publicly supported during the 1-year period ending on the date of the run-off election for which the organization made expenditures totaling $2,500 or more and did not refer to a Federal candidate or political party;

"(ii) was an organization described in section 527(1)(5) of the Internal Revenue Code of 1986;

"(B) is not an organization described in section 527(1)(5) of the Internal Revenue Code of 1986;

"(2) the public communications of which relate exclusively to activities described in subparagraphs (A) through (D) of section 323(e)(1); and

"(3) is required to submit a report to the Secretary of the Treasury under section 527 of such Code, and to file such report with the Secretary of the Treasury.

"(C) REFEREE OF FEDERAL CANDIDATES.—

For purposes of this subparagraph, an organization described in section 527(i)(5) of the Internal Revenue Code of 1986 that it is to be treated as an organization described in section 527(1)(5) of the Internal Revenue Code of 1986;".

"(D) EXCLUSIVITY TEST.—A committee, club, association, or other group of persons described in subparagraph (A) and (B) that is an applicable 527 organization and does not refer to a Federal candidate or political party in any of its voter drive activities;".

"(E) VOTER DRIVE ACTIVITY.—For purposes of this subparagraph, the term ‘voter drive activity’ has the meaning given such term by section 323(e)(1).

"(F) APPLICABLE STATE OR LOCAL ISSUES.—For purposes of this subparagraph, an applicable State or local issue' means any State or local ballot initiative, State or local referendum, State or local constitutional amendment, State or local ballot question, or other State or local ballot issue.

"(G) REFEREE OF FEDERAL CANDIDATES.—

For purposes of this subparagraph, any prohibition on a reference to a Federal candidate shall not include any reference described in section 323(e)(5).

"(H) REFEREE OF POLITICAL PARTIES.—

For purposes of this subparagraph, any prohibition on a reference to a political party shall not include any reference described in section 323(e)(5).

"(I) REGULATIONS.—The Federal Election Commission shall promulgate regulations to implement this section not later than 60 days after the date of enactment of this Act.

"(J) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 60 days after the date of enactment of this Act.

SEC. 3. RULES FOR ALLOCATION OF EXPENSES BETWEEN FEDERAL AND NON-FEDERAL ACTIVITIES.

(a) in General.—Title III of the Federal Election Campaign Act of 2005 (S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 325. ALLOCATION AND FUNDING RULES FOR CERTAIN EXPENSES RELATING TO FEDERAL AND NON-FEDERAL ACTIVITIES.

"(a) in General.—In the case of any disbursements by any political committee that is a separate segregated fund or nonconnected committee for which allocation rules are provided under subsection (b)—

"(I) the disbursements shall be allocated between Federal and non-Federal accounts in accordance with this section and regulations prescribed by the Commission, and

"(II) in the case of disbursements allocated to non-Federal accounts, may be paid only from a qualified non-Federal account.

"(b) COSTS TO BE ALLOCATED AND ALLOCATION RULES.—Disbursements by any separate segregated fund or nonconnected committee, other than an organization described in section 323(b)(1), for any of the following categories of activity shall be allocated as follows:

"(1) 100 percent of the expenses for public communications or voter drive activities that refer to one or more clearly identified Federal candidates, but do not refer to any clearly identified non-Federal candidates,
shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

(2) At least 50 percent, or a greater percentage, of the funds paid with funds from a Federal account, shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

(3) At least 50 percent, or a greater percentage, if the Commission so determines by regulation, of the expenses for public communications and voter drive activities that refer to one or more clearly identified Federal candidates shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

(4) At least 50 percent, or a greater percentage, if the Commission so determines by regulation, of the expenses for public communications and voter drive activities that refer to a political party and refer to one or more clearly identified Federal candidates shall be paid with funds from a Federal account, except that this paragraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

(5) Unless otherwise determined by the Commission in its regulations, at least 50 percent of any administrative expenses, including rent, utilities, office supplies, and salaries paid to a clearly identified Federal candidate, shall be paid with funds from a Federal account, except that for a separate segregated fund such expenses may be paid instead by its connected organization.

(6) At least 50 percent, or a greater percentage, if the Commission so determines by regulation, of the direct costs of a fundraising program or event, including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where Federal and non-Federal candidates are paid with funds from a Federal account, except that this paragraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

(7) For purposes of this section—

(a) IN GENERAL.—The term ‘qualified non-Federal account’ means an account which consists solely of amounts—

(A) that, subject to the limitations of paragraphs (2) and (3), are raised by the separate segregated fund or nonconnected committee only from individuals, and

(B) with respect to which all requirements of Federal, State, or local law (including any law relating to contribution limits) are met.

(b) REPORTING REQUIREMENTS.—Section 306(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(e)) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

‘(3) RECEIPTS AND DISBURSEMENTS FROM QUALIFIED NON-FEDERAL ACCOUNTS.—In addition to any other requirements applicable under this Act, a political committee to which section 323(a) applies shall report all receipts and disbursements from a qualified non-Federal account (as defined in section 323(c)).’.

(c) REGULATIONS.—The Federal Election Commission shall promulgate regulations to implement the amendments made by this section not later than 180 days after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day which is 180 days after the date of enactment of this Act.

SEC. 4. TELEVISION MEDIA RATES.

(a) LOWEST UNIT CHARGE.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by adding at the end the following:

‘(1) TELEVISION MEDIA RATES.—

‘(A) LOWEST UNIT CHARGE.—Notwithstanding any other provision of law, the Commission shall promulgate regulations for broadcast stations, or by a provider of cable or satellite television service, to any person who is a legally qualified candidate for any public office, not higher than 125 percent of the charges that would be applicable under section 315 for the broadcast of a comparable commercial advertising spot. For the purpose of this subsection, ‘comparable advertising spot’ means a spot purchased by a candidate during the period preceding a general election, or election, to such office or by a national committee of a political party on behalf of such candidate in connection with such campaign, shall not exceed the lowest charge of the station (at any time during the 365-day period preceding the date of the use) for the broadcast of a comparable commercial advertising spot.

‘(B) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the station, any candidate or party advertising spot scheduled to be broadcast during that program shall be treated the same as a comparable commercial advertising spot.

‘(C) AUDITS.—

‘(A) IN GENERAL.—During the 45-day period preceding a primary or the 45-day period preceding a general election, the Commission shall conduct such audits as it deems necessary to ensure that each broadcaster to which this subsection applies is allocating television broadcast advertising time in accordance with this subsection and section 312.

‘(B) MARKETS.—Each audit conducted under subparagraph (A) shall cover the following markets:

‘(i) At least 6 of the top 50 largest designated market areas (as defined in section 122(2)(C) of title 17, United States Code).

‘(ii) At least 3 of the top 151–210 largest designated market areas (as so defined).

‘(iii) At least 3 of the top 100–150 largest designated market areas (as so defined).

‘(iv) At least 3 of the top 151–210 largest designated market areas (as so defined).

‘(C) BROADCAST STATIONS.—Each audit conducted under subparagraph (A) shall include each of the 3 largest television broadcast networks, 1 independent network, and 1 cable network.

‘(b) CONFORMING AMENDMENT.—Section 504 of the Bipartisan Campaign Reform Act of
(a) In GENERAL.—Paragraph (22) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(22)) is amended by adding at the end the following new sentence: “Such term shall not include communications over the Internet.”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 6. INCREASE IN CONTRIBUTION LIMITS FOR POLITICAL COMMITTEES.

(a) INCREASE IN POLITICAL COMMITTEE CONTRIBUTIONS.—Section 315(c)(1)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)(1)(C)) is amended by striking “$5,000” and inserting “$7,500”.

(b) INCREASE IN MULTICANDIDATE LIMITS.—Subsection (A) of section 315(c)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)(1)) is amended by striking “$10,000” and inserting “$15,000”.

(c) Elimination of certain restrictions on solicitations by corporations and labor organizations.—Subparagraph (b) of section 316(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(4)) is amended—

(1) by striking “(A)” before the “limitations”;

(2) by adding at the end the following:

“(B) in paragraph (1), by striking the “and” and inserting “broadcasting station.”;

(3) in paragraph (2), by striking “the” and inserting “LICENSEE; STATION LICENSEE.—The’’.

SEC. 7. MODIFICATION OF DEFINITION OF PUBLIC COMMUNICATION.

(a) In GENERAL.—Paragraph (22) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(22)) is amended by adding at the end the following new sentence: “Such term shall not include communications over the Internet.”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 8. CONSTRUCTION.

No provision of this Act, or amendment made by this Act, shall be construed—

(1) as approving, ratifying, or endorsing a regulation promulgated by the Federal Election Commission;

(2) as affecting the definition of political organization for purposes of the Internal Revenue Code of 1986; or

(3) as affecting the determination of whether a group organized under section 501(c) of the Internal Revenue Code of 1986 is a political committee under section 301(4) of the Federal Election Campaign Act of 1971.

SEC. 9. JUDICIAL REVIEW.

(a) Special Rules for Actions Brought on Constitutional Grounds.—If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(b) A copy of the complaint shall be delivered personally to the Clerk of the House of Representatives and the Secretary of the Senate.

(c) If any provision of this Act is challenged in any manner before the Supreme Court of the United States, such appeal shall be taken by the filing of a notice of appeal within 10 days of the filing of a jurisdictional statement with the Supreme Court within 30 days of the entry of the final decision.

(d) Such provisions may be brought as a suit by the United States District Court for the District of Columbia to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(e) Intervention by Members of Congress.—In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any Member of the House of Representatives (including a Delegate or Resident Commissioner to Congress) may be joined in such action either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(f) Challenge by Members of Congress.—Any Member of Congress may bring an action, subject to the special rules described in subsection (a), with respect to any action described in such subsection unless the person filing such action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(g) Applicability.—With respect to any action initially filed on or before December 31, 2008, the provisions of subsection (a) shall apply with respect to each action described in such subsection.

(h) Subsequent actions.—With respect to any action initially filed after December 31, 2008, the provisions of subsection (c) shall not apply to any action described in such subsection unless the person filing such action elects such provisions to apply to the action.

By Mrs. FEINSTEIN (for herself and Mr. ENSIGN):

S. 1054. A bill to amend the Elementary and Secondary Education Act of 1965 to specify the purposes for which funds provided under part A of title I may be used; to the Committee on Health, Education, Labor, and Pensions:

Mrs. FEINSTEIN. Mr. President, I rise today with Senator Ensign to introduce a bill to ensure that Title I funds are directed towards instructional services to teach our neediest students at a critical early stage of their lives.

Title I provides assistance to virtually every school district in the country to serve children attending schools with high concentrations of low-income students, from preschool to high school.

It has been the “anchor” of Federal assistance to schools, since its inception in 1965. Although it has always
been the intent of Congress for Title I funds to be used for instruction and instructional services, the Federal Government has never provided a clear definition of what instructional services should entail.

This lack of federal guidance has become especially clear now, as States scramble to comply with the Title I accountability standards established in "No Child Left Behind."

While State Administrators of Title I are directed by law to meet these specific priorities, they have been given little guidance as to how to ensure that they are in compliance with the law.

I believe that the Federal Government is responsible for making this process as clear to States as possible.

In my view, as it relates to Title I, we have not lived up to our end of the bargain.

During consideration of "No Child Left Behind," I worked hard to get my bill providing appropriate Title I uses included in the Senate version of the bill.

Unfortunately, during conference consideration, my bill was stripped out and in its place language directing the Government's inability to accurately measure the accounting office to report on how states use their Title I funds was inserted.

In April 2003, GAO released the report that Congress directed them to submit on Title I Administrative Expenditures.

What GAO found is that while districts spent a relatively small amount, no more than 13 percent, of Title I funds on administrative services, these findings were based on their own definition "because there is no common definition on what constitutes administrative expenditures."

Therefore, the accounting office could not precisely measure how much of schools' Title I funds were used for administration.

Because Title I funds are not defined consistently throughout the states, the accounting office created their own definition by compiling aspects of state priorities to complete the report.

You see, the very reason I worked to define how Title I funds should be used—to create consistency and distribution priority nationwide—became the definitive aspect preventing GAO from effectively drawing conclusions to their report.

The report highlights two concerns that I have with the absence of universal definitions in the Title I program: the lack of Federal guidance on effective uses of Title I funds. The government's inability to accurately measure whether the academic needs of low-income students are being met.

My bill takes some strong steps by balancing the needs for states to retain Title I flexibility and providing them with the guidance needed to administer the program uniformly throughout the country.

Current law on Title I is much too vague.

It says, "a State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds."

Basically, it says that Title I funds are to be used for the "education of pupils." This is too nebulous.

The U.S. Department of Education has given states a guidance document that explains how Title I funds can be used.

Under this guidance document, only two uses are specifically prohibited: 1. construction or acquisition of real property; and 2. payment to parents to attend a meeting or training session or to reimburse a parent for a salary lost due to attendance at a "parental involvement" meeting.

I believe we should give the Department, states and districts a clearer guidance in law.

This legislation does the following: defines Title I direct and indirect instructional services. Sets a standard for the amount of Title I funds that must be used to achieve the academic and administrative objectives of this program. Ensures that the majority of Title I funds are used to improve academic achievement by stipulating that a local educational agency may use no more than 10 percent of Title I funds received for indirect instructional services.

By limiting the amount of funds that schools can spend on administrative or indirect services, school districts are restricted from shuffling the majority of Title I to pay for non-academic services, but it also gives the districts flexibility to use the remaining funds for the indirect costs administering Title I distribution.

Furthermore, by defining direct and indirect services, all states can apply the same standards for how Title I funds are used nationwide.

Examples of permissible Direct Services are: employing teachers and other instructional personnel, including employee benefits, intervening and taking corrective actions to improve student achievement. Extending academic instruction beyond the normal school day and year, including summer school. Providing instructional services to pre-kindergarten children for the transition to kindergarten. Purchasing instructional resources such as books, materials, computers, and other instructional equipment. Professional development. Developing and administering curriculum, educational materials and assessments.

Examples of Indirect Services limited to no more than 10 percent of Title I expenditures are: business services relating to administering the program. Purchasing or providing facilities maintenance, janitorial, gardening, or landscaping services or the payment of utility costs. Buying food. Paying for travel to and attendance at conferences or meetings, except if necessary for professional development.

My reasons for introducing this bill are two-fold: First, I believe that states must use their limited federal dollars for the fundamental purpose of providing academic instruction to help students learn.

Secondly, I believe that it is nearly impossible to do so without providing a clear definition of what is considered an instructional service.

I am not suggesting that it is the fault of the school districts for not focusing their Title I funds on academic instruction. They are simply exercising the flexibility that Congress has given them.

If Congress also intended for those funds to educate our neediest children, Federal guidance must be given to ensure that fund is going to school districts.

It is my view that Title I cannot do everything. Federal funding is only 8 percent of the total funding for elementary and secondary education and Title I is even a smaller percentage of total support for public schools.

That is why it is imperative to better focus Title I funds on academic instruction, teaching the fundamentals and helping disadvantaged children achieve.

Schools must focus their general administrative budget to pay for expenses that fall outside of the realm of direct educational services and retain the majority of Federal funds to improve academic achievement.

It is time to better direct Title I funds to the true goal of education: to help students learn. This is one step towards that important goal.

I urge my colleagues to support this legislation.

I ask for unanimous consent that the text of the legislation directly follow this statement in the RECORD.

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

S. 1054

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Title I Integrity Act of 2005.""
“(A) the implementation of instructional interventions and corrective actions to improve student achievement;

(B) the extension of academic instruction beyond the normal school day and year, including during summer school;

(C) the employment of teachers and other instructional personnel, including providing teachers and instructional personnel with employee benefits;

(D) the provision of instructional services to prekindergarten children to prepare such children for the transition to kindergarten;

(E) the purchase of instructional resources, such as books, materials, computers, other instructional equipment, and wiring for instructional equipment;

(F) the development and administration of curricula, educational materials, and assessments;

(G) the transportation of students to assist the students in improving academic achievement;

(H) the employment of title I coordinators, including providing title I coordinators with employee benefits; and

(I) the provision of professional development for teachers and other instructional personnel.

(2) INDIRECT INSTRUCTIONAL SERVICES.—In this section, the term ‘indirect instructional services’ includes—

(A) the purpose or provision of facilities maintenance, gardening, landscaping, or janitorial services, or the payment of utility costs;

(B) the payment of travel and attendance costs at conferences or other meetings;

(C) the payment of legal services;

(D) the payment of business services, including payroll, purchasing, accounting, and data processing costs; and

(E) any other services determined appropriate by the Secretary that indirectly improve student achievement.

By Mr. KENNEDY:

S. 1055. A bill to improve elementary and secondary education; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SECTION 1. SHORT TITLE.

This Act may be cited as the “No Child Left Behind Improvement Act of 2005”.

TITLE I—PUBLIC SCHOOL CHOICE, SUPPLEMENTAL EDUCATIONAL SERVICES, AND TEACHER QUALITY

SEC. 101. PUBLIC SCHOOL CHOICE CAPACITY, SUPPLEMENTAL EDUCATIONAL SERVICES, AND TEACHER QUALITY

SEC. 101. PUBLIC SCHOOL CHOICE CAPACITY.

(a) SCHOOL CAPACITY.—Section 1116(b)(1)(E) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(1)(E)) is amended—

(1) in clause (i), by striking “in the case” and inserting “Subject to clauses (ii) and (iii), in the case”;

(ii) by redesignating clause (i) as clause (iii);

(iii) by inserting after clause (i) the following:

(1) AT OR ABOVE CAPACITY.—The term ‘at or above capacity’, in reference to a school, means a school in which 1 additional student would increase the average class size of the school above the average class size of all schools in the State in which the school is located.

(2) HEALTHY, HIGH-PERFORMANCE SCHOOL BUILDING.—The term ‘healthy, high-performance school building’ has the meaning given such term in section 5586.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are appropriated to carry out this section $250,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.

(c) CIVIL RIGHTS.—In providing supplemental educational services under this subsection, the provider is deemed to satisfy the requirements of—

(1) title VI of the Civil Rights Act of 1964;

(2) title IX of the Education Amendments of 1972;

(3) section 504 of the Rehabilitation Act of 1973;

(4) title II and III of the Americans with Disabilities Act;

(5) the Age Discrimination Act of 1975;

(6) the Age Discrimination in Employment Act of 1967;

(7) the Age Discrimination in Employment Act of 1967 (20 U.S.C. 6316(c));

(8) the Age Discrimination in Employment Act of 1971 (20 U.S.C. 6316(e));

(9) title VI of the Civil Rights Act of 1964;

(10) title IX of the Education Amendments of 1972;

(11) the Americans with Disabilities Act;

(12) section 504 of the Rehabilitation Act of 1973; and

(13) any other provision of law prohibiting discrimination in the provision of services under this section.

(d) Federal funding.—The Secretary shall ensure that—

(1) the list of approved providers of supplemental educational services, the provider is deemed to satisfy the requirements of—

(2) title VI of the Civil Rights Act of 1964;

(3) title IX of the Education Amendments of 1972;

(4) section 504 of the Rehabilitation Act of 1973;

(5) title II and III of the Americans with Disabilities Act;

(6) the Age Discrimination Act of 1975;

(f) Authorization of appropriations.—There are appropriated to carry out this section $250,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.

SEC. 102. SUPPLEMENTAL EDUCATIONAL SERVICES.

Section 1116(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(e)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (B), by striking the semicolon and inserting ‘‘; and’’;

(B) in subparagraph (E), by inserting the period and inserting ‘‘; and’’;

(C) by inserting at the end the following:

(2) the payment of business services, including payroll, purchasing, accounting, and data processing costs; and

(3) any other services determined appropriate by the Secretary that indirectly improve student achievement.

(2) HEALTHY, HIGH-PERFORMANCE SCHOOL BUILDING.—The term ‘healthy, high-performance school building’ has the meaning given such term in section 5586.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are appropriated to carry out this section $250,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.

(4) CIVIL RIGHTS.—In providing supplemental educational services under this subsection, the provider is deemed to satisfy the requirements of—

(5) title VI of the Civil Rights Act of 1964;

(6) title IX of the Education Amendments of 1972;

(7) section 504 of the Rehabilitation Act of 1973;

(8) title II and III of the Americans with Disabilities Act;

(9) the Age Discrimination Act of 1975;

(f) Authorization of appropriations.—There are appropriated to carry out this section $250,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.

Sec. 103. CIVIL RIGHTS.

In providing supplemental educational services under this subsection, the provider is deemed to satisfy the requirements of—

(1) title VI of the Civil Rights Act of 1964;

(2) title IX of the Education Amendments of 1972;

(3) section 504 of the Rehabilitation Act of 1973;

(4) title II and III of the Americans with Disabilities Act;

(5) the Age Discrimination Act of 1975;
Title II— Adequate Yearly Progress Determinations

Section 201. Review of Adequate Yearly Progress Determinations for Schools for the 2002-2003 School Year.

(a) In General.—The Secretary shall require each local educational agency to provide each of its schools with an opportunity to request a review of a determination by the agency that the school did not make adequate yearly progress for the 2002-2003 school year.

(b) Final Determination.—Not later than 30 days after receipt of a request by a school for a review under this section, a local educational agency shall issue and make publicly available a final determination on whether the school made adequate yearly progress for the 2002-2003 school year.

(c) Evidence.—In conducting a review under this section, a local educational agency shall:

(1) allow the principal of the school involved to submit evidence on whether the school made adequate yearly progress for the 2002-2003 school year; and

(2) not later than 30 days after the date of enactment of this section, shall issue and make publicly available a final determination on whether the school made adequate yearly progress for the 2002-2003 school year.

(d) Standard of Review.—In conducting a review under this section, a local educational agency shall revise, consistent with the applicable State plan under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), the local educational agency’s original determination that a school did not make adequate yearly progress for the 2002-2003 school year if the agency finds that the school made such progress, taking into consideration:

(1) the amendments made to part 200 of title 34, Code of Federal Regulations (68 Fed. Reg. 68696) (relating to accountability for the academic achievement of students with the most significant cognitive disabilities); or

(2) any regulation or guidance that, subsequent to the date of such original determination, was issued by the Secretary relating to

(A) the assessment of limited English proficient children;

(B) the inclusion of limited English proficient children as part of the subgroup described in section 1111(b)(2)(C)(vii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(vii));


(e) Effect of Revised Determination.—If a local educational agency determines that a school made adequate yearly progress, the local educational agency shall extend as a result of not making adequate yearly progress, the Secretary, a State educational agency, or any other agency that was taking action to assure that the school made adequate yearly progress under this section and the school received a final determination of having made adequate yearly progress for the 2002-2003 school year.

(f) Notification.—The Secretary shall require each State educational agency to notify each school served by the agency of the school’s ability to request a review under this section; and

not later than 30 days after the date of enactment of this section, shall notify the public by means of the Department of Education and the review process established under this section.


(a) In General.—The Secretary shall require each local educational agency to provide each local educational agency in the State an opportunity to request a review of a determination by the State educational agency that the local educational agency did not make adequate yearly progress for the 2002-2003 school year.

(b) Application of Certain Provisions.—Except as inconsistent with, or inapplicable to, this section, the provisions of section 201 shall apply to reviews requested by a local educational agency of a determination described in section 201(a) in the same manner and to the same extent as such provisions apply to reviews requested by a local educational agency of a determination described in section 201(a).

(c) Definitions. In this title:

(1) the term “adequate yearly progress” has the meaning given to that term in section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)).

(2) the term “local educational agency” means a local educational agency that is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(b) In General.—The Secretary shall require each State educational agency to provide each local educational agency in the State an opportunity to request a review of a determination by the State educational agency that the local educational agency did not make adequate yearly progress for the 2002-2003 school year.

(c) Final Determination.—Not later than 30 days after the date of enactment of this Act, the Secretary of Education shall issue and make publicly available a final determination on whether the school made adequate yearly progress for the 2002-2003 school year.

(d) Standard of Review.—In conducting a review under this section, a local educational agency shall:

(1) not later than 30 days after the date of enactment of this section, shall issue and make publicly available a final determination on whether the school made adequate yearly progress for the 2002-2003 school year.

(e) Evidence.—In conducting a review under this section, a local educational agency shall:

(1) allow the principal of the school involved to submit evidence on whether the school made adequate yearly progress for the 2002-2003 school year; and

(2) not later than 30 days after the date of enactment of this section, shall issue and make publicly available a final determination on whether the school made adequate yearly progress for the 2002-2003 school year.

(f) Notification.—The Secretary shall require each State educational agency to notify each school served by the agency of the school’s ability to request a review under this section; and

not later than 30 days after the date of enactment of this section, shall notify the public by means of the Department of Education and the review process established under this section.
TITLE III—IMPROVING ASSESSMENT AND ACCOUNTABILITY

SEC. 301. GRANTS FOR INCREASING DATA CAPACITY FOR PURPOSES OF ASSESSMENT AND ACCOUNTABILITY.

(a) PROGRAM AUTHORIZED.—From funds appropriated under subsection (g) for a fiscal year, the Secretary may award grants on a competitive basis, to State educational agencies—

(1) to enable the State educational agencies to increase the capacity of data systems for assessment and accountability purposes, including the collection of graduation rates; and

(2) for all State agencies to increase the capacity of local educational agencies to upgrade, create, or manage longitudinal data systems for the purpose of measuring student academic progress and achievement.

(b) STATE APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) LOCAL USE OF FUNDS.—Each State educational agency that receives a grant under this section shall use—

(1) not more than 20 percent of the grant funds for purposes described in subsection (a)(1); and

(2) increasing the capacity of, or creating, State databases to collect, disaggregate, and report information related to student achievement, enrollment, and graduation rates for assessment and accountability purposes; and

(3) supporting, on an annual basis, for the elementary schools and secondary schools within the State, on—

(i) the enrollment data from the beginning of the academic year;

(ii) the enrollment data from the end of the academic year; and

(iii) the twelfth grade graduation rates; and

(2) not less than 80 percent of the grant funds to award subgrants to local educational agencies within the State to enable the local educational agencies to carry out the authorized activities described in subsection (e).

(d) LOCAL APPLICATION.—Each local educational agency that receives a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require. Each such application shall include, at a minimum, a demonstration of the local educational agency’s ability to put a longitudinal data system in place.

(e) LOCAL AUTHORIZED ACTIVITIES.—Each local educational agency that receives a subgrant under this section shall use the subgrant funds to increase the capacity of the local educational agency to upgrade or manage longitudinal data systems consistent with the uses in subsection (c)(1), by—

(1) purchasing database software or hardware;

(2) hiring additional staff for the purpose of managing such data;

(3) providing professional development or additional such staff; and

(4) providing professional development or training for principals and teachers on how to effectively use such data to implement instructional activities to improve student achievement and graduation rates.

(f) DEFINITIONS.—In this section—

(1) The term “graduation rate” means the percentage that—

(A) the total number of students who—

(i) graduated on time by progressing 1 grade per academic year; represents of

(B) the total number of students who entered the secondary school in the entry level academic year applicable to the graduating students.

(2) The terms “State educational agency” and “local educational agency” have the meanings given in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) AUTHORIZED ACTIVITIES.—A State educational agency or consortium of State educational agencies, desiring to apply for a grant under this section of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.) is amended by adding at the end the following—

(1) The term “Secretary” means the Secretary of Education.

(2) AUTHORIZED ACTIVITIES.—Each State educational agency or consortium of State educational agencies, desiring to apply for a grant under this section, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) LOCAL USE OF FUNDS.—Each State educational agency that receives a grant under this section shall use—

(1) not more than 20 percent of the grant funds for the purposes described in subsection (a)(1); and

(2) increasing the capacity of, or creating, State databases to collect, disaggregate, and report information related to student achievement, enrollment, and graduation rates for assessment and accountability purposes; and

(3) supporting, on an annual basis, for the elementary schools and secondary schools within the State, on—

(i) the enrollment data from the beginning of the academic year;

(ii) the enrollment data from the end of the academic year; and

(iii) the twelfth grade graduation rates; and

(2) not less than 80 percent of the grant funds to award subgrants to local educational agencies within the State to enable the local educational agencies to carry out the authorized activities described in subsection (e).

(d) LOCAL APPLICATION.—Each local educational agency that receives a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require. Each such application shall include, at a minimum, a demonstration of the local educational agency’s ability to put a longitudinal data system in place.

(e) LOCAL AUTHORIZED ACTIVITIES.—Each local educational agency that receives a subgrant under this section shall use the subgrant funds to increase the capacity of the local educational agency to upgrade or manage longitudinal data systems consistent with the uses in subsection (c)(1), by—

(1) purchasing database software or hardware;

(2) hiring additional staff for the purpose of managing such data;

(3) providing professional development or additional such staff; and

(4) providing professional development or training for principals and teachers on how to effectively use such data to implement instructional activities to improve student achievement and graduation rates.

(f) DEFINITIONS.—In this section—

(1) The term “graduation rate” means the percentage that—

(A) the total number of students who—

(i) graduated on time by progressing 1 grade per academic year; represents of

(B) the total number of students who entered the secondary school in the entry level academic year applicable to the graduating students.

(2) The terms “State educational agency” and “local educational agency” have the meanings given in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(c) AUTHORIZATION OF Appropriations.—There are authorized to be appropriated to carry on subgrants 100,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.

SEC. 302. GRANTS FOR ASSESSMENT OF CHILDREN WITH DISABILITIES AND CHILDREN WHO ARE LIMITED ENGLISH PROFICIENT.

Part E of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.) is amended by adding at the end the following—

(1) The term “Secretary” means the Secretary of Education.

(2) AUTHORIZED ACTIVITIES.—Each State educational agency or consortium of State educational agencies, desiring to apply for a grant under this section of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.) is amended by adding at the end the following—

(a) GRANTS AUTHORIZED.—From amounts authorized under subsection (e) for a fiscal year, the Secretary awards grants on a competitive basis, to State educational agencies, or to consortia of State educational agencies, to enable the State educational agencies or consortia to collaborate with institutions of higher education, research institutions, or other organizations—

(i) to design and improve State academic assessments that are appropriate for students who are limited English proficient and students with disabilities; and

(2) to ensure the most accurate, valid, and reliable means to assess academic content standards and student academic achievement standards for students who are limited English proficient and students with disabilities.

(b) AUTHORIZED ACTIVITIES.—A State educational agency or consortium that receives a grant under this section shall use the grant funds to carry out 1 or more of the following activities:

(1) Developing alternate assessments for students with disabilities, consistent with section 1111 and the amendments made on December 9, 2003, to part 200 of title 34, Code of Federal Regulations, (relating to accountability for the academic achievement of students with the most significant cognitive disabilities), including—

(A) the alignment of such assessments with State academic achievement standards and State academic content standards for all students; or

(ii) alternate State academic achievement standards and State academic content standards for all students; or

(iii) State academic achievement standards and State academic content standards for all students; or

(ii) State academic achievement standards and State academic content standards for all students; or

(iii) State academic achievement standards and State academic content standards for all students; or

(iv) State academic achievement standards and State academic content standards for all students; or

(v) State academic achievement standards and State academic content standards for all students; or

(vi) State academic achievement standards and State academic content standards for all students; or

(vii) State academic achievement standards and State academic content standards for all students; or

(viii) State academic achievement standards and State academic content standards for all students; or

(ix) State academic achievement standards and State academic content standards for all students; or

(x) State academic achievement standards and State academic content standards for all students; or

(xi) State academic achievement standards and State academic content standards for all students; or

(xii) State academic achievement standards and State academic content standards for all students; or

(xiii) State academic achievement standards and State academic content standards for all students; or

(xiv) State academic achievement standards and State academic content standards for all students; or

(xv) State academic achievement standards and State academic content standards for all students; or

(xvi) State academic achievement standards and State academic content standards for all students; or

(xvii) State academic achievement standards and State academic content standards for all students; or

(xviii) State academic achievement standards and State academic content standards for all students; or

(xix) State academic achievement standards and State academic content standards for all students; or

(xx) State academic achievement standards and State academic content standards for all students; or

(2) ensuring that such policies are consistent with the standards prepared by the Joint Committee on Standards for Educational and Psychological Testing of the American Educational Research Association, the National Council on Measurement in Education, and the National Council on Measurement in Education.

(3) The term “Secretary” means the Secretary of Education.

(4) The term “State educational agency” or consortium includes—

(A) the alignment of such assessments with State academic achievement standards and State academic content standards for all students; and

(B) using think aloud and cognitive laboratory procedures, as well as item statistics, to identify test items that may pose particular problems for students with disabilities, or students who are limited English proficient;

(C) developing and implementing a plan to ensure that developers and reviewers of test items are trained in the principles of universal design; and

(D) developing computer-based applications of universal design principles.

(5) The term “Secretary” means the Secretary of education, or consortium of State educational agencies, desiring to apply for a grant under—

(A) the alignment of such assessments with State academic achievement standards and State academic content standards for all students; and

(B) using think aloud and cognitive laboratory procedures, as well as item statistics, to identify test items that may pose particular problems for students with disabilities, or students who are limited English proficient;
this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(a) a description of how the State educational agency or consortium plans to evaluate the effectiveness of the activities described in paragraph (1) and, as a result of such activities, in- cluding—

(b) information regarding the proposed techniques for the development of alternate assessments and the results of the development of such assessments, consistent with the amendments made to section 1111(b)(2)(C)(v)(II).";

"(b) ANNUAL REPORT.—The Secretary shall report the information collected under subsection (a) in the form of an annual report to the public and to parents.

TITLE V—TECHNICAL ASSISTANCE

SEC. 501. TECHNICAL ASSISTANCE.

"(1) The Secretary shall ensure that the technical assistance provided by, and the research and disseminated through, the Institute of Education Sciences and the other offices or agencies of the Department provide educators and parents with the needed information and support for identifying and using educational strategies, programs, and practices available through the clearinghouses, that have been successful in improving educational opportunities and achievement for all students.

By Mr. REID (for himself and Mr. ENZIES): S. 1056. A bill to direct the Secretary of the Interior to convey to the City of Henderson, Nevada, certain Federal land located within the Southern Nevada Limited Transition Area Act, which will enhance the ability of a rapidly growing community to diversify its economy, gainfully employ its residents, and achieve fiscal sustainability.

In addition to creating a vital economic center in Henderson with this legislation, we hope at a future date to add another title to this bill that will allow Clark County to convey a small parcel of land to the Nevada National Guard for no consideration so that a new academy may be developed. Conversations are currently taking place at the State and county levels that may impact this conveyance, so we are awaiting more information.

The bill I am introducing today would convey approximately 547 acres of land from the Bureau of Land Management to the city of Henderson, NV, for development as an employment and business center.

The Bureau of Land Management has designated this parcel for disposal because of its urban surroundings and its isolation from other public land, which renders it difficult for the agency to manage.

The parcel is located in a rapidly growing area of the city, but is impacted by aircraft noise and overflights from the nearby Henderson Executive Airport, making it unsuitable for residential use.

Through their vision, the city of Henderson has put together a forward looking plan that will turn the area into a bustling business center. In addition to productively diversifying the land use pattern in the Las Vegas Valley, the proposed development of this land will encourage a broad range of employment opportunities for the region, while also helping to pay for public infrastructure in nearby residential areas.

The way that the land privatization would work is as follows. The bill would convey the land to the city by patent. The city would then subdivide and sell lots at fair market value. As in previous conveyances of Federal land located in the Southern Nevada Public Lands Management Act for disposal, 85 percent of the proceeds from sales would return to the BLM’s Special Account for a variety of conservation purposes in Nevada. Five percent of the proceeds would be available to the State of Nevada’s general education program. And the city of Henderson could use the remaining 10 percent to cover expenses associated with subdividing the property and providing infrastructure.

Henderson is a rapidly growing city. Its leaders are dedicated to making the city a national model of logical development, diversified employment, and fiscal sustainability. This bill helps establish the conditions needed to realize this vision.

This bill provides key assistance to southern Nevada by enabling the city of Henderson to move forward with an important economic development project. This is a simple, but important effort that this body can choose to further strengthen our Nation’s economy. I look forward working with the Energy Committee and the Senate to pass this legislation.

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

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

S. 1056

Be it enacted by the Senate and House of Represent- atives of the United States of America in Cong- ress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Southern Nevada Limited Transition Area Act.”

SEC. 2. DEFINITIONS.

In this Act:

(1) CITY.—The term “City” means the City of Henderson, Nevada.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
S. 1057
A bill to amend the Indian Health Care Improvement Act to revise and extend the Act; to the Committee on Indian Affairs.

Mr. Mccain. Mr. President, today I am pleased to introduce the Indian Health Care Improvement Act Amendments of 2005 to revise and extend the Act.

Six years ago a steering committee of Tribal leaders, with extensive consultation by the Indian Health Service, developed a broad consensus in Indian country about what needs to be done to improve and update health services for Indian people. In the 108th Congress significant progress was made in drafting a bill that was acceptable to all parties but still did not pass the full Senate. In the legislation introduced today, I have tried to address concerns raised last year, but understand that there may still be some differences. I look forward to continuing discussions on these differences, but am introducing this legislation to get the process moving because we want to get this legislation enacted.

Over the years, Indian health care delivery has greatly expanded and tribes are taking over more health care services on the local level. Nearly 30 years ago, Congress enacted the Indian Health Care Improvement Act to meet the fundamental trust obligation of the United States to ensure that comprehensive health care would be provided to American Indians and Alaska Natives. The health status of Indian people remains much worse than that of other Americans.

The Indian Health Care Improvement Act is the statutory framework for the Indian health system and covers just about every aspect of health care. It provides grants and scholarships to recruit Indians into health professions serving native communities and funds for health care infrastructure. It lifted the prohibition against Medicare and Medicaid reimbursement for health services provided by the Indian Health Service or the Indian tribes, and established health services for Indians in urban areas.

Reauthorization of this Act is a high legislative priority. Critical improvements have been provided in this bill, including provisions exploring options for long-term care, governing children and senior issues and the following:

- New sources of funding for recruitment and retention purposes; access to health care, especially for Indian children and low-income Indians; more flexibility in facility construction programs; consolidated behavioral health programs for more comprehensive care; and a Commission to study and recommend the best means of providing Indian health care.

I look forward to working with my colleagues on both sides of the aisle to ensure passage of this important legislation. I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1057
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the "Indian Health Care Improvement Act Amendments of 2005".

SEC. 2. INDIAN HEALTH CARE IMPROVEMENT ACT AMENDED.
(a) IN GENERAL.—The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read as follows:

"Sec. 1. Short Title; Table of Contents.
"(a) SHORT TITLE.—This Act may be cited as the 'Indian Health Care Improvement Act'."

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:
"Sec. 1. Purpose.
"Sec. 2. Health professions recruitment program for Indians.
"Sec. 3. Health professions preparatory scholarship program for Indians.
"Sec. 4. Indian health professions scholarships.
"Sec. 5. American Indians Into Psychology program.
"Sec. 6. Funding for tribes for scholarship programs.
"Sec. 7. Indian Health Service external programs.
"Sec. 8. Continuing education allowances.
"Sec. 9. Community health representative programs.
"Sec. 10. Indian Health Service loan repayment program.
"Sec. 11. Scholarship and Loan Repayment Recovery Fund.
"Sec. 12. Recruitment activities.
"Sec. 13. Indian recruitment and retention program.
"Sec. 15. Quentin N. Burdick American Indians Into Nursing program.
"Sec. 16. Tribal cultural orientation.
"Sec. 17. Inmed program.
"Sec. 18. Health training programs of community colleges.
"Sec. 19. Retention bonus.
"Sec. 20. Nursing residency program.
"Sec. 21. Community health aide program for Alaska.
"Sec. 22. Tribal health program administration.
"Sec. 23. Health professional chronic shortage demonstration programs.
"Sec. 24. National Health Service Corps.
"Sec. 25. Substance abuse counselor educational curricula demonstration programs."
"Sec. 126. Behavioral health training and community education programs.

"Sec. 127. Authorization of appropriations.

"TITLE II—HEALTH SERVICES

"Sec. 201. Indian Health Care Improvement Fund.


"Sec. 203. Health promotion and disease prevention services.

"Sec. 204. Diabetes prevention, treatment, and control.

"Sec. 205. Shared services for long-term care.

"Sec. 206. Health services research.

"Sec. 207. Mammography and other cancer screening programs.

"Sec. 208. Patient travel costs.

"Sec. 209. Epidemiology centers.


"Sec. 211. Indian youth program.

"Sec. 212. Prevention, control, and elimination of communicable and infectious diseases.

"Sec. 213. Authority for provision of other services.

"Sec. 214. Indian women's health care.

"Sec. 215. Environmental and nuclear health hazards.

"Sec. 216. Arizona as a contract health service delivery area.

"Sec. 216A. North Dakota and South Dakota as a contract health service delivery area.

"Sec. 217. California contract health services program.

"Sec. 218. California as a contract health service delivery area.

"Sec. 219. Contract health services for the Trenton service area.

"Sec. 220. Programs operated by Indian tribes and tribal organizations.

"Sec. 221. Licensing.

"Sec. 222. Notification of provision of emergency contract health services.

"Sec. 223. Prompt action on payment of claims.

"Sec. 224. Liability for payment.

"Sec. 225. Authorization of appropriations.

"TITLE III—FACILITIES

"Sec. 301. Construction: construction and renovation of facilities; reports.

"Sec. 302. Sanitation facilities.

"Sec. 303. Preference to Indians and Indian organizations.

"Sec. 304. Expenditure of nonservice funds for renovation.

"Sec. 305. Funding for the construction, expansion, and modernization of small ambulatory care facilities.

"Sec. 306. Indian health care delivery demonstration project.

"Sec. 307. Land transfer.

"Sec. 308. Leases, contracts, and other agreements.

"Sec. 309. Loans, loan guarantees, and loan repayment.

"Sec. 310. Tribal leasing.

"Sec. 311. Indian Health Service/tribal facilities joint venture program.

"Sec. 312. Location of facilities.

"Sec. 313. Maintenance and improvement of health care facilities.

"Sec. 314. Tribal management of Federally owned quarters.

"Sec. 315. Applicability of Buy American Act requirement.

"Sec. 316. Other funding for facilities.

"Sec. 317. Authorization of appropriations.

"TITLE IV—ACCESS TO HEALTH SERVICES

"Sec. 401. Treatment of payments under Social Security Act health care programs.

"Sec. 402. Grants to and contracts with the Service, Indian tribes, Tribal Organizations, and Urban Indian Organizations.

"Sec. 403. Reimbursement from third parties to certain third parties of costs of health services.

"Sec. 404. Crediting of reimbursements.

"Sec. 405. Purchase of liability insurance.


"Sec. 407. Payor of last resort.

"Sec. 408. Nonrecourse in qualification for reimbursement for services.

"Sec. 409. Consultation.

"Sec. 410. State Children's Health Insurance Program (SCHIP).

"Sec. 411. Social Security Act sanctions.

"Sec. 412. Cost sharing.

"Sec. 413. Treatment under Medicaid managed care.

"Sec. 414. Navajo Nation Medicaid Agency programs.

"Sec. 415. Authorization of appropriations.

"TITLE V—HEALTH SERVICES FOR URBAN INDIANS

"Sec. 501. Purpose.

"Sec. 502. Contracts with, and grants to, Urban Indian Organizations.

"Sec. 503. Contracts and grants for the provision of health care and rehabilitation services.

"Sec. 504. Contracts and grants for the determination of unmet health care needs.

"Sec. 505. Evaluations; renewals.

"Sec. 506. Other contract and grant requirements.

"Sec. 507. Reports and records.

"Sec. 508. Limitation on contract authority.

"Sec. 509. Facilities.

"Sec. 510. Office of Urban Indian Health.

"Sec. 511. Grants for alcohol and substance abuse related services.

"Sec. 512. Treatment of certain demonstration projects.

"Sec. 513. Urban NIAAA transferred programs.

"Sec. 514. Consultation with Urban Indian Organizations.

"Sec. 515. Federal Tort Claim Act coverage.

"Sec. 516. Urban Bankruptcy treatment center demonstration.

"Sec. 517. Use of Federal Government facilities and sources of supply.

"Sec. 518. Federal health prevention, treatment, and control.

"Sec. 519. Community health representatives.

"Sec. 520. Regulations.

"Sec. 521. Eligibility for services.


"TITLE VI—ORGANIZATIONAL IMPROVEMENTS

"Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.

"Sec. 602. Automated management information system.

"Sec. 603. Authorization of appropriations.

"TITLE VII—BEHAVIORAL HEALTH PROGRAMS

"Sec. 701. Behavioral health prevention and treatment services.

"Sec. 702. Memorandum of agreement with the Department of the Interior.

"Sec. 703. Comprehensive behavioral health prevention and treatment program.

"Sec. 704. Mental health technician program.

"Sec. 705. Licensing requirement for mental health practitioners.

"Sec. 706. Indian women treatment programs.

"Sec. 707. Indian youth program.

"Sec. 708. Inpatient and community-based mental health facilities design, construction, and staffing.

"Sec. 709. Training and community education.

"Sec. 710. Behavioral health program.

"Sec. 711. Petal alcohol disorder funding.

"Sec. 712. Child sexual abuse and prevention treatment programs.

"Sec. 713. Behavioral health research.

"Sec. 714. Definitions.

"Sec. 715. Authorization of appropriations.

"TITLE VIII—MISCELLANEOUS

"Sec. 801. Reports.

"Sec. 802. Regulations.

"Sec. 803. Plan of implementation.

"Sec. 804. Availability of funds.

"Sec. 805. Limitation on contract authority.

"Sec. 806. Eligibility of California Indians.

"Sec. 807. Health services for ineligible persons.

"Sec. 808. Reallocation of base resources.

"Sec. 809. Results of demonstration projects.

"Sec. 810. Provision of services in Montana.

"Sec. 811. Moratorium.

"Sec. 812. Tribal employment.

"Sec. 813. Severability provisions.

"Sec. 814. Establishment of National Bipartisan Commission on Indian Health Care.

"Sec. 815. Appropriations; availability.

"Sec. 816. Authorization of appropriations.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

"(2) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

"(3) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

"(4) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States.

"SEC. 3. DECLARATION OF NATIONAL INDIAN HEALTH POLICY.

"Congress declares that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians—

"(1) to assure the highest possible health status for Indians and to provide all resources necessary to effect that policy;

"(2) to raise the health status of Indians by the year 2010 to at least the levels set forth in the goals contained within the Healthy People 2010 or successor objectives;

"(3) to the greatest extent possible, to allow Indians to set their own health care priorities and establish goals that reflect their unmet needs;

"(4) to increase the proportion of all dollars spent in the health professions and allied and associated health professions awarded to Indians so that the proportion of Indian health professionals in each Service Area is raised to at least the level of that of the general population;

"(5) to require meaningful consultation with Indian Tribes, Tribal Organizations, Urban Indian Organizations to implement this Act and the national policy of Indian self-determination; and
"(1) the term 'accredited and accessible' means on or near a reservation and accredited by a national or regional organization with accrediting authority.

"(2) The term 'Area Office' means an administrative entity, including a program office, within the Service through which services and funds are provided to the Service Units as defined in a specific geographic area.

"(3) The term 'Assistant Secretary' means the Assistant Secretary of Indian Health.

"(4)(A) The term 'behavioral health' means the blending of substance abuse, alcohol, drugs, inhalants, and tobacco abuse and mental health prevention and treatment, for the purpose of providing comprehensive services.

"(B) The term 'behavioral health' includes the joint development of substance abuse and mental health treatment planning and coordinated case management using a multi-disciplinary approach.

"(5) The term 'Californians' means those Indians who are eligible for health services of the Service pursuant to section 308.

"(6) The term 'community college' means—

"(A) a tribal college or university, or

"(B) a junior or community college.

"(7) The term 'contract health service' means health services provided at the expense of the Service or a Tribal Health Program by public or private medical providers or hospitals, other than the Service Unit or the Tribal Health Program at whose expense the services are provided.

"(8) The term 'Department' means, unless otherwise designated, the Department of Health and Human Services.

"(9) The term 'disease prevention' means the reduction, limitation, and prevention of disease and its complications and reduction in the consequences of disease, including—

"(A) controlling;

"(i) development of diabetes;

"(ii) high blood pressure;

"(iii) infectious agents;

"(iv) injuries;

"(v) mental health and psychological disorders;

"(vi) sexually transmittable diseases; and

"(vii) toxic agents; and

"(B) providing—

"(i) or point of water; and

"(ii) immunizations.

"(10) The term 'health profession' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, podiatry, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, allied health professions, and any other health profession.

"(11) The term 'health promotion' means—

"(A) fostering social, economic, environmental, and personal factors conducive to health and well-being; and raising public awareness about health matters and enabling the people to cope with health problems by increasing their knowledge and providing them with valid information;

"(B) encouraging adequate and appropriate diet, exercise, and sleep;

"(C) promoting education and work in conformity with physical and mental capacity;

"(D) making available suitable housing, safe water, and sanitary facilities;

"(E) improving the physical, economic, cultural, psychological, and social environment;

"(F) promoting adequate opportunity for spiritual, educational, and Traditional Health Care Practices; and

"(G) providing adequate and appropriate programs, including—

"(i) abuse prevention (mental and physical);

"(ii) community health;

"(iii) community safety;

"(iv) consumer health education;

"(v) diet and nutrition;

"(vi) immunization and other prevention of communicable diseases, including HIV/AIDS;

"(vii) environmental health;

"(viii) exercise and physical fitness;

"(ix) avoidance of fetal alcohol disorders;

"(x) first aid and CPR education;

"(xi) human growth and development;

"(xii) injury prevention and personal safety;

"(xiii) behavioral health;

"(xiv) monitoring of disease indicators between health care provider visits, through appropriate means, including Internet-based health care management systems;

"(xv) personal health and wellness practices;

"(xvi) personal capacity building;

"(xvii) prenatal, pregnancy, and infant care;

"(xviii) psychological well-being;

"(xix) reproductive health and family planning;

"(xx) safe and adequate water;

"(xxi) safe housing, relating to elimination, reduction, and prevention of contaminants that create unhealthy housing conditions;

"(xxii) safe work environments;

"(xxiii) substance abuse;

"(xxiv) sanitary facilities;

"(xxv) sudden infant death syndrome prevention;

"(xxvi) tobacco use cessation and reduction;

"(xxvii) violence prevention; and

"(xxviii) each such other activity identified by the Service, a Tribal Health Program, or an Urban Indian Organization, to promote achievement of any of the objectives described in section 306.

"(12) The term 'Indian', unless otherwise designated, means any person who is a member of any such member, or a member of a tribe or is eligible for health services pursuant to section 306, except that, for the purpose of sections 102 and 103, the term also means any individual who—

"(A) is a part of whether the individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1946 and those recognized now or in the future by the States in which they reside; or

"(B) is an Eskimo or Aleut or other Alaska Native;

"(C) is considered by the Secretary of the Interior to be an Indian for any purpose; or

"(D) is determined be an Indian under regulations promulgated by the Secretary.

"(13) The term 'Indian Health Program' means—

"(A) any health program administered directly by the Service;

"(B) any Tribal Health Program; or

"(C) any other health program or activity authorization to which the Secretary provides funding pursuant to section 23 of the Act of April 30, 1968 (25 U.S.C. 379b), commonly known as the "Indian Health Services Act of 1968".

"(14) The term 'Indian Tribe' has the meaning given the term in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(15) The term 'junior or community college' means the meaning given the term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 290g).

"(16) The term 'reservation' means any federally recognized Indian Tribe’s reservation, pueblo, or colony, including former reservations in Oklahoma, Indian allotments, and Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act (25 U.S.C. 1601 et seq.).

"(17) The term 'Secretary', unless otherwise designated, means the Secretary of Health and Human Services.

"(18) The term 'Service' means the Indian Health Service.

"(19) The term 'Service Area' means the geographical area served by each Area Office.

"(20) The term 'Service Unit' means an administrative entity of the Service, or a Tribal Health Program through which services are provided, directly or by contract, to eligible Indians within a defined geographic area.

"(21) The term 'telehealth' has the meaning given the term in section 330K(a) of the Public Health Service Act (42 U.S.C. 254o-16(a).

"(22) The term 'telemedicine' means a telecommunications link to an end user through the use of electronic equipment that electronically links health professionals or patients and health professionals at separate sites in order to exchange health care information in audio, video, graphic, or other format for the purpose of providing improved health care services.

"(23) The term 'Traditional Health Care Practices' means the application by Native healers or practitioners of the Native healing sciences (as opposed or in contradistinction to Western healing sciences) which embody the influences or forces of innate Tribal discovery, history, description, explanation and knowledge of the states of wellness and illness and which call upon these influences or forces, including physical, mental, and spiritual forces in the promotion, restoration, preservation, and maintenance of health, well-being, and life's harmony.

"(24) The term 'tribal college or university' means the meaning given the term in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059b(b)(3).

"(25) The term 'Tribal Health Program' means an Indian Tribe or Tribal Organization that operates any health program, service, function, activity, or facility funded, in whole or in part, by the Service through, or provided for in, a contract or compact with the Service under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(26) The term 'Tribal Organization' has the meaning given the term in section 316 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(27) The term 'Urban Center' means any community which has a sufficient Indian population with unmet health needs to warrant assistance under title V of this Act, as determined by the Secretary.

"(28) The term 'Urban Indian' means any individual who resides in an Urban Center and who meets 1 or more of the following criteria:

"(A) irrespective of whether the individual lives on or near a reservation, the individual is a member of a tribe or is otherwise designated, including former reservation, tribes, bands, or groups recognized by the States in which they reside, or who is a descendant in the first or second degree of any such member.
TITLE I—INDIAN HEALTH, HUMAN RESOURCES, AND DEVELOPMENT

SEC. 101. PURPOSE.

The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and provide adequate human resource development needs in each Service Area by a formula developed in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations.

SEC. 102. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.

(a) In General.—In the Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities, Tribal Health Programs, or Urban Indian Organizations for one or more purposes—

(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

(A) to enroll in courses of study in such health professions; or

(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) or who are undergoing service, and to assure such assistance to such entities in meeting the costs of—

(A) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

(i) to enroll in courses of study in such health professions; or

(ii) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment; or

(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

(3) establishing other programs which the Secretary will enhance and expand to facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1); and

(b) FUNDING.

(1) APPLICATION.—The Secretary shall not make a grant under this section unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe as being pursuant to this Act. The Secretary shall give a preference to applications submitted by Tribal Health Programs or Urban Indian Organizations.

(2) AMOUNT OF FUNDS; PAYMENT.—The amount of a grant under this section shall be determined by the Secretary. Payments pursuant to this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations issued pursuant to this Act or in a written contract not otherwise prohibited by law, funding commitments shall be for 3 years, as provided in regulations issued pursuant to this Act.

SEC. 103. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS.

(a) SCHOLARSHIPS AUTHORIZED.—The Secretary, acting through the Service, shall provide scholarship grants to Indians who—

(1) have successfully completed their high school education or high school equivalency; and

(2) have demonstrated the potential to successfully complete courses of study in the health professions.

(b) PURPOSE.—Scholarships provided pursuant to this section shall be for the following purposes:

(1) Compensatory preprofessional education of any recipient, such scholarship not to exceed the part-time equivalent thereof, as determined by the Secretary pursuant to regulations issued under this Act.

(2) Preparation for education or training of any recipient leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarships may be provided for any intern in medical or dental education for a period of up to 2 years (or the part-time equivalent thereof, as determined by the Secretary pursuant to regulations issued pursuant to this Act) may be provided.

(3) OTHER CONDITIONS.—Scholarships under this section—

(A) may cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient while attending school;

(B) shall not be denied solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution;

(C) shall not be denied solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.

SEC. 104. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.

(a) IN GENERAL.—

(1) AUTHORITY.—The Secretary, acting through the Service, shall make scholarship grants to Indians who are enrolled full or part time in accredited schools pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Services Act (42 U.S.C. 2541), except as provided in subsection (b) of this section.

(2) ALLOCATION BY FORMULA.—Except as provided in paragraph (3), the funding authorized by this section shall be allocated by the Secretary in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations. Such formula shall consider the human resource development needs in each Service Area.

(b) FUNDING.

(1) APPLICATION.—The Secretary shall not make a grant under this section unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe as being pursuant to this Act. The Secretary shall give a preference to applications submitted by Tribal Health Programs or Urban Indian Organizations.

(2) AMOUNT OF FUNDS; PAYMENT.—The amount of a grant under this section shall be determined by the Secretary. Payments pursuant to this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations issued pursuant to this Act or in a written contract not otherwise prohibited by law, funding commitments shall be for 3 years, as provided in regulations issued pursuant to this Act.

(3) ENDS OF FUNDING.—The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

(c) PART-TIME STUDENTS.—In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

(1) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Area Office; and

(2) the period of obligated service described in subsection (b)(1) shall be equal to the greater of—

(A) the part-time equivalent of 1 year for each year for which the individual was provided a scholarship (as determined by the Area Office); or

(B) 2 years; and

(3) the amount of the monthly stipend specified in section 338A(d)(1)(B) of the Public Health Services Act (42 U.S.C. 2541) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

(d) BREACH OF CONTRACT.—

(1) SPECIFIED BREACHES.—An individual shall be liable to the United States for the breach of any obligation under this Act, which has been breached by the individual, or on behalf of the individual, under a contract entered into with the Secretary.
under this section on or after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 if that individual—

(1) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under the direction of the Secretary);

(2) voluntarily terminates the training in such educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

(3) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract.

SEC. 106. FUNDING FOR TRIBES FOR SCHOLARSHIP PROGRAMS.

(a) In general.—

(1) GRANTS AUTHORIZED.—The Secretary, acting through the Service, shall make grants to Tribal Health Programs for the purpose of providing academic scholarships for the purpose of developing and maintaining Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. These programs shall be located at various locations throughout the country to maximize their availability to Indians, and such programs shall be established in different locations from time to time.

(b) QUINTIN N. BURDICK PROGRAM.—The Secretary shall provide a grant authorized under subsection (a) to develop and maintain a program at the University of North Dakota School of Medicine and Health Sciences that provides scholarships to Indian students enrolled in the Quentin N. Burdick American Indians Into Psychology Program. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 117(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115(e), and existing university research and communications networks.

(c) REGULATIONS.—The Secretary shall issue regulations in accordance with this Act.

SEC. 107. COVERAGE OF STUDY.—A Tribal Health Program shall provide scholarships under this section only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions contemplated by this Act.

(c) CONTRACT.—In providing scholarships under subsection (b), the Secretary and the Tribal Health Program shall enter into a written contract with each recipient of such scholarship. Such contract shall—

(1) obligate such recipient to provide service in an Indian Health Program or Urban Indian Organization, in the same Service Area where the Tribal Health Program providing the scholarship is located, for—

(A) a number of years for which the scholarship is provided (or the part-time equivalent thereof); or

(B) a period of time equal to the period of time the Secretary, or for a period of 2 years, whichever period is greater; or

(2) specify that the scholarship shall be—

(A) only be expended for—

(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), with such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled, and not to exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause; and

(B) not exceed 5 percent of the amounts available for such scholarship, approved pursuant to subsection (a)(1) provided to the Tribal Health Program; and

(3) in the private practice of psychology on or before the graduation date; or

(4) in training to maintain an acceptable level of academic standing in the educational institution.

(d) CONTRACT.—In providing scholarships under this section, the Secretary shall include in such contract such representations and agreements as the Secretary deems necessary to protect the interests of the United States.

(e) REPRESENTATIONS AND AGREEMENTS.—In providing scholarships under this section, the Secretary shall require the recipient to—

(1) agree to provide an amount determined in accordance with the requirements of this section.

(f) REGULATIONS.—The Secretary shall—

(1) in general—

(A) publish regulations to implement this section.

(B) coordinate with the Indian Health Service and the Service, as the case may be, and the Department of Education.

(C) be responsible for establishing an advisory board comprised of representatives from the tribes and communities that will be served by the program;

(D) provide such grants to one or more eligible entities that may include an Indian Health Service program that provides educational assistance to Indians;

(E) require that the Secretary provide such grants to such awarding entity or entities, which may be an Indian Health Service program.

(g) FUNDING.—The Secretary shall provide such grants in an amount determined in accordance with this Act.

(h) IN GENERAL.—The Secretary shall provide grants to one or more eligible entities that may include an Indian Health Service program that provides educational assistance to Indians.
“(D) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, or any service obligation arising under such contract.

“(2) Other breaches.—If for any reason not specified in paragraph (1), an individual breaches the Service by failing to either begin such individual’s service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 338B in the manner provided for in such subsection.

“(3) Cancellation upon death of recipient.—Upon the death of an individual who receives a Scholarship Health Program or an Urban Indian Organization during any nonacademic period of the year. Any such employment or by a Tribal Health Program or an Urban Indian Organization during any nonacademic period of the year. Any such employment or by a Tribal Health Program or an Urban Indian Organization to participate in the Loan Repayment Program on a health profession; or

“(B) have—

“(i) a degree in a health profession; and

“(ii) a license to practice a health profession;

“(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

“(B) meet the professional standards for public service employment in the Service, or be employed in an Indian Health Program or Urban Indian Organization without a service obligation; and

“(C) submit to the Secretary an application for a contract described in subsection (e).

“(c) Application.—

“(1) Information to be included with forms.—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (i) in the case of the individual’s breach of contract. The Secretary shall provide such information in accordance with the advantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Service in an individual to make a decision on an informal basis.

“(2) Clear language.—The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

“(3) Timely availability of forms.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

“(4) Priorities.—

“(A) list.—Consistent with subsection (k), the Secretary shall—

“(i) identify the positions in each Indian Health Program or Urban Indian Organization for which there is a need or a vacancy; and

“(ii) rank those positions in order of priority.
“(2) APPROVALS.—Notwithstanding the priority determined under paragraph (1), the Secretary, in determining which applications made by individual Indians; and

“(B) determinations on all applications submitted by individual Indians as required under subparagraph (A), give priority to

“(i) individuals recruited through the efforts of an Indian Health Program or Urban Indian Organization; and

“(ii) with individuals based on the priority rankings under paragraph (1).

“(e) RECIPIENT CONTRACTS.—

“(1) CONTRACT REQUIRED.—An individual becoming obligated under the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in paragraph (2).

“(2) CONTENTS OF CONTRACT.—The written contract referred to in this section between the Secretary and an individual shall contain—

“(A) an agreement under which—

“(i) subject to subparagraph (C), the Secretary agrees—

“(I) to accept loan payments on behalf of the individual;

“(II) in the case of an individual who has entered into a written contract with the Secretary for the making of loan repayments in accordance with this subsection—

“(a) to maintain enrollment in a course of study or training, and

“(b) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (determined under regulations of the Secretary by the educational institution offering such course of study or training); and

“(c) to subject to subparagraph (C), the individual agrees—

“(1) to accept loan payments on behalf of the individual;

“(2) in the case of an individual described in subsection (b)(1)—

“(aa) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training; and

“(bb) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (determined under regulations of the Secretary by the educational institution offering such course of study or training); and

“(III) to serve for a time period (hereinafter in this section referred to as the ‘period of obligated service’) equal to 2 years or such longer period as the Secretary determines to be appropriate in the full-time clinical practice of such individual’s profession, in an Indian Health Program or Urban Indian Organization, to which the individual may be assigned by the Secretary.

“(B) a provision permitting the Secretary to extend for such longer additional periods, as the Secretary determines to be appropriate, the period of obligated service agreed to by the individual under subparagraph (A)(ii)(III); and

“(C) a provision that any financial obligations of the Secretary arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon being paid in full before the start of the period of obligated service under this section;

“(D) a statement of the damages to which the United States is entitled under subsection (b)(1) in the individual’s breach of this contract; and

“(E) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section,

“(f) DEADLINE FOR DECISION ON APPLICATION.—The Secretary shall provide written notice to an individual within 21 days on—

“(1) the Secretary’s approving, under subsection (e)(1), of the individual’s participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

“(2) the Secretary’s disapproving an individual’s participation in such Program.

“(g) PAYMENTS.—

“(1) In general.—A loan repayment provided for an individual under a written contract entered into under the Loan Repayment Program shall consist of payment, in accordance with the provisions of this subsection, of the principal, and interest, and related expenses on government and commercial loans received by the individual regarding the underwriting or provision of the individual’s services (or both), which loans were made for—

“(A) tuition expenses;

“(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

“(C) reasonable living expenses as determined by the Secretary.

“(2) AMOUNT.—For each year of obligated service that an individual contracts to serve under subsection (e), the Secretary may pay up to $35,000 or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act, whichever is more, on behalf of the individual for loans described in paragraph (1). In making a determination of payment for a year of service by an individual, the Secretary shall consider the extent to which such individual’s academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary) is

“(1) the Secretary’s approving, under subsection (e), of the individual’s participation in such Program.

“(2) the Secretary’s disapproving an individual’s participation in such Program.

“(3) the period of obligated service; and

“(4) the time period for repayment.

“(j) EMPLOYMENT CEILING.—Notwithstanding any other provision of law, individuals who have entered into written contracts under this section shall not be counted against any employment ceiling affecting the Department while those in-service health professionals are administered directly by the Secretary.

“(k) ASSIGNMENT OF INDIVIDUALS.—The Secretary, in assigning individuals to serve in Indian Health Programs and Urban Indian Organizations pursuant to contracts entered into under this section (or by the Secretary), shall—

“(1) ensure that the staffing needs of Tribal Health Programs and Urban Indian Organizations receive consideration on an equal basis with other programs that are administered directly by the Secretary; and

“(2) give priority to assigning individuals to Indian Health Programs and Urban Indian Organizations that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

“(l) BREACH OF CONTRACT.—

“(1) SPECIFIC BREACHES.—An individual who has entered into a written contract with the Secretary under this section and has not received a waiver under subsection (n) shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount, which has been paid on such individual’s behalf under the contract if that individual—

“(A) is enrolled in the final year of a course of study and

“(i) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary); or

“(ii) voluntarily terminates such enrollment;

“(B) is dismissed from such educational institution before completion of such course of study; or

“(C) is enrolled in a graduate training program and fails to complete such training program.

“(2) OTHER BREACHES; FORMULA FOR AMOUNT OWED.—If, for any reason not specified in paragraph (1), an individual breaches his or her written contract under this section by failing either to begin, or complete, such individual’s period of obligated service in accordance with subsection (i), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula: A x (B - C) in which—

“(A) A is the amount the United States is entitled to recover;

“(B) Z is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury;

“(C) t is the total number of months in the individual’s period of obligated service in accordance with subsection (i); and

“(D) s is the number of months of such period served by such individual in accordance with this section.

“(3) DEDUCTIONS IN MEDICARE PAYMENTS.—Amounts not paid within such period shall be subject to collection through deductions from Medicare payments to amount pursuant to section 1892 of the Social Security Act.

“(4) TIME PERIOD FOR REPAYMENT.—Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the
breach or such longer period beginning on such date as shall be specified by the Secretary.

5. Recovery of Delinquency

(a) In General.—If damages described in paragraph (4) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

(i) enter into contracts with collection agencies contracted with by the Administrator of General Services; or

(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

(b) Report.—Each contract for recovering such damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

6. Waiver or Suspension of Obligation

(a) In General.—The Secretary shall by regulation provide for the partial or total waiver of any obligation of service or payment by an individual under the Loan Repayment Program whenever compelling reasons exist, including the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

(b) Canceled upon Death.—Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

(c) Hardship Waiver.—The Secretary may waive, in whole or in part, the right of the United States to recover amounts provided in this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

(d) Bankruptcy.—Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

(e) Reimbursement for Travel.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to Congress under section 101, a report concerning the previous fiscal year with respect to each type of health profession.

(f) Number of Contracts.—The number of contracts described in subsection (e) that are delinquent for 3 months, or entered into contracts for the recovery of such damages with collection agencies selected by the Secretary.

(g) Eligible Entities.—Application.—Any Tribal Health Program or Urban Indian Organization may submit an application for funding of a project pursuant to this section.

3. Advanced Training and Research

(a) Demonstration Program.—The Secretary, acting through the Service, shall establish a demonstration program to enable health professionals who have worked in an Indian Health Program or Urban Indian Organization for a substantial period of time to pursue advanced training in health professions in areas of study for which the Secretary determines a need exists.

(b) Service Obligation.—An individual who participates in a program under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian Health Program or Urban Indian Organization in return for the waiver or suspension of any obligation of service or payment to the United States to recover amounts under this section.

(c) Equal Opportunity for Participation.—Health professionals from Tribal Health Programs and Urban Indian Organizations shall be given an equal opportunity to participate in the program under subsection (a).

4. Quentin N. Burdick American Indian and Alaska Native Health Care Workforce Demonstration Program

(a) Grants Authorized.—For the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians, the Secretary, acting through the Service, shall provide grants to the following:

(1) Public or private schools of nursing.

(2) Tribal colleges or universities.

(3) Nurse midwife programs and advanced practice nurse programs that are provided by any tribal college or university accredited by the appropriate regional agency.

(b) Use of Grants.—Grants provided under subsection (a) may be used for one or more of the following:

(1) To recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses.

(2) To provide scholarships to individuals to pursue advanced training or research areas to enable health professionals to provide health care services to Indians.

(3) To provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses.

(4) To provide a program that is designed to achieve the purpose described in subsection (a).

(c) Application.—Each application for funding under subsection (a) shall include such information as the Secretary shall require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

(d) Preferences for Grant Recipients.—In making grants under this section (a), the Secretary shall extend a preference to the following:

(1) Individuals who are enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses.

(2) To provide a program that encourages nurses, nurse midwives, and advanced practice nurses.

(3) To provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses.

(4) To provide a program that is designed to achieve the purpose described in subsection (a).
The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded by a grant provided under subsection (a). Such obligation shall be met by service—

(1) in the Service;

(2) in a program of an Indian Tribe or Tribal Organization conducted under the Indian Self-Determination and Education Assistance Act (including programs under agreements with the Bureau of Indian Affairs);

(3) in a program assisted under title V of the Public Health Service Act; or

(4) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician shortage area and addresses the health care needs of a substantial number of Indians.

SEC. 118. HEALTH TRAINING PROGRAMS OF COLLEGES AND UNIVERSEITIES.—

(a) Grants To Establish Programs.—

(1) In general.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such community colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession, or enable individuals to fulfill the eligibility requirements for the entrance or advancement into a health profession. Such programs shall include interdisciplinary programs which will be served by the program.

(2) Requirements.—Grants may only be made under this section to a community college which—

(A) completed 3 years of employment in an Indian Health Program or Urban Indian Organization; or

(B) completed any service obligations incurred as a requirement of—

(i) any federal scholarship program; or

(ii) any federal education loan repayment program; and

(3) includes instruction in American Indian studies; and

(b) Grants for Maintenance and Recruiting.—

(1) In general.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of maintaining the program and recruiting students for the program.

(2) Requirements.—Grants may only be made under this section to a community college which—

(A) is accredited; and

(B) has a relationship with a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals;

(C) has entered into an agreement with an accredited college that provides educational support to such colleges.

(d) Technical Assistance.—The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs; and

(2) providing technical assistance and support to such colleges.

(d) Advanced Training.—

(1) Required.—Any program providing assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who completes the requirements described in subsection (a)(1).

(2) May be offered at alternate site.—Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

SEC. 119. RETENTION BONUS. —

(a) Bonus Authorized.—The Secretary may pay a retention bonus to any health professional employed as assigned to, and serving in, an Indian Health Program or Urban Indian Organization either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

(1) is assigned to, and serving in, a position for which recruitment or retention of personnel is difficult; and

(2) is necessary for providing health care services for the purpose of maintaining and expanding the Indian health careers recruitment program.

(b) Rates.—The Secretary may establish rates for the retention bonuses which shall be determined under this section.

(c) Default of Retention Agreement.—

(1) Agreement.—Any health professional failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110(b)(2)(B).

(d) Other Retention Bonus.—The Secretary may pay a retention bonus to any health professional employed by a Tribal Health Program if such health professional is serving in a position which the Secretary determines is necessary for the position for which recruitment or retention is difficult; and

(2) necessary for providing health care services to Indians.

SEC. 116. INMED PROGRAM. —

(a) Establishment of Program.—The Secretary, acting through the Service, shall
establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian Health Program or Urban Indian Organization, and have done so for a period of not less than 1 year, to pursue advanced training. Such program shall include a combination of education and work study under the auspices of the National Health Service Corps or Urban Indian Organization leading to an associate or bachelor’s degree (in the case of a licensed practical nurse or licensed vocational nurse), a bachelor’s degree (in the case of a registered nurse), or advanced degrees or certifications in nursing and public health.

(b) SPECIFIC PROGRAM REQUIREMENTS.—

(1) for the training of Alaska Natives as health aides or community health practitioners;

(2) for such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in rural Alaska; and

(3) for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

(b) SPECIFIC PROGRAM REQUIREMENTS.—

The Secretary, acting through the Service, shall develop and operate a Community Health Aide Program in Alaska under which the Service shall—

(1) provide for the training of Alaska Natives as health aides or community health practitioners;

(2) use such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in rural Alaska; and

(3) provide for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

(c) NATIONAL COMMUNITY HEALTH AIDE PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Service, is authorized to establish a national Community Health Aide Program in accordance with section (a), except as provided in paragraphs (2) and (3), without reducing funds for the Community Health Aide Program for Alaska.

(2) LIMITED CERTIFICATION.—Except for any dental health aide in the State of Alaska, the Secretary, acting through the Community Health Aide Program of the Service, shall ensure that, for a period of 4 years, dental health aides are certified only to provide services relating to—

(A) early childhood dental prevention and reversible dental procedures; and

(B) the development of local capacity to provide those dental services.

(3) REVIEW.—

(A) IN GENERAL.—During the 4-year period described in paragraph (2), the Secretary, acting through the Community Health Aide Program of the Service, shall conduct a review of the dental health aide program in the State of Alaska to determine the ability of the program to address the dental care needs of Native Alaskans.

(B) USE OF FUNDS.—Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

(4) TIME PERIOD OF ASSISTANCE: RENEWAL.—A contract entered into or a grant provided under this section shall be for a period of 1 year. Such a contract or grant may be renewed for an additional 1-year period upon approval of the Secretary.

(5) CRITERIA FOR REVIEW AND APPROVAL OF DEMONSTRATION PROGRAMS.—The Secretary shall develop and issue criteria for the review and approval of demonstration programs established pursuant to subsection (a) which criteria may be necessary to enable grant recipients to comply with the provisions of this section.

(6) ASSISTANCE.—The Secretary shall provide such technical assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

(7) REPORT.—Each fiscal year, the Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for that fiscal year, a report on the conclusions derived from the demonstration programs conducted under this section during that fiscal year.

(c) DEFINITION.—For the purposes of this section, the term ‘educational curriculum’ means 1 or more of the following:
"(1) Classroom education.

"(2) Clinical work experience.

"(3) Continuing education workshops.

"SEC. 126. BEHAVIORAL HEALTH TRAINING AND COMMUNITY EDUCATION PROGRAMS.

(a) STUDY—List.—The Secretary, acting through the Assistant Secretary for Indian Affairs and the Secretary of the Interior, in consultation with Indian Tribes and Tribal Organizations, shall conduct a study and compile a list of the types of training identified in subsection (b) whose qualifications include, or should include, training in the identification, prevention, education, referral, or treatment of mental illness, drug abuse, or other self-destructive behavior.

(b) Positions.—The positions referred to in subsection (a) are—

"(1) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

"(A) elementary and secondary education;

"(B) social services and family and child welfare;

"(C) law enforcement and judicial services; and

"(D) alcohol and substance abuse;

"(2) staff positions within the Service; and

"(3) staff positions similar to those identified in paragraph (a) established, maintained by Indian Tribes, Tribal Organizations (without regard to the funding source), and Urban Indian Organizations.

"(c) FUTURE TRAINING PROGRAMS.—

(1) IN GENERAL.—The appropriate Secretary shall provide training criteria appropriate to each type of position identified in subsection (b)(1) and (b)(2) and ensure that appropriate training has been, or shall be provided to any individual in any such position. With respect to any such individual in a position identified in paragraph (b)(1) the Secretary shall, vijon (b)(3), the respective Secretaries shall provide appropriate training to, or provide funds to, an Indian Tribe, Tribal Organization, or Urban Indian Organization for training of appropriate individuals. In the case of positions funded under a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the appropriate Secretary shall ensure that such training costs are included in the contract or compact, as the Secretary determines necessary.

(2) POSITION SPECIFIC TRAINING CRITERIA.—Position specific training criteria shall be culturally relevant to Indians and Indian Tribes, and shall ensure that appropriate information regarding Traditional Health Care Practices is provided.

(3) COMMUNITY EDUCATION ON MENTAL ILLNESS.—The Service shall develop and implement, on request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, or assist the Indian Tribe, Tribal Organization, or Urban Indian Organization to develop and implement, a program of community education on mental illness. In carrying out the program, the Service shall, upon request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, provide technical assistance to the Indian Tribe, Tribal Organization, or Urban Indian Organization to obtain and develop community educational materials on the identification, prevention, referral, and treatment of mental illness and dysfunctional and self-destructive behavior.

(e) PLAN.—Not later than 90 days after the date of enactment of the Indian Health Care Improvement Act of 1990, and such Amendments of 1994, the Secretary shall develop a plan under which the Service will increase the health care staff providing behavioral health services by at least 500 positions within 5 years after the date of enactment of this section, with at least 200 of such positions devoted to child, adolescent, and family services. The plan developed under this subsection shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act').

"SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE II—HEALTH SERVICES

"SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

(a) USE OF FUNDS.—The Secretary, acting through the Service, is authorized to expend funds, directly or under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), which are appropriated under the authority of this section, for the purposes of—

"(1) eliminating the deficiencies in health status and health resources of all Indian Tribes;

"(2) eliminating backlogs in the provision of health care services to Indians;

"(3) meeting the health needs of Indians in an efficient and equitable manner, including the use of telehealth and telemedicine when appropriate;

"(4) eliminating inequities in funding for both direct care and contract health service programs; and

"(5) augmenting the ability of the Service to maintain the health care system necessary to the health care needs of Indians.

(b) POSITIONS.—The positions referred to in this subsection, the Service shall, upon request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, including services and financial systems provided by any Federal programs, private insurances, and programs of State or local governments.

(c) PROCESSES FOR REVIEW OF DETERMINATION.—The Secretary shall develop procedures which allow any Indian Tribe or Tribal Organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency report of the Service for each Service Unit, including newly recognized or acknowledged Indian Tribes. Such report shall set out—

"(1) the methodology then in use by the Service for determining Tribal health status and resource deficiencies, as well as the most recent application of that methodology;

"(2) the extent of the health status and resource deficiency of each Indian Tribe served by the Service or a Tribal Organization;

"(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian Tribes served by the Service or a Tribal Health Program; and

"(4) an estimate of—

"(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service for the preceding fiscal year which is allocated to each Service Unit, Indian Tribe, or Tribal Organization;

"(B) the number of Indians eligible for health services in each Service Unit or Indian Tribe or Tribal Organization; and

"(C) the number of Indians using the Service resources made available to each Service Unit, Indian Tribe, Tribal Organization, and the extent to which the number on the waiting list is the number of Indians served.

(d) APPORTIONMENT OF ALLOCATED FUNDS.—Funds authorized under this subsection shall be apportioned to Service Units, Indian Tribes, or Tribal Organizations. The funds allocated to each Indian Tribe, Tribal Organization, or Service Unit under this paragraph shall be used by each such Tribal Organization, or Service Unit under this paragraph to improve the health status and reduce the resource deficiency of each Indian Tribe served by such Service Unit, Indian Tribe, or Tribal Organization.

"SEC. 202. PROVISIONS RELATING TO HEALTH STATUS AND RESOURCE DEFICIENCIES.—The provisions relating to health status and resource deficiencies shall not be used to offset or limit any appropriations under the authority of this section, for the purposes of—

"(1) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service for the preceding fiscal year which is allocated to each Service Unit, Indian Tribe, or Tribal Organization;

"(2) the number of Indians eligible for health services in each Service Unit or Indian Tribe or Tribal Organization; and

"(3) the number of Indians using the Service resources made available to each Service Unit, Indian Tribe, Tribal Organization, and the extent to which the number on the waiting list is the number of Indians served.

"SEC. 203. INCLUSION IN BASE BUDGET.—Funds appropriated under this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under subsections (a) and (b) of section 1601 for the subsequent fiscal years.

"SEC. 204. CLARIFICATION.—Nothing in this section shall be construed to divest the Secretary of any present or future responsibility of the Service to eliminate existing backlogs in unmet health care needs,
nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve equity among Indian Tribes and Tribal Organizations.

SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

(a) Establishment.—There is established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the ‘CHEF’) consisting of—

(1) the amounts deposited under subsection (f); and

(2) the amounts appropriated to CHEF under this section.

(b) Administration.—CHEF shall be administered by the Secretary, acting through the central office of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

c) CONDITIONS ON USE OF FUND.—No part of CHEF or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), nor shall CHEF funds be allocated, apportioned, or delegated on an Area Office, Service Unit basis.

d) REGULATIONS.—The Secretary shall, through the negotiated rulemaking process under title VIII, promulgate regulations consistent with the provisions of this section to—

(1) establish a definition of disasters and catastrophic illnesses for which the cost of the treatment rendered would qualify for payment from CHEF;

(2) provide that a Service Unit shall not be eligible for reimbursement for the cost of treatment from CHEF until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish as—

(A) the 2000 level of $19,000; and

(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care component of the Consumer Price Index (all urban average) for the 12-month period ending with December of the previous year;

(3) establish a procedure for the reimbursement of the portion of the costs that exceeds such threshold cost incurred by—

(A) Service Units; or

(B) whenever otherwise authorized by the Service, non-Service facilities or providers;

(4) establish a procedure for payment from CHEF in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

(5) ensure that will ensure that no payment shall be made from CHEF to any provider of treatment to the extent that such provider is eligible to receive payment for services rendered from any other Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from CHEF.

SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.

(a) Findings.—Congress finds that health promotion and disease prevention activities—

(1) improve the health and well-being of Indians; and

(2) reduce the expenses for health care of Indians.

(b) PROVISION OF SERVICES.—The Secretary, acting through the Service and Tribal Health Programs, shall provide health promotion and disease prevention services to Indians to achieve the health status objectives set forth in section 32.

c) EVALUATION.—The Secretary, after obtaining input from the affected Tribal Health Programs, shall submit to the President for inclusion in each report which is required to be submitted to Congress under section 801 an evaluation of—

(1) the health promotion and disease prevention needs of Indians;

(2) the health promotion and disease prevention activities which would best meet such needs;

(3) the internal capacity of the Service and Tribal Health Programs to meet such needs; and

(4) the resources which would be required to enable the Service and Tribal Health Programs to undertake the health promotion and disease prevention activities necessary to meet such needs.

SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

(a) Designations Regarding Diabetes.—The Secretary, acting through the Service, in consultation with Indian Tribes and Tribal Organizations, shall designate—

(1) by Indian Tribe and Service Unit, the incidence of, and the types of complications resulting from, diabetes among Indians; and

(2) based on the determinations made pursuant to paragraph (1), the measures (including patient education and effective ongoing monitoring of diabetes) to which Service Units should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among Indians.

(b) DIABETES SCREENING.—To the extent medically indicated and with informed consent, the Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic and, in consultation with Indian Urban Indian Organizations, and appropriate health care providers, establish a cost-effective approach to ensure ongoing monitoring of disease indicators. Such screening shall be conducted by a Tribal Health Program and may be conducted through appropriate Internet-based health care management programs.

(c) FUNDING FOR DIABETES.—The Secretary shall continue to maintain each model diabetes project in existence on the date of enactment of the Indian Health Care Improvement Act of 2005, any such other diabetes programs operated by the Service or Tribal Health Programs, and any additional diabetes projects, such as those provided for in title IV of Public Law 108-87, as implemented to serve Indian Tribes. Tribal Health Programs shall receive recurring funding for the health services that they operate pursuant to this section, both at the date of enactment of the Indian Health Care Improve-
activities to address relevant Indian Health Program research needs. Tribal Health Programs shall be given an equal opportunity to compete for, and receive, research funds under this section. Funds made available under this section may be used for both clinical and nonclinical research.

SEC. 207. MAMMOGRAPHY AND OTHER CANCER SCREENING.

The Secretary, acting through the Service or Tribal Health Programs, shall provide for screening as follows:

(1) Screening mammography (as defined in section 1862(b)(4) of the Social Security Act) for Indian women at a frequency appropriate to such women under accepted and appropriate national standards, and under such terms and conditions as are consistent with standards established by the Secretary to ensure the safety and accuracy of screening mammography under part B of title XVIII of such Act.

(2) Other cancer screening meeting accepted and appropriate national standards.

SEC. 208. PATIENT TRAVEL COSTS.

The Secretary, acting through the Service and Tribal Health Programs, is authorized to provide funds for the following patient travel costs, including appropriate and necessary qualified escorts, associated with receiving health care services provided (either through direct or contract care or through a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) under this Act—

(1) emergency air transportation and non-emergency air transportation where ground transportation is infeasible;

(2) transportation by private vehicle (where no other means of transportation is available) in a specially equipped vehicle, and ambulance; and

(3) transportation by such other means as may be available and required when air or motor vehicle transportation is not available.

SEC. 209. EPIDEMIOLOGY CENTERS.

(a) ADDITIONAL CENTERS.—In addition to those epidemiology centers already established as of the date of enactment of this Act, and without reducing the funding levels for such centers, not later than 180 days after the date of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, shall establish and fund an epidemiology center in an Area—

(A) where the Area has not yet have one to carry out the functions described in subsection (b); and

(b) FUNCTIONS OF CENTERS.—In consultation with and upon the request of Indian Tribes, Tribal Organizations, and Urban Indian Organizations, each Service Area epidemiology center established under this subsection shall, with respect to such Service Area—

(1) collect data relating to, and monitor progress made toward meeting, each of the health status objectives of the Service, the Indian Tribes, Tribal Organizations, and Urban Indian Organizations in the Service Area;

(2) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

(3) assist Indian Tribes, Tribal Organizations, and Urban Indian Organizations in identifying their first priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

(4) make recommendations for the targeting of services needed by the populations served;

(5) make recommendations to improve health care delivery systems for Indians and Urban Indians;

(6) provide requested technical assistance to Indian Tribes, Tribal Organizations, and Urban Indian Organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community; and

(7) provide disease surveillance and assist Indian Tribes, Tribal Organizations, and Urban Indian Organizations to promote public health.

(c) TECHNICAL ASSISTANCE.—The Director of the Centers for Disease Control and Prevention shall consult with the centers in carrying out the requirements of this subsection.

(d) FUNDING FOR STUDIES.—The Secretary may make funding available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to conduct epidemiological studies.

SEC. 210. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

(a) FUNDING FOR DEVELOPMENT OF PROGRAMS.—In addition to carrying out any other program for health promotion or disease prevention, the Secretary, acting through the Service, is authorized to award grants to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to develop comprehensive school health education programs for preschool through grade 12 in schools for the benefit of Indian and Urban Indian children.

(b) USE OF FUNDS.—Funding provided under this section may be used for purposes which may include, but are not limited to, the following:

(1) Developing and implementing health education curricula both for regular school programs and afterschool programs.

(2) Training teachers in comprehensive school health education.

(3) Integrating school-based, community-based, and other public and private health promotion efforts.

(4) Encouraging communities, and Urban Indian preadolescent and adolescent youths.

(5) Use of Funds.—Funds made available under this section may be used for purposes which may include, but are not limited to, the following:

(a) ALLOWABLE USES.—Funds made available under this section may be used for purposes which may include, but are not limited to, the following:

(A) developing and implementing health education curricula both for regular school programs and afterschool programs;

(B) training teachers in comprehensive school health education;

(C) integrating school-based, community-based, and other public and private health promotion efforts.

(b) PROHIBITED USE.—Funds made available under this section may not be used to provide services described in section 707(c).

(c) USES OF FUNDS.—Funds made available under this section may be used for purposes which may include, but are not limited to, the following:

(1) development and implementation of comprehensive school health education programs including but not limited to, the following:

(A) developing and implementing health education curricula both for regular school programs and afterschool programs;

(B) training teachers in comprehensive school health education;

(C) integrating school-based, community-based, and other public and private health promotion efforts.

(2) PROHIBITED USE.—Funds made available under this section may not be used for purposes which may include, but are not limited to, the following:

(D) the provision of medical care or any other health care services provided to Indian and Urban Indian preadolescent and adolescent youths.

(3) DUTIES OF THE SECRETARY.—The Secretary, acting through the Service, shall—

(A) disseminate to Indian Tribes, Tribal Organizations, and Urban Indian Organizations, information regarding models for the delivery of comprehensive health care services to Indian and Urban Indian adolescents; and

(B) encourage the implementation of such models.

(4) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—The Secretary, in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall establish criteria for the review and approval of applications for funding provided pursuant to this section.

SEC. 211. INDIAN YOUTH PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary, acting through the Service, is authorized to establish and administer a program to provide funding to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian and Urban Indian preadolescent and adolescent youths.

(b) USE OF FUNDS.—Funds made available under this section may be used for purposes which may include, but are not limited to, the following:

(1) development and implementation of comprehensive school health education programs;

(2) training teachers in comprehensive school health education;

(3) integrating school-based, community-based, and other public and private health promotion efforts.

(c) USES OF FUNDS.—Funds made available under this section may be used for purposes which may include, but are not limited to, the following:

(1) development and implementation of comprehensive school health education programs;

(2) training teachers in comprehensive school health education;

(3) integrating school-based, community-based, and other public and private health promotion efforts.

(4) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—The Secretary, in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall establish criteria for the review and approval of applications or proposals under this section.

SEC. 212. PREVENTION, CONTROL, AND ELIMINATION OF COMMUNICABLE AND INFECTIOUS DISEASES.

(a) FUNDING AUTHORIZED.—The Secretary, acting through the Service, is authorized to provide funds in cooperation with the Secretary, acting through the Service, and affected Indian Tribes and Tribal Organizations, to develop a comprehensive school health education programs for children from preschool through grade 12 in schools for which support is provided by the Bureau of Indian Affairs.

(b) REQUIREMENTS FOR PROGRAMS.—Such programs shall include—

(1) school programs on nutrition education, personal health, oral health, and fitness;

(2) behavioral health wellness programs;

(3) chronic disease prevention programs;

(4) substance abuse prevention programs;

(5) injury prevention and safety education programs; and

(6) activities for the prevention and control of communicable diseases.

(3) DUTIES OF THE SECRETARY.—The Secretary, acting through the Service, shall—

(A) provide training to teachers in comprehensive school health education curriculum;

(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

(C) encourage healthy, tobacco-free school environments.

SEC. 213. II-1. SELF-DETERMINATION AND EDUCATION AUTHORITY.

(a) PROGRAM AUTHORIZED.—The Secretary, acting through the Service, is authorized to make grants to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to support the development of comprehensive health care delivery systems for Indians and Urban Indians.
Centers for Disease Control and Prevention, may make funding available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for the following:

(1) prevention, control, and elimination of communicable and infectious diseases, including tuberculosis, hepatitis, HIV, respiratory syncytial virus, hanta virus, sexually transmitted diseases, and H. pylori.

(2) Public information and education programs for the prevention, control, and elimination of communicable and infectious diseases.

(3) Education, training, and clinical skills improvement activities in the prevention, control, and elimination of communicable and infectious diseases for health professionals, including allied health professionals.

(4) Demonstration projects for the screening, treatment, and prevention of hepatitis C virus (HCV).

(b) Application Required.—The Secretary may provide funding under subsection (a) only if an application or proposal for funding is submitted to the Secretary.

(c) Coordination With Health Agencies.—Indian Tribes, Tribal Organizations, and Tribes, Tribal Organizations, shall coordinate their activities with the Centers for Disease Control and Prevention and State and Federal health agencies.

(d) Technical Assistance; Report.—In carrying out this section, the Secretary—

(1) may, at the request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, provide technical assistance; and

(2) shall prepare and submit a report to Congress biennially on the use of funds under this section. The report shall—

(A) identify existing and potential operations necessary to coordinate their activities with the Centers for Disease Control and Prevention and State and Federal health agencies.

(3) The term 'public health functions' means the provision of public health-related functions, programs, services, and activities, including—

(A) the prevention and control of communicable and infectious diseases for health professionals, including allied health professionals.

(B) The Director of the Indian Health Service.

(C) The Director of the Bureau of Mines.

(D) The Secretary of Energy.

(E) The Secretary of Health and Human Services.

(F) The Secretary of the Interior.

(G) The Secretary of the Environmental Protection Agency.

(4) INTERGOVERNMENTAL TASK FORCE.—

(a) STUDIES AND MONITORING.—The Secretary shall conduct, in consultation with other appropriate Federal agencies and in consultation with concerned Indian Tribes and Tribal Organizations, studies and ongoing monitoring programs to determine trends in the health hazards to Indian Tribes and Tribal Organizations and Indian communities as a result of environmental hazards which may result in chronic or life threatening health problems, such as nuclear resource development, including uranium mining and milling, uranium mine tailings, oil and gas production or transportation on or near reservations and Indian communities, including the cumulative effect over time on health.

(b) Environmental and Nuclear Safety and Health Program.—

(1) STUDIES AND MONITORING.—The Secretary, acting through the Service and Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall—

(A) monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, Indian Tribes, and Tribal Organizations to enhance and improve the treatment models of care for Indian women.

(B) PERSONS.—Subject to section 807, at the discretion of the Service, a registered nurse.

(C) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

(1) The term 'home- and community-based services' means 1 or more of the following:

(A) Homemaker/home health aide services.

(B) Chore services.

(C) Home care services.

(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

(E) Transportation services.

(F) Training for family members.

(G) Adult day care.

(2) The term 'hospital care' means the services described in paragraph (A) through (E) of section 1861(d)(1) of the Social Security Act (42 U.S.C. 1395x(d)(1)), and such other services which the Secretary determines are necessary and appropriate to provide in furtherance of this care.

(3) The term 'public health functions' means—

(A) the prevention and control of communicable and infectious diseases among persons otherwise ineligible for the health care services or programs for the prevention, control, and elimination of communicable and infectious diseases among persons, including, at the discretion of the Service, Indian Tribes, Tribal Organizations, and Tribal Organizations, for the following:

(1) hospice care;

(2) assisted living;

(3) long-term health care;

(4) home- and community-based services; and

(5) public health functions.

(b) Services to Otherwise Ineligible Persons.—Subject to section 207, at the discretion of the Service, Indian Tribes, Tribal Organizations, services provided for hospice care, home- and community-based care, assisted living, and long-term care may be provided (subject to reimbursement) to persons otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to the Service or an Indian Tribe or Tribal Organization.

(c) Definitions.—For the purposes of this section, the following definitions shall apply:

(1) The term 'home- and community-based services' means 1 or more of the following:

(2) the services described in paragraph (A) through (E) of section 1861(d)(1) of the Social Security Act (42 U.S.C. 1395x(d)(1)), and such other services which the Secretary determines are necessary and appropriate to provide in furtherance of this care.

(3) The term 'public health functions' means, for purposes of this section, the following:

(A) the prevention and control of communicable and infectious diseases among persons otherwise ineligible for the health care services or programs for the prevention, control, and elimination of communicable and infectious diseases among persons, including, at the discretion of the Service, Indian Tribes, Tribal Organizations, and Tribal Organizations, for the following:

(1) hospice care;

(2) assisted living;

(3) long-term health care;

(4) home- and community-based services; and

(5) public health functions.

(b) Services to Otherwise Ineligible Persons.—Subject to section 207, at the discretion of the Service, Indian Tribes, Tribal Organizations, services provided for hospice care, home- and community-based care, assisted living, and long-term care may be provided (subject to reimbursement) to persons otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to the Service or an Indian Tribe or Tribal Organization.

(c) Definitions.—For the purposes of this section, the following definitions shall apply:

(1) The term 'home- and community-based services' means 1 or more of the following:

(2) the services described in paragraph (A) through (E) of section 1861(d)(1) of the Social Security Act (42 U.S.C. 1395x(d)(1)), and such other services which the Secretary determines are necessary and appropriate to provide in furtherance of this care.

(3) The term 'public health functions' means, for purposes of this section, the following:

(A) the prevention and control of communicable and infectious diseases among persons otherwise ineligible for the health care services or programs for the prevention, control, and elimination of communicable and infectious diseases among persons, including, at the discretion of the Service, Indian Tribes, Tribal Organizations, and Tribal Organizations, for the following:

(1) hospice care;

(2) assisted living;

(3) long-term health care;

(4) home- and community-based services; and

(5) public health functions.

(b) Services to Otherwise Ineligible Persons.—Subject to section 207, at the discretion of the Service, Indian Tribes, Tribal Organizations, services provided for hospice care, home- and community-based care, assisted living, and long-term care may be provided (subject to reimbursement) to persons otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to the Service or an Indian Tribe or Tribal Organization.

(c) Definitions.—For the purposes of this section, the following definitions shall apply:

(1) The term 'home- and community-based services' means 1 or more of the following:

(2) the services described in paragraph (A) through (E) of section 1861(d)(1) of the Social Security Act (42 U.S.C. 1395x(d)(1)), and such other services which the Secretary determines are necessary and appropriate to provide in furtherance of this care.

(3) The term 'public health functions' means, for purposes of this section, the following:

(A) the prevention and control of communicable and infectious diseases among persons otherwise ineligible for the health care services or programs for the prevention, control, and elimination of communicable and infectious diseases among persons, including, at the discretion of the Service, Indian Tribes, Tribal Organizations, and Tribal Organizations, for the following:

(1) hospice care;

(2) assisted living;

(3) long-term health care;

(4) home- and community-based services; and

(5) public health functions.
rights of such Indian to recover damages other than such amounts paid to the Indian Health Program from the employer for providing medical care for such illness or condition.

SEC. 216. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

(a) In General.—For fiscal years beginning in the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, 2015, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona.

(b) Advisory Services.—The Service shall not curtail any health care services provided to Indians residing on reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

SEC. 216A. NORTH DAKOTA AND SOUTH DAKOTA AS CONTRACT HEALTH SERVICE DELIVERY AREA.

(a) In General.—Beginning in fiscal year 2003, North Dakota and South Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of North Dakota and South Dakota.

(b) Limitation.—The Service shall not curtail any health care services provided to Indians residing on any reservation, or in any county that has a common boundary with any reservation, in the State of North Dakota or South Dakota if such curtailment is due to the provision of contract services in such States pursuant to the designation of such States as a contract health service delivery area pursuant to subsection (a).

SEC. 217. CALIFORNIA CONTRACT HEALTH SERVICES PROGRAM.

(a) Funding Authorized.—The Secretary is authorized to fund a program using the California Rural Indian Health Board (hereafter in this section referred to as the 'CRIBH') as a contract care intermediary to improve the accessibility of health services to California Indians.

(b) Reimbursement Contract.—The Secretary shall enter into an agreement with the CRIBH to provide the CRIBH (including reasonable administrative costs) incurred pursuant to this section, in providing medical treatment under contract to California Indians residing in specified counties throughout the California contract health services delivery area described in section 218 with respect to high cost contract care cases.

(c) Administrative Expenses.—Not more than 5 percent of the amounts provided to the CRIBH under this section for any fiscal year may be used for administrative expenses incurred by the CRIBH during such fiscal year.

(d) Limitation on Payment.—No payment may be made for treatment provided hereunder to the extent payment may be made for such treatment under the Indian Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health services delivery area for a fiscal year.

(e) Advisory Board.—There is established an advisory board which shall advise the CRIBH in carrying out this section. The advisory board shall be comprised of representatives of the California Tribes and not less than 8 Tribal Health Programs serving California Indians covered under this section at least one half of whom of whom are not affiliated with the CRIBH.

SEC. 218. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Fresno, Tulare, San Joaquin, Santa Cruz, Solano, Stanislaus, and Ventura, shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to California Indians. However, any of the counties listed herein may only be included in the contract health service delivery area of California for the purpose of providing contract health services to such health services in those counties.

SEC. 219. CONTRACT HEALTH SERVICES FOR THE TRENTO SERVICE AREA.

(a) Authorization for Services.—The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and William counties in the State of North Dakota and the adjoining counties of Roosevelt, Roosvelt, and Sheridan in the State of Montana.

(b) No Expansion of Eligibility.—Nothing in this section is intended to expand the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1996.

SEC. 220. PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

The Service shall provide funds for health care programs and facilities operated by Tribal Health Programs on the same basis as such funds are provided to other facilities operated directly by the Service.

SEC. 221. LICENSING.

Health care professionals employed by a Tribal Health Program shall, if licensed in any State, be exempt from the licensing requirements of the State in which the Tribal Health Program performs the services described in section 220 in order to participate under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

SEC. 222. NOTIFICATION OF PURPOSE OF EXPENDITURE OF CONTRACT HEALTH SERVICES.

With respect to an elderly Indian or an Indian with a disability receiving emergency or medical care from a non-Service provider or in a non-Service facility under the authorities of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

SEC. 223. PROMPT ACTION ON PAYMENT OF CLAIMS.

(a) Deadline for Response.—The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

(b) Effect of Untimely Response.—If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

SEC. 224. LIMITATION.

(a) No Patient Liability.—A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

(b) Notification.—The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services not later than 5 business days after receipt of a notification of a claim by a provider of contract care services.

(c) No Recourse.—Following receipt of the notice provided under subsection (b), or, if a claim has been deemed accepted under subsection (b), the provider shall have no further recourse against the patient who received the services.

SEC. 225. AUTHORIZATION OF APPROPRIATIONS.

The Service is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

TITLE III—FACILITIES

SEC. 301. CONSULTATION, CONSTRUCTION AND RENOVATION OF FACILITIES; REPORTS.

(a) Prerequisites for Expenditure of Funds.—Prior to the expenditure of, or the making of any binding commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to this title (as a condition of payment) for notifying the Secretary, the Service shall—

(1) consult with any Indian Tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, negotiating Tribal participation in planning, design, construction, and other aspects of the proposed construction or renovation of the facility.

(2) ensure, whenever practicable and applicable, that such facility is consistent with the construction standards of any accrediting body recognized by the Secretary for the purposes of the Medicare, Medicaid, and SCHIP programs for the operation of such facility.

(b) Closures.—

(1) Evaluation Required.—Notwithstanding any other previous facility or services closure authorized by the Service, the Secretary may close any facility described in subsection (a) if—

(A) the accessibility of alternative health care resources for the population served by such facility;

(B) the cost-effectiveness of such closure;

(C) the quality of health care to be provided to the population served by such facility after such closure;

(D) the availability of contract health care funds to maintain existing levels of service;

(E) the views of the Indian Tribes served by such facility concerning such closure;

(F) the level of use of such facility by eligible Indians; and

(G) the distance between such facility and the nearest operating Service hospital.

(2) Exception for Certain Temporary Closures.—Paragraph (1) shall not apply to any temporary closure of a facility or any portion of a facility if such closure is necessary for medical, environmental, or construction or safety reasons.

(3) Health Care Facility Priority System.
"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish a health care facility priority system, which shall—

"(i) be developed with Indian Tribes and Tribal Organizations through negotiated rulemaking under section 802;

"(ii) Edict Indian Tribes’ needs the highest priority; and

"(iii) at a minimum, include the lists required in paragraph (2)(B) and the methodology described in paragraph (2)(E).

"(B) PRIORITY OF CERTAIN PROJECTS PROTECTED.—The priority of any project established under the construction priority system in effect on the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 shall not be affected by any change in the construction priority system taking place thereafter if the project was identified as 1 of the 10 top-priority inpatient projects, 1 of the 10 top-priority outpatient projects, 1 of the 10 top-priority staff quarters development projects, or 1 of the 10 top-priority Youth Regional Treatment Centers in the fiscal year 2005 Indian Health Service budget justification, when the Secretary had completed both Phase I and Phase II of the construction priority system in effect on the date of enactment of such Act.

"(C) Review of criteria.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to Congress under section 801, a report which sets forth the following:

"(i) A description of the health care facility priority system of the Service, established under paragraph (1).

"(B) Health care facilities lists, including—

"(i) the 10 top-priority inpatient health care facilities;

"(ii) the 10 top-priority outpatient health care facilities;

"(iii) the 10 top-priority specialized health care facilities (such as long-term care and alcohol and drug abuse treatment);

"(iv) the 10 top-priority staff quarters development projects associated with health care facilities; and

"(v) the 10 top-priority hostels associated with health care facilities.

"(C) The justification for such order of priority.

"(D) The projected cost of such projects.

"(E) The methodology adopted by the Secretary, under its construction priority system, under its health care facility priority system.

"(F) REQUIREMENTS FOR PREPARATION OF REPORTS.—In preparing each report required under this section (other than the initial report), the Secretary shall annually—

"(A) consult with and obtain information on all health care facilities needs from Indian Tribes, Tribal Organizations, and Urban Indian Organizations; and

"(B) review the total unmet needs of all Indian Tribes, Tribal Organizations, and Urban Indian Organizations for health care facilities (including hostels and staff quarters), including needs for renovation and expansion of existing facilities.

"(4) CRITERIA FOR EVALUATING NEEDS.—For purposes of this subsection, the Secretary, shall, in evaluating the needs of facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), use the same criteria that the Secretary uses in evaluating the needs of facilities operated under the Act of August 5, 1954 (42 U.S.C. 2004a); the health care facility priority system established under this section, and the Secretary may use funds appropriated under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) for construction, repair, and maintenance of health care facilities owned or operated by Indian Tribes.

"5 NECESSITIES OF FACILITIES UNDER IDEAA AGREEMENTS.—The Secretary shall ensure that the planning, design, construction, and renovation of health care facilities operated under contracts or compacts in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are fully and equitably integrated into the health care facility priority system.

"(D) RULEMAKING UNDER SECTION 802.—

"(1) INITIAL REPORT.—In the year 2006, the Government Accountability Office shall prepare and finalize a report which sets forth the needs of the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, for the facilities listed under subsection (c)(2)(B), including the needs for renovation and expansion of existing facilities. The Government Accountability Office shall submit the report to the appropriate authorizing and appropriations committees of Congress and to the Secretary.

"(2) Beginning in the year 2006, the Secretary shall update the report required under paragraph (1) every 5 years.

"(3) The Comptroller General and the Secretary shall consult with Indian Tribes, Tribal Organizations, and Urban Indian Organizations. The Secretary shall submit the reports required by paragraphs (1) and (2), to the President for inclusion in the report required to be transmitted to Congress under section 801.

"(4) For purposes of this subsection, the reports shall, regarding the needs of facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), be based on the same criteria that the Secretary uses in evaluating the needs of facilities operated by the Service.

"(5) The planning, design, construction, and renovation needs of facilities operated under contracts or compacts under this section (c)(2)(B), including the needs for renovation and expansion of existing facilities, for the facilities listed under subsection (c)(2)(B), shall be fully and equitably integrated into the development of the health care facility priority system.

"(6) Beginning in 2007 and each fiscal year thereafter, the Secretary shall provide an opportunity for nomination of planning, design, and construction projects by the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations for consideration under the health care facility priority system.

"(f) DEVELOPMENT OF INNOVATIVE APPROACHES.—The Secretary shall consult and cooperate with Indian Tribes, Tribal Organizations, and Urban Indian Organizations in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, including those provided for in other sections of this title and other Indian Health Service programs.

"SEC. 302. SANITATION FACILITIES.

"(a) FINDINGS.—Congress finds the following:

"(1) The provision of sanitation facilities is primarily a health consideration and function.

"(2) Indian people suffer an inordinately high incidence of disease, injury, and illness substantially greater than the short-term cost of providing sanitation facilities and other preventive health measures.

"(3) The long-term cost to the United States, including Federal and State agencies, of health facilities and services and place these funds into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

"(4) The Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 to the Secretary of Health and Human Services;

"(5) It is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

"(b) FACILITIES AND SERVICES.—In furtherance of the findings made in subsection (a), Congress reaffirms the primary responsibility of the Secretary to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a). Under such authority, the Secretary is authorized to provide the following:

"(1) Financial and technical assistance to Indian Tribes, Tribal Organizations, and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain sanitation facilities, including the provision of existing plans, standard details, and specifications available in the Department, to be used at the option of the Indian Tribe, Tribal Organization, or Indian community.

"(2) Ongoing technical assistance and training to Indian Tribes, Tribal Organizations, and Indian communities in the management of utility organizations to operate and maintain sanitation facilities.

"(3) Priority funding for operation and maintenance assistance for, and emergency repairs to, sanitation facilities provided by an Indian Tribe, Tribal Organization or Indian community when necessary to avoid an imminent health threat or to protect the investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities.

"(c) FUNDING.—Notwithstanding any other provision of law—

"(1) the Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Act of August 5, 1994 (42 U.S.C. 2004a) to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

"(2) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1994 (42 U.S.C. 2004a); and

"(3) unless specifically authorized when funds are appropriated, the Secretary shall use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

"(d) The Secretary of Health and Human Services is authorized to accept from any source, including Federal and State agencies, funds for the purpose of providing sanitation facilities and services and place these funds into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), including funds for the purpose of providing sanitation facilities and services and place these funds into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).
(7) all Federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned, or appropriated whereby the Department’s applicable policies, rules, and regulations are used in the implementation of such projects; (8) the Secretary of Health and Human Services shall enter into interagency agreements with the Federal and State Governments for the purpose of providing financial assistance for sanitation facilities and services under this Act; and (9) the Secretary of Health and Human Services shall, by regulation developed through rulemaking under section 802, establish standards applicable to the planning, design, and construction of sanitation facilities funded under this Act.

(c) CERTAIN CAPABILITIES NOT PREREQUISITE.—The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate, manage, and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

(e) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to Indian Tribes, Tribal Organizations, and Indian communities for operation, management, and maintenance of their sanitation facilities.

(f) OPERATION, MANAGEMENT, AND MAINTENANCE OF FACILITIES.—The Indian Tribe has the primary responsibility to establish, maintain, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating, managing, and maintaining sanitation facilities. If a sanitation facility serving a community that is operated by an Indian Tribe or Tribal Organization is threatened with imminent failure and such operator lacks the resources to maintain the integrity for the health benefits of the sanitation facility, then the Secretary is authorized to assist the Indian Tribe, Tribal Organization, or Indian community in the resolution of the problem on a short-term basis through cooperation with the emergency coordinator or by providing operation, management, and maintenance service.

(g) ISDEAA PROGRAM FUNDED ON EQUAL BASIS.—Tribal Health Programs shall be eligible (on an equal basis with programs that are administered directly by the Service) for—

(1) any funds appropriated pursuant to this section; and (2) any funds appropriated for the purpose of providing sanitation facilities.

(h) REPORT.—

(1) REQUIRED CONTENTS.—The Secretary, in consultation with the Secretary of Housing and Urban Development, Indian Tribes, Tribal Organizations, and tribally designated housing entities as defined in section 394 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) shall submit to the President, for inclusion in any reports required to be transmitted to Congress under section 801, a report which sets forth—

(A) the current Indian sanitation facility priority system of the Service; (B) the methodology for determining sanitation deficiencies and needs; (C) the level of initial and final sanitation deficiency for each type of sanitation facility for each project of each Indian Tribe or Indian community; (D) the amount and most effective use of funds available under any law or program, necessary to accommodate the sanitation facility needs of new homes assisted with funds under the Native American Housing Assistance and Self-Determination Act, and the extent to which the identified sanitation deficiency levels of all Indian Tribes and Indian communities are addressed at level I sanitation deficiency as defined in paragraph (4)(A); and (E) a 10-year plan to provide sanitation facilities to serve existing Indian homes and Indian communities and new and renovated Indian homes.

(2) CRITERIA.—The criteria on which the deficiencies and needs will be evaluated shall be developed through negotiated rulemaking pursuant to section 802.

(3) UNIFORM METHODOLOGY.—The methodology used by the Secretary in determining, preparing cost estimates for, and importing responsibility for sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian Tribes.

(4) SANITATION DEFICIENCY LEVELS.—For purposes of this subsection, the sanitation deficiency levels for an individual, Indian Tribe or Tribal Organization with funds supplied through a contract, grant, or loan shall be as follows:

(A) a level I deficiency exists if a sanitation facility serving an individual, Indian Tribe, or Indian community—

(i) complies with all applicable water supply, pollution control, and solid waste disposal laws and regulations; and (ii) deficiencies relate to routine replacement, repair, or maintenance needs.

(B) a level II deficiency exists if a sanitation facility serving an individual, Indian Tribe, or Indian community substantially or recently complied with all applicable water supply, pollution control, and solid waste laws and any deficiencies relate to—

(i) small or minor capital improvements needed to bring the facility back into compliance; (ii) capital improvements that are necessary to enlarge or improve the existing facility in order to meet the current needs for domestic sanitation; (iii) the lack of equipment or training by the Tribe or Tribal Organization with funds supplied through a contract, grant, or loan to install or maintain, provide or obtain, and operate the facility; or (iv) any other deficiency determined by the Secretary to be necessary to bring the facility into compliance with subchapter IV of chapter 31 of title 42, United States Code (commonly known as the ‘Davis-Bacon Act’), unless such construction or renovation—

(A) is performed by a contractor pursuant to a contract or compact authorized by the Indian Self-Determination and Education Assistance Act, or other statutory authority; and (B) is subject to prevailing wage rates for similar construction or renovation in the locality.

(c) a level I deficiency exists if a sanitation facility serving an individual, Indian Tribe, Tribal Organization, or Indian community has no piped water or sewer facilities in the home or the facility has become inoperable due to major component failure; or (ii) where only a washteria or central facility exists in the community.

(B) A level II deficiency exists in the absence of a sanitation facility where individual homes do not have access to safe drinking water or adequate wastewater (including sewage) disposal.

(1) DEFINITIONS.—For purposes of this section, the following terms apply:

(1) INDIAN COMMUNITY.—The term ‘Indian community’ means a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section.

(2) SANITATION FACILITIES.—The terms ‘sanitation facility’ and ‘sanitation facilities’ mean safe and adequate water supply systems, solid waste disposal systems and sanitary solid waste systems (and all related equipment and support infrastructure).
the needs for increased operating expenses, personnel, or equipment for such facilities. The methodology for establishing priorities shall be developed through negotiated rulemaking under section 802. The list of new facilities will be revised annually in consultation with Indian Tribes and Tribal Organizations.

"(2) Agreement.—Funding under paragraph (1) may only be made available to a Tribal Health Program operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian Tribe or Tribal Organization) if—

"(A) a need for increased ambulatory care services; and

"(B) insufficient capacity to deliver such services.

"(3) Peer review panels.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and proposals and to advise the Secretary regarding such applications using the criteria developed during consultations pursuant to paragraph (1).

"(4) Reversion of facilities.—If any facility (or portion thereof) with respect to which funds have been made available under this section, ceases, within 5 years after completion of the construction, expansion, or modernization carried out with such funds, to be used for the purpose of delivering health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise directed by the Service and the Indian Tribe or Tribal Organization.

"(5) Use of funds.—Funding provided under this section shall be nonrecurring and shall not be available for inclusion in any individual Indian Tribe’s tribal work plan.
and is coordinated with, and avoids duplica-
tion of, existing services.

The Secretary may provide for the establishment of peer review committees to review and evaluate applications using the criteria developed pursuant to subsection (d).

(b) The Secretary shall give priority to applications for demonstration projects in each of the following Service Unites to the extent that such applications are timely filed and meet the criteria specified in subsection (d):

(1) Cass Lake, Minnesota.

(2) Clinton, Oklahoma.

(3) Harlequin, New Mexico.

(4) Mescalero, New Mexico.

(5) Owheee, Nevada.

(6) Parker, Arizona.

(7) Schurz, Nevada.

(8) Winnebago, Nebraska.

(9) Ft. Yuma, California.

The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(f) DEFINITION.—For the purposes of subsection (d), the Secretary shall, in evaluating facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), use the same criteria in the evaluation of facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) for health services are fully and equitably integrated into the implementation of health care services, and in any demonstration project approved pursuant to this section.

(1) Equitable Treatment.—For purposes of subsection (d), the Secretary shall, in evaluating facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

(2) Equitable Integration of Facilities.—The Secretary shall ensure that the planning, design, construction, renovation, and expansion needs of Service and non-Serv-
vice facilities which are the subject of a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are met by the Service.

(3) The Secretary has the right to recover tan-
gible property used for, or construction or recreation of, any demonstration project under this section.

"SEC. 307. LAND TRANSFER.

Notwithstanding any other provision of law, the Indian Affairs, the Federal Government, and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.

"SEC. 308. LEASES, CONTRACTS, AND OTHER AGREEMENTS.

The Secretary, acting through the Service, may enter into leases, contracts, and other agreements with Indian Tribes and Tribal Organizations which hold (1) title to, (2) a leasehold interest in, or (3) a beneficial interest in (when title is held by the United States in trust for the benefit of an Indian Tribe) facilities used or to be used for the admin-
istration and delivery of health care services by an Indian Health Program. Such leases, contracts, or agreements may include provi-
sions for construction or renovation and pro-
vide for compensation to the Indian Tribe or Tribal Organization of rental and other costs consistent with §20A(1)(I) of the Indian Self-Determination and Education Assist-
ance Act and regulations thereunder.

"SEC. 309. STUDY ON LOANS, LOAN GUARANTEES, AND LEASES.

(a) IN GENERAL.—The Secretary, in con-
sultation with the Secretary of the Treas-
ury, Indian Tribes, and Tribal Organizations, shall carry out a study to determine the fea-
sibility of establishing a loan fund to provide to Indian Tribes and Tribal Organizations di-
flect loans or guarantees for loans for the construction of health care facilities, including—

(1) inpatient facilities;

(2) outpatient facilities;

(3) staff quarters;

(4) hospitals; and

(5) specialized care facilities, such as be-

havioral health facilities.

(b) DETERMINATIONS.—In carrying out the study under subsection (a), the Secretary shall determine—

(1) the maximum principal amount of a loan or loan guarantee that should be offered to a recipient from the loan fund;

(2) the percentage of eligible costs, not to exceed 100 percent, that may be covered by a loan or loan guarantee from the loan fund (including costs relating to planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and fur-

nishings, and other facility-related costs and capital purchase (but excluding staffing));

(3) the maximum principal of direct loans and loan guarantees, respec-
tively, that may be outstanding at any 1 time;

(4) the maximum term of a loan or loan guarantee that may be made for a facility from the loan fund;

(5) the maximum percentage of funds from the loan fund that should be allocated for inpatient care associated with planning and applying for a loan or loan guar-

antee;

(6) whether acceptance by the Secretary of an assignment of the revenue of an Indian Tribe or Tribal Organization as security for any direct loan or loan guarantee from the loan fund would be appropriate; and

(7) whether, in the planning and design of health facilities under this section, users eligible under section 807(c) may be included in any projection of patient population;

(8) whether funds of the Service provided through loans or loan guarantees from the loan fund should be eligible for use in match-
ging other Federal funds under other pro-

grams;

(9) the appropriateness of, and best meth-
ods for, cost-sharing of the loan fund with the health care priority system of the Service under section 301; and

(10) any legislative or regulatory changes required in Indian Affairs recommendations of the Secretary based on results of the study.

(c) REPORT.—Not later than September 30, 2007, the Secretary shall submit to the Com-
mittee on Indian Affairs of the Senate and the Committee on Resources and the Com-
mittee on Energy and Commerce of the House of Representatives a report that des-
cribes—

(1) the manner of consultation made as required by subsection (a); and

(2) the results of the study, including any recommendations of the Secretary based on results of the study.

"SEC. 310. TRIBAL LEASING.

A Tribal Health Program may lease per-
manent structures for the purpose of pro-

viding health care services without obtain-
ing advance approval in appropriation Acts.

"SEC. 311. INDIAN HEALTH SERVICE/TRIBAL FA-
CILITIES JOINT VENTURE PROGRAM.

(a) IN GENERAL.—In developing a plan through the Service, shall make arrange-
ments with Indian Tribes and Tribal Orga-
nizations to establish joint venture demonstra-
tion projects under which the Indian Tribe or Tribal Organization shall establish joint venture projects, or Tribal Health Program, or any land allotted to any Alaska Na-
tive, if requested by the Indian owner and
the Indian Tribe with jurisdiction over such lands or other lands owned or leased by the Indian Tribe or Tribal Organization. Top priority shall be given to Indian land owned by 1 or more Indian Tribes or held by any Indian Tribe or individual Indian subject to restriction by the United States against alienation.

 SEC. 313. MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES.

(a) Report.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report which identifies the backlog of maintenance and repair work required at all Service and tribal health care facilities, including new health care facilities expected to be in operation in the next fiscal year. The report shall also identify the need for renovation and expansion of existing facilities to support the growth of health care programs.

(b) Maintenance of Newly Constructed Spaces.—A Tribal Health Program, acting through the Office of the Secretary, is authorized to expend maintenance and improvement funds to support maintenance of newly constructed space only if it is within the area provided for the support of housing facilities for an Indian Tribe or Tribal Organization. Supportable space allocation shall be defined through the negotiate rulemaking process provided for under section 802.

(c) Replacement Facilities.—In addition to other maintenance and improvement funds for renovation, modernization, and expansion of facilities, an Indian Tribe or Tribal Organization may use maintenance and improvement funds for construction of a replacement facility if the costs of renovation of such facility would exceed a maximum renovation cost threshold. The maximum renovation cost threshold shall be determined through the negotiated rulemaking process provided for under section 802.

SEC. 314. TRIBAL MANAGEMENT OF FEDERALLY OWNED QUARTERS.

(a) Rental Rates.—

(1) Establishment.—Notwithstanding any other provision of law, a Tribal Health Program that operates a hospital or other health facility and the federally owned quarters associated therewith pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall have the authority to establish the rental rates charged to the occupants of such quarters by providing notice to the Secretary of its election to exercise such authority.

(2) Objectives.—In establishing rental rates pursuant to authority of this subsection, the Secretary shall endeavor to achieve the following objectives:

(A) To base such rental rates on the reasonable value of the quarters to the occupants thereof.

(B) To generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and subject to the discretion of the Tribal Health Program, to supply reserve funds for capital repairs and replacement of the quarters.

(c) Equitable Funding.—Any quarters whose rental rates are established by a Tribal Health Program pursuant to this subsection shall remain eligible for quarters improvement and repair funds to the same extent as other Federal quarters occupied by Indian Tribe personnel in Services-supported programs.

(d) Notice of Rate Change.—A Tribal Health Program which exercises the authority provided under this subsection shall provide occupants with no less than 60 days notice of a proposed change in the rental rates.

(e) Direct Collection of Rent.—

(1) In General.—Notwithstanding any other provision of law, and subject to paragraph (2), a Tribal Health Program that has agreed by the Secretary to the direct collection of rents directly from Indian employees occupying such quarters shall have the authority to collect rents directly from Federal employees who occupy such quarters in accordance with the following:

(A) The Secretary shall notify the Tribal Health Program that has agreed to the direct collection of rents directly from Indian employees occupying such quarters that the Secretary will have the authority to collect rents directly from Federal employees who occupy such quarters.

(B) Such rents payments shall be retained by the Tribal Health Program and shall not be made payable to or otherwise deposited with the United States, but shall be deposited by the Office of the Secretary into a separate account which shall be used for the operation of the quarters and facilities as the Tribal Health Program shall determine.

(f) Retrocession of Authority.—If a Tribal Health Program which has made an election under paragraph (1) requests retrocession of its authority to directly collect rents from Federal employees occupying federally owned quarters, such retrocession shall become effective on the earlier of—

(A) the first day of the month that begins no less than 180 days after the Tribal Health Program notifies the Secretary of its desire to retrocede; or

(B) such other date as may be mutually agreed upon by the Secretary and the Tribal Health Program.

(g) Rates in Alaska.—To the extent that a Tribal Health Program, pursuant to authority granted in subsection (a), establishes rental rates for federally owned quarters provided to a Federal employee in Alaska, such rates may be based on the cost of comparable private quarters in the nearest available community with a population of 1,500 or more individuals.

SEC. 315. AUTHORIZATION OF APPROPRIATIONS.

(a) Appropriations for Buy American Act Requirement.—

(1) Special Fund.—Notwithstanding any other provision of law, there are authorized to be appropriated $1,000 for each fiscal year beginning after December 31, 1999, to the Secretary to establish and administer a special fund to be held by the Secretary to plan, design, and construct health care facilities and use such funds to plan, design, and construct health care facilities for Indians and to place such funds in a special fund to be held by the Secretary to plan, design, and construct health care facilities to be administered by Indian Health Programs in order to carry out the purposes of this Act and the purposes for which the funds were appropriated or for which the funds were otherwise provided.

(b) Transferred Funds.—Any Federal agency or agencies in which funds of health care facilities are appropriated is authorized to transfer such funds to the Secretary for the construction of health care facilities to be administered by Indian Health Programs in order to carry out the purposes of this Act and the purposes for which the funds were appropriated or for which the funds were otherwise provided.

(c) Use of Funds.—The Secretary shall have no further authority to collect rents from such employees that are used for payroll deduction or otherwise.

SEC. 316. OTHER FUNDING FOR FACILITIES.

(a) Authority To Accept Funds.—The Secretary is authorized to accept from any source, including Federal and State agencies, funds that are available for the construction of health care facilities and use such funds to design, plan, and construct health care facilities for Indians and to place such funds in the special fund to be held by the Secretary to plan, design, and construct health care facilities serving Indians under this Act.

SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

TITLE IV—ACCESS TO HEALTH SERVICES

SEC. 401. TREATMENT OF PAYMENTS UNDER SOCIAL SECURITY ACT HEALTH CARE PROGRAMS.

(a) Disregard of Medicare, Medicaid, and SCHIP Payments in Determining Appropriations.—Any payment to an Indian Health Program or by an Indian Health Program or by an Urban Indian Organization made under title XVIII, XIX, or XXI of the Social Security Act for services provided to Indians receiving benefits under such respective titles shall not be considered in determining appropriations for the provision of health care and services to Indians.

(b) Nonpreferential Treatment.—Nothing in this Act authorizes the Secretary to provide services to an Indian with coverage under title XVIII, XIX, or XXI of the Social Security Act in preference to an Indian without such coverage.

(c) Use of Funds.—Social Fund.—Notwithstanding any other provision of law, the Secretary may use any fund provided under title IV of the Social Security Act, any amounts in such fund to be held by the Secretary and used for purposes under this Act, any transfer of funds under this Act, or any appropriations available for purposes under this Act to make payments to an Indian Health Program or an Urban Indian Health Program to pay for the services provided under this title.

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health resource deficiencies of the Indian Tribes. In making payments from such fund, the Secretary shall ensure that each Service Unit of the Service receives 100 percent of the amount of such fund, and the facilities and service provided by such Indian Tribe or Tribal organization for which payment is made under title XVIII, XIX, or XXI of the Social Security Act from or under the party paying.

(2) Direct Reimbursement.—(A) Use of Funds.—Each Tribal Health Program exercising the option described in paragraph (1) with respect to a program under a title of the Social Security Act shall be reimbursed directly by that program for items and services provided by such Indian Tribe or Tribal organization for which payment is made under title XVIII, XIX, or XXI of the Social Security Act or from or under any other party paying.

(B) Audits.—The amounts paid to an Indian Tribe or Tribal Organization exercising the option described in paragraph (1) with respect to a program under a title of the Social Security Act will be subject to all auditing requirements applicable to programs administered by an Indian Health Program.

(C) Identification of Source of Payment.—Each Indian Tribe, Tribal Organization, or Urban Indian Organization receives funding from the Service under the Indian Self-Determination and Education Assistance Act or an Urban Indian Organization Agreement, or the Service under title V of this Act and receives reimbursements or payments under title XVIII, XIX, or XXI of the Social Security Act, or from or under any other party paying, Indian Tribe, or Tribal Organization, or Urban Indian Organization, shall provide to the Service a list of each provider enrollment number (or other identifier) under which such Indian Tribe, Tribal Organization, or Urban Indian Organization receives such reimbursements or payments.

(3) Examination and Implementation of Changes.—(A) In General.—The Secretary, acting through the Service, shall ensure that the Health Service and the facilities and service provided by such Indian Tribe or Tribal organization for which payment is made under title XVIII, XIX, or XXI of the Social Security Act, or from or under any other party paying, to Indian Tribes and Tribal Organizations with respect to populations served by such organizations in the same manner they apply to grants and contracts with Indian Tribes and Tribal Organizations with respect to programs on or near reservations.

(4) Direct Billing.—(A) In General.—A Tribal Health Program may directly bill, and receive payment for, health care items and services provided by such Indian Tribe or Tribal organization for which payment is made under title XVIII, XIX, or XXI of the Social Security Act or from or under any other party paying.

(B) Conditions.—The Secretary, acting through the Service, shall place conditions on or enter into an agreement with any Indian Tribe or Tribal Organization exercising the option described in this section in any agreement or contract which the Secretary makes with any Indian Tribe or Tribal Organization pursuant to this section. Such conditions may include requirements that the Indian Tribe or Tribal Organization successfully undertake—

(1) to determine the population of Indians eligible for the benefits described in subsection (a);

(2) to educate Indians with respect to the benefits available under the respective programs;

(3) to provide transportation for such individual Indians to appropriate offices for enrollment or applications for such benefits; and

(4) to develop and implement methods of improving the participation of Indians in receiving the benefits provided under titles XVIII, XIX, and XXI of the Social Security Act.

(C) AGREEMENTS RELATING TO IMPROVING ENROLLMENT UNDER SOCIAL SECURITY ACT PROGRAMS.—(1) AGREEMENTS WITH SECRETARY TO IMPROVE RECIPIENT AND PROCESSING OF APPLICATIONS.—(A) Authorization.—The Secretary, acting through the Service, may enter into an agreement with an Indian Tribe, Tribal Organization, or Urban Indian Organization which provides for the receipt and processing of applications for assistance under titles XVIII, XIX, and XXI of the Social Security Act, or from or under any other party paying.

(B) Limitations on Recoveries From Third Parties of Costs of Health Services.—(1) Right of Recovery.—Except as provided in subsection (f), the United States, an Indian Tribe, or Tribal Organization shall have the right to recover from an insurance company, health maintenance organization, employee benefit plan, third-party tortfeasor, or any other responsible or liable third party (including a political subdivision of a governmental unit) the reasonable charges as determined by the Secretary, and billed by the Secretary, the Indian Tribe, Tribal Organization, or Tribal Health Program providing health services, through the Service, an Indian Tribe, or Tribal Organization to any individual to the same extent that such individual, or any other provider of such services, would be eligible to receive damages, reimbursement, or indemnification for such charges or expenses if—

(1) such services had been provided by a nongovernmental provider; and

(2) such individual had been required to pay such charges or expenses and did pay such charges or expenses.

(2) Limitations on Recoveries From States.—(A) In General.—Subsection (b) shall provide a right of recovery against any State, the injury, illness, or disability for which health services were provided is covered under—

(1) workers’ compensation laws; or

(2) no-fault automobile accident insurance plan or program.

(B) Nonapplication of Other Laws.—No law of any State, or of any political subdivision of a State and any provision of contract, insurance or health maintenance organization policy, employee benefit plan, self-insured group health plan, or other health care plan or program entered into or renewed after the date of the enactment of the Indian Health Care Amendments of 1988, shall be applicable to the right of recovery of the United States, an Indian Tribe, or Tribal Organization under subsection (a).
“(d) No Effect on Private Rights of Action.—No action taken by the United States, an Indian Tribe, or Tribal Organization to enforce the right of recovery provided under this section shall operate to deny to the injured person the recovery for that portion of the person’s damage not covered hereunder.

“(e) Enrollment.—

“(1) IN GENERAL.—The United States, an Indian Tribe, or Tribal Organization may enforce the right of recovery provided under subsection (a) by—

“(A) intervening or joining in any civil action or proceeding brought—

“(i) by the individual for whom health services were provided; (ii) by any representative or heirs of such individual; or

“(B) instituting a civil action, including a civil action for injunctive relief and other relief and including, with respect to a political subdivision or local governmental entity of a State, such an action against an official thereof.

“(2) Notice.—All reasonable efforts shall be made to provide notice of action instituted under paragraph (1) to the individual to whom health services were provided, either before or during the pendency of such action.

“(f) Limitation.—Absent specific written authorization by the governing body of an Indian Tribe for the period of such authorization (which may not be for a period of more than 1 year and which may be revoked at any time upon written notice by the governing body to the United States), the United States shall not have a claim under any Indian Act to the United States to recover for any medical services provided by an Indian Tribe or Tribal Organization or the Department of Veterans Affairs with respect to populations served by such Indian Tribes, Tribal Organizations, and Urban Indian Organizations for which authorization is not specifically provided in such Act or the Act or the Department of Veterans Affairs. The Department of Veterans Affairs may be construed as creating any right of action provided in the Act on behalf of any individual for whom health services were provided.

“(g) Costs and Attorneys’ Fees.—In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded its reasonable attorneys’ fees and costs of litigation.

“(h) Notice and Calculation of Claims Filing Requirements.—An insurance company, health maintenance organization, self-insurance plan, plan or program (under the Federal Employee Health Benefits Program), or other health care plan or program (under the Social Security Act or otherwise) may not deny a claim for benefits submitted by the Service or by an Indian Tribe or Tribal Organization on the format in which the claim is submitted if such format complies with the format required for submission of claims under title XVIII of the Social Security Act or recognized under section 1175 of such Act.

“(i) Application to Urban Indian Organizations.—The provisions of this section shall apply to Urban Indian Organizations with respect to populations served by such Organizations in the same manner they apply to Indian Tribes and Tribal Organizations with respect to populations served by such Indian Tribes and Tribal Organizations.

“(j) Statute of Limitations.—The provisions of section 204(b) of the Unfunded Mandates Reform Act (2 U.S.C. 1534(b)), shall apply to all actions commenced under this section, and the references therein to “United States” shall be deemed to include Indian Tribes, Tribal Organizations, and Urban Indian Organizations.

“(k) Savings.—Nothing in this section shall be construed to limit any right of recovery available to the United States, an Indian Tribe, or Tribal Organization under the provisions of any applicable, Federal, State, or Tribal law or ordinance, medical lien laws, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.).

“§ 404. CREDITING OF REIMBURSEMENTS.

“(a) Use of Amounts.—

“(1) Retention by Program.—Except as provided in section 202(g) (relating to the Contingency Fund) and section 807 (relating to health services for ineligible persons), all reimbursements received or recovered under any of the programs described in paragraph (2), including under section 807, by reason of the provision of health services by the Service, by an Indian Tribe or Tribal Organization, or by an Urban Indian Organization, shall be credited to the Service, such Indian Tribe or Tribal Organization, or such Urban Indian Organization, respectively, and may be used as provided in this section.

“(2) Programs Covered.—The programs referred to in paragraph (1) are the following:

“(A) Titles XVIII, XIX, and XXI of the Social Security Act;

“(B) This Act, including section 807;

“(C) Public Law 87–863;

“(D) Any other provision of law.

“(b) No Offset of Amounts.—The Service may not offset or limit any amount obligated to any Service Unit or entity receiving funding from the Service because of the receipt of reimbursements under subsection (a).

“§ 405. PURCHASING HEALTH CARE COVERAGE.

“(a) In General.—Insofar as amounts are made available under law (including a provision of the Social Security Act, the Indian Self-Determination and Education Assistance Act, or other law) to an Indian Tribe, Tribal Organization, or Urban Indian Organization for the purpose of purchasing health benefits coverage for beneficiaries in any manner, including through—

“(1) a tribally owned and operated health care plan;

“(2) a State or locally authorized or licensed health care plan;

“(3) a health insurance provider or managed care organization; or

“(4) a self-insured plan.

“The purchase of such coverage by an Indian Tribe, Tribal Organization, or Urban Indian Organization may be based on the financial needs of such beneficiaries determined by the Indian Tribe or Tribes being served based on a schedule of income levels developed or implemented by such Indian Tribe or Tribes.

“(b) Construction.—Nothing in this section shall affect the use of any amounts not referred to in subsection (a).

“§ 406. SHARING ARRANGEMENTS WITH FEDERAL AGENCIES.

“(a) Authority.—

“(1) IN GENERAL.—The Secretary may enter into (or expand) arrangements for the sharing of medical facilities and services between the Service, Indian Tribes, and Tribal Organizations and the Departments of Veterans Affairs and the Department of Defense.

“(2) Construction by Secretary Required.—The Secretary may not finalize any arrangement between the Service and a Department described in paragraph (1) without first consulting with the Indian Tribes which will be significantly affected by the arrangement.

“(b) Limitations.—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

“(1) the ability of an Indian Tribe to purchase health care services provided through the Service and the eligibility of any Indian to receive health services through the Service; (2) the priority access of any veteran to health care services provided through the Service; (3) the priority access of any veteran to health care services provided by the Department of Veterans Affairs or the Department of Defense; or (4) the quality of health care services provided by the Department of Veterans Affairs or the Department of Defense (as the case may be) where services are provided through the Service, an Indian Tribe, or a Tribal Organization to beneficiaries eligible for services from either such Department, notwithstanding any other provision of law.

“(c) Reimbursement.—The Service, Indian Tribe, or Tribal Organization shall be reimbursed by the Department of Veterans Affairs or the Department of Defense (as the case may be) where services are provided through the Service, an Indian Tribe, or a Tribal Organization to beneficiaries eligible for services from either such Department, notwithstanding any other provision of law.

“(d) Authorization.—The Service, Indian Tribe, or Tribal Organization shall be reimbursed by the Department of Veterans Affairs or the Department of Defense (as the case may be) where services are provided through the Service, an Indian Tribe, or a Tribal Organization to beneficiaries eligible for services from either such Department, notwithstanding any other provision of law.

“(e) Non-Discrimination.—In any provisions for reimbursement for services.

“For purposes of determining the eligibility of an entity to receive payment or reimbursement from any federally funded health care program for health care services it furnishes to an Indian, such program must provide that such entity, meeting generally applicable State or other requirements applicable for such payment or reimbursement, must be accepted as a provider on the same basis as any other qualified provider, except that any requirement that the entity be licensed or recognized under State or local law to furnish such services shall be deemed to have been met if the entity meets all the applicable standards for such licensure, but the entity need not obtain any specific documentation. In determining whether the entity meets such standards, the absence of licensure of any staff member of the entity may not be taken into account.

“(f) Consultation.—

“(a) Tribal Technical Advisory Group (TTAG).—The Secretary shall maintain with the Centers for Medicare and Medicaid Services (CMS) a Tribal Technical Advisory Group, established in accordance with regulations of the charter dated September 30, 2003, and in such group shall include a representative of the Urban Indian Organizations and the Service. The representative of the Urban Indian Organization shall be deemed to be an elected officer of a tribal government for purposes of applying section 294(b) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534(b)).

“(b) Consultation on Medicaid Services.—

“(1) IN GENERAL.—As part of its plan under title XIX of the Social Security Act, a State in which the Service operates or funds health care programs for beneficiaries, or in which the Indian Health Programs or Urban Indian Organizations provide health care in the State for
which medical assistance is available under such title, may establish a process under which the State seeks advice on a regular, ongoing basis from designees of such Indian Health Programs and Urban Indian Organizations on matters relating to the application of such title to and likely to have a direct effect on such Indian Health Programs and Urban Indian Organizations.

(2) MANNER OF ADVISORY COMMITTEE—The process described in paragraph (1) shall include solicitation of advice prior to submission of any plan amending a waiver request, and shall include appointment of an advisory committee and of a designee of such Indian Health Programs and Urban Indian Organizations to the medical care advisory committee advising the State on its medical aid plan.

(3) PAYMENT OF EXPENSES.—The reasonable expenses of carrying out this subsection shall be eligible for reimbursement under section 1903(a) of the Social Security Act.

(4) CONSTRUCTION.—Nothing in this section shall be construed as superseding existing advisory committees, working groups, or other advisory procedures established by the Secretary or by any State.

SEC. 410. STATE CHILDREN'S HEALTH INSURANCE PROGRAM—SCHIP.

(a) OPTIONAL USE OF FUNDS FOR INDIAN HEALTH PROGRAM PAYMENTS.—Subject to the succeeding provisions of this section, a State may provide under its State child health plan under title XXI of the Social Security Act (regardless of whether such plan is implemented under such title, title XIX of such Act, or under other provisions of such Act) payments to Indian Health Programs and Urban Indian Organizations for services that meet such standards as the Secretary of Health and Human Services, in consultation with the Attorney General, determines are appropriate, taking into account the special circumstances of such Indian Health Programs, Urban Indian Organizations and of patients served by Indian Health Programs, Urban Indian Tribes, and Tribal Organizations.

(b) SAFE HARBOR FOR TRANSACTIONS BETWEEN AND AMONG INDIAN HEALTH CARE PROGRAMS.—For purposes of applying section 1123(b)(1) of the Social Security Act, the exchange of anything of value between or among the following shall not be treated as remuneration if the exchange arises from or relates to any of the following health programs:

(1) An exchange between or among the following:

(A) An Indian Health Program.

(B) Any Urban Indian Organization.

(2) An exchange between an Indian Tribe, Tribal Organization, or an Urban Indian Organization and an eligible Indian Health Program or Urban Indian Organization for services that meet such standards as the Secretary of Health and Human Services, in consultation with the Attorney General, determines are appropriate, taking into account the special circumstances of such Indian Health Programs, Urban Indian Organizations and of patients served by Indian Health Programs, Urban Indian Tribes, and Tribal Organizations.

(c) CONSTRUCTION.—Nothing in this section shall be construed as superseding existing advisory committees, working groups, or other advisory procedures established by the Secretary or by any State.

SEC. 411. SOCIAL SECURITY ACT SANCTIONS.

(a) REQUESTS FOR WAIVERS OF SANCTIONS.—

(1) IN GENERAL.—For purposes of applying any authority under a provision of title XI, XVIII, XIX, or XXI of the Social Security Act to seek a waiver of a sanction imposed against a health care provider insofar as that provider provides services to individuals through a Tribal Organization, the Indian Health Service, or an Urban Indian Health Program shall request the State to seek such waiver, and if such State has not sought the waiver within 60 days of the Indian Health Program request, the Indian Health Program itself may petition the Secretary for such waiver.

(b) SAFE HARBOR FOR TRANSACTIONS BETWEEN AND AMONG INDIAN HEALTH CARE PROGRAMS.—For purposes of applying section 1123(b)(1) of the Social Security Act, the exchange of anything of value between or among the following shall not be treated as remuneration if the exchange arises from or relates to any of the following health programs:

(1) An exchange between or among the following:

(A) An Indian Health Program.

(B) Any Urban Indian Organization.

(2) An exchange between an Indian Tribe, Tribal Organization, or an Urban Indian Organization and an eligible Indian Health Program or Urban Indian Organization for services that meet such standards as the Secretary of Health and Human Services, in consultation with the Attorney General, determines are appropriate, taking into account the special circumstances of such Indian Health Programs, Urban Indian Organizations and of patients served by Indian Health Programs, Urban Indian Tribes, and Tribal Organizations.

(c) CONSTRUCTION.—Nothing in this section shall be construed as superseding existing advisory committees, working groups, or other advisory procedures established by the Secretary or by any State.

SEC. 412. COMMONALITY OF INDIANS.—The State may not exercise any authority under such title, except for the operation of this section.

SEC. 413. ELIGIBILITY OF INDIANS.—The State may not make—

(a) CONSIURANCE, COPAYMENTS, AND DEDUCTIBLES.—Notwithstanding any other provision of Federal or State law—

(1) PROTECTION FOR ELIGIBLE INDIANS UNDER SOCIAL SECURITY ACT—HEALTH PROGRAMS.—No Indian who is furnished an item or service for which payment may be made under title XIX or XXI of the Social Security Act may be charged a deductible, copayment, or coinsurance.

(2) PROTECTION FOR INDIANS.—No Indian who is furnished an item or service by the Service may be charged a deductible, copayment, or coinsurance.

(b) CONSTRUCTION.—Nothing in this section shall be construed as superseding existing advisory committees, working groups, or other advisory procedures established by the Secretary or by any State.

SEC. 414. ELIGIBLE LOW-INCOME CHILDREN.—The State may not make—

(a) CONSIURANCE, COPAYMENTS, AND DEDUCTIBLES.—Notwithstanding any other provision of Federal or State law—

(1) PROTECTION FOR ELIGIBLE INDIANS UNDER SOCIAL SECURITY ACT—HEALTH PROGRAMS.—No Indian who is furnished an item or service for which payment may be made under title XIX or XXI of the Social Security Act may be charged a deductible, copayment, or coinsurance.

(2) PROTECTION FOR INDIANS.—No Indian who is furnished an item or service by the Service may be charged a deductible, copayment, or coinsurance.

(b) CONSTRUCTION.—Nothing in this section shall be construed as superseding existing advisory committees, working groups, or other advisory procedures established by the Secretary or by any State.

SEC. 415. ELIGIBLE INDIAN HEALTH PROGRAMS.—For purposes of applying any authority under a provision of title XI, XVIII, XIX, or XXI of the Social Security Act to seek a waiver of a sanction imposed against a health care provider insofar as that provider provides services to individuals through a Tribal Organization, the Indian Health Service, or an Urban Indian Health Program shall request the State to seek such waiver, and if such State has not sought the waiver within 60 days of the Indian Health Program request, the Indian Health Program itself may petition the Secretary for such waiver.

(2) PROCEDURE.—In seeking a waiver under paragraph (1), the Indian Health Program must provide notice and a copy of the request, including the reasons for the waiver sought, to the Indian Health Service, consider the State’s views in the determination of the waiver request, but may not withhold or delay a determination based on the lack of the State’s views.

(3) PAYMENT OF EXPENSES.—The reasonableness of any payment under this section, title XIX of such Act or title XXI of such Act may provide under its State child health program under title XXI of the Social Security Act (including allotments a State for a fiscal year for payments under section 2105(a) of the Social Security Act to the State from the Indian Health Service, may be charged a deductible, copayment, or coinsurance that would be due from the Indian Health Service, and likely to have a direct effect on such Indian Health Programs and Urban Indian Organizations operating in the State. Such payments shall be treated under title XXI of the Social Security Act as expenditures described in section 1903(a)(1)(A) of such Act.

(b) USE OF FUNDS.—Payments under this section may be used only for expenditures described in clauses (i) through (iii) of section 2105(a)(1)(D) of the Social Security Act for targeted low-income children or other low-income children (as defined in 2110 of such Act) who are—

(1) Indians; or

(2) otherwise eligible for health services from the Indian Health Program involved.

(c) LIMITATIONS.—The following conditions apply to a State electing to provide payments under this section:

(1) NO LIMITATION ON OTHER SCHIP PARTICIPATION.—Payments to eligible Indian Health Programs in its State child health program under title XXI of the Social Security Act or its medicaid program under title XIX of such Act or pay such Programs less than they otherwise would as participate in the basis of payments made to such Programs under this section.

(2) NO LIMITATION ON OTHER SCHIP ELIGIBILITY OF INDIANS.—The State may not exclude or limit participation of otherwise eligible Indian children in such State child health or medicaid program on the basis that payments are made for assistance for such children under this section.

(3) LIMITATION ON ACCEPTANCE OF CONTRIBUTIONS.—

(a) IN GENERAL.—The State may not accept contributions or condition making of payments under this section upon contribution of funds from any Indian Health Program or affiliated Indian Tribal or Tribal Organization.

(b) IN GENERAL.—The State may not make payments matched under titles XIX and XXI of the Social Security Act.

(c) CONTRIBUTION DEFINED.—For purposes of subparagraph (A), the term ‘contribution’ includes any tax, donation, fee, or other payment made, whether made voluntarily or involuntarily.

(d) APPLICABILITY OF SEPARATE 10 PERCENT LIMITATION.—Payment may be made under section 2105(a) of the Social Security Act to a State Indian Health Program under this section up to an amount equal to 10 percent of the total amount available under title XXI of such Act (including allotments and amendments available from previous fiscal years) to the State with respect to the fiscal year.

(e) GENERAL TERMS.—A payment under this subsection shall be construed as superseding existing advisory committees, working groups, or other advisory procedures established by the Secretary or by any State.

SEC. 416. INDIAN HEALTH PROGRAMS.—

(a) OPTIMUM USE FUND FOR INDIAN HEALTH PROGRAM PAYMENTS.—Subject to the succeeding provisions of this section, a State may provide under its State child health plan under title XXI of the Social Security Act (regardless of whether such plan is implemented under such title, title XIX of such Act, or under other provisions of such Act) payments to Indian Health Programs and Urban Indian Organizations operating in the State. Such payments shall be treated under title XXI of the Social Security Act as expenditures described in section 2105(a)(1)(A) of such Act.

(b) USE OF FUNDS.—Payments under this section may be used only for expenditures described in clauses (i) through (iii) of section 2105(a)(1)(D) of the Social Security Act for targeted low-income children or other low-income children (as defined in 2110 of such Act) who are—

(1) Indians; or

(2) otherwise eligible for health services from the Indian Health Program involved.

(c) LIMITATIONS.—The following conditions apply to a State electing to provide payments under this section:

(1) NO LIMITATION ON OTHER SCHIP PARTICIPATION.—Payments to eligible Indian Health Programs in its State child health program under title XXI of the Social Security Act or its medicaid program under title XIX of such Act or pay such Programs less than they otherwise would as participate in the basis of payments made to such Programs under this section.

(2) NO LIMITATION ON OTHER SCHIP ELIGIBILITY OF INDIANS.—The State may not exclude or limit participation of otherwise eligible Indian children in such State child health or medicaid program on the basis that payments are made for assistance for such children under this section.

(3) LIMITATION ON ACCEPTANCE OF CONTRIBUTIONS.—

(4) Ownership interests in or usage rights that support subsistence or a traditional, traditional, or cultural significance or substantial value in the context of such activities or that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional or cultural style according to applicable tribal law or custom.

(d) CONTINUATION OF CURRENT LAW PROTECTIONS OF CERTAIN INDIAN PROPERTY FROM ESTATE TAXATION.—The medicaid and medicare estate recovery under title XIX of the Social Security Act as of April 1, 2003, continues, to the extent that such recoveries are not excluded under section 1917(b)(3) of such Act because of Federal responsibility for Indian Tribes and
would make for the services if the services
are furnished by the entity for such services that is
established by the entity for such services.

(2) An Indian Health Program or Urban
Indian Organization that is funded in whole or
in part by the Service, or a consortium thereof,
shall provide for payment to the Indian
mediated managed care entity in the State that meets
generally applicable standards required of
such an entity under such medicaid managed
care program.

The state shall offer to enter into an agree-
ment with the entity to serve as a medicaid
managed care entity with respect to eligible
Indians served by such entity under such
program.

(c) Special rules for medicaid managed
care entities.—The following are special
rules regarding the application of a medicaid
managed care entity to Indian medicaid managed
care entities:

(1) Enrollment.—(A) Provisions to Indians.—An Indian
mediated managed care entity may restrict
enrollment under such program to Indians and
to members of specific Tribes in the same
manner as Indian Health Programs. The State
may restrict the delivery of services to such
Indians and tribal members.

(B) No less choice of plans.—Under such
program, the State may not limit the choice
of an Indian among medicaid managed care
entities only to Indian medicaid managed care
care entities or to be more restrictive than
the choice of managed care entities offered
to individuals who are not Indians.

(2) Default enrollment.—(A) In General.—If such a
State requires the enrollment of Indians in a
mediated managed care entity in order to
receive benefits, the State shall provide for the
enrollment of Indians described in clause (i)
with such an entity in the Indian medicaid managed
care entity described in such clause.

(B) Indian described.—An Indian
described in clause (i) in respect to an In-
dian medicaid managed care entity, is an
Indian who, based on the service area and
capacity of the entity, is eligible to be
enrolled with the entity consistent with sub-
paragraph (A).

(3) Exception to state lock-in.—A re-
quest by an Indian who is enrolled under
such a program with a non-Indian medicaid
managed care entity to change enrollment with
that entity to enrollment with an Indian
mediad managed care entity shall be consid-
ered cause for granting such request.

(4) Covered medicaid managed care
services.—Any reference to a ‘State’ in subpara-
graph (A)(ii) of that section shall be deemed to
be a reference to the ‘Secretary’; and

(B) the entity shall be deemed to be a
public entity described in subparagraph
(C)(ii) of that section.

(d) Exception to advance directives.—
The Secretary may modify or waive the re-
quirements of section 1920(w) of the Social
Security Act (relating to application of laws
requiring the distribution of marketing mate-
rials to provide services to Indians living within
the boundaries of the Navajo Nation
through

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an entity established having the same au-
tority and performing the same functions as
single-State Medicaid agencies responsi-
able for the administration of the State plan
under title XIX of the Social Security Act.

"(b) CONSIDERATIONS.—In conducting the
study, the Secretary shall consider the feasibil-
ity of—

"(1) assigning and paying all expenditures
for the provision of services and related ad-
ministrative funds, under title XIX of the
Social Security Act, to Indians living within
the boundaries of the Navajo Nation that are
currently paid to or would otherwise be paid to
the State of Arizona, New Mexico, or Utah;

"(2) providing assistance to the Navajo Na-
tion in the development and implementation
of such entity for the administration, eligi-
bility, payment, and delivery of medical as-
sistance under title XIX of the Social Secu-
ry Act;

"(3) providing an appropriate level of
matching funds for Federal medical assis-
tance with respect to amounts such entity ex-
pects for medical assistance for services and
related administrative costs; and

"(4) authorizing the Secretary, at the op-
tion of the Navajo Nation, to treat the Nav-
ajo Nation as a State for the purposes of title
XIX of the Social Security Act (relating to
the health insurance program) under terms equivalent to those de-
scribed in paragraphs (2) through (4).

"(c) REPORT.—Not later than 3 years after
the date of enactment of the Indian Health
Act Improvement Amendments of 2005, the
Secretary shall submit to the Committee of
Indian Affairs and Committee on Finance
of the Senate and the Committee on Rec-
tary under this title.

"(d) IMMUNIZATION SERVICES.—

"(1) REQUIREMENTS FOR GRANTS AND
CONTRACTS.—Under authority of the Act of No-
ember 2, 1921 (25 U.S.C. 13) (commonly
known as the ‘Snyder Act’), the Secretary,
acting through the Service, shall enter into
contracts with Urban Indian Organizations
for the provision of health care and referral
services for Urban Indians. Any such contract or grant shall in-
corporate requirements for Urban Indian Organizations successfully undertake to—

"(1) estimate the population of Urban Indi-
ans residing in the Urban Center or centers
that the organization serves who are or could be recipients of health care or
referral services;

"(2) estimate the current health status of
Urban Indians residing in such Urban Center or
centers;

"(3) estimate the current health care needs
of Urban Indians residing in such Urban Cen-
ter or centers;

"(4) provide basic health education, includ-
ing health promotion and disease prevention
education, to Urban Indians;

"(5) make recommendations to the Sec-

SECRETARY, and Federal, State, local, and other
resource agencies on methods of improving
health service programs to meet the needs of
Urban Indians;

"(6) where necessary, provide, or enter into
contracts for the provision of, health care
services for Urban Indians.

"(e) BEHAVIORAL HEALTH SERVICES.—

"(1) DEFINITION.—For purposes of this sub-
sec.

"(2) ASSESSMENT REQUIRED.—Except as pro-
vided by paragraph (3)(A), a grant may not be
made under this subsection to an Urban Indian Organization until that or-

mination in the development and implementa-
tion of such entity for the administration, eligi-
bility, payment, and delivery of medical as-
sistance under title XIX of the Social Secu-
ry Act; and

"(3) PURPOSES OF GRANTS.—Grants may be
made under this subsection for the following:

"(A) To prepare assessments required under

"(B) To provide outreach, educational, and
referral services to Urban Indians regarding
the availability of direct behavioral health
services, to educate Urban Indians about be-
havioral health issues and services, and ef-
forcement of existing behavioral health providers in order to improve services
to Urban Indians.

"(C) To provide outpatient behavioral
health services to Urban Indians, including
the identification and assessment of illness,
thrpepatic treatments, case management,
support groups, family treatment, and other

"(D) To develop innovative behavioral
health service delivery models which incor-
porate Indian cultural support systems
and resources.

"(3) PURPOSES OF GRANTS.—Grants may be
made under this subsection to an Urban Indian Organization until that organ-
ization has prepared, and the Service has approved, an assessment that documents the preva-
lence of child abuse in the Indian urban pop-

ulation concerned and specifies the services
and programs (which may not duplicate ex-
isting services and programs) for which the
grant is requested.

"(3) PURPOSES OF GRANTS.—Grants may be
made under this subsection for the following:

"(A) To prepare assessments required
under subsection (a); to prevent and treat child abuse
(including sexual abuse) among Urban

"(B) For the development of prevention,
treatment, and education programs for Urban
Indians, including child education, parent
education, provider training on identifica-
tion and intervention, education on report-

"(C) The barriers to obtaining those serv-
ices and resources.

"(D) The needs that are unmet by such services and resources.

"(3) PURPOSES OF GRANTS.—Grants may be
made under this subsection for the following:

"(A) To prepare assessments required under
paragraph (2).

"(B) To provide outreach, educational, and
referral services to Urban Indians regarding
the availability of direct behavioral health
services, to educate Urban Indians about be-
havioral health issues and services, and ef-
forcement of existing behavioral health providers in order to improve services
to Urban Indians.

"(C) To provide outpatient behavioral
health services to Urban Indians, including
the identification and assessment of illness,
thrpepatic treatments, case management,
support groups, family treatment, and other

"(D) To develop innovative behavioral
health service delivery models which incor-
porate Indian cultural support systems
and resources.

"(3) PURPOSES OF GRANTS.—Grants may be
made under this subsection to an Urban Indian Organization until that organ-
ization has prepared, and the Service has approved, an assessment that documents the preva-
lence of child abuse in the Indian urban pop-

ulation concerned and specifies the services
and programs (which may not duplicate ex-
isting services and programs) for which the
grant is requested.

"(3) PURPOSES OF GRANTS.—Grants may be
made under this subsection for the following:

"(A) To prepare assessments required
under subsection (a); to prevent and treat child abuse
(including sexual abuse) among Urban

"(B) For the development of prevention,
treatment, and education programs for Urban
Indians, including child education, parent
education, provider training on identifica-
tion and intervention, education on report-

"(C) The barriers to obtaining those serv-
ices and resources.

"(D) The needs that are unmet by such services and resources.

"(3) PURPOSES OF GRANTS.—Grants may be
made under this subsection for the following:

"(A) To prepare assessments required under
paragraph (2).

"(B) To provide outreach, educational, and
referral services to Urban Indians regarding
the availability of direct behavioral health
services, to educate Urban Indians about be-
havioral health issues and services, and ef-
forcement of existing behavioral health providers in order to improve services
to Urban Indians.
“(C) To provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to Urban Indians who are child abuse victims, or adult survivors of child sexual abuse, to the families of such child victims, and to Urban Indian perpetrators of child abuse (including sexual abuse); and

“(D) Considerations when making grants.—In making grants to carry out this subsection, the Secretary shall take into consideration—

“(1) the support for the Urban Indian Organization demonstrated by the child protection authorities in the area, including committees established under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

“(2) the capability and expertise demonstrated by the Urban Indian Organization to address the complex problem of child sexual abuse in the community; and

“(c) the assessment required under paragraph (2).

“(g) Other grants.—The Secretary, acting through the Service, may enter into a contract with or make grants to an Urban Indian Organization that provides arrangements for the provision of health care services (through satellite facilities, provider networks, or otherwise) to Urban Indians in more than one Urban Center.

**SEC. 504. CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.**

“(a) Grants and contracts authorized.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), the Secretary, acting through the Service, may enter into contracts with or make grants to Urban Indian Organizations situated in Urban Centers for which contracts have not been entered into or grants made under subsection (c).

“(b) Purpose.—The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (c) in order to assist the Secretary in assessing the health status and health care needs of Urban Indians in the Urban Center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the Urban Indian Organization which the Secretary has entered into a contract with, or made a grant to, under section (c).

“(c) Grant and contract requirements.—Any contract entered into, or grant made under this section shall include requirements that—

“(1) the Urban Indian Organization successfully undertakes to—

“(A) document the health care status and unmet health care needs of Urban Indians in the Urban Center involved; and

“(B) with respect to Urban Indians in the Urban Center involved, determine the matters described in paragraphs (2), (3), (4), and (7) of section 508(b); and

“(2) the Urban Indian Organization complete performance of the contract, or carry out the requirements of the grant, within 1 year after the date on which the Secretary and Urban Indian organization enter into such contract, or within 1 year after such organization receives such grant, whichever is applicable.

“(d) No renewals.—The Secretary may not renew any contract entered into or grant made under this section.

**SEC. 505. EVALUATIONS; RENEWALS.**

“(a) Procedures for evaluations.—The Secretary, acting through the Service, shall develop procedures to evaluate compliance with grant requirements and compliance with and performance of contracts entered into by Urban Indian Organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

“(b) Evaluations.—The Secretary, acting through the Service, shall evaluate the compliance by each Urban Indian Organization which has entered into a contract or received a grant under section 503 with the terms of such contract or grant. For purposes of this evaluation, the Secretary may determine the capacity of an Urban Indian Organization to deliver quality patient care the Secretary shall, at the option of the organization—

“(1) acting through the Service, conduct an annual onsite evaluation of the organization; or

“(2) accept in lieu of such onsite evaluation evidence of the organization’s provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews of providers participating in the Medicare program under title XVIII of the Social Security Act.

“(c) Noncompliance; unsatisfactory performance.—If, as a result of the evaluations conducted under this section, the Secretary determines that an Urban Indian Organization has not completed, or has satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or making a grant under section 503 with the organization the areas of noncompliance or unsatisfactory performance and modify the contract or grant to prevent future occurrences of noncompliance or unsatisfactory performance. If the Secretary determines that the noncompliance or unsatisfactory performance cannot be prevented in the future, the Secretary shall not renew the contract or grant with the organization and is authorized to enter into a contract or make a grant under section 503 with another Urban Indian Organization which is situated in the same Urban Center as the Urban Indian Organization whose contract or grant is not renewed under this section.

“(d) Considerations for renewals.—In determining whether to renew a contract or grant with an Urban Indian Organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the reports submitted under section 502 or 503 which has completed performance of a contract or grant under section 503, the Secretary shall review the reports submitted under section 502, and shall consider the results of the onsite evaluations or accreditations under subsection (b).

**SEC. 506. OTHER CONTRACT AND GRANT REQUIREMENTS.**

“(a) Procurement.—Contracts with Urban Indian Organizations entered into pursuant to this title shall be to the extent, and in an amount, provided in appropriation Acts.

“(b) Payments under contracts or grants.—Payments under contracts or grants pursuant to this title shall not be made in full or in part if the Secretary determines that the Urban Indian Organization receiving such funds has not met the requirements in this section.

“(c) Loan fund study.—The Secretary, acting through the Service, may carry out a study to determine the feasibility of establishing a loan fund to provide to Urban Indian Organizations direct loans or guarantees for the construction of health care facilities in a manner consistent with section 309.
SEC. 510. OFFICE OF URBAN INDIAN HEALTH.

There is established within the Service an Office of Urban Indian Health, which shall be responsible for—

(1) carrying out the provisions of this title;
(2) providing central oversight of the programs and services authorized under this title;
(3) providing technical assistance to Urban Indian Organizations.

SEC. 511. GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE-RELATED SERVICES.

(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, may make grants for the provision of health-related services for the prevention, education, treatment, rehabilitation of, or school- and community-based education regarding, alcohol and substance abuse in Urban Centers to those Urban Indian Organizations with which the Secretary has entered into a contract under this title or under section 201.

(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the following:

(1) The size of the Urban Indian population.
(2) Capability of the organization to adequately perform the activities required under the grant.
(3) Satisfactory performance standards for the organization in meeting the goals set forth in this section.
(a) Identification of the need for services.
(d) ALLOCATION OF GRANTS.—The Secretary shall develop a methodology for allocating grants made pursuant to this section based on the criteria established pursuant to subsection (c).

(e) GRANTS SUBJECT TO CRITERIA.—Any funds received by an Urban Indian Organization under this section for the prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

SEC. 512. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.

Notwithstanding any other provision of law, the Tulsa Clinic and Oklahoma City Clinic Demonstration projects shall—

(1) be permanent programs within the Service’s direct care program;
(2) continue to be treated as Service Units in the allocation of resources and coordination of care; and
(3) continue to meet the requirements and definitions of an urban Indian organization in this Act to be subject to the provisions of the Indian Self-Determination and Education Assistance Act.

SEC. 513. URBAN NIAAA TRANSFERRED PROGRAMS.

(a) GRANTS AND CONTRACTS.—The Secretary, through the Office of Urban Indian Health, shall make grants or enter into contracts with Urban Indian Organizations for the administration of Urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as ‘NIAAA’) and transferred to the Service. Such grants and contracts shall become effective no later than September 30, 2008.

(b) USE OF FUNDS.—Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for Urban Indian populations and such other objectives as are agreed upon between the Secretary and a recipient of a grant or contract under this section.

(c) ELIGIBILITY.—Urban Indian Organizations that operate Indian alcohol programs and subsequently transferred to the Service are eligible for grants or contracts under this section.

(d) REPORT.—The Secretary shall evaluate and report to Congress on the activities of programs funded under this section not less than every 5 years.

SEC. 514. CONSULTATION WITH URBAN INDIAN ORGANIZATIONS.

(a) IN GENERAL.—The Secretary shall ensure that the Service consults with the greatest extent practicable, with Urban Indian Organizations.

(b) DEFINITION OF CONSULTATION.—For purposes of subsection (a), consultation is the open and free exchange of information and opinions which leads to mutual understanding and comprehension and which emphasizes trust, respect, and shared responsibility.

SEC. 515. FEDERAL TORT CLAIM ACT COVERAGE.

(a) IN GENERAL.—With respect to claims resulting from the performance of functions, duties, or obligations of the Secretary, or claims asserted after September 30, 2004, but resulting from the performance of functions prior to fiscal year 2005, under a grant, contract, or any other agreement authorized under this title, an Urban Indian Organization is deemed hereafter to be part of the Service in the Department of Health and Human Services for purposes of any such contract or agreement and its employees are deemed employees of the Service while acting within the scope of their employment, and such contract or agreement. After September 30, 2003, any civil action or proceeding involving such claims brought hereafter against any Urban Indian Organization or any employee of such Urban Indian Organization covered by this provision shall be deemed an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act (28 U.S.C. 1346(b), 2671 et seq.). Future coverage under that Act shall be contracted for by the Service in accordance with the Urban Indian Organization with the Attorney General in prosecuting past claims.

(b) CLAIMS RESULTING FROM PERFORMANCE OF FUNCTIONS PRIOR TO SEPTEMBER 30, 2004.—Beginning for fiscal year 2005 and thereafter, the Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions.

SEC. 516. URBAN YOUTH TREATMENT CENTER DEMONSTRATION.

(a) AUTHORIZATION FOR OPERATION.—The Secretary, acting through the Service, through grant or contract, is authorized to fund the construction and operation of, at least 2 residential treatment centers in each State described in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to Urban Indian youth in a culturally competent residential setting.

(b) DEFINITION OF STATE.—A State described in this subsection is a State in which—

(1) there resides Urban Indian youth with need for alcohol and substance abuse treatment services in a residential setting; and
(2) there exist programs of culturally competent residential treatment services for Urban Indian youth.

(c) E STABLISHMENT OF CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a) relating to—

(1) the size and location of the Urban Indian population to be served;
(2) the need for prevention and treatment of the complications resulting from, diabetes among Urban Indians.

(d) REPORT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

(e) URBAN INDIAN ORGANIZATIONS DEEMED FEDERAL AGENCIES.—For purposes of section 501 of title 44, United States Code, (relating to Federal sources of supply, including lodging providers, airlines, and other transportation providers), an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title shall be deemed by the Secretary to be an Urban Indian Organization covered by this section and shall be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 4101 et seq.). Urban Indian Organizations shall be deemed as Federal agencies as defined in section 501 of title 44, United States Code, and as Public Health Service facilities and services for purposes of the Uniform Relocation Act of 1970, as amended (42 U.S.C. 4601 et seq.). Urban Indian Organizations that have entered into a contract or received a grant pursuant to this title shall be deemed federal agencies when carrying out such contract or grant.

SEC. 517. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.

(a) AUTHORIZATION FOR USE.—The Secretary, acting through the Service, may make grants or enter into contracts with an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title, in carrying out such contract or grant, to use existing facilities and all equipment therein or pertaining thereto and other personal property owned by the Federal Government within the Service’s jurisdiction for such terms and conditions as may be agreed upon for their use and maintenance.

(b) DONATIONS.—Subject to subsection (d), the Secretary may donate to an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title any personal or real property determined by the Secretary to be excess to the needs of the Service or the General Services Administration for purposes of carrying out the contract or grant.

(c) ACQUISITION OF PROPERTY FOR DONATION.—The Secretary may acquire excess or surplus government personal or real property for donation (subject to subsection (d)), to an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title if the Secretary determines that the property is appropriate for use by the Urban Indian Organization for a purpose for which a contract or grant is authorized under this title.

(d) PRECEDENCE.—In the event that the Secretary receives a request for donation of a specific item of personal or real property described in subsection (b) or (c) from both an Urban Indian Organization and from an Indian Tribe or Tribal Organization, the Secretary shall give priority to the request for donation from the Indian Tribe or Tribal Organization. If the Secretary receives a request from the Indian Tribe or Tribal Organization before the date the Secretary transfers title to the property or, if earlier, the date the Secretary transfers the property physically to the Urban Indian Organization.

(e) URBAN INDIAN ORGANIZATIONS DEEMED EXECUTIVE AGENCY FOR CERTAIN PURPOSES.—For purposes of section 501 of title 44, United States Code, (relating to Federal sources of supply, including lodging providers, airlines, and other transportation providers), an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title shall be deemed an executive agency when carrying out such contract or grant.
“(4) the capability of the organization to adequately perform the activities required under the grant; and
“(5) the willingness of the organization to collaborate with other community health service providers, and the compatibility of the organization with the community health service providers already meeting the criteria established by the Secretary under section 294(e) in the Area Office of the Service in which the organization is located.

SEC. 519. COMMUNITY HEALTH REPRESENTATIVES.

The Secretary, acting through the Service, may enter into contracts with, and make grants to, Urban Indian Organizations for the employment of Indians trained as health service providers through the Community Health Representatives Program under section 109 in the provision of health care, health promotion, and disease prevention services to Urban Indians.

SEC. 520. REGULATIONS.

“(a) REQUIREMENTS FOR REGULATIONS.—The Secretary may promulgate regulations to implement the provisions of this title in accordance with—
“(1) Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary no later than 9 months after the date of enactment of this Act and shall have no less than a 4-month comment period.
“(2) The authority to promulgate regulations under this Act shall expire 18 months from the date of enactment of this Act.

“(b) EFFECTIVE DATE OF TITLE.—The amendments to this title made by the Indian Health Care Improvement Act Amendments of 2005 shall be effective on the date of enactment of such amendments, regardless of whether the Secretary has promulgated regulations implementing such amendments have been promulgated.

SEC. 521. ELIGIBILITY FOR SERVICES.

“Urban Indians shall be eligible and the ultimate beneficiary for health care or referral services provided pursuant to this Act.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

“(a) ESTABLISHMENT.—
“(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian Tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

“(2) ASSISTANT SECRETARY OF INDIAN HEALTH.—The Service shall be administered by an Assistant Secretary of Indian Health, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 2005, the term of service of the Assistant Secretary shall be 4 years. An Assistant Secretary may serve more than 1 term.

“(3) INCUMBENT.—The individual serving in the position of Director of the Indian Health Service on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 shall serve as Assistant Secretary.

“(4) ADVICE AND CONSULTATION.—The position of Assistant Secretary is established to, in a manner consistent with the government-to-government relationship between the United States and Indian Tribes—
“(A) facilitate advocacy for the development of appropriate Indian health policy; and
“(B) promote consultation on matters relating to Indian health.

“(b) AGENCY.—The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

“(c) DUTIES.—The Assistant Secretary of Indian Health shall—
“(1) perform all functions that were, on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, carried out by or under the direction of the individual serving as Director of the Service on that day;
“(2) perform all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning and provision of utilization of, health services for Indians;
“(3) administer all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—
“(A) this Act;
“(B) the Act of November 2, 1921 (25 U.S.C. 13);
“(C) the Act of August 5, 1954 (42 U.S.C. 2001 et seq.);
“(D) the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);
“(4) administer all scholarship and loan functions carried out under title I;
“(5) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;
“(6) collaborate with the Assistant Secretary for Health concerning appropriate matters of joint interest with the agencies of the Public Health Service;
“(7) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;
“(8) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;
“(9) coordinate the activities of the Department concerning matters of Indian health; and
“(10) perform such other functions as the Secretary may designate.

“(d) AUTHORITY.—
“(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary, shall have the authority to carry out the functions of the Indian Health Service.

“(2) PERSONNEL ACTIONS.—Notwithstanding any other provision of law, the provisions of chapter 55 of title 5, United States Code (relating to personnel actions taken with respect to new personnel and positions in the United States) shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

“(e) REFERENCES.—Any reference to the Director of the Indian Health Service in any other Federal law, Executive order, rule, regulation, or other Federal agency document of or relating to the Director of the Indian Health Service shall be deemed to refer to the Assistant Secretary.

SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

“(a) ESTABLISHMENT.—

“The Secretary shall establish an automated management information system for the Service.

“(b) REQUIREMENTS OF SYSTEM.—The information system established under paragraph (1) shall include—
“(A) a financial management system; (b) a patient care information system for each area served by the Service; (c) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service; (d) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each Area operated by the Service; (e) an interface mechanism for patient billing and accounts receivable system; and (f) a training component.

“(c) ACCESS TO RECORDS.—Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

“(d) AUTHORITY TO ENHANCE INFORMATION TECHNOLOGY.—The Secretary, acting through the Assistant Secretary, shall have the authority to enter into contracts, agreements, or joint ventures with other Federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian health programs and facilities.

SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

TITLE VII—BEHAVIORAL HEALTH PROGRAMS

SEC. 701. BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES.

“(a) PURPOSES.—The purposes of this section are as follows:
“(1) to provide information, direction, and guidance relating to mental illness and dys- function and self-destructive behavior, including child abuse and family violence, to Indian Tribes and other Federal agencies responsible for programs in Indian communities in areas of health care, education,
social services, child and family welfare, alcohol and substance abuse, law enforcement, and judicial services.

(3) To assist Indian Tribes to identify services available to address mental illness and dysfunctional and self-destructive behavior.

(4) To provide authority and opportunities for Indian Tribes and Tribal Organizations to develop tribal plans, and urban Indian Organizations to develop local plans, and for all such groups to participate in developing area-wide plans for urban Indian Behavioral Health Services. The plans shall include, to the extent feasible, the following components:

(A) Assessment of the scope of alcohol or other substance abuse, mental illness, and dysfunctional self-destructive behavior, including suicide, child abuse, and family violence, among Indians, including—

(i) the number of Indians served who are directly or indirectly affected by such illness or behavior; or

(ii) an estimate of the financial and human cost attributable to such illness or behavior.

(B) An assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (3).

(C) An estimate of the additional funding needed by the Service, Indian Tribes, Tribal Organizations, and urban Indian Organizations to meet their responsibilities under the plans.

(2) NATIONAL CLEANSINGHOUSE.—The Secretary, acting through the Service, shall establish a national cleansinghouse of plans and reports on the outcomes of such plans developed by Indian Tribes, Tribal Organizations, Urban Indian Organizations, and Service Areas relating to behavioral health. The Secretary shall ensure access to these plans and outcomes by any Indian Tribe, Tribal Organization, Urban Indian Organization, or the Service.

(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Indian Tribes, Tribal Organizations, and Urban Indian Organizations in preparation of plans under this section and in developing standards of care that may be used and adopted locally.

(c) PROGRAMS.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide, to the extent feasible and if funding is available, programs including the following:

(1) COMPREHENSIVE CARE.—A comprehensive continuum of behavioral health care which provides—

(A) community-based prevention, intervention, outpatient, and behavioral health aftercare services; and

(B) detoxification (social and medical); and

(C) acute hospitalization;

(D) intensive outpatient/day treatment;

(E) residential treatment;

(F) transitional living for those needing a temporary, stable living environment that is supportive of treatment and recovery goals;

(G) emergency shelter;

(H) intensive case management;

(1) Traditional Health Care Practices; and

(J) diagnosis of substance use.

(2) CHILD CARE.—Behavioral health services for Indians from birth through age 17, including—

(A) preschool and school age fetal alcohol disorder services, including assessment and behavioral intervention;

(B) mental health and substance abuse services (emotional, organic, alcohol, drug, inhalant, and tobacco);

(C) identification and treatment of co-occurring disorders and comorbidity;

(D) prevention of alcohol, drug, inhalant, and tobacco use;

(E) early intervention, treatment, and aftercare;

(F) promotion of healthy approaches to risk and safety issues; and

(G) identification and treatment of neglect and physical, mental, and sexual abuse.

(3) The responsibilities of the Bureau of Indian Affairs and the Service shall coordinate behavioral health planning, to the extent feasible, with other Federal agencies and with State agencies, to encourage comprehensive behavioral health services for Indians regardless of tribe.

(6) A strategy for the comprehensive coordination of the behavioral health services, social services, intensive outpatient services, and continuing care.

(2) TECHNICAL ASSISTANCE.—At the request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, the Bureau of Indian Affairs and the Service shall cooperate with and provide technical assistance to the Indian Tribe, Tribal Organization, or Urban Indian Organization for the development and implementation of such plan.

(3) FUNDING.—The Secretary, acting through the Service, may make funding available to Indian Tribes and Tribal Organizations which adopt a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

(4) COORDINATION FOR AVAILABILITY OF SERVICES.—The Secretary, acting through the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall coordinate behavioral health planning, to the extent feasible, with other Federal agencies and with State agencies, to encourage comprehensive behavioral health services for Indians regardless of tribe.

(7) MENTAL HEALTH CARE NEED ASSESSMENT.—Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and accessibility of mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, underused Service hospital beds into psychiatric units to meet such need.

SEC. 702. MEMORANDA OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR.

(a) CONTENTS.—Not later than 12 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, and the Secretary of the Interior shall develop and enter into a memorandum of agreement, or review and update any existing memoranda of agreement, as required by section 2005 of the Indian Health Care Improvement Act Amendments of 2005 (25 U.S.C. 2111) under which the Secretaries address the following:

(1) The scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians.

(2) The existing Federal, tribal, State, local, and private sector, resources, and programs available to provide behavioral health services for Indians.

(3) The unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1).

(4) (A) The right of Indians, as citizens of the several States and of the States in which they reside, to have access to behavioral health services to which all citizens have access.

(B) The right of Indians to participate in, and receive the benefit of, such services.

(C) The actions necessary to protect the exercise of such right.

(6) The responsibilities of the Bureau of Indian Affairs and the Service, including mental illness identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and service unit, service area, and headquarters levels to address the problems identified in paragraph (5).

(7) A strategy for the comprehensive coordination of the behavioral health services
provided by the Bureau of Indian Affairs and the Service to meet the problems identified pursuant to paragraph (1), including—

"(A) the coordination of alcohol and substance abuse services, including supervision and evaluation of alcohol and substance abuse treatment networks.

"(B) ensuring that the Bureau of Indian Affairs and Tribal Organizations develop and implement a program for acute detoxification and treatment for Indian youths, including behavioral health services, counseling, advocacy, support, and relapse prevention for Indian women and their families; and

"(C) mental health technician program.

"(d) PROCUREMENT OF MENTAL HEALTH SERVICES.—

"(1) IN GENERAL.—The Service, acting through the Service, Indian Tribes, and Tribal Organizations, may enter into contracts with public or private providers of behavioral health services for the purpose of carrying out the program required under subsection (a).

"(2) PROVISION OF ASSISTANCE.—In carrying out the program, the Service shall provide assistance to Indian Tribes and Tribal Organizations to develop criteria for the certification of behavioral health service providers and accreditation of service facilities which meet minimum standards for such services and facilities.

"SEC. 704. MENTAL HEALTH TECHNICIAN PROGRAM.

"(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), the Secretary, acting through the Service, shall develop and implement a mental health technician program within the Service which—

"(1) provides for the training of Indians as mental health technicians; and

"(2) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment.

"(b) PARAPROFESSIONAL TRAINING.—In carrying out subsection (a), the Secretary, acting through the Service, shall provide high-standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served.

"(c) USE OF FUNDS.—Funds made available under this section may be used to—

"(1) develop and implement a program for acute detoxification and treatment for Indian youths, including behavioral health services, counseling, advocacy, support, and relapse prevention for Indian women and their families; and

"(2) develop prevention and intervention models for Indian women which incorporate Traditional Health Care Practices, cultural values, and community and family involvement.

"(d) CRITERIA.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

"(e) BUDGET OF CERTAIN FUNDS.—Twenty percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations.

"SEC. 705. INDIAN YOUTH PROGRAM.

"(a) DETOXIFICATION AND REHABILITATION.—The Secretary, acting through the Service, shall develop and implement a program for acute detoxification and treatment for Indian youths, including behavioral health services, consistent with section 701, shall make funds available to urban Indian organizations, and shall develop and implement a program for acute detoxification and treatment for Indian youths, including behavioral health services. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. The program shall be implemented by Indian Tribes or Tribal Organizations at the local level under the Indian Self-Determination and Education Assistance Act. Such programs shall be coordinated with the alcohol and substance abuse treatment facilities in the referring Indian community.

"(b) ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTERS AND FACILITIES.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall establish and coordinate, or, as necessary, purchase, and appropriately staff and operate, at least 1 youth regional treatment center or treatment network in each area under the jurisdiction of an Area Office.

"(B) AREA OFFICE IN CALIFORNIA.—For the purposes of this subsection, the Area Office in California shall be considered to be 2 Area Offices, 1 office whose jurisdiction shall be considered to encompass the northern area of the State of California, and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks.

"(c) LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.—Subject to the provisions of section 221, any person employed as a psychologist, social worker, or marriage and family therapist, or as mental health care services to Indians in a clinical setting under this Act is required to be licensed as a clinical psychologist, social worker, or marriage and family therapist, respectively, or, with the consent of the State of California, any person who is employed as a psychologist, social worker, or marriage and family therapist, respectively.

"SEC. 706. INDIAN WOMEN TREATMENT PROGRAMS.

"(a) FUNDING.—The Secretary, consistent with section 701, shall make funds available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to develop and implement comprehensive behavioral health program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the spiritual, cultural, and traditional health care needs of Indian women, regardless of age.

"(b) USE OF FUNDS.—Funds made available pursuant to this section may be used to—

"(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including fetal alcohol disorders; and

"(2) identify and provide psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and

"(C) community-based rehabilitation and aftercare services, counseling, advocacy, support, and relapse prevention for Indian women and their families; and

"(d) CRITERIA.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

"(e) BUDGET OF CERTAIN FUNDS.—Twenty percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations.
a location within the area described in para-
graph (1) agreed upon (by appropriate tribal resolution) by a majority of the Indian Tribes to be served by such center.

"(4) SPECIFIC PROVISION OF FUNDS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropri-
ted for the State in paragraphs (1) and (2) of section 704 of this title, make funds available to—

"(i) the Tanana Chiefs Conference, Incor-
porated, for the purpose of leasing, con-
struction, operating, and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

"(ii) the Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450i).

"(B) PROVISION OF SERVICES TO ELIGIBLE YOUTHS.—Until additional residential youth treatment facilities are established in Alas-
ka pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indians in Alaska.

"(c) INTERMEDIATE ADOLESCENT BEHAV-
IORAL HEALTH SERVICES.—

"(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Trib-
al Organizations, may provide intermediate behavioral health services, which may incor-
porate Traditional Health Care Practices, to Indian children and adolescents, including—

"(A) pretreatment assistance;

"(B) inpatient, outpatient, and aftercare services;

"(C) emergency care;

"(D) suicide prevention and crisis interven-
tion; and

"(E) prevention and treatment of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence.

"(2) USE OF FUNDS.—Funds provided under this subsection may be used—

"(A) to construct or renovate an existing health facility to provide intermediate be-

havioral health services;

"(B) to hire behavioral health professionals;

"(C) to staff, operate, and maintain an inter-
mediate mental health facility, group home, sober housing, transitional housing or sim-
filar facilities, or youth shelter where in-
termediate behavioral health services are being provided;

"(D) to make renovations and hire appro-
riate staff to convert existing hospital beds into adolescent psychiatric units; and

"(E) for intensive home- and community-
based services.

"(3) CRITERIA.—The Secretary, acting through the Service, shall, in consultation with Indian Tribes and Tribal Organizations, establish criteria for the review and approval of applications or proposals for funding made available pursuant to this subsection.

"(d) FEDERALLY OWNED STRUCTURES.—

"(1) IN GENERAL.—The Secretary, in con-
sultation with Indian Tribes and Tribal Or-
ganizations, shall—

"(A) identify and use, where appropriate, federally owned structures suitable for local residential or regional behavioral health treatment for Indians residing in Alaska.

"(B) establish guidelines, in consultation with Indian Tribes and Tribal Organizations, for determining the suitability of any such federal structure to be used for local residential or regional behavioral health treatment for Indian youths.

"(2) TERMS AND CONDITIONS FOR USE OF STRUCTURES.—The structures described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsi-
bility for the structure and any Indian Tribe or Tribal Organization operating the pro-
gram.

"(e) REHABILITATION AND AFTERCARE SERV-
ICES.—

"(1) IN GENERAL.—The Secretary, Indian Tri-
bles, or Tribal Organizations, in coopera-
tion with the Secretary of the Interior, shall develop and implement within each Service Unit, community-based rehabilitation and follow-up services for Indian youths who are in treatment for behavioral health prob-
lems, and require long-term treatment, com-
unity reintegration, and monitoring to support the Indian youths after their return to their home community.

"(2) ADMINISTRATION.—Services under para-
graph (1) shall be provided by trained staff within the community who can assist the In-
dian youths in their continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff may include alcohol and substance abuse counselors, mental health professionals, and other health profes-
sionals and paraprofessionals, including community health workers.

"(f) INCLUSION OF FAMILY IN YOUTH TREAT-
MENT PROGRAM.—In providing the treatment and other services to Indian youths author-
ized by this section, including Services acting through the Service, Indian Tribes, and Trib-
al Organizations, shall provide for the inclu-
sion of family members of such youths in the treatment program and services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out this section shall be used for outpatient services provided to the parents related to the treatment of an Indian youth under that subsection.

"(g) MULTIDRUG ABUSE PROGRAM.—The Sec-

tary, acting through the Service, Indian Tri-
bles, Tribal Organizations, and Urban Indian Organizations, shall provide, con-
sistent with section 701, programs and services to prevent and treat the abuse of mul-
tiple forms of substances, including alcohol, drugs, inhalants, and tobacco, among Indian youths residing in Indian communities, on or near reservations, and in urban areas and provide appropriate mental health services to address the incidence of mental illness among such youths.

"SEC. 706. INPATIENT AND COMMUNITY-
BASED MENTAL HEALTH FACILITIES DE-
SIGN, CONSTRUCTION, AND STAFF-
ING.

"(a) NOT LATER THAN ONE YEAR AFTER THE DATE OF EN-
ACTMENT.—The Secretary, through the Service, in cooperation with the Department of Health and Human Services, shall develop, implement, and carry out programs to deliver innovative community-based behavioral health services to communities receiving services for prevention, intervention, treatment, and aftercare.

"(b) INSTRUCTION.—The Secretary, acting through the Service, Tribal Organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention and intervention experts, shall provide community-based training programs. Such models shall address—

"(1) the elevated risk of alcohol and behav-
iors faced by children of al-
coholics;

"(2) the cultural, spiritual, and multigenerational aspects of behavioral health problem prevention and recovery; and

"(3) community-based and multidisci-
plinary strategies for preventing and treat-
ing behavioral health problems.

"(c) INNOVATIVE PROGRAMS.—The Sec-

etary, acting through the Service, Indian Tri-
bles, Tribal Organizations, and Tribal Orga-
nizations, shall carry out projects which fulfill the conditions set forth in section 4213 of the Indian Health Service Act Amendments of 2005, the Indian Self-Determination and Education Assistance Act, the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

"(d) EQUITABLE TREATMENT.—For purposes of this section, the Secretary, in con-
sultation with Indian Tribes, Tribal Organizations, and Indian alcohol and substance abuse prevention and intervention experts, shall provide community-based training programs.

"SEC. 707. TRAINING AND COMMUNITY EDU-
CATION.

"(a) PROGRAM.—The Secretary, in coopera-
tion with the Secretary of the Interior, shall develop and implement or provide funding for Indian Tribes and Tribal Organizations to develop and implement, within each Service Unit, a set of training programs and other educational activities which shall include training of the community leadership of the community in which the programs are to be implemented.

"(b) FUNDING; CRITERIA.—The Secretary may award such funding for a project under subsection (a) to an Indian Tribe or Tribal Organization and may consider the following criteria:

"(1) The project will address significant unmet behavioral health needs among Indi-
an.

"(2) The project will serve a significant number of Indians.

"(3) The project has the potential to de-

liver services in an efficient and effective man-
ner.

"(4) The Indian Tribe or Tribal Organiza-
tion has the administrative and financial ca-

pability to administer the project.

"(5) The project may deliver services in a manner consistent with Traditional Health Care Practices.

"(c) EQUIitable TREATMENT.—For purposes of this section, the Secretary shall, in evaluating project applications or proposals, consider the following criteria that the Secretary may use in evaluating any other application or pro-
posal for such funding:
The term ‘fetal alcohol syndrome’ or ‘FAS’ means a syndrome in which, with a history of maternal alcohol consumption during pregnancy, the following criteria are met:

1. Central nervous system involvement such as developmental delay, intellectual deficit, microencephaly, or neurologic abnormalities.
2. The term ‘behavioral health aftercare’ includes any activities and resources used to support recovery following inpatient, residential, intensive substance abuse, or mental health outpatient or outpatient treatment.
3. A local 12-step or other related support group, and other community-based providers (mental health professionals, traditional health care practitioners, community health aides, community health technicians, ministers, etc.).
SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each fiscal year for the year 2015 to carry out the provisions of this title.

TITLE VIII—MISCELLANEOUS

SEC. 801. REPORTS.

The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year through fiscal year 2015 to carry out this Act, transmit to Congress a report containing the following:

(1) A report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and assessments and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians and ensure a health status for Indians, which are at a parity with the health services available to and the health status of the general population, such that public comparisons of appropriations provided and those required for such parity,

(2) A report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian Tribes, Tribal Organizations, and Urban Indian Organizations to address such impact, including a report on proposed changes in allocation of funding pursuant to section 803,

(3) A report on the use of health services by Indian—

(A) on a national and area or other relevant geographical basis;

(B) by gender and age;

(C) by source of payment and type of service;

(D) comparing such rates of use with rates of use among comparable non-Indian populations; and

(E) under contracts;

(4) A report of contractors to the Secretary on Health Care Educational Loan Repayments every 6 months required by section 1104;

(5) A general audit report of the Secretary on the Health Care Educational Loan Repayment Program as required by section 1104;

(6) A report of the findings and conclusions of demonstration programs on development of educational curricula for substance abuse counseling as required in section 125(c).

(7) A separate statement which specifies the amount of funds requested to carry out the provisions of section 201.

(8) A report of evaluations of health promotion and disease prevention as required in section 203(c).

(9) A biennial report to Congress on infectious diseases spread by sex and gender as required by section 213.

(10) An annual report on the status of all health care facilities needed as required by section 301(c)(2) and 301(d).

(12) Reports on safe water and sanitary waste disposal facilities as required by section 302(h).

(13) An annual report on the expenditure of nonservice funds for renovation as required by section 302(h).

(14) A report identifying the backlog of maintenance and repair required at Service and tribal facilities required by section 313(a).

(15) A report providing an accounting of reimbursement funds made available to the Secretary under chapter XVII, XIX, and XXI of the Social Security Act.

(16) A report on any arrangements for the sharing of medical facilities or services, as authorized by section 303.

(17) A report on evaluation and renewal of Urban Indian programs under section 505.

(18) A report on the evaluation of programs as required by section 515(d).

(19) A report on alcohol and substance abuse as required by section 701(f).

SEC. 802. REGULATIONS.

(a) DEADLINES.

(1) PROCEDURES.—Not later than 90 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out titles I (except sections 105, 115, and 117), II, III, and VII. The Secretary may promulgate regulations to carry out sections 105, 115, 117, and the procedures required by chapter V of title 5, United States Code (commonly known as the ‘Administrative Procedure Act’). The Secretary shall issue no regulations to carry out titles VI and VII.

(2) PROPOSED REGULATIONS.—Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary no later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 and shall have a 60-day comment period.

(3) EXPIRATION OF AUTHORITY.—Except as otherwise provided herein, the authority to promulgate regulations under this Act shall expire 24 months from the date of enactment of this Act.

(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 505 of title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and representatives of Indian Tribes and Tribal Organizations, and shall be composed of representatives of Indian Tribes and Tribal Organizations, and any Indian who is listed in paragraph (5) of section 801(b) of this title and has practiced as a health care provider under Federal Indian Health Service regulations as a provider of services under the Indian Health Program, or by the Secretary under regulations of the Secretary under this Act.

(c) ADAPTING PROCEDURES.—The Secretary shall adopt the negotiated rulemaking procedures to the unique context of Indian Tribes and Tribal Organizations, and subject to the same rules that apply to eligible Indians.

(d) LACK OF REGULATIONS.—The lack of promulgated regulations shall not limit the effect of this Act.

(e) INCONSISTENT REGULATIONS.—The provisions of this Act shall supercede any conflicting provisions of law in effect on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act.

SEC. 803. PLAN OF IMPLEMENTATION

Not later than 9 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary shall submit to Congress a plan explaining the manner and schedule (including a schedule of appropriation requests), by title and section, by which the Secretary will implement the provisions of this Act.

SEC. 804. AVAILABILITY OF FUNDS

The funds appropriated pursuant to this Act shall remain available until expended.

SEC. 805. LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE

Any limitation on the use of funds contained in this Act providing appropriations for the Department for the purpose to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in this Act providing appropriations for the Service.

SEC. 806. ELIGIBILITY OF CALIFORNIA INDIANS

(a) IN GENERAL.—The following Indians shall be eligible for health services provided by the Service:

(1) Any member of a federally recognized Indian Tribe.

(2) Any descendant of an Indian who was residing in California on June 1, 1852, if such descendant—

(A) is a member of the Indian community served by a local program of the Service; and

(B) is regarded as a member of such an Indian community in which such descendant lives.

(3) Any Indian who holds trust interests in public domain, national forest, or reservations allotments in California.

(4) Any Indian in California who is listed on the plans for distribution of the assets of rancherias and reservations located within the boundaries of the State of California at August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

(b) CLARIFICATION.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 17, 2005.

SEC. 807. HEALTH SERVICES FOR INELIGIBLE PERSONS

(a) CHILDREN.—Any individual who—

(1) has not attained 19 years of age;

(2) is the natural or adopted child, step-child, foster child, legal ward, or orphan of an eligible Indian; and

(3) is not otherwise eligible for health services provided by the Service, shall be eligible for all health services provided by the Service to the extent applicable to eligible Indians and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until 1 year after the date of a determination of competency.

(b) SPOUSES.—Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but is not eligible for the health services provided by the Service, shall be eligible for such services if all such spouses or spouses who are married to members of each Indian Tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian Tribe or Tribal organization providing health services to such Indians.

(c) PROVISION OF SERVICES TO OTHER INDIVIDUALS.

(1) IN GENERAL.—The Secretary is authorized to provide health services to other individuals who are eligible for such services in this subsection through health programs operated directly by the Service to individuals.
who reside within the Service Unit and who are not otherwise eligible for such health services—

(A) the Indian Tribes served by such Service Unit; and

(B) the Secretary and the served Indian Tribes have jointly determined that—

(i) such health services will not result in a denial or diminution of health services to eligible Indians; and

(ii) there is no reasonable alternative health care provider, within or without the Service Unit, available to meet the health needs of such individuals.

(2) EFFECTS.—In the case of health programs and facilities operated under a contract or compact entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the governing body of the Indian Tribe or Tribal Organization providing health services under such contract or compact is authorized to determine whether health services should be provided under such contract or compact to individuals who are not otherwise eligible for such services under any other provision of law. In making such determination, the governing body of the Indian Tribe or Tribal organization shall take into account the considerations described in clauses (i) and (ii) of paragraph (1)(B).

(3) PAYMENT FOR SERVICES.—

(A) IN GENERAL.—Persons receiving health services provided by the Service under this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Reimbursement of this Act or any other provision of law, amounts collected under this subsection, including Medicare, Medicaid, or SCHIP reimbursements under titles XVIII, XIX, and XXI of the Social Security Act, shall be credited to the account of the program providing the service and shall be used for the purposes listed in section 401(d)(2) and amounts collected under this subsection shall be available for expenditure within such program.

(B) INDIGENT PEOPLE.—Health services may be provided by the Secretary through the Service under this subsection to an indigent individual who would not be otherwise eligible for such health services but for the provisions of this subsection (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent individual.

(4) REVOCATION OF CONSENT FOR SERVICES.—

(A) SINGLE TRIBE SERVICE AREA.—In the case of a Service Area which serves only 1 Indian Tribe, the authority of the Secretary to provide services under paragraphs (1) and (2) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian Tribe revokes its concurrence to the provision of such health services.

(B) MULTITRIBAL SERVICE AREA.—In the case of a multitriflal Service Area, the authority of the Secretary to provide health services under paragraph (1) shall terminate at the end of the fiscal year succeeding the fiscal year in which the aggregate 51 percent of the number of Indian Tribes in the Service Area revoke their concurrence to the provisions of such health services.

(5) SERVICES.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other provision of law in order to—

(i) achieve stability in a medical emergency;

(ii) prevent the spread of a communicable disease or otherwise deal with a public health hazard;

(iii) provide care to non-Indian women pregnant with an eligible individual’s child for the duration of the pregnancy through postpartum; or

(iv) provide care to immediate family members of eligible individuals if such care is directly related to the treatment of the eligible individual.

(6) HOSPITAL PRIVILEGES FOR PRACTITIONERS.—When health care facilities operated and maintained by the Service or operated under a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) may be extended to non-Service health care practitioners who provide services to individuals described in subsection (a), (b), (c), or (d). Such non-Service health care practitioners may, as part of privileging process, be designated as employees of the Federal Government for purposes of sections 1395-a(1) and 2632 of Title 42, United States Code (relating to Federal tort claims only with respect to acts or omissions which occur in the course of providing services to eligible individuals and persons of the condition under which such hospital privileges are extended.

(f) ELIGIBLE INDIAN.—For purposes of this section, the term ‘eligible Indian’ means any Indian who is eligible for health services provided by the Service without regard to the provisions of this title.

SEC. 808. REALLOCATION OF BASE RESOURCES.

(a) REPORT REQUIRED.—Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more under section 401(d)(2) and amounts collected under this subsection, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this title.

SEC. 809. REPORT OF DEMONSTRATION PROJECTS.

The Secretary shall provide for the dissemination to Indian Tribes, Tribal Organizations, and Urban Indian Organizations of the findings and results of demonstration projects conducted under this Act.

SEC. 810. PROVISION OF SERVICES IN MONTANA.

(a) CONSISTENT WITH COURT DECISION.—The Secretary shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McBnab v. Bowen, 829 F.2d 787 (9th Cir. 1987).

(b) CLARIFICATION.—The provisions of subsection (a) shall not be construed to be an expression of the sense of Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

SEC. 811. MORATORIUM.

During the period of the moratorium imposed on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service, relating to eligibility for the health care services of the Indian Health Service, the Indian Health Service shall provide services pursuant to the criteria for eligibility for such services in effect on September 15, 1987, subject to the provisions of sections 806 and 807 until such time as new criteria governing eligibility for such services are developed in accordance with section 802.

SEC. 812. TRIBAL EMPLOYMENT.

For purposes of section 2(2) of the Act of July 5, 1935 (49 Stat. 450, 25 U.S.C. 450 et seq.), if an Indian Tribe or Tribal Organization carrying out a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not be considered an 'employer'.

SEC. 813. SEVERABILITY PROVISIONS.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SEC. 814. ESTABLISHMENT OF NATIONAL BIPARTISAN COMMISSION ON INDIAN HEALTH CARE.

(a) ESTABLISHMENT.—There is established the National Bipartisan Indian Health Care Commission (the 'Commission').

(b) DUTIES OF COMMISSION.—The duties of the Commission are the following:

(A) To establish a study committee composed of members of the Commission appointed by the Director and at least 4 members of Congress from among the members of the Commission, the duties of which shall be the following:

(i) To the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Indian needs with regard to the provision of health services, regardless of the location of Indians, including holding hearings and soliciting the views of Indians, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, which may include authorizing and making funds available for feasibility and other various studies and funding health services for all Indian beneficiaries, including those who live outside of a reservation, temporarily or permanently.

(ii) To make legislative recommendations to the Commission regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to the extent of eligible Indian service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

(iii) To determine the most appropriate enactment of such recommendations on the existing system of delivery of health services for Indians, and the sovereign status of Indians.

(D) Not later than 12 months after the appointment of all members of the Commission, submit a written report of its findings and recommendations to Congress.

(E) To report regularly to the full Congress, subject to the approval of the Committee on Indian Affairs and the Committee on Government Reform, the recommendations developed by the study committee in the course of carrying out its duties under this section.

(F) To prepare and analyze the recommendations of the report of the study committee.
“(3) To make legislative recommendations to Congress regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

“(4) Not later than 18 months following the date of appointment of all members of the Commission, submit a written report to Congress regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

“(c) Members.—

“(1) APPOINTMENT.—The Commission shall be composed of 25 members, appointed as follows:

“(A) Ten members of Congress, including 3 from the House of Representatives and 2 from the Senate, appointed by their respective majority leaders, and 3 from the House of Representatives and 2 from the Senate, appointed by their respective minority leaders, and who shall be members of the standing committees of Congress that consider legislation regarding health care to Indians, at least 1 of whom shall be a member of the Indian Tribes.

“(B) Twelve persons chosen by the congressional members of the Commission, 1 from each Service Area as currently designated by the Director from the nominees from each Service Area put forward by the Indian Tribes within the area, with due regard being given to the experience and expertise of the nominees in the provision of health care to Indians and to a reasonable representation on the commission of members who are familiar with various health care delivery modes and who represent Indian Tribes of various size populations.

“(C) Three persons appointed by the Director who are knowledgeable about the provision of health care to Indians, at least 1 of whom shall be appointed from among nominees put forward by those programs whose services to them. To constitute a hearing there shall be present members who are Indians are present.

“(5) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

“(d) COMPENSATION.—

“(1) COMPENSATION OF MEMBERS.—Each congressional member of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

“(2) STAFF.—Remaining members of the Commission, while serving on the business of the Commission (including travel time), shall be entitled to receive compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under paragraph (A).

“(4) Upon the request of the Commission, the Director of any Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

“The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 352 of title 4, United States Code. Upon request of the Chair of the Commission, the head of such agency shall furnish such information to the Commission.

“(f) QUORUM.—A quorum of the Commission shall consist of not less than 15 members, provided that no less than 6 of the members of Congress who are members of the Commission are present and no less than 9 of the members who are Indians are present.

“(g) FACILITIES.—The Administrator of General Services shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

“(h) HEARINGS.—(1) For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other studies or investigations as the Commission determines to be necessary to carry out its duties, provided that at least 6 regional hearings are held in different areas of the United States in which large numbers of Indians are present. Such hearings are to be held to solicit the views of Indians regarding the delivery of health care services to them. To constitute a hearing under this subsection, at least 1 member of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established in this subsection may count toward the number of regional hearings required by this subsection.

“(2) Upon request of the Commission, the Comptroller General shall conduct such studies as the Commission determines to be necessary to carry out its duties.

“(3)(A) The Director of the Congressional Budget Office or the Chief Actuary of the Centers for Medicare & Medicaid Services, or both, shall provide to the Commission, upon request, cost estimates as the Commission determines to be necessary to carry out its duties.

“(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional
(1), respectively, and moving those paragraphs so as to appear in numerical order; and
(III) by inserting after paragraph (4) (as redesignated by subsection (II)) the following:
"(3) ASSISTANT SECRETARY.—The term ‘Assistant Secretary’ means the Assistant Secretary for Indian Health.
(4) B. 16 U.S.C. (3904), by striking the section heading and inserting the following:
"SEC. 5. AUTHORITY OF ASSISTANT SECRETARY FOR INDIAN HEALTH.
(C) in section 6(a) (25 U.S.C. 3905(a)), in the subsection heading, by striking "Director" and inserting "ASSISTANT SECRETARY"; and
(D) in section 9(a) (25 U.S.C. 3908(a)), in the subsection heading, by striking "Director" and inserting "ASSISTANT SECRETARY"; and
(E) by striking "Director" each place it appears and inserting "Assistant Secretary".
(3) Section 5504(d)(2) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note; Public Law 100–207) is amended by striking "Director of the Indian Health Service" and inserting "‘Assistant Secretary for Indian Health’.
(4) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 763(a)(1)) is amended by striking "Director of the Indian Health Service" and inserting "‘Assistant Secretary for Indian Health’.
(5) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377) are redesignated as subsections (b) and (e) respectively, and moving those paragraphs so as to appear in numerical order; and
(6) B. 16 U.S.C. (1272) of the Public Health Service Act (42 U.S.C. 247b–14(b)) is amended—
(A) by striking "Director of the Indian Health Service" each place it appears and inserting "‘Assistant Secretary for Indian Health’"; and
(B) in paragraph (2)(A), by striking "the Director referred to in such paragraph" and inserting "the ‘Director of the Centers for Disease Control and Prevention and the Assistant Secretary for Indian Health’".
(7) Section 417(b) of the Public Health Service Act (42 U.S.C. 285–b(h)(b)) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".
(8) Section 1452(l) of the Safe Drinking Water Act (42 U.S.C. 300j–12(l)) is amended by striking "Director of the Indian Health Service" and inserting "‘Assistant Secretary for Indian Health’.
(9) Section 383B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 299b–2(d)(1)) is amended in the last sentence by striking "Director of the Indian Health Service" and inserting "‘Assistant Secretary for Indian Health’.
(10) Section 209(b) of the Michigan Land Claims Settlement Act (Public Law 105–143; 111 Stat. 3560) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

SEC. 3. SOBBA SANITATION FACILITIES.
The Act of December 17, 1970 (84 Stat. 1465), is amended by adding at the end the following new section:
"S. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267)."

SEC. 4. AMENDMENTS TO THE MEDICAID AND STATE CHILDREN’S HEALTH INSURANCE PROGRAMS.
(a) EXPANSION OF AID AND PAYMENT FOR ALL COVERED SERVICES FURNISHED BY INDIAN HEALTH PROGRAMS.—
(1) EXPANSION TO ALL COVERED SERVICES.—Section 1911 of the Social Security Act (42 U.S.C. (1396b)) is amended—
(A) by amending the heading to read as follows:
"‘INDIAN HEALTH PROGRAMS’;
(B) by amending subsection (a) to read as follows:
"(a) ELIGIBILITY FOR REIMBURSEMENT FOR MEDICAL ASSISTANCE.—The Indian Health Service, an Indian Tribe, Tribal Organization, or an urban Indian Organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act) shall be eligible for reimbursement for medical assistance provided under a State plan or under waiver authority with respect to items and services furnished by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization if the furnishing of such services meets all the conditions and requirements which are applicable generally to the furnishing of items and services under this title and such plan or waiver authority.
(2) ELIGIBILITY OF TEMPORARY DEEMING PROVISION.—Such section is amended by striking subsection (b).
(3) REVISION OF AUTHORITY TO ENTER INTO AGREEMENTS.—Subsection (c) of such section is redesignated as subsection (b) and is amended to read as follows:
"(b) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into an agreement with a State for the purpose of reimbursing the State for medical assistance provided by the Secretary, an Indian Tribe, Tribal Organizations, or an Urban Indian Organization (as so defined), directly, through referral, or under contracts or other arrangements between the Indian Health Service, an Indian Tribe, Tribal Organization, or an Urban Indian Organization and another health care provider to Indians who are eligible for medical assistance under the State plan or under waiver authority.
(4) REFERENCE CORRECTION.—Subsection (d)(3) of such section is redesignated as subsection (c) and is amended to read as follows:
"(c) REFERENCE TO INDIAN HEALTH SERVICE.—The term ‘Secretary’ as used in section 1932(a)(2) of the Social Security Act means the Secretary of Health and Human Services.
(5) REMOVAL OF MISCELLANEOUS REFERENCES.—Subsection (e) of such section is redesignated as subsection (d) and is amended to read as follows:
"(d) MISCELLANEOUS.—The Secretary shall have perpetual existence.
(6) REVISED TITLE VIII—NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.
(a) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, the Native American Health and Wellness Foundation.
(b) PERPETUAL EXISTENCE.—The Foundation shall have perpetual existence.
(c) NATIVE CORPORATION.—The Foundation—
"(1) shall be a charitable and nonprofit federal entity, or any successor thereto; and
(2) shall not be an agency or instrumentality of the United States.
(d) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.
(e) DUTIES.—The Foundation—
"(1) encourage, accept, and administer private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, the mission of the Foundation;
(2) undertake and conduct such other activities as will further the health and wellness activities and opportunities of Native Americans; and
(3) participate with and assist Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the health and wellness activities and opportunities of Native Americans.
(f) COMMITTEE FOR THE ESTABLISHMENT OF NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.—
"(1) IN GENERAL.—The Secretary shall establish the Committee for the Establishment of Native American Health and Wellness Foundation to assist the Secretary in establishing the Foundation.
(2) DUTIES.—Not later than 180 days after the date of enactment of this section, the Committee shall—
"(A) carry out such activities as are necessary to incorporate the Foundation under the laws of the District of Columbia, including acting as incorporators of the Foundation;
“(B) ensure that the Foundation qualifies for and maintains the status required to carry out this section, until the Board is established;”

“(C) establish the constitution and initial bylaws of the Foundation;

“(D) provide for the initial operation of the Foundation, including providing for temporary interim quarters, equipment, and staff; and

“(E) appoint the initial members of the Board in accordance with the constitution and initial bylaws of the Foundation.

“(g) BOARD OF DIRECTORS.—

“(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

“(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

“(3) SELECTION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

“(B) REQUIREMENTS.—

“(i) NUMBER OF MEMBERS.—The Board shall have at least 11 members, who shall have staggered terms.

“(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board shall be appointed by the Committee not later than 180 days after the date on which the Foundation is established; and

“(iii) QUALIFICATION.—The members of the Board shall be United States citizens who are knowledgeable or experienced in Native American health care and related matters.

“(C) TERMS.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

“(h) OFFICERS.—

“(1) IN GENERAL.—The officers of the Foundation shall be—

“(A) a secretary, elected from among the members of the Board; and

“(B) any other officers provided for in the constitution and bylaws of the Foundation.

“(2) SECRETARY.—The secretary of the Foundation shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

“(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

“(1) POWERS.—The Foundation—

“(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

“(2) may adopt and alter a corporate seal;

“(3) may acquire, through a gift or otherwise, own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

“(4) may sue and be sued; and

“(5) may perform any other act necessary and proper to carry out the purposes of the Foundation.

“(j) PRINCIPAL OFFICE.—

“(1) IN GENERAL.—The principal office of the Foundation shall be in the District of Columbia.

“(2) ACTIVITIES; OFFICERS.—The activities of the Foundation may be conducted, and officers of the Foundation defined throughout the United States in accordance with the constitution and bylaws of the Foundation.

“(k) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation shall be in the District of Columbia.

“(1) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

“(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of their authority.

“(2) PERSONNEL.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

“(m) RESTRICTIONS.—

“(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative expenditures of the Foundation shall not exceed 10 percent of the sum of—

“(A) the amounts transferred to the Foundation under subsection (o) during the preceding fiscal year; and

“(B) donations received from private sources during the preceding fiscal year.

“(2) TRANSFER OF DONATED FUNDS.—The Secretary shall transfer to the Foundation funds held by the Department of Health and Human Services published by the Department of Labor.

“(3) PROVISION OF SUPPORT BY SECRETARY.—The Secretary shall transfer to the Foundation funds held by the Department of Health and Human Services under the Indian Health Care Improvement Act of 1990, as amended, in the amount of $500,000 for each fiscal year.

“(4) AUDITS.—The Foundation shall comply with section 10101 of title 36, United States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

“(o) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (e)(1) $500,000 for each fiscal year, as subject to annual appropriation by Congress.

“(2) TRANSFER OF DONATED FUNDS.—The Secretary shall transfer to the Foundation funds held by the Department of Health and Human Services, as well as any other administrative services and support services to the Foundation.

“(3) FUNDING.—

“(A) REIMBURSEMENT.—Reimbursements for services provided under paragraph (1) shall be chargeable for the cost of providing the services.

“(3) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not be considered an officer, employee, or agent of the United States.

“(3) CONSTRUCTION.—Nothing in this section shall be construed to extend any protections for volunteer practitioners under section 117 of title 42, United States Code, to the Foundation or its members.

“(p) SERVICE OF PROCESS.—The Foundation shall be subject to service of process in any State in which the Foundation is doing business, or maintaining any temporary or interim quarters, equipment, and facilities.

“(q) IN GENERAL.—The provisions of this section do not apply to—

“(A) a non-profit corporation, the principal purpose or function of which is the providing of financial assistance to Native Americans; or

“(B) a non-profit corporation, the principal purpose or function of which is the providing of financial assistance to Native American health organizations.

“(r) AUDITS.—The Foundation shall be subject to the audit requirements and rules of the National Commission on Audit and Accountability of Native American Indian and Alaska Native communities.

“(s) INDIAN HEALTH SERVICES.—The provisions of this section do not apply to the Indian Health Services, as well as other committees of the Congress, tribes and tribal organizations, urban Indian entities, and others to help in the development of health care services to the American Indian and Alaska Native communities.

“(t) JURISDICTION.—The courts of the United States shall have jurisdiction over all actions brought against the Foundation.
Mr. SANTORUM. Mr. President, I rise today to introduce the Community Health Center Volunteer Physician Protection Act of 2005 along with Senator DODD, Mr. FEINGOLD, and Mrs. CLINTON.

Accordingly, the Community Health Center Volunteer Physician Protection Act of 2005 is supported by the National Association of Community Health Centers, the American Medical Association and the American Osteopathic Association.

Community health centers offer primary and preventive health care services to uninsured low-income, elderly and uninsured families. Community health centers are typically located in high-need areas identified by the Federal Government as having elevated poverty, higher than average infant mortality, and where few physicians practice. They tailor their services to fit the special needs and priorities of their communities, and offer services that help their patients access health care such as health education, transportation and home visitation.

While low-income individuals have access to Medicaid and the elderly and the disabled have access to Medicare, uninsured and underinsured families often delay seeing a doctor or turn to emergency departments where treatment is more expensive. Community health centers, however, provide comprehensive and preventive care that adjusts charges for patient care according to family income. The Federal Government spends over $23 billion a year to offset losses incurred by hospitals for patients unable to pay their bills, and the Department of Health and Human Services note that medical care at community health centers cost only about $1.30 per day per patient served than the average annual expenditure for an office-based medical provider.

Community health centers offer an affordable and quality health care, but we need more of them. The President has proposed a $304 million increase for community health center programs to create 1,200 new or expanded sites to serve an additional 6.1 million people by next year. In order to meet that goal, the centers must double their workforce by adding double the clinicians by 2006. Hiring this many volunteer physicians to meet this need. While many physicians have accepted. The Commission's mission can be summarized in five principles contained in the Helsinki Final Act document.

The impact that community health centers have on the citizens of the Commonwealth of Pennsylvania is significant. Pennsylvania is the home to twenty-nine Federal grantees, including 12 of which are rural, and 151 different service delivery sites. These services are crucial in my home state which also faces a severe medical liability crisis.

We must continue to encourage the spirit of giving and volunteerism, particularly in the healthcare arena. I urge my colleagues to support the Community Health Center Volunteer Physician Protection Act of 2005.

By Mr. BROWNBACK (for himself, Mr. SMITH, Mr. CHAMBLS, Mr. DODD, Mr. FEINGOLD, and Mrs. CLINTON):

S.J. Res. 19. A joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act to the Committee on Foreign Relations.

Mr. BROWNBACK. Mr. President, as Chairman of the Commission on Security and Cooperation in Europe I am pleased to submit a bipartisan resolution in support of the vital work of the Organization for Security and Cooperation in Europe (OSCE) in conjunction with the 30th anniversary of the signing of the Helsinki Final Act on August 1. I am pleased that Senate Committee on Armed Services, CHAMBLS, DODD, FEINGOLD, and CLINTON are included as original cosponsors of this resolution.

For three decades the OSCE has provided an important framework for advancing democracy, human rights and the rule of law in an expansive region encompassing the U.S. and Canada, Europe and the countries of Central Asia. Over the years, the OSCE participating States have hammered out an extensive body of commitments based on the basis of consensus. Our Commission was established by Congress to monitor and encourage the OSCE participating States—now numbering 55—to implement the commitments they have accepted. The Commission's mission can be distilled to single word, accountability. As President Ford remarked when signing the Final Act on behalf of the United States, "History will judge this Conference . . . not only by the promises we make, but by the promises we keep."

The Final Act inspired courageous individuals in the Soviet Union and Eastern Europe to form monitoring groups to assess how their respective governments lived up to the commitments they had endorsed on paper. For their temerity in seeking accountability most activists were imprisoned, banished or exiled. Many endured years of suffering in the Gulag. Senator Feingold and the other Senators who signed their version. Ultimately, their sacrifice and the work of countless others began to bear fruit, ushering in the dramatic changes of the late 1980's and early 90's.

To catalyze further change, the Helsinki Final Act and the process it began provided an important backdrop against which President Ronald Reagan, standing in front of Berlin's Brandenburg Gate, could boldly declare, "Mr. Gorbachev, tear down this wall." Bold leadership led to concrete results with the resolution of hundreds of cases of political prisoners and prisoners of conscience as well as the reunification of tens of thousands of families. Progress in implementing these commitments paved the way for the participating States to address the need for systemic change to ensure sustained respect for human rights. In 1990, as the Iron Curtain began to fall, the leadership of the then—35 participating States declared, "We understand our responsibility to consolidate and strengthen democracy as the only system of government of our nations." The following year they categorically and irrevocably declared that human rights commitments "are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned." In a step designed to preserve the unity of the Helsinki process, each country that joined the OSCE after 1975 submitted a letter in which the accepted in their entirety all commitments and responsibilities contained in the Helsinki Final Act, and all subsequent documents adopted prior to their membership

Elsewhere, the OSCE has played an important role in the aftermath of conflicts that ravaged much of the Balkans region. The atrocities committed during these conflicts, in particular during the Bosnian conflict from 1992 to 1995, represent the most egregious violations of Helsinki principles in Europe since the Final Act was signed, in particular by facilitating the return
of those displaced from their homes, by improving conditions for elections, by training local police and by monitoring borders used by criminal gangs who profit from the chaos of conflict. There have been improvements in recent years, but there is still plenty of work to do to democratize institutions and respect for the rule of law.

Freedom is on the march in places some had written off as unsuited for democracy. Kyrgyzstan’s Tulip Revolution, Ukraine’s Orange Revolution, Georgia’s Rose Revolution, and Serbia’s Democratic Revolution testify to the enduring power of the ideas reflected in the Helsinki Final Act and other OSCE documents. As we approach the 30th anniversary of the Final Act, a number of signatory states—notably Russia and Belarus—seem determined to diminish the democratic content of the OSCE and rewrite related commitments they accepted when they joined the OSCE. It is imperative that the United States hold firm to the values that have inspired democratic change in much of the OSCE region, even as we redouble our efforts to encourage all participating States to implement their freely accepted commitments.

In recent years the OSCE has made significant inroads in confronting and combating the rise in anti-Semitism and related violence in the OSCE region, including the United States. I would like to commend the OSCE as the first multilateral institution to speak out against anti-Semitism. While many OSCE states have responded appropriately, vigorously investigating the perpetrators and pursuing criminal prosecution, we must remain vigilant in addressing manifestations of anti-Semitism. The OSCE conference on anti-Semitism and other forms of intolerance to be held in June in Cordoba will provide a timely opportunity for countries to report on measures they are taking to counter these concerning trends.

The OSCE is also playing an important role in promoting the right of individuals to freely profess and practice their faith. A number of countries in the OSCE region have adopted or are considering laws on religion that would severely restrict or otherwise regulate religious practice. The OSCE has given priority attention to this issue.

I would like to commend the OSCE for its work in addressing manifestations of anti-Semitism. The OSCE conference on anti-Semitism and other forms of intolerance to be held in June in Cordoba will provide a timely opportunity for countries to report on measures they are taking to counter these concerning trends. The OSCE is also playing an important role in promoting the right of individuals to freely profess and practice their faith. A number of countries in the OSCE region have adopted or are considering laws on religion that would severely restrict or otherwise regulate religious practice. The OSCE has given priority attention to this issue.

In her confirmation testimony, Secretary of State Rice referred to the potential role that multilateral institutions can play in multiplying the strength of freedom-loving nations. Indeed, the OSCE has tremendous potential to play an even greater role in promoting democracy, human rights, and rule of law in a region of strategic importance to the United States.

Over the past three decades the OSCE has served as an important catalyst for change. An important aspect of the success of the Helsinki Process has been the strong partnership forged with human rights advocates, including non-governmental organizations. As we look toward the work ahead, we would do well to recall the insightful observation of renowned physicist, humanitarian, and Nobel Peace Prize laureate, Andrei Sakharov, “The whole point of the Helsinki Accords is mutual monitoring, not mutual evasion of difficult problems.”

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 144—RECONCILING TIM NELSON AND HUGH SIMS FOR THEIR BRAVERY AND THEIR CONTRIBUTIONS IN HELPING THE FEDERAL BUREAU OF INVESTIGATION DETAIN ZACARIAS MOUSSAOUI

Mr. COLEMAN (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 144

Whereas Tim Nelson called the Federal Bureau of Investigation’s (FBI) Minneapolis Office at 8:30 am on Wednesday, August 15, 2001; and

Whereas Hugh Sims called the FBI’s Minneapolis Office at 9:30 am on Wednesday, August 15, 2001;

Whereas their calls set into motion the only United States criminal prosecution, so far, stemming from the attacks on our Nation on September 11, 2001;

Whereas on April 22, 2005, Zacarias Moussaoui pled guilty to 6 counts of conspiracy to commit terrorism on September 11, 2001; and

Whereas according to FBI officials, the actions of these 2 courageous and greathearted men may have saved thousands of lives and preempted a possible attack on the White House; Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Tim Nelson and Hugh Sims should be recognized for their bravery and their contributions in helping the Federal Bureau of Investigation detain Zacarias Moussaoui;

(2) the United States should be commended to Tim Nelson and Hugh Sims for their heroism; and

(3) we, as a nation, should continue to follow their example as we fight the war on terror.

SENATE CONCURRENT RESOLUTION 34—URGING THE GOVERNMENT OF THE REPUBLIC OF ALBANIA TO ENSURE THAT THE PARLIAMENTARY ELECTIONS TO BE HELD ON JULY 3, 2005, ARE CONDUCTED IN ACCORDANCE WITH INTERNATIONAL STANDARDS FOR FREE AND FAIR ELECTIONS

Mr. BROWNBACK (for himself and Mrs. CLINTON) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 34

Whereas the United States maintains strong and friendly relations with the Republic of Albania and appreciates the ongoing support of the people of Albania; and

Whereas the President of Albania has called for elections to Albania’s parliament, known as the People’s Assembly, to be held on July 3, 2005;

Whereas Albania is one of 55 participating States in the Organization for Security and Cooperation in Europe (OSCE), all of which have adopted the 1990 Copenhagen Document containing specific commitments relating to the conduct of elections;

Whereas these commitments, which encourage transparency, balance, and impartiality in an election process, have become the standard by which observers determine whether elections have been conducted fairly and freely;

Whereas, though improvements over time have been noted, the five multiparty parliamentary elections held in Albania between 1991 and 2001, as well as attempts for local offices held between and after those years, fell short of the standards in the Copenhagen Document to varying degrees, according to OSCE and other observers;

Whereas with OSCE and other international assistance, the Government of Albania has improved the country’s electoral and legal framework and increased the capacity to conduct free and fair elections;

Whereas subsequent to the calling of elections, Albania’s political parties have accepted a code of conduct for their campaign activities, undertaking to act in accordance with the law, to refrain from inciting violence or hatred in the election campaign, and to be transparent in disclosing campaign funding; and

Whereas meeting the standards in the Copenhagen Document for free and fair elections is absolutely essential to Albania’s desired integration into European and Euro-Atlantic institutions, including full membership in the North Atlantic Organization (NATO), as well as to Albania’s progress in addressing official corruption and combating organized crime; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) welcomes the opportunity for the Republic of Albania to demonstrate its willingness and preparedness to take the next steps in European and Euro-Atlantic integration by holding parliamentary elections on July 3, 2005; that meet the standards in the Copenhagen Document; that Albania has improved the country’s electoral and legal framework and increased the capacity to conduct free and fair elections; and that hold these representatives accountable through elections at reasonable intervals;

(2) supports commitments by Albanian political parties to adhere to a broad code of conduct for campaigning and urges such parties and all election officials in Albania to adhere to laws relating to the elections, and to conduct their activities in a transparent and consistent manner, by allowing international and domestic observers to have unobstructed access to all aspects of the election process, including public campaign events, candidates, new media, voting, and post-election tabulation of results and processing of election challenges and complaints;

(3) supports assistance by the United States to help the people of Albania establish a fully free and open democratic system, a prosperous free market economy, and the right of place of Albania in organization and Euro-Atlantic institutions, including the North Atlantic Treaty Organization (NATO); and

(4) encourages the President to communicate to the Government of Albania, to all political parties and candidates in Albania,