(2) recognizes the achievements of the players, coaches, students, alumni, and support staff who were instrumental in helping Appalachian State University win the championship; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Appalachian State University Chancellor Kenneth Peacock and head coach Jerry Moore for appropriate display.

SENATE RESOLUTION 347—EXPRESSING THE SENSE OF THE SENATE THAT LENDERS HOLDING MORTGAGES ON HOMES IN COMMUNITIES OF THE GULF COAST DEVASTATED BY HURRICANES KATRINA AND RITA SHOULD EXTEND CURRENT VOLUNTARY MORTGAGE PAYMENT FORBEARANCE PERIODS AND NOT FORECLOSE ON PROPERTIES IN THOSE COMMUNITIES

Ms. LANDRIEU (for herself and Mr. VITTER) submitted the following resolution; which was submitted and read:

S. RES. 347

Whereas the Gulf Coast of the United States has experienced 1 of the worst hurricane seasons on record;

Whereas Hurricane Katrina and multiple levee breaches destroyed an estimated 275,000 homes in the Gulf Coast;

Whereas 20,664 businesses in the Gulf Coast sustained catastrophic damage from Hurricane Katrina and Hurricane Rita;

Whereas, according to the Bureau of Economic Analysis at the Department of Commerce, personal income has fallen more than 25 percent in Louisiana in the third quarter of 2005;

Whereas, in the time since Hurricanes Katrina, Rita, and Wilma, the Small Business Administration has only approved 20 percent of disaster loan applications for homeowners in the Gulf Coast and has a backlog of more than 176,000 applications for this assistance as of December 21, 2005;

Whereas, of the 20,741 homeowner disaster loan applications that have been approved in the Gulf Coast by the Small Business Administration, only 1,444 have been fully disbursed;

Whereas, in response to these circumstances, commercial banks, mortgage banks, and other mortgage lenders voluntarily instituted 90-day loan forbearance periods after Hurricane Katrina and did not require home owners in the Gulf Coast to make mortgage payments until on or about December 1, 2005;

Whereas, after the termination of the 90-day forbearance period, many home and business owners have received notice from their lenders that they face foreclosure unless they make a lump sum balloon payment in the amount of the mortgage payments previously subject to forbearance; and

Whereas foreclosure on homes and businesses in the Gulf Coast will have a detrimental impact on the economy of the area, will deprive property owners of their equity at a time when they can least afford it, and will have a negative impact on lenders who will be holding properties that may not be readily marketable on the open market:

NOW, THEREFORE, BE IT

Resolved, That it is the sense of the Senate that—

(1) Congress should act early in the second session of the 109th Congress to consider legislation to provide relief to homeowners in the Gulf Coast; and

(2) commercial banks, mortgage banks, credit unions, and other mortgage lenders should extend mortgage payment forbearance to March 31, 2006, in order to allow Congress the time to consider such legislation.

SENATE CONCURRENT RESOLUTION 74—CORRECTING THE ENROLLMENT OF H.R. 2863

Ms. CANTWELL submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 74

Resolved in the Senate (the House of Representatives concurring), That, in the enrollment of the bill (H.R. 2863) making appropriations for the Departments of Defense for the fiscal year ending September 30, 2006, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

Strike Division C, the American Energy Independence and Security Act of 2005 and Division D, the Distribution of Revenues and Disaster Assistance.

SENATE CONCURRENT RESOLUTION 75—ENCOURAGING ALL AMERICANS TO INCREASE THEIR CHARITABLE GIVING, WITH THE GOAL OF INCREASING THE ANNUAL AMOUNT OF CHARITABLE GIVING IN THE UNITED STATES BY 1 PERCENT

Mr. SANTORUM (for himself and Mr. LIEBERMAN) submitted the following concurrent resolution; which was submitted and read:

S. CON. RES. 75

Whereas individual charitable giving rates among Americans have stagnated at 1.5 to 2.2 percent of aggregate individual income for the past 50 years;

Whereas a 1 percent increase (from 2 percent to 3 percent) in charitable giving to 3 percent would generate over $90,000,000,000 to charity;

Whereas charitable giving is a significant source of funding for health, education, and welfare programs; and

Whereas a 1 percent increase in charitable giving would provide some of the funds that will allow the nation to meet our health, education and welfare goals. Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress encourages all Americans to increase their charitable giving, with the goal of increasing the annual amount of charitable giving in the United States by 1 percent.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2691. Mr. CONRAD proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Deficit Reduction Act of 2005’’.

SEC. 2. TABLE OF TITLES.

The table of titles is as follows:

TITLE I—AGRICULTURE PROVISIONS

TITLE II—HOUSING AND DEPOSIT INSURANCE PROVISIONS

TITLE III—DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY PROVISIONS

TITLE IV—TRANSPORTATION PROVISIONS

TITLE V—MEDICARE

TITLE VI—MEDICAID AND SCHIP

TITLE VII—HUMAN RESOURCES AND OTHER PROVISIONS

TITLE VIII—EDUCATION AND PENSION BENEFIT PROVISIONS

TITLE IX—HIEP PROVISIONS

TITLE X—JUDICIARY RELATED PROVISIONS

TITLE I—AGRICULTURE PROVISIONS

SECTION 1001. SHORT TITLE.

This title may be cited as the ‘‘Agricultural Reconciliation Act of 2005’’.

Subtitle A—Commodity Programs

SEC. 1101. NATIONAL DAIRY MARKET LOSS PAYMENTS.

(a) AMOUNT.—Section 1502(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7962(c)) is amended by striking paragraph (3) and inserting the following new paragraph:

(3)(A) during the period beginning on the first day of the month the producers on a dairy farm enter into a contract under this section and ending on September 30, 2005, 45 percent;

(B) during the period beginning on October 1, 2005, and ending on August 31, 2007, 34 percent; and

(C) during the period beginning on September 1, 2007, 0 percent.

(b) DURATION.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7962) is amended by striking ‘‘2005’’ each place it appears in subsections (a) and (c) and inserting ‘‘2006’’;
SEC. 1102. ADVANCE DIRECT PAYMENTS.

(a) General.--Section 1102(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7913(d)(2)) is amended in the first sentence by striking "2007 crop years" and inserting "2005 crop years", up to 40 percent of the direct payment for a covered commodity for the 2006 crop year, and up to 22 percent of the direct payment for a covered commodity for the 2007 crop year.

(b) PEANUTS.—Section 1303(e)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7913(e)(2)) is amended in the first sentence by striking "2007 crop years" and inserting "2005 crop years", up to 40 percent of the direct payment for the 2006 crop year, and up to 22 percent of the direct payment for the 2007 crop year.

SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.

(a) REPEAL OF AUTHORITY TO ISSUE COTTON USER MARKETING CERTIFICATES.—Section 1207 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7917) is hereby cancelled effective on that date.

(b) UNOBLIGATED FUNDS.—The authority to obligate funds previously made available under section 231(b)(4) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1621c note) for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1402. VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.

The authority to obligate funds previously made available under section 231(b)(4) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1621c note) for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1403. RURAL BUSINESS INVESTMENT PROGRAM.

(a) TERMINATION OF FISCAL YEAR 2007 AND SUBSEQUENT FUNDING.—Subsection (a)(1) of section 384S of the Consolidated Farm and Rural Development Act (7 U.S.C. 1951S) is hereby cancelled effective on that date.

(b) FUNDING.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3839aa–13) is hereby cancelled effective on that date.

(c) FUNDING.—Section 1241(a)(5) of the Food Security Act of 1985 (16 U.S.C. 3839aa–15) is hereby cancelled effective on that date.

SEC. 1201. WATERSHED REHABILITATION PROGRAM.

The authority to obligate funds previously made available under section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(b)(1)) for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1202. CONSERVATION SECURITY PROGRAM.

(a) EXTENSION.—Section 1238(a) of the Food Security Act of 1985 (16 U.S.C. 3838a(a)) is amended by striking "2007" and inserting "2011".

(b) FUNDING.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3839aa–13) is hereby cancelled effective on that date.

SEC. 1203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) EXTENSION.—Section 1238(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3838a–1a) is hereby cancelled effective on that date.

(b) LIMITATION ON PAYMENTS.—Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3841l–2) is hereby amended by striking "five fiscal years 2005 through 2010" and inserting "five fiscal years 2006 through 2010".

(c) FUNDING.—Section 1241(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3841a(a)(6)) is hereby cancelled effective on that date.

Title II—Housing and Deposit Insurance Provisions

Subtitle A—FHA Asset Disposition

SEC. 2001. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) the term ‘‘affordability requirements’’ means any requirements or restrictions imposed by the Secretary, at the time of sale, on a multifamily real property or a multifamily loan or any property market value, and is set outside of a competitive bidding process that has no affordability requirements.

(2) the term ‘‘discount loan sale’’ means the sale of a multifamily real property in a transaction, such as a negotiated sale, in which the sale price is lower than the property market value and is set outside of a competitive bidding process that has no affordability requirements.

(3) the term ‘‘loan market value’’ means the value of a multifamily loan, without taking into account any affordability requirements.

(4) the term ‘‘multifamily real property’’ means any rental or cooperative housing project of 5 or more units owned by the Secretary at the time prior to the Secretary was security for a loan or loans insured under title II of the National Housing Act.

(5) the term ‘‘Secretary’’ means the Secretary of Housing and Urban Development.

SEC. 2002. APPROPRIATED FUNDS REQUIREMENT FOR BELOW-MARKET SALES.

(a) DISCOUNT SALES.—Notwithstanding any other provision of law, except for affordability requirements for the elderly and disabled required by statute, disposition by the Secretary of a multifamily real property during fiscal years 2006 through 2010 through a discount sale under sections 207(1) and 246 of the National Housing Act (12 U.S.C. 1713(a), section 204 of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a), shall be subject to the availability of appropriations to the extent that the property market value exceeds the sale price.

(b) DISCOUNT LOAN SALES.—Notwithstanding any other provision of law and in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 611 et seq.), a discount loan sale during fiscal years 2006 through 2010 under sections 207(c) and 246 of the National Housing Act (12 U.S.C. 1713(a)), section 204(b)(3) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1710z–11), or section 204 of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a), shall be subject to the availability of appropriations to the extent that the property market value exceeds the sale price.

(c) PROPERTY MARKET VALUE.—The term ‘‘property market value’’ means the value of a multifamily real property for its current use, without taking into account any affordability requirements.

(d) APPROPRIATIONS.—The term ‘‘Secretary’’ means the Secretary of Housing and Urban Development.
alae exceeds the sale proceeds. If the multifamily loan is sold, during such fiscal years, for an amount equal to or greater than the loan market value then the transaction is not subject to the availability of appropriations.

(c) APPLICABILITY.—This section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

SEC. 2003. UP-FRONT GRANTS.

(a) 1997 ACT.—Section 204(a) of the Department of Veterans Affairs and Housing and Urban Development Appropriations Act, 1997 (12 U.S.C. 1715z–11a(a)) is amended by adding at the end the following new sentence: ‘‘A grant provided under this section for fiscal years 1996 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.’’

(b) 1978 ACT.—Section 203(c)(4) of the Housing and Community Development Appropriations Acts of 1978 (12 USC 1701a–11(4)(a)) is amended by adding at the end the following new sentence: ‘‘This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.’’

(c) APPLICABILITY.—The amendments made by this subparagraph apply to any insured depository institution that formally commences within one year prior to the enactment of this section.

Subtitle B—Deposit Insurance

SEC. 2011. SHORT TITLE.

This subtitle may be cited as the ‘‘Federal Deposit Insurance Reform Act of 2005.’’

SEC. 2012. MERGING THE BIF AND SAIF.

(a) IN GENERAL.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund.

(b) DISPOSITION OF ASSETS AND LIABILITIES.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(c) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease on the effective date of the merger thereof under this section.

(d) ORGANIZED MERGER PROVISION.—Section 2704 of the Deposit Insurance Fund Act of 1996 (12 U.S.C. 1821 note) is repealed.

(e) EFFECTIVE DATE.—This section shall take effect no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 2013. INCREASE IN DEPOSIT INSURANCE COVERAGE.

(a) IN GENERAL.—Section 11a(1) of the Federal Deposit Insurance Act (12 U.S.C. 181a(1)) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

‘‘(B) INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed the standard maximum deposit insurance amount and shall be calculated in accordance with subparagraphs (C), (D), (E) and (F) and paragraph (3);’’; and

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

‘‘(E) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this Act, the term ‘standard maximum deposit insurance amount’ means $100,000, adjusted as provided under subparagraph (F) after March 31, 2010.’’

‘‘(F) INFLATION ADJUSTMENT.—

‘‘(1) IN GENERAL.—By April 1 of 2010, and the 1st day of each subsequent 5-year period, the Board of Directors and the National Credit Union Administration Board shall jointly consider the factors set forth under clause (v), and, upon determining that an inflation adjustment is appropriate, shall jointly adopt the amount by which the standard maximum deposit insurance amount and the standard maximum share insurance amount (as defined in section 207(k) of the Federal Credit Union Act) applicable to any depositor at an insured depository institution shall be increased by calculating the product of—

‘‘(1) $100,000; and

‘‘(2) the ratio of the published annual value of the Personal Consumption Expenditures Chain-Type Price Index (or any successor index thereto), published by the Department of Commerce, for the calendar year preceding the year in which the adjustment is calculated under this clause, to the published annual value of such index for the calendar year preceding the year that this subparagraph takes effect under the Federal Deposit Insurance Reform Act of 2005.

The values used in the calculation under subclause (I) shall be rounded down to the nearest $10,000. The Board of Directors shall consider the following factors:

(1) the adjusted amount determined under clause (ii) for any period not a multiple of $10,000, the amount so determined shall be rounded down to the nearest $10,000.

(2) the interest of each participant, in accordance with regulations issued by the Corporation, in any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

(3) The Federal Deposit Insurance Corporation shall provide pass-through deposit insurance coverage based on the interest of each participant, in accordance with regulations issued by the Corporation.

(b) EFFECTIVE DATE.—This section shall take effect no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

‘‘(i) IN GENERAL.—By April 1 of 2010, and the 1st day of each subsequent 5-year period, the Board of Directors of the Federal Deposit Insurance Corporation shall—

‘‘(I) publish in the Federal Register the standard maximum deposit insurance amount, the standard maximum share insurance amount, and the amount of coverage under paragraph (3)(A) and section 207(k)(3) of the Federal Credit Union Act, as so calculated; and

‘‘(II) submit a report to the Congress containing the amounts described in subparagraph (I).

(iv) 6-MONTH IMPLEMENTATION PERIOD.—Not later than April 5 of any calendar year in which an adjustment is required to be calculated under clause (i) to the standard maximum deposit insurance amount and the standard maximum share insurance amount under such clause, the Board of Directors and the National Credit Union Administration Board shall—

‘‘(I) publish in the Federal Register the standard maximum deposit insurance amount, the standard maximum share insurance amount, and the amount of coverage under paragraph (3)(A) and section 207(k)(3) of the Federal Credit Union Act, as so calculated; and

‘‘(II) submit a report to the Congress containing the amounts described in subparagraph (I).

(v) INFLATION ADJUSTMENT CONSIDERATION.—In making any determination under clause (i) to increase the standard maximum deposit insurance amount and the standard maximum share insurance amount, the Board of Directors and the National Credit Union Administration Board shall jointly consider the following:

(1) the estimated operating expenses of the Deposit Insurance Fund.

(2) the estimated case resolution expenses and the income of the Deposit Insurance Fund.

(3) the projected effects of the payment under subclause (I) on the capital and earnings of insured depository institutions; and

(4) the interest of each participant, in accordance with regulations issued by the Corporation, in any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

(c) INCREASED AMOUNT OF DEPOSIT INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 11a(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 181a(3)(A)) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

‘‘(B) 1978 ACT.—Section 203(f)(4) of the Housing and Urban Development Act of 1978 (42 U.S.C. 1701z–11a(4)) is amended by adding at the end the following new sentence: ‘‘This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.’’

‘‘(II) The estimated case resolution expenses and the income of the Deposit Insurance Fund.

‘‘(v) NO DISCRIMINATION BASED ON SIZE.—No insured depository institution shall be barred from the lowest-risk category because of size.

‘‘(v) ASSESSMENT RECORDKEEPING PERIOD SHORTENED.—Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended to read as follows:

‘‘(5) DEPOSIT INSURANCE REQUIRED TO MAINTAIN ASSESSMENT-RELATED RECORDS.—

‘‘(i) PASS-THROUGH INSURANCE.—The Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

‘‘(ii) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS.—An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

‘‘(iii) DEFINITIONS.—For purposes of this subparagraph, the following definitions shall apply:

‘‘(I) CAPITAL STANDARDS.—The terms ‘well capitalized’ and ‘adequately capitalized’ have the same meanings as in section 38.

‘‘(II) EMPLOYEE BENEFIT PLAN.—The term ‘employee benefit plan’ has the meaning as in paragraph (5)(B)(ii), except that such term shall be substituted for $100,000 wherever such term appears in such paragraph and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

‘‘(III) PASS-THROUGH DEPOSIT INSURANCE.—The term ‘pass-through deposit insurance’ means, with respect to an employee benefit plan, deposit insurance coverage based on the interest of each participant, in accordance with regulations issued by the Corporation.

‘‘(IV) INCREASED AMOUNT OF DEPOSIT INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 11a(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 181a(3)(A)) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

‘‘(B) 1978 ACT.—Section 203(f)(4) of the Housing and Urban Development Act of 1978 (42 U.S.C. 1701z–11a(4)) is amended by adding at the end the following new sentence: ‘‘This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.’’

‘‘(II) The estimated case resolution expenses and the income of the Deposit Insurance Fund.

‘‘(v) NO DISCRIMINATION BASED ON SIZE.—No insured depository institution shall be barred from the lowest-risk category because of size.

‘‘(v) ASSESSMENT RECORDKEEPING PERIOD SHORTENED.—Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended to read as follows:

‘‘(5) DEPOSIT INSURANCE REQUIRED TO MAINTAIN ASSESSMENT-RELATED RECORDS.—
Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of any assessment on the insured depository institution under this subsection until the later of—

"(A) the end of the 3-year period beginning on the date of the assessment; or

"(B) the date of a dispute between the insured depository institution and the Corporation with respect to such assessment, the date of a final determination of any such dispute, or

"(c) INCREASE IN FEES FOR LATE ASSESSMENT PAYMENTS.—Subsection (h) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(h)) is amended by adding at the end the following new paragraphs:

"(h) PENALTY FOR FAILURE TO TIMELY PAY ASSESSMENTS.—

"(1) IN GENERAL.—Subject to paragraph (3), any insured depository institution which fails or refuses to pay any assessment shall be subject to a penalty in an amount of not more than 1 percent of the amount of the assessment due for each day that such violation continues.

"(2) EXCEPTION IN CASE OF DISPUTE.—Paragraph (1) shall not apply if—

"(A) an action for the underpaid or overpaid amount of any assessment that became due because of a violation referred to in this subsection under the Federal Deposit Insurance Reform Act of 2005 took effect shall be subject to the statute of limitations for assessments in effect on the time the assessment became due; and

"(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date the final regulations required under section 9(a)(5) take effect.

SEC. 2105. REPLACEMENT OF FIXED DESIGNATED RESERVE RATIO WITH RESERVE RANGE.

(a) IN GENERAL.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) Designated Reserve Ratio.

"(A) Establishment.—

"(i) IN GENERAL.—Before the beginning of each calendar year, the Board of Directors for any year—

"(C) Factors.—In designating a reserve ratio for any year, the Board of Directors shall—

"(C) ASSESSMENT ACTIONS.—

"(i) General Authority.—The Corporation, in the sole discretion of the Corporation, may compromise, modify, or remit any penalty which the Corporation may assess or has already assessed under paragraph (1) upon a finding that good cause prevented the timely payment of an assessment.

"(D) RATIO.—In soliciting comment on any proposal to modify or remit a penalty—

"(E) INFORMATION CONCERNING RISK OF LOSS

"(i) SOURCES OF INFORMATION.—For purposes of determining risk of losses at insured depository institutions and economic conditions generally affecting depository institutions, the Corporation shall, as appropriate, from all sources the Board of Directors considers appropriate, including data and projections on which the proposal is based, consult with the agencies and organizations described in section 33, the Federal Reserve System, the Federal Reserve banks, the Farm Credit Administration, the Federal Trade Commission, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Office of the United States Comptroller of the Currency, the Secretary of the Treasury, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the National Association of Credit Union Supervisors, or any one or combination of these agencies and organizations, in order to develop appropriate standards for determining risk of loss.

"(ii) CONSULTATION WITH FEDERAL BANKING AGENCIES.—

"(i) IN GENERAL.—Except as provided in subclause (II), in assessing the risk of loss to the Deposit Insurance Fund with respect to any insured depository institution, the Corporation shall consult with the appropriate Federal banking agency of such institution.

"(ii) TREATMENT ON A BULK BASIS.—In the case of insured depository institutions that are well capitalized and that are members of the Federal Home Loan Bank System, the Federal Reserve System, or the Federal Home Loan Bank System and that have total assets of $5 billion or less, the Corporation shall—
the end of a calendar year, the reserve ratio of the Deposit Insurance Fund equals or exceeds 1.35 percent of estimated insured deposits and is not more than 1.5 percent of such deposits, the Corporation shall determine the minimum level of the amount in the Fund that is equal to 50 percent of the amount in excess of the required level to maintain the reserve ratio at the estimated insured deposits as dividends to be paid to insured depository institutions.

(C) BASIS FOR DISTRIBUTION OF DIVIDENDS.

(1) IN GENERAL.—Soley for the purposes of dividend distribution under this paragraph, the Corporation shall determine each insured depository institution’s relative contribution to the Deposit Insurance Fund (or any predecessor deposit insurance fund) for calculating the share of any dividend declared under this paragraph, taking into account the factors described in clause (ii).

(ii) FACTORS FOR DISTRIBUTION.—In implementing this paragraph in accordance with regulations, the Corporation shall take into account the following factors:

(A) THE ASSESSMENT BASE OF AN INSURED DEPOSITORY INSTITUTION (INCLUDING ANY PREDECESSOR) ON DECEMBER 31, 1996, TO THE ASSESSMENT BASE OF ALL INSURED DEPOSITORY INSTITUTIONS AS OF THAT DATE.

(B) THE TOTAL AMOUNT OF ASSESSMENTS PAID OR ON OR AFTER JANUARY 1, 1997, BY AN INSURED DEPOSITORY INSTITUTION (INCLUDING ANY PREDECESSOR) TO THE DEPOSIT INSURANCE FUND (AND ANY PREDECESSOR DEPOSIT INSURANCE FUND).

(C) THAT PORTION OF ASSESSMENTS PAID BY AN INSURED DEPOSITORY INSTITUTION (INCLUDING ANY PREDECESSOR) THAT REFLECTS HIGHER LEVELS OF RISK ASSESSED BY SUCH INSTITUTION.

(D) SUCH OTHER FACTORS AS THE CORPORATION CONSIDERS APPROPRIATE.

(D) NOTICE AND OPPORTUNITY FOR COMMENT.—The Corporation shall prescribe by regulation, after notice and opportunity for comment, the method for the calculation, declaration, and payment of dividends under this paragraph.

(E) LIMITATION.—The Board of Directors may suspend or limit dividends paid under subparagraph (B), if the Board determines in writing that—

(i) a significant risk of losses to the Deposit Insurance Fund exists over the next 1-year period; and

(ii) it is likely that losses will be sufficiently high to justify a finding by the Board that the reserve ratio should temporarily be allowed—

(A) TO GROW WITHOUT REGARD TO THE CORPORATION’S ASSESSMENT BASE.

(B) TO EXCEED THE MAXIMUM AMOUNT ESTABLISHED UNDER SUBPARAGRAPH (B)(3)(B)(I).

(F) CONSIDERATION.—In making a determination under subparagraph (E), the Board shall consider—

(i) national and regional conditions and their impact on insured depository institutions;

(ii) potential problems affecting insured depository institutions or a specific group or type of depository institution;

(iii) the degree to which the contingent liability of the Corporation for anticipated failures of insured institutions adequately addresses concerns over funding levels in the Deposit Insurance Fund; and

(iv) any other factors that the Board determines are appropriate.

(H) REVIEW OF DETERMINATION.—

(i) DETERMINATION TO SUSPEND OR LIMIT DIVIDENDS UNDER SUBPARAGRAPH (E) SHALL BE REVIEWED BY THE BOARD OF DIRECTORS ANNUALLY.

(ii) THE BOARD.—Based on each annual review under clause (i), the Board of Directors shall either renew or remove a determination to suspend or limit dividends under subparagraph (E), or shall make a new determination in accordance with this paragraph. Unless justified under the terms of the regulation, the Corporation shall determine that any dividend shall be required to provide cash dividends under subparagraph (A) or (B), as appropriate.

(3) ONE-TIME CREDIT BASED ON TOTAL ASSESSMENT BASE AT YEAR-END 1996.

(A) IN GENERAL.—Before the end of the 270-day period beginning on the date of enactment of the Federal Deposit Insurance Reform Act of 2005, the Board of Directors may authorize

(i) A DEFINITION OF RESERVE RATIO.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) (as amended by section 2105(a) of this subtitle) is amended by adding at the end the following new subparagraph:

(ii) TEMPORARY REDUCTION IN USE OF CREDITS.—The Corporation shall presuming the distribution of a credit described under paragraph: (B) LIMITATION ON AMOUNT OF CREDIT FOR RESTORATION PLANS.

(i) IN GENERAL.—Subject to clause (ii), the amount of a credit to any eligible insured depository institution under this paragraph shall equal the amount of the credit determined by the Corporation under subsection (b) for the designated reserve ratio.

(ii) REQUIREMENTS OF RESTORATION PLANS.

A Deposit Insurance Fund restoration plan meets the requirements of this clause if the plan provides that the reserve ratio of the Fund will meet or exceed the minimum amount specified in paragraph (B) at the end of the 5-year period beginning upon the implementation of the plan or such longer period as the Corporation may determine to be necessary due to extraordinary circumstances.

(iii) RESTRICTION ON ASSESSMENT CREDITS.—As part of any restoration plan under this paragraph, the Corporation may elect to restrict the application of assessment credits provided under subsection (e)(3) for any period that the plan is in effect.

(iv) LIMITATION ON CREDITS.—Notwithstanding clause (iii), while any restoration plan under this subparagraph is in effect, the Corporation shall apply credits provided under subsection (e)(3) against any assessment imposed on the institution for any assessment period in an amount equal to the lesser of

(A) THE AMOUNT OF THE ASSESSMENT; OR

(B) THE AMOUNT EQUAL TO 3 BASIS POINTS OF THE INSTITUTION’S ASSESSMENT BASE.

(C) RESERVATION.—Not later than 30 days after the Corporation establishes and implements a restoration plan under clause (i), the Corporation shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.”.
SEC. 2109. REGULATIONS REQUIRED.
(a) In General.—Not later than 270 days after the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe final regulations, after notice and opportunity for comment—
(1) establishing the reserve ratio for the Deposit Insurance Fund in accordance with section 7(b)(3) of the Federal Deposit Insurance Act (as amended by section 2102 of this subtitle);
(2) implementing increases in deposit insurance coverage in accordance with the amendments made by section 2103 of this subtitle;
(3) implementing the dividend requirement under section 7(e)(2) of the Federal Deposit Insurance Act (as amended by section 2103 of this subtitle);
(4) implementing the 1-time assessment credit to certain insured depository institutions in accordance with section 7(e)(3) of the Federal Deposit Insurance Act, as amended by section 2103 of this subtitle, including the qualifications and procedures under which the Corporation would apply assessment credits; and
(5) providing for assessments under section 7(b) of the Federal Deposit Insurance Act, as amended by section 2107 of this subtitle;
(b) Transition Provisions.—
(1) Continuation of existing assessment regulations.—No provision of this subtitle, or any amendment made by this subtitle, shall be construed as affecting the authority of the Corporation to set or collect deposit insurance assessments pursuant to any regulations in effect before the effective date of the final regulations prescribed under subsection (a).
(2) Treatment of DIP Members under existing regulations (v) in the event of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to section 2102, the assessment regulations in effect immediately before the date of the enactment of this Act shall continue to apply to all members of the Deposit Insurance Fund, until such regulations are modified by the Corporation, notwithstanding that such regulations may refer to “Bank Insurance Fund members” or “Savings Association Insurance Fund members.”

TITLE III—DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY
SEC. 3001. SHORT TITLE, DEFINITION.
(a) Short Title.—This title may be cited as the “Digital Television Transition and Public Safety Act of 2003.”
(b) Definition.—As used in this Act, the term “Assistant Secretary” means the Assistant Secretary for Communications and Information of the Department of Commerce.

SEC. 3002. ANALOG SPECTRUM RECOVERY: FIRM TIMETABLE
SEC. 3003. AUCTION OF RECOVERED SPECTRUM.
SEC. 3004. RESERVATION OF AUCTION PROCEEDS FOR DIGITAL TELEVISION SERVICE.
SEC. 3005. DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.
SEC. 3006. DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.
(B) subsection (a)(2) shall be applied by substituting "$1,500,000,000" for "$900,000,000"; and
(C) the additional amount permitted to be expended shall be available 60 days after the Assistant Secretary sends such statement.

(4) COUPON VALUE.—The value of each coupon shall be $40.

(e) DEPARTMENT OF DIGITAL-TO-ANALOG CONVERTER BOX.—For purposes of this section, the term "digital-to-analog converter box" means a stand-alone device that does not contain or incorporate television receivers designed to receive and display signals only in the analog television service, but may also include a remote control device.

SEC. 3006. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS.

(a) CREATION OF PROGRAM.—The Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security—

(1) may take such administrative action as is necessary to establish and implement a grant program to provide public safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that utilize, or enable interoperable communications systems that can utilize, reallocated public safety spectrum for radio communication; and

(2) shall make payments of not to exceed $1,000,000,000, in the aggregate, through fiscal year 2010 to carry out that program from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)).

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006 such sums as may be necessary, but not to exceed $1,000,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) CONDITION OF GRANTS.—In order to obtain a grant under the grant program, a public safety agency shall agree to provide, from non-Federal sources, not less than 20 percent of the costs of acquiring and deploying the interoperable communications systems funded under the grant program.

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

(1) PUBLIC SAFETY AGENCY.—The term "public safety agency" means any State, local, or tribal government entity, or non-governmental organization authorized by such entity, whose primary or principal purpose is to protect the safety of life, health, or property.

(2) INTEROPERABLE COMMUNICATIONS SYSTEMS.—The term "interoperable communications systems" means communications systems which enable public safety agencies to share information among local, State, Federal, and tribal public safety agencies in the same area via voice or data signals.

(3) REALLOCATED PUBLIC SAFETY SPECTRUM.—The term "reallocated public safety spectrum" means the bands of spectrum located at 764-776 megahertz and 794-806 megahertz, inclusive.

SEC. 3007. NYC 911 DIGITAL TRANSITION.

(a) FUNDING AVAILABLE.—From the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer the program under subchapter II of chapter 417 of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to fund the grant program.

(b) USE OF FUNDS.—The sums available under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer the program under subchapter II of chapter 417 of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) shall be available 60 days after the Assistant Secretary sends such statement.

(c) IMPLEMENTATION.—The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)).

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

(1) Metropolitan Television Alliance.—The term "Metropolitan Television Alliance" means a public television station licensed to New York City television broadcast station licensees to locate new shared facilities as a result of the attacks on September 11, 2001.

(2) Digital Television and Public Safety Fund.—The term "Digital Television and Public Safety Fund" means a fund established by the Assistant Secretary by grant to be used to reimburse the Metropolitan Television Alliance for costs incurred in the development and deployment of a temporary digital television broadcast system to ensure that, until a permanent facility atop the Freedom Tower is constructed, the members of the Metropolitan Television Alliance can provide the New York City area with an adequate digital television signal as determined by the Federal Communications Commission.

SEC. 3008. LOW-POWER TELEVISION AND TRANSITION AND PUBLIC SAFETY INTEROPERABLE DIGITAL-TO-ANALOG CONVERSION PROGRAM.

(a) CREATION OF PROGRAM.—The Assistant Secretary shall make payments of not to exceed $10,000,000, in the aggregate, through fiscal year 2009 to carry out the program from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)).

(b) USE OF FUNDS.—The sums available under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer the program under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) shall be available 60 days after the Assistant Secretary sends such statement.

(c) IMPLEMENTATION.—The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer the program under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)).

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

(1) Metropolitan Television Alliance.—The term "Metropolitan Television Alliance" means a public television station licensed to New York City, New Jersey, and Delaware television broadcast station licensees to locate new shared facilities as a result of the attacks on September 11, 2001.

(2) Digital Television and Public Safety Fund.—The term "Digital Television and Public Safety Fund" means a fund established by the Assistant Secretary by grant to be used to reimburse the Metropolitan Television Alliance for costs incurred in the development and deployment of a temporary digital television broadcast system to ensure that, until a permanent facility atop the Freedom Tower is constructed, the members of the Metropolitan Television Alliance can provide the New York City area with an adequate digital television signal as determined by the Federal Communications Commission.

SEC. 3009. LOW-POWER TELEVISION AND TRANSITION AND PUBLIC SAFETY UPGRADE PROGRAM.

(a) ESTABLISHMENT.—The Assistant Secretary shall make payments of not to exceed $65,000,000, in the aggregate, through the fiscal year 2009 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each licensee of an eligible low-power television station that chooses to implement and administer a program through which each licensee of an eligible low-power television station may receive reimbursement for equipment to upgrade low-power television stations from analog to digital in eligible rural communities, as that term is defined in subsection (b)(2) of this section.

(b) USE OF FUNDS.—The sums available under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer the program under subsection (a) of this section shall be available 60 days after the Assistant Secretary sends such statement.

(c) IMPLEMENTATION.—The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)).
suns as may be necessary, but not to exceed $30,000,000 on a temporary and reimbursable basis to implement subsection (a). The Secretary of Transportation shall reimburse the Treasurer, without interest, for any sums so deposited into the Digital Television Transition and Public Safety Fund under section 309(j)(b)(E) of the Communications Act of 1994 (47 U.S.C. 309(j)(b)(E)) and made available to the Secretary under subsection (a).

SEC. 3014. SUPPLEMENTAL LICENSE FEES.
In addition to any fees assessed under the Commission's Act of 1994 (47 U.S.C. 151 et seq.), the Federal Communications Commission shall assess extraordinary fees for licenses in the aggregate amount of $10,000,000, which shall be deposited in the Treasury during fiscal year 2006 as offsetting receipts.

TITLE IV—TRANSPORTATION PROVISIONS
SEC. 4001. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) Extension of Duties.—Section 36 of the Act entitled “An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes”, approved August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended—

(1) by striking “9 cents per ton” and all that follows through “2002,” the first place it appears, and inserting “4.5 cents per ton, not to exceed in the aggregate 22.5 cents per ton in any one year, for fiscal years 2006 through 2010,” and

(2) by striking “27 cents per ton” and all that follows through “2002,” and inserting “15.5 cents per ton, not to exceed 67.5 cents per ton per annum, for fiscal years 2006 through 2010.”

(b) Conforming Amendment.—The Act entitled “An Act concerning tonnage duties on vessels entering otherwise than by sea”, approved August 5, 1909 (36 Stat. 244; 46 U.S.C. App. 132), is amended by striking “9 cents per ton” and all that follows through “2 cents” and inserting “4.5 cents per ton, not to exceed in the aggregate 22.5 cents per ton in any one year, for fiscal years 2006 through 2010,” and

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2005.

TITLE V—MEDICARE
Subtitle A—Provisions Relating to Part A
SEC. 5001. HOSPITAL QUALITY IMPROVEMENT.

(a) Hospital Data Collection.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (I)—

(A) by striking “(XXIX), by striking “2007” and inserting “2006”; and

(B) in subclause (XX), by striking “for fiscal year 2006 and each subsequent fiscal year,” and inserting “for each subsequent fiscal year, subject to clause (viii),”;

(2) in clause (V)—

(A) in subclause (I), by striking “for each of fiscal years 2005 through 2007” and inserting “for fiscal years 2005 and 2006”; and

(B) in subclause (II), by striking “Each and inserting “For fiscal years 2005 and 2006,” and

(3) by adding at the end the following new clauses:

(viii)(I) For purposes of clause (I) for fiscal year 2007 and each subsequent fiscal year, in the case of a subsection (d) hospital that does not submit to the Secretary in accordance with this clause, data required to be submitted by such subsection (d) hospital shall not be used by the Secretary in any determination to be made under this clause with respect to such a fiscal year, the applicable percentage increase under clause (I) for such fiscal year shall be reduced by 2.0 percentage points, and the reduction shall apply only with respect to the fiscal year involved and the Secretary shall not take into account such reduction in computing the applicable percentage increase under this section for a subsequent fiscal year, and the Secretary and the Medicare Payment Advisory

Commission shall carry out the requirements under section 501(b) of the Deficit Reduction Act of 2005.

(II) Each subsection (d) hospital shall submit to the Secretary a plan to modify the value based purchasing program for payments under the Medicare program for payments under the Medicare program for subsection (d) hospitals beginning with fiscal year 2007.

(b) Plan for Hospital Value Based Purchasing Program.—

(1) In general.—The Secretary of Health and Human Services shall develop a plan to implement a value based purchasing program for payments under the Medicare program for subsection (d) hospitals beginning with fiscal year 2007.

(2) Details.—Such a plan shall include consideration of the following issues:

(A) The on-going development, selection, and modification process for measures of quality and efficiency in hospital inpatient settings.

(B) The reporting, collection, and validation of quality data.

(C) The structure of value based payment adjustments, including the determination of thresholds or improvements in quality that would substantiate a payment adjustment, the size of such payments, and the sources of funding for the value based payments.

(D) The disclosure of information on hospital performance.

In developing such a plan, the Secretary shall consult with relevant affected parties and shall consider experience with such demonstration projects that are relevant to the value based purchasing program under this subsection.

(c) Quality Adjustment in DRG Payments for Certain Hospital Acquired Infections.

(1) In general.—Section 1886(d)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)) is amended by adding at the end the following new subparagraph:

“(D)(i) For discharges occurring on or after October 1, 2008, the diagnosis-related group to which the discharge is assigned is a diagnosis related group that does not result in hospitalization based on a subpart of a secondary diagnosis code described in clause (iv).

(II) A discharge described in this clause is a discharge which meets the following requirements:

(I) The discharge includes a condition identified by a diagnosis code selected under clause (iv) as a secondary diagnosis.

(II) But for clause (I), the discharge would have been classified to a diagnosis-related group that results in a higher payment based on the presence of a secondary diagnosis code selected under clause (iv).

(III) At the time of admission, no code selected under clause (iv) was present.

(IV) The code selected under clause (iv) was present during the hospitalization resulting in the discharge, but would not have been present if the diagnosis had not been present.

(V) The discharge does not result in hospitalization based on the presence of a secondary diagnosis code selected under clause (iv).

(2) Non-judicial review.—The determination of payment adjustments required to be reported by a hospital with respect to a discharge of an individual in order for payment to be made under this subsection, for discharges occurring on or after October 1, 2007, the information shall include the secondary diagnosis of the individual at admission.

(3) Comparable code.—Any code selected under clause (iv) shall be a comparable code to the diagnosis code associated with the diagnosis that is responsible for the diagnosis-related group that results in a higher payment based on the presence of a secondary diagnosis code selected under clause (iv).

(4) Index.—The Secretary shall consult with the National Library of Medicine and the Agency for Healthcare Research and Quality to establish a list of comparable codes.

(5) Index shipped.—The Secretary shall prompt the implementation of an index of comparable codes to the diagnosis code associated with the diagnosis that is responsible for the diagnosis-related group that results in a higher payment based on the presence of a secondary diagnosis codes selected under clause (iv).

(6) Index update.—The Secretary shall update the index of comparable codes annually.
(b) RATIFICATION AND PROSPECTIVE APPLICABILITY OF PREVIOUS REGULATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), regulations described in paragraph (3), issued before the date of enactment of this Act, are hereby ratified, as if the same regulations had been promulgated on or after October 1, 2006, and are made applicable to the first cost reporting period beginning on or after October 1, 2006, as if such regulations had been promulgated on or after October 1, 2006.

(2) NO APPLICATION TO CLOSED COST REPORTS.—Paragraph (1) shall not be applied in a manner that requires the reopening of any cost reports which are closed as of the date of the enactment of this Act.

(3) REGULATIONS DESCRIBED.—For purposes of paragraph (1), the regulations described in this paragraph are as follows:

(A) 1999 PROMULGATION.—Regulations promulgated on September 20, 2000, at 66 Federal Register 3136 et seq, including the policy in such regulations regarding discharges occurring prior to January 20, 2000.

(B) 2003 REGULATION.—Regulations promulgated on August 1, 2003, at 68 Federal Register 45345 et seq.

SEC. 5003. IMPROVEMENTS TO THE MEDICARE-DEPENDENT HOSPITAL (MDH) PROGRAM.

(a) 5-YEAR EXTENSION.—

(1) EXTENSION OF PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking “October 1, 2006” and inserting “October 1, 2011”; and

(B) in clause (ii), by striking “October 1, 2006” and inserting “October 1, 2011”; and

(ii) by inserting “or for discharges in the fiscal year” after “for the cost reporting period”.

(2) CONFORMING AMENDMENTS.—

(A) EXTENSION OF TARGET AMOUNT.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in the matter preceding clause (i)—

(II) by striking “beginning” and inserting “occurring”; and

(ii) by striking “October 1, 2006” and inserting “October 1, 2011”; and

(ii) in clause (iv), by striking “through fiscal year 2005” and inserting “through fiscal year 2011”.

(B) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 1395ww(d)(2) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395ww note) is amended by striking “through fiscal year 2005” and inserting “through fiscal year 2011”.

(2) OPTION TO USE 2002 AS BASE YEAR.—Section 1886(b)(3) of such Act (42 U.S.C. 1395ww(b)(3)) is amended—

(i) in subparagraph (D), by inserting “subject to subparagraph (K),” after “(d)(3)(G));”;

and

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

“(K)(i) With respect to discharges occurring on or after October 1, 2006, in the case of a Medicare-dependent small rural hospital, for purposes of applying subparagraph (D)—

“I there shall be substituted for the base cost reporting period described in subparagraph (D) the most recent cost reporting period ending during fiscal year 2002; and

“II any reference in such subparagraph to the ‘first cost reporting period’ described in such subparagraph shall mean a reference to the first cost reporting period beginning on or after October 1, 2006.

“(ii) This subparagraph shall only apply to a hospital that is described in clause (i)(I) results in an increase in the target amount under subparagraph (D) for the hospital.

(c) ENHANCED PAYMENT FOR AMOUNT BY WHICH THE TARGET EXCEEDS THE PPS RATE.—Section 1886(d)(5)(G)(ii)(I) of such Act (42 U.S.C. 1395ww(d)(5)(G)(ii)(I)) is amended by inserting “or 75 percent in the case of discharges occurring on or after October 1, 2006” after “50 percent”.

(d) ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR MEDICARE-DEPENDENT HOSPITALS.—Section 1886(d)(5)(F)(iv)(II) of such Act (42 U.S.C. 1395ww(d)(5)(F)(iv)(II)) is amended by inserting “or, in the case of discharges occurring on or after October 1, 2006, a Medicare-dependent, small rural hospital under subparagraph (G)(iv)” before the period at the end.

SEC. 5004. REDUCTION IN PAYMENTS TO SKILLED NURSING FACILITIES FOR BAD DEBT.

(a) IN GENERAL.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395xv(v)(1)) is amended by adding at the end the following new subparagraph:

“(V) In determining such reasonable costs for skilled nursing facilities with respect to cost reporting periods beginning on or after October 1, 2011, the amount of bad debts otherwise includable shall be reduced by 30 percent of such amount otherwise allowable; and

“(VI) are described in such section shall not be reduced.”.

(b) TECHNICAL AMENDMENT.—Section 1861(v)(1)(T) of such Act (42 U.S.C. 1395xv(v)(1)(T)) is amended by striking “section 1833(3)(G)” and inserting “section 1833(3)(B)”.

SEC. 5005. EXTENDED PHASE-IN OF THE INFIRMARY GAINSHARING ARRANGEMENT.

(a) IN GENERAL.—Notwithstanding section 1229(b)(2) of the Federal Regulation, the Secretary of Health and Human Services shall—

(1) in subparagraph (D), by inserting “subject to the criteria used under the IRF regulation (as defined in subsection (c)) to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under title X of the Social Security Act; and

(b) APPLICABLE PERCENT.—For purposes of subsection (a), the applicable percent specified in this subsection for cost reporting periods—

(1) beginning during the 12-month period beginning on or after October 1, 2011, is 75 percent; and

(2) beginning during the 12-month period beginning on July 1, 2007, is 65 percent; and

(3) beginning on or after July 1, 2008, is 75 percent.

(c) IRF REGULATION.—For purposes of subsection (a), the term “IRF regulation” means the rules published in the Federal Register on May 7, 2004, entitled “Medicare Program; Final Rule; Changes to the Criteria for Being Classified as an Inpatient Rehabilitation Facility.”

SEC. 5006. DEVELOPMENT OF STRATEGIC PLAN REGARDING PHYSICIAN INVESTMENT IN SPECIALTY HOSPITALS.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall develop a strategic plan to address issues described in paragraph (2) regarding physician investment in specialty hospitals (as defined in section 1871(h)(7)(A) of the Social Security Act (42 U.S.C. 1395ww(h)(7)(A))).

(2) ISSUES DESCRIBED.—The issues described in this paragraph are the following:

(3) (A) Proportionality of investment return.

(B) Bona fide investment interest.

(C) Annual disclosure of investment information.

(4) (A) The provision by specialty hospitals of—

(i) care to patients who are eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, including patients not so eligible but who are regarded as such because they receive benefits under a demonstration project approved under title XI of such Act; and

(ii) charity care.

(B) Appropriate enforcement.

(2) INTERIM REPORT.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall submit an interim report to the appropriate committees of jurisdiction of Congress on the plan developed under subsection (a) together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(c) CONTINUATION OF SUSPENSION ON ENROLLMENT.

(a) IN GENERAL.—Subject to paragraph (2), the Secretary shall continue the suspension on enrollment of new hospitals (as so defined under title XVIII of the Social Security Act) until the earlier of—

(A) the date that the Secretary submits the final report under section (b)(3) or (b)(4); or

(B) the date that is 6 months after the date of the enactment of this Act.

(b) EXTENSION OF SUSPENSION.—If the Secretary fails to submit the final report described in subsection (b)(3) or (b)(4) by the date required under such subsection, the Secretary shall—

(A) extend the suspension on enrollment under paragraph (1) for an additional two months; and

(B) provide a certification to the appropriate committees of jurisdiction of Congress of such failure.

(d) WAIVER.—In developing the plan and report required under this section, the Secretary may waive such requirements of section 533 of title 5, United States Code, as the Secretary determines necessary.

(e) FUNDING.—If funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2006, $2,000,000, to carry out this section.

SEC. 5007. PROVISIONS TO PERMIT GAINSHARING ARRANGEMENTS.

(a) ESTABLISHMENT.—The Secretary shall establish under this section a qualified gainsharing demonstration program under which the Secretary shall approve demonstration projects by not later than November 1, 2006, to test and evaluate methodologies and arrangements between hospitals and physicians designed to govern the utilization of inpatient hospital resources and physician work to improve the quality and efficiency of care provided to Medicare beneficiaries and to develop improved operational and financial hospital performance with sharing of remuneration as specified in the project.

Such projects shall be operational by not later than January 1, 2007.

(b) PROJECTS TO PERMIT GAINSHARING ARRANGEMENTS.

(1) ARRANGE-
of the savings incurred directly as a result of collaborative efforts between the hospital and the physician.

(2) WHITEN PLAN AGREEMENT.—The demonstration project shall be conducted pursuant to a written agreement that—

(A) is submitted to the Secretary prior to implementation of the project; and

(B) contains a plan outlining how the project will achieve improvements in quality and efficiency.

(3) PATIENT NOTIFICATION.—The demonstration project shall include a notification process to inform patients who are treated in a hospital participating in the project of the participation of the hospital in such project.

(4) MONITORING QUALITY AND EFFICIENCY OF CARE.—The demonstration project shall provide measures to ensure that the quality and efficiency of care provided to patients who are treated in a hospital participating in the demonstration project is continuously monitored to ensure that such quality and efficiency is maintained or improved.

(5) INDEPENDENT REVIEW.—The demonstration project shall certify, prior to implementation, that the elements of the demonstration project are reviewed by an organization that is not affiliated with the hospital or the physician participating in the project.

(6) REFERRAL LIMITATIONS.—The demonstration project shall not be structured in such a manner as to reward any physician participating in the project on the basis of the volume or value of referrals to the hospital by the physician.

(c) WAIVER OF CERTAIN RESTRICTIONS.—

(1) IN GENERAL.—An incentive payment made by a hospital to a physician under and in accordance with a demonstration project shall not constitute—

(A) remuneration for purposes of section 1122B of the Social Security Act (42 U.S.C. 1320a-7b);

(B) a payment intended to induce a physician to reduce or limit services to a patient entitled to benefits under Medicare or a State plan approved under title XIX of such Act in violation of section 1128A of such Act (42 U.S.C. 1320a-7a); or

(C) a financial relationship for purposes of section 1877 of such Act (42 U.S.C. 1395nn).

(2) PROTECTION FOR EXISTING ARRANGEMENTS.—In no case shall the failure to comply with the requirements described in paragraph (1) affect a finding made by the Inspector General of the Department of Health and Human Services prior to the date of the enactment of this Act, concerning an arrangement between a hospital and a physician that does not violate paragraph (1) or (2) of section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a).

(d) PROGRAM ADMINISTRATION.—

(1) SOLLICITATION OF APPLICATIONS.—By not later than 90 days after the date of the enactment of this Act, the Secretary shall solicit applications for approval of a demonstration project, in such form and manner, and at such time specified by the Secretary.

(2) NUMBER OF PROJECTS APPROVED.—The Secretary shall approve not more than 6 demonstration projects, at least 2 of which shall be located in a rural area.

(3) DURATION.—The qualified gainsharing demonstration program under this section shall be conducted for the period beginning on January 1, 2007, and ending on December 31, 2009.

(e) REPORTS.—

(1) INITIAL REPORT.—By not later than December 1, 2006, the Secretary shall submit to Congress a report on the details of each project (including the project improvements towards quality and efficiency described in subsection (b)(2)(B)).

(2) QUALITY IMPROVEMENT AND SAVINGS.—By not later than May 1, 2010, the Secretary shall submit to Congress a report on the number of demonstration projects that will be conducted under this section.

(3) FINANCING.—By not later than May 1, 2010, the Secretary shall submit to Congress a report on the information described in paragraph (3).

(f) FUNDING.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there shall be appropriated for the costs of carrying out the demonstration program under this section—

(a) DME.—

(1) IN GENERAL.—Section 1842(a)(7)(A) of the Social Security Act (42 U.S.C. 1395(a)(7)(A)) is amended to read as follows: "(A) PAYMENT.—In the case of an item of durable medical equipment not described in paragraphs (2) through (6), the following rules shall apply:

(I) "(I) IN GENERAL.—Except as provided in clause (ii), payment for the item shall be made on a monthly basis for the rental of the item during the period of medical need (but payments under this clause may not extend over a period of continuous use (as determined by the Secretary) of longer than 13 months)."

(II) "(II) OWNERSHIP AFTER RENTAL.—On the first day that begins after the 13th continuous month during which a payment has been made for the rental of an item under clause (i), the supplier of the item shall transfer title to the item to the individual.

(III) "(III) PURCHASE AGREEMENT OPTION FOR POWER-DRIVEN WHEELCHAIRS.—In the case of a power-driven wheelchair, at the time the supplier furnishes the item, the supplier shall offer the individual the option to purchase the item, and payment for such item shall be made on a lump-sum basis if the individual exercises such option.

(b) MAINTENANCE AND SERVICING.—After the supplier transfers title to the item under clause (i) or in the case of a power-driven wheelchair for which a purchase agreement has been entered into under clause (iii), maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier’s or manufacturer’s warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment), in an amount determined to be appropriate by the Secretary.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection (I) shall apply to items furnished for the first rental month on or after January 1, 2006.
(b) OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1833(a)(5) of such Act (42 U.S.C. 1395m(a)(5)) is amended—

(A) in subparagraph (A), by striking "and (E)", and (F); and

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

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SEC. 5106. UPDATE TO THE COMPOSITE RATE COMPONENT OF THE BASIC CASE-MIX ADJUSTED PROSPECTIVE PAYMENT SYSTEM FOR DIALYSIS SERVICES.

Section 1861(b)(12) of the Social Security Act (42 U.S.C. 1395l(b)(12)) is amended—

(1) in subparagraph (F), in the flush matter at the end, by striking “Nothing” and inserting “Except as provided in subparagraph (G), nothing”;

(2) by redesigning subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

“(G) The Secretary shall increase the amount of the composite rate component of the basic case-mix adjusted payment system for paragraph (2) for dialysis services furnished on or after January 1, 2006, by 1.6 percent above the amount of such composite rate component for services furnished on December 31, 2005.”.

SEC. 5107. REVISIONS TO PAYMENTS FOR THERAPY SERVICES.

(a) EXCEPTIONS TO CLINICAL INCOME REDUCTION FOR 2006.—

(1) IN GENERAL.—Section 1833(g) of the Social Security Act (42 U.S.C. 1395f(g)) is amended—

(A) in each of paragraphs (1) and (3), by striking “paragraph (4)” and inserting “paragraphs (4) and (5)”; and

(B) by adding at the end the following new paragraph:

“(5) With respect to expenses incurred during 2006 for services, the Secretary shall implement a process under which an individual enrolled under this part may, upon request of the individual or a person on behalf of the individual, obtain an exception from the uniform dollar limitation specified in paragraph (2), for services described in paragraphs (1) and (3) if the provision of such services is determined to be medically necessary. Under such process, the Secretary does not make a decision on such a request for an exception within 10 business days of the date of the Secretary’s receipt of the request, the Secretary shall be deemed to have found the services to be medically necessary.”.

(b) TIMELY IMPLEMENTATION.—The Secretary of Health and Human Services shall waive such provisions of law and regulation (including those described in section 110(c) of Public Law 108-173) as are necessary to implement the modifications made by paragraph (1) on a timely basis and, notwithstanding any other provision of law, may implement such amendments by program instruction or otherwise if the Secretary finds to its satisfaction that the individual was not furnished such services under the basic case-mix adjusted payment system during the applicable enrollment period; or

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2007.

SEC. 5112. MEDICARE COVERAGE OF ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSMS.

(a) In general.—Section 1861 of the Social Security Act (42 U.S.C. 1395f) is amended—

(1) in subparagraph (a)(2)(A) by striking “and” at the end of subparagraph (Y); and

(2) by redesigning subparagraph (H) as subparagraph (I).

(b) Timely Implementation.—The Secretary shall be deemed to have found the Secretary’s receipt of the request, the Secretary determines to be medically necessary. Under such process, if the Secretary does not make a decision on such a request for an exception within 10 business days of the date of the Secretary’s receipt of the request, the Secretary shall be deemed to have found the services to be medically necessary.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2007.

SEC. 5114. DELIVERY OF CARE AT FEDERALLY QUALIFIED HEALTH CENTERS.

(a) Coverage.—

(1) IN GENERAL.—Section 1861(aa)(3) of the Social Security Act (42 U.S.C. 1395f(aa)(3)) is amended—

(A) in subparagraph (B), by striking “(2)(AA),” after “(2)(AA);”;

(B) by inserting “and” in the first place it appears.

(b) CONFORMING AMENDMENTS.—Paragraphs (2)(C)(i) and (3)(C)(ii) of section 1834(d) of such Act (42 U.S.C. 1395m(d)) are each amended—

(1) by striking “and” in the heading;

(2) in clause (i), by striking “or” each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2007.

SEC. 5115. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN INTERNATIONAL VOLUNTEERS.

(a) IN GENERAL.—

(1) WAIVER OF PENALTY.—Section 1835(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended by striking “(other than subsection (b))”.

(b) TECHNICAL CORRECTIONS.—Clauses (1) and (11) of section 1861(aa)(4)(A) of such Act (42 U.S.C. 1395f(aa)(4)(A)) are each amended by striking “other than subsection (h)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2006.
(B) has terminated enrollment under this section during a month in which the individual is described in paragraph (3), there shall be a special enrollment period described in paragraph (2).

(2) The special enrollment period described in this paragraph is the 6-month period beginning on the first day of the month which includes the date that the individual is no longer described in paragraph (3).

(3) For purposes of paragraph (1), an individual who is described in this paragraph is an individual who—

(A) is serving as a volunteer outside of the United States through a program—

(i) that covers at least a 12-month period; and

(ii) that is sponsored by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

(B) demonstrates health insurance coverage while serving in the program.

(B) COVERAGE PERIOD.—Section 1839 of such Act (42 U.S.C. 1395s) is amended by adding at the end the following new subsection:

’’(f) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1387(k), the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.’’.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to claims made by such individuals for the years 2006 and 2007.

SEC. 5201. HOME HEALTH PAYMENTS.

(a) 2006 UPDATE.—Section 1842(c)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395m(k)(2)) is amended—

(1) in subparagraph (B), by inserting ‘‘subject to clause (v),’’ after ‘‘subsequent year,’’ and

(2) by striking ‘‘and’’ at the end of subparagraph (C).

(2) AMOUNT.—Section 1842(c)(3)(B)(ii) of such Act (42 U.S.C. 1395m(k)(2)) is amended—

(1) by adding at the end the following new paragraph:

‘‘(v) ADJUSTMENT IF QUALITY DATA NOT SUBMITTED.—

(II) SUBMISSION OF QUALITY DATA.—For 2007 and each subsequent year, each home health agency shall submit to the Secretary such data that the Secretary determines are appropriately for the measurement of health care quality. Such data shall be submitted in a form and manner, and at a time, specified by the Secretary for purposes of this clause.

(III) PUBLIC AVAILABILITY OF DATA SUBMITTED.—The Secretary shall establish procedures for making data submitted under subsection (II) available to the public. Such procedures shall ensure that home health agency has the opportunity to review the data that is to be made public with respect to the agency prior to such data being made public.

(IV) MEDPAC REPORT ON VALUE BASED PURCHASING.—

(1) IN GENERAL.—Not later than June 1, 2007, the Medicare Payment Advisory Commission shall submit to Congress a report that includes recommendations on a detailed structure of value based payment adjustment for home health services under the Medicare program under title XVIII of the Social Security Act. Such report shall include recommendations concerning the determination of payment thresholds, the size of such payments, sources of funds, and the relationship of payments for improvement and attainment of quality.

(2) FUNDAMENTAL AMENDMENTS.—Fundamental amendments to any funds in the Treasury not otherwise appropriated, there are appropriated to the Medicare Payment Advisory Commission $550,000, to carry out this subsection.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to claims submitted on or after January 1, 2007.

Subtitle D—Provisions Relating to Parts A and B

SEC. 5202. REVISION OF PERIOD FOR PROVIDING PAYMENT FOR CLAIMS THAT ARE NOT SUBMITTED ELECTRONICALLY.

(a) REVISION.—

(1) PART A.—Section 1816(c)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395(i)(k)(4)) is amended—

(II) the amount specified in subsection (a)(2), then increased by 26 days and 28 days as described in subparagraphs (II) and (III).’’.

(2) PART B.—Section 1842(c)(3)(B)(ii) of such Act (42 U.S.C. 1395m(k)(2)) is amended by striking ‘‘26 days’’ and inserting ‘‘28 days’’.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to claims submitted on or after January 1, 2006.

SEC. 5203. TIMELINE FOR PART A AND B PAYMENTS.

Notwithstanding sections 1816(c) and 1842(c)(2) of the Social Security Act or any other provision of law—

(1) any payment from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) or the Medicare Trust Fund (42 U.S.C. 1395k) for a year under such part A or B, respectively, that would otherwise be payable during the period beginning on September 22, 2006, and ending on September 21, 2006, shall be paid on the first business day of October 2006; and

(2) no interest or late penalty shall be paid to an entity or individual for any delay in a payment by reason of the application of paragraph (1).

SEC. 5204. MEDICARE INTEGRITY PROGRAM FUNDING.

Section 1817(k)(4) of the Social Security Act (42 U.S.C. 1395i(k)(4)) is amended—

(1) in subparagraph (B), by striking ‘‘The amount’’ and inserting ‘‘Subject to subparagraph (C)’’;

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

‘‘(C) ADJUSTMENTS.—The amount appropriated under subparagraph (A) for a fiscal year is increased as follows:

(i) For fiscal year 2006, $100,000,000.’’.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395w-21) is amended—

(1) in subsection (j)(1)—

(A) in subparagraph (A)—

(i) by inserting ‘‘beginning with 2007, $1/2 of the applicable amount determined under subsection (k)(1)’’ after ‘‘1833(c)(1)’’;

(ii) by inserting ‘‘(for years before 2007)’’ after ‘‘adjusted as appropriate’’;

(B) in subparagraph (B), by inserting ‘‘(for years before 2007)’’ after ‘‘adjusted as appropriate’’;

and

(2) by adding at the end the following new subsection:

‘‘(k) DETERMINATION OF APPLICABLE AMOUNT FOR PURPOSES OF CALCULATING THE BENCHMARK AMOUNT.—

(1) APPLICABLE AMOUNT DEFINED.—For purposes of subsection (j), subject to paragraph (2), the term ‘‘aplicable amount’’ means for an area—

(A) for 2007—

(i) if such year is not specified under subsection (c)(1)(D)(ii), an amount equal to the amount specified in subsection (c)(1)(C) for such area;

(ii) if such year is specified under subsection (c)(1)(D)(ii), an amount equal to the greater of—

(I) the amount determined under clause (i) for the area for the year; or

(II) the amount specified in subsection (c)(1)(D) for the area for the year; and

(B) for a subsequent year—

(i) if such year is not specified under subsection (c)(1)(D)(ii), an amount equal to the amount determined under paragraph (C) of such subsection for a year before 2004;

(ii) if such year is specified under subsection (c)(1)(D)(ii), an amount equal to the greater of—

(I) the amount determined under clause (i) for the area for the year; or

(II) the amount specified in subsection (c)(1)(D) for the area for the year.

(b) PHASE-OUT OF BUDGET NEUTRALITY FACTOR.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of year 2007 through 2009, the applicable amount determined under paragraph (1) shall be multiplied by a factor equal to 1 plus the product of—

(i) the percent determined under subparagraph (B) for the year; and

(ii) the applicable phase-out factor for the year under subparagraph (C).

(B) PERCENT DETERMINED.—

(A) IN GENERAL.—Except as provided in subparagraph (A)(i), subject to clause (iv), the percent determined under this subparagraph for
a year is a percent equal to a fraction the numerator of which is described in clause (ii) and the denominator of which is described in clause (iii).

(ii) NUMERATOR BASED ON DIFFERENCE BETWEEN DEMOGRAPHIC RATE AND RISK RATE.—

(I) IN GENERAL.—The numerator described in this clause is an amount equal to the amount by which the demographic rate described in subclause (III) exceeds the risk rate described in subclause (III).

(II) DEMOGRAPHIC RATE.—The demographic rate in this subclause is the Secretary’s estimate of the total payments that would have been made under this part if, in the other fiscal year, the amounts payment amounts for all MA plans were equal to 1% of the annual MA capitation rate under subsection (c)(1) for the area and year, adjusted pursuant to subsection (a)(1)(C).

(III) RISK RATE.—The risk rate described in this subclause is the Secretary’s estimate of the total payments that would have been made under this part in the area and year if all the monthly payment amounts for all MA plans were equal to the amount described in subsection (j)(1)(A) (determined as if this paragraph were part of the under subsection (c) for the area and year, adjusted pursuant to subsection (a)(1)(C)).

(IV) DIFFERENCES.—In estimating the amounts described in the previous clause, the Secretary shall—

(1) use a complete set of the most recent and representative Medicare Advantage risk scores under subsection (a)(d) that are available from the risk adjustment model announced for the year;

(2) adjust the risk scores to reflect changes in treatment and coding practices in the fee-for-service sector;

(3) adjust the risk scores for differences in coding patterns between Medicare Advantage plans and providers under the original Medicare fee-for-service program under parts A and B to the extent that the Secretary has identified such differences, as required in subsection (a)(1)(C);

(4) as necessary, adjust the risk scores for late data submitted by Medicare Advantage organizations;

(V) as necessary, adjust the risk scores for lagged cohorts; and

(VI) as necessary, adjust the risk scores for changes in enrollment in Medicare Advantage plans during the year.

(2) AUTHORITY.—In computing such amounts, as required in subsection (a)(1)(C), the Secretary may take into account the estimated health risk of enrollees in preferred provider organization plans (including MA regional plans) for the year.

(C) APPLICABLE PHASE-OUT FACTOR.—For purposes of subparagraph (A)(ii), the term “applicable phase-out factor” means—

(i) for 2007, 0.55;

(ii) for 2008, 0.25; and

(iv) for 2010, 0.05.

(D) TERMINATION OF APPLICATION.—Subparagraph (A) shall not apply in a year if the amount estimated under subparagraph (B)(ii)(III) for the year is equal to or greater than the amount estimated under subparagraph (B)(ii)(II) for the year.

(3) NO REVISION IN PERCENT.—

(A) IN GENERAL.—The Secretary may not make any adjustment to the percent determined under paragraph (1) as a result of an adjustment to the applicable phase-out factor applied under paragraph (1) as appropriate for purposes of updating data or for purposes of adopting an improved risk adjustment methodology.

(B) REFLECTIONS TO HEALTH STATUS ADJUSTMENT.—Section 1835(a)(3) of such Act (42 U.S.C. 1395w–23) is amended—

(1) by designating the heading after the clause described in paragraph (3) with the following heading: “(C) APPLICABLE PHASE-OUT FACTOR.”

(2) by adding at the end the following:

“(i) IN GENERAL.—The term “CMS” means the Centers for Medicare & Medicaid Services.

(2) PACE PROGRAM.—The term “PACE program” has the meaning given in section 1861(q)(4) of the Social Security Act (42 U.S.C. 1395(ee)(2); 1396u–4(a)(2)).

(3) PACE PROVIDER.—The term “PACE provider” has the meaning given in section 1894(a)(3) or 1934(a)(3) of the Social Security Act (42 U.S.C. 1396e(e)(a)(3); 1396u–4(a)(3)).

(4) RURAL AREA.—The term “rural area” has the meaning given in section 1866(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

(B) INCLUSION IN ONLY ONE PERIOD.—Recognized outlier costs defined for purposes of this service shall be included in only one period.

(C) USE OF FUNDS.—Funds made available under a site development grant awarded under subparagraph (A) may be used for the following expenses only to the extent such expenses are incurred in relation to establishing or delivering PACE program services in a rural area:

(i) Feasibility analysis and planning.

(ii) Interdisciplinary team development.

(iii) Development of a provider network, including contract development.

(iv) Development or adaptation of claims processing systems.

(v) Preparation of special education and outreach efforts required for the PACE program.

(vi) Development of expense reporting requirements and reconciliation processes.

(vii) Development of any special quality of care or patient satisfaction data collection efforts.

(viii) Establishment of a working capital fund to sustain fixed administrative, facility, and provider costs that the provider reaches sufficient enrollment size.

(IX) Start up and development costs incurred prior to the approval of the rural PACE pilot site’s PACE provider application by CMS.

(x) Any other efforts determined by the rural PACE pilot site to be critical to its successful startup, as approved by the Secretary.

(E) APPROPRIATION.—

(1) IN GENERAL.—Out-of-pocket funds in the Treasury that are otherwise appropriated, shall be appropriated to the Secretary to carry out this subsection for fiscal year 2006, $7,500,000.

(2) AVAILABILITY.—Funds appropriated under clause (1) shall remain available for expenditure through fiscal year 2008.

(2) TECHNICAL ASSISTANCE PROGRAM.—The Secretary shall establish a technical assistance program to provide—

(A) outreach and education to State agencies and provider organizations interested in establishing PACE programs in rural areas; and

(B) technical assistance necessary to support rural PACE pilot sites.

(2) RURAL PACE PILOT SITES.—

(A) ESTABLISHMENT OF FUND FOR REIMBURSEMENT OF OUTLIER COSTS.—Notwithstanding any other provision of law, the Secretary shall establish an outlier fund to reimburse rural PACE pilot sites for recognized outlier costs (as defined in paragraph (3)) incurred for eligible outlier participants (as defined in paragraph (2)) in an amount, subject to paragraph (4), equal to 80 percent of the amount of such recognized outlier costs exceeds $50,000.

(2) ELIGIBLE OUTLIER PARTICIPANT.—For purposes of this subsection, the term “eligible outlier participant” means an individual who resides in a rural area and with respect to whom the rural PACE pilot site incurs more than $50,000 in recognized costs in a 12-month period.

(3) RECONIZED OUTLIER COSTS DEFINED.—

(A) IN GENERAL.—For purposes of this subsection, the term “recognized outlier costs” means, with respect to services furnished to any individual rural PACE pilot site, the least of the following (as documented by the site to the satisfaction of the Secretary) for the provision of inpatient and related physician and ancillary services for the eligible outlier participant in a given 12-month period:

(i) The services are provided under a contract between the pilot site and the provider, and the payment rate specified under the contract.

(ii) The payment rate established under the Medicare Advantage fee-for-service program for this service.

(iii) The amount actually paid for the services by the pilot site.

(iv) The amount paid for services in only one period. Recognized outlier costs may not be included in more than one 12-month period.
(3) OUTLIER EXPENSE PAYMENT.—
(A) PAYMENT FOR OUTLIER COSTS.—Subject to subparagraph (B), in the case of a rural PACE pilot site that has incurred outlier costs for an eligible outlier participant, the rural PACE pilot site shall receive an outlier expense payment equal to 80 percent of such costs that exceed $50,000.
(B) LIMITATION.—In determining an outlier expense payment, the Secretary shall access and exhaust any risk reserves under this subsection for fiscal year 2006, $10,000,000.

(4) LIMITATION ON OUTLIER COSTS.—A rural PACE pilot site may receive more than $500,000 in total outlier expense payments in a 12-month period.

(5) EVALUATION OF PACE PROVIDERS SERVING RURAL PACE PILOT SITES.—A rural PACE pilot site may receive an outlier expense payment under this subsection only if the Secretary determines that the PACE pilot site, in its period of operation, has not provided services to an eligible outlier participant for more than 90 days.

(6) ELIGIBLE OUTLIER PARTICIPANT.—The total amount of outlier expense payments made under this subsection for an eligible outlier participant for the first 3 years of the site’s operation. Any amounts paid under the authority of this section to a rural PACE pilot site with respect to an eligible outlier participant for any 12-month period shall not exceed $100,000 for that 12-month period used to calculate the payment.

(7) BUDGET.—Subject to paragraph (3)(B)(ii), the Secretary shall submit a report to the House of Representatives containing an evaluation of the expenditures of such section.

(8) NO FURTHER AUTHORITY.—The authority for expenditure through fiscal year 2010.

(9) FUND.—The amount of the outlier fund.

(10) UPDATE INFORMATION.—The Secretary shall update the information posted on the website under subparagraph (D)(v).”;

(11) UPDATE INFORMATION.—Not later than June 1, 2006, the Inspector General of the Department of Health and Human Services shall consider the recommendations submitted to the Secretary in accordance with subparagraph (A)(ii).

(12) LIMITATION ON SALES AT A NOMINAL PRICE.—A rural PACE pilot site with respect to an eligible outlier participant for more than 90 days.

(13) FUND.—The amount of the outlier fund.

(14) UPDATE INFORMATION.—Not later than July 1, 2007, the Secretary of Health and Human Services shall promulgate a regulation that clarifies the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, as amended by this section.

(15) FUND.—The amount of the outlier fund.

(16) UPDATE INFORMATION.—Not later than July 1, 2007, the Secretary of Health and Human Services shall promulgate a regulation that clarifies the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, as amended by this section.

(17) FUND.—The amount of the outlier fund.

(18) UPDATE INFORMATION.—Not later than July 1, 2007, the Secretary of Health and Human Services shall promulgate a regulation that clarifies the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, as amended by this section.

(19) FUND.—The amount of the outlier fund.

(20) UPDATE INFORMATION.—Not later than July 1, 2007, the Secretary of Health and Human Services shall promulgate a regulation that clarifies the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, as amended by this section.

(21) FUND.—The amount of the outlier fund.

(22) UPDATE INFORMATION.—Not later than July 1, 2007, the Secretary of Health and Human Services shall promulgate a regulation that clarifies the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, as amended by this section.
after receiving such notification, as to whether the product is now described in subsection (e)(4).

(2) Annual State report.—Each State shall annually report to the Secretary information on—

(A) the payment rates under the State plan under title XIX for covered outpatient drugs;

(B) the dispensing fees paid under such plan for such drugs; and

(C) the utilization rates for noninnovator multiple source drugs under such plan.

(3) Annual state performance rankings.—

(A) Comparative analysis.—The Secretary annually shall compare, for the 50 most widely prescribed drugs identified by the Secretary, the national retail sales price data obtained under paragraph (1) for such drugs with data on prices under this title for such drugs as the Secretary may specify, on a annual basis, to reflect changes in such volume.

(B) Multiple source drugs.—

(i) Identification of most frequently physician administered multiple source drugs.—Not later than January 1, 2007, the Secretary shall publish a list of the 20 physician administered multiple source drugs for which the Secretary determines have the highest dollar volume of physician administered drugs dispensed under this title. The Secretary may modify such list from year to year.

(ii) Requirement.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a single source drug that is physician administered under this title (as determined by the Secretary), and that is administered on or after January 1, 2007, the State shall provide for the submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for such drug as the Secretary may specify as necessary to identify the manufacturer of the drug in order to secure rebates under this section for drugs administered for which payment is made under this title.

(C) Use of NDC codes.—Not later than January 1, 2007, the information shall be submitted under subparagraphs (A) and (B) using National Drug Code numbers unless the Secretary determines an alternative coding system should be used.

(D) Hardship waiver.—The Secretary may delay the application of this section to any manufacturer, wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding those prices described in subclauses (I) through (IV) of clause (i), on a case by case basis, for a covered outpatient drug that is a single source drug that is physician administered under this title (as determined by the Secretary), and that is administered on or after January 1, 2007, if the Secretary determines that the manufacturer of such drug is unable to provide information respecting utilization data and coding on such drugs that is required to be submitted under such section is submitted in accordance with such section; or

SECTIONS 6002. COLLECTION AND SUBMISSION OF UTILIZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED DRUGS.

(a) In general.—Section 1927(a)(2) of the Social Security Act (42 U.S.C. 1396–8(a)–8(a)) is amended by adding at the end the following new paragraph:

(7) Requirement for submission of utilization data for certain physician administered drugs.—

(1) Single source drugs.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a single source drug that is physician administered under this title (as determined by the Secretary), and that is administered on or after January 1, 2007, the State shall provide for the submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary to identify the manufacturer of the drug in order to secure rebates under this section for drugs administered for which payment is made under this title.

(2) Multiple source drugs.—

(i) Identification of most frequently physician administered multiple source drugs.—Not later than January 1, 2007, the State shall publish a list of the 20 physician administered multiple source drugs for which the Secretary determines have the highest dollar volume of physician administered drugs dispensed under this title. The Secretary may modify such list from year to year.

(ii) Requirement.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a multiple source drug that is physician administered under this title (as determined by the Secretary), and that is administered on or after January 1, 2007, the State shall provide for the submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary to identify the manufacturer of the drug in order to secure rebates under this section.

(3) Use of NDC codes.—Not later than January 1, 2007, the information shall be submitted under subparagraphs (A) and (B) using National Drug Code numbers unless the Secretary determines an alternative coding system should be used.

(4) Hardship waiver.—The Secretary may delay the application of this section to any manufacturer, wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding those prices described in subclauses (I) through (IV) of clause (i), on a case by case basis, for a covered outpatient drug that is a multiple source drug that is physician administered under this title (as determined by the Secretary), and that is administered on or after January 1, 2007, if the Secretary determines that the manufacturer of such drug is unable to provide information respecting utilization data and coding on such drugs that is required to be submitted under such section is submitted in accordance with such section; or

SEC. 6003. IMPROVED REGULATION OF DRUGS SOLD UNDER NEW DRUG APPLICATION APPROVAL UNDER SECTIONS 505(c) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) Inclusion with other reported average manufacturer and best prices.—Section 1927(b)(3)(A) of the Social Security Act (42 U.S.C. 1396–8(b)(3)(A)) is amended—

(1) by striking clause (i) and inserting the following—

(i) not later than 30 days after the last day of each rebate period under the agreement;

(II) on the average manufacturer price (as defined in subsection (k)(1)) for covered outpatient drugs for the manufacturer for the period covered by the agreement (including for all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act); and

(III) on the average manufacturer price (as defined in subsection (k)(1)) for covered outpatient drugs for the period covered by the agreement (including for all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act), and

(II) for single source drugs and innovator multiple source drugs (including all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act), and

(III) for single source drugs and innovator multiple source drugs (including all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act).

(b) Conforming amendments.—Section 1927 of such Act (42 U.S.C. 1396e–8) is amended—

(1) in subsection (c)(1)—

(i) in clause (I), by striking “and” and inserting “and”; and

(ii) in clause (ii), by inserting “and” at the end;

(2) in subsection (c)(2), by adding at the end the following:

(3) in subsection (c)(3), by adding the following:

(b) Limitation on payment.—Section 1903(a)(10) of such Act (42 U.S.C. 1396k(1)(10)), is amended—

(1) by striking “and” at the end of subparagraph (A); and

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

(C) with respect to covered outpatient drugs sold under new drug applications approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, such term shall be inclusive of the average price paid for such drug by wholesalers for drugs distributed to the retail pharmacy class of trade.

(c) Effective date.—The amendments made by this section shall take effect on January 1, 2007.

SEC. 6004. CHILDREN'S HOSPITAL PARTICIPATION IN SECTION 340B DRUG DISCOUNT PROGRAM.

(a) In general.—Section 1927(a)(5)(B) of the Social Security Act (42 U.S.C. 1396e–
made by this section shall apply to transfers of assets made on or after the date of the enactment of this Act.

CHAPTER 2—LONG-TERM CARE UNDER MEDICAID

Subchapter A—Reform of Asset Transfer Rules

SEC. 6011. LENGTHENING LOOK-BACK PERIOD; CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY.

(a) Lengthening Look-Back Period for All Disposals to 5 Years.—Section 1917(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396p(c)(1)(B)(i)) is amended by inserting "or in the case of any other disposal of assets made on or after the date of the enactment of this Act" after subsection (b), is amended by adding at the end the following new subparagraph:

"(2) which provides for—

(A) of medical care such that the individual's health or life would be endangered; or
(B) a timely process for determining whether an undue hardship waiver will be granted; and
(C) a process under which an adverse determination can be appealed.

(e) ADDITIONAL PROVISIONS ON HARDSHIP WAIVERS.—

(1) Application by Facility.—Section 1917(c)(2) of the Social Security Act (42 U.S.C. 1396p(c)(2)) is amended by striking the semicolon at the end of paragraph (C) and inserting in its place the following:

"(C) a process under which an adverse determination can be appealed.

(b) by adding after and below such subparagraph the following:

"The procedures established under subparagraph (D) shall permit the facility in which the institutionalized individual residing to file an undue hardship waiver application on behalf of the individual with the consent of the individual or the personal representative of the individual."

(2) Authority to Make Bed Hold Payments for Hardship Applicants.—Such section is further amended by adding at the end the following new subparagraph:

"(E) by the Secretary, regardless of whether the annuity is irrevocable or is treated as an asset. Such application or recertification form shall include a statement that under paragraph (2) the State becomes a remainder beneficiary under such an annuity or similar financial instrument by virtue of the provision of such medical assistance."

(b) REQUIREMENT FOR STATE TO BE NAMED AS RECIPIENT.—Section 1917(c)(1)(F) of the Social Security Act (42 U.S.C. 1396p(c)(1)(F)) is amended by striking the semicolon at the end of paragraph (F) and inserting in its place the following:

"(F) The Secretary may provide guidance to States on categories of transactions that will be considered as preventing a State from denying medical assistance with respect to a transfer of assets, the term 'asset' includes an annuity purchased by or on behalf of an annuitant who has applied for medical assistance with respect to nursing facility services or other long-term care services under this title unless—

"(I) the amount is—

"(aa) an account or trust described in section 101(a) of the Internal Revenue Code of 1986; or

"(bb) a simplified employee pension (within the meaning of section 408(k) of such Code); or

"(cc) a Roth IRA described in section 408A of such Code; or

"(ii) the annuity is—

"(I) irrevocable and nonassignable; or

"(II) is actuarially sound (as determined in accordance with actuarial publications of the Office of the Actuary of the Social Security Administration); and

"(III) provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

(d) Effective Date.—The amendments made by this section shall apply to transfers of assets made on or after the date of the enactment of this Act.

SEC. 6013. APPLICATION OF "INCOME-FIRST" RULE IN PROVIDING COMMUNITY SPOUSES INCOME BEFORE ASSETS IN PROVIDING SUPPORT OF COMMUNITY SPOUSE.

(a) in General.—Section 1922(d) of the Social Security Act (42 U.S.C. 1396p-5(d)) is amended by adding at the end the following new subparagraph:

"(4) Application of "Income-First" Rule to Provision of Community Spouse Resource Allowance.—For purposes of this subparagraph and subsections (c) and (e), a State must consider all income of an institutionalized spouse that could be made available to a community spouse, in accordance with the calculation of the community spouse monthly income allowance under this subsection, has been made available before the State allocates to the community spouse an amount of resources adequate to provide the difference between the institutionalized spouse's monthly maintenance needs allowance and all income available to the community spouse."

(b) Effective Date.—The amendment made by subsection (a) shall apply to transfers and allocations made on or after the date of the enactment of this Act by individuals who become institutionalized spouses on or after such date.
amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) TREATMENT OF Entrance FEES In IndiViduals REquiring CONTINUErr CARE ReTTRErrm COMMUNITIIES.--

"(1) In GeneIIal.—For purposes of deterrninjng an individual’s eligibility for, or amount of, benefits under a State plan under this title, the rules specified in paragraph (2) shall apply to individuals residing in continuing care retirement communities or life care communities that collect an entrance fee on admission from such individuals.

"(2) TREATMENT OF Entrance FEEL.—For purposes of paragraph (1), an entrance fee in a continuing care retirement community or life care community shall be considered a resource available to the individual to the extent that—

"(A) the individual has the ability to use the entrance fee, or the contract provides that the entrance fee may be used, to pay for care;

"(B) the individual is eligible for a refund of any remaining entrance fee when the individual dies or terminates the continuing care retirement community or life care community contract;

"(C) the entrance fee does not confer an ownership interest in the continuing care retirement community or life care community;

"(D) the total amount of the entrance fee does not exceed $500,000.

"(2) TREATMENT OF ENTRANCE FEE.—For purposes of paragraph (1), a loan to reduce the individual’s total equity using a reverse mortgage or home equity loan, or mortgage—

"(i) has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration);

"(ii) provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and

"(iii) prohibits the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not meet the requirements of clauses (i) through (iii), the value of such note, loan, or mortgage shall be the present value of the remaining balances of the individual’s application for medical assistance for services described in subparagraph (C).

(d) Inclusion of transfers to purchase life estates.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsection (c), is amended by adding at the end the following:

"(4) For purposes of this paragraph with respect to a transfer of assets, the term ‘assets’ includes the purchase of a life estate interest in another individual’s home unless the purchaser resides in the home for a period of at least 1 year after the date of the purchase.

(e) Effective dates.—

"(1) In General.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to transfers of assets on or after the date of enactment of this Act (42 U.S.C. 1396 et seq.) for calendar quarters beginning on or after the date of enactment of this Act, without regard to whether or not transfers to which such amendments have been promulgated by such date.

"(2) Exceptions.—The amendments made by this section shall not apply—

(A) to medical assistance provided for services furnished before the date of enactment; or

(B) with respect to assets disposed of on or before the date of enactment.

(3) Extension of Effective date for State law amendment.—In the case of any calendar quarter after the date of enactment of this Act (42 U.S.C. 1396 et seq.), the Secretary of Health and Human Services determines that a State law amendment that provides for the disregard of any assets or reduction in the amount of, benefits under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this section, the State plan shall not be required to conform to the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter ending on the last day of the calendar quarter that is 1 year after the date of enactment or the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

Subchapter B—Expanded Access to Certain Benefits

SEC. 6016. EXPANSION OF STATE LONG-TERM CARE PARTNERSHIP PROGRAM.

(a) Expansion Authority.—

"(1) IN GENERAL.—Section 1917(b) of the Social Security Act (42 U.S.C. 1396p(b)) is amended—

(A) in paragraph (1)(C)—

(i) by inserting ‘‘and which satisfies clause (iv), or which has a State plan amendment that provides for a qualified State long-term care insurance partnership (as defined in clause (iv))’’ after ‘‘1993,’’ and

(ii) by adding at the end the following new clauses:

"(ii) For purposes of this paragraph, the term ‘qualified State long-term care insurance partnership’ means an approved State plan amendment under this title that provides for the disregard of any assets or reduction in the amount of, or increase in, insurance benefit payments that are made to or on behalf of an individual who is a beneficiary of...
under a long-term care insurance policy if the following requirements are met:

(1) The policy covers an insured who was a resident of such State when coverage first became effective under the policy.

(2) The policy is a qualified long-term care insurance policy (as defined in section 7702B(b) of the Internal Revenue Code of 1986) issued at least 1 year before the effective date of the State plan amendment.

(3) The policy meets the model regulations and the requirements of the model Act specified in paragraph (4).

(4) The issuer of the policy is not otherwise prohibited from issuing the policy by the Secretary, and other Federal agencies, issuers of the reports provided in accordance with the model Act, the National Association of Insurance Commissioners, States with experience with long-term care insurance partnerships under section 6810, States with experience with long-term care insurance policies, States with experience with long-term care insurance partnerships under section 6810, and representatives of consumers of long-term care insurance policies, shall develop recommendations for Congress to authorize and fund a uniform national electronic query and report-generating mechanism that the Secretary, the Secretary, and other Federal agencies can access.

(5) If the policy is sold to an individual who—

(a) has not attained age 61 as of the date of purchase, the policy provides compounding annual inflation protection;

(b) has attained age 61 but has not attained age 76 as of such date, the policy provides some level of inflation protection; and

(c) has attained age 76 as of such date, the policy may (but is not required to) provide some level of inflation protection.

(6) The State Medicaid agency under section 1902(a)(5) provides information and technical assistance to the State insurance department, or other appropriate Federal agencies, issuers of the reports provided in accordance with the model Act, the National Association of Insurance Commissioners, States with experience with long-term care insurance partnerships under section 6810, States with experience with long-term care insurance policies, and representatives of consumers of long-term care insurance policies, shall develop recommendations for Congress to authorize and fund a uniform national electronic query and report-generating mechanism that the Secretary, the Secretary, and other Federal agencies can access.

(7) The policy specifies a contribution amount which is no less stringent than the contribution amount under a group insurance contract.

(8) The policy specifies a contribution amount which is exchanged for another such policy.

(9) For purposes of clause (ii)(III), the model regulations and the requirements of the model Act specified in this paragraph are:

(i) In the case of the model regulation, the following requirements:

(1) Section 6A (relating to guaranteed renewal or noncancellable), other than paragraph (5) thereof, and the requirements of section 6B of the model Act relating to such section 6A.

(ii) Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof, and the requirements of section 6C of the model Act relating to extension of benefits.

(iii) Section 6D (relating to prohibition of conversion).

(iv) Section 6E (relating to discontinuance or conversion).

(v) Section 6F (relating to right to conversion under a group insurance contract).

(vi) Section 6G (relating to continuity of coverage).

(vii) Section 6H (relating to unfair discrimination).

(viii) Section 6I (relating to unfair marketing).

(ix) Section 6J (relating to policy summary).

(x) Section 6K (relating to form reciprocal recognition of such policies).

(xi) Section 6L (relating to uniformity of standards).

(xii) Section 6M (relating to model plan).

(xiii) Section 6N (relating to transparency of costs).

(xiv) Section 6O (relating to transparency of benefits).

(xv) Section 6P (relating to discontinuance or conversion).

(xvi) Section 6Q (relating to maintenance of coverage).

(xvii) Section 6R (relating to uniformity of standards).

(xviii) Section 6S (relating to transparency of costs).

(xix) Section 6T (relating to transparency of benefits).

(xx) Section 6U (relating to model plan).

(xxi) Section 6V (relating to form model plan).

(xxii) Section 6W (relating to uniformity of standards).

(xxiii) Section 6X (relating to transparency of costs).

(xxiv) Section 6Y (relating to transparency of benefits).

(xxv) Section 6Z (relating to model plan).

(xxvi) Section 6AA (relating to form model plan).

(xxvii) Section 6AB (relating to uniformity of standards).

(xxviii) Section 6AC (relating to transparency of costs).

(xxix) Section 6AD (relating to transparency of benefits).

(x) Section 6M (relating to model plan).

(xii) Section 6N (relating to uniformity of standards).

(xiii) Section 6O (relating to transparency of costs).

(xiv) Section 6P (relating to transparency of benefits).

(xv) Section 6Q (relating to model plan).

(xxvi) Section 6AA (relating to form model plan).

(xxvii) Section 6AB (relating to uniformity of standards).

(xxviii) Section 6AC (relating to transparency of costs).

(xxix) Section 6AD (relating to transparency of benefits).

(3) EFFECTIVE DATE.—A State plan amendment that provides for a qualified State long-term care insurance partnership under this section, and that meets the requirements of paragraph (1), is treated as effective on the first day of the first calendar quarter in which the plan amendment was submitted to the Secretary of Health and Human Services.

(b) STANDARDS FOR RECIPROCAL RECOGNITION AMONG PARTNERSHIP STATES.—In order to permit portability in long-term care insurance policies purchased under State long-term care insurance partnerships, the Secretary of Health and Human Services shall develop, not later than January 1, 2007, and in consultation with the National Association of Insurance Commissioners, issuers of long-term care insurance policies, States with experience with long-term care insurance partnerships under section 6810, States with experience with long-term care insurance policies purchased under State long-term care insurance partnerships under which—

(1) benefits paid under such policies will be treated the same by all such States; and

(2) policies with such coverage will be subject to such standards unless the State notifies the Secretary in writing of the
State’s election to be exempt from such standards.

(c) ANNUAL REPORTS TO CONGRESS.—

“(1) IN GENERAL.—The Secretary of Health and Human Services shall annually report to Congress on the long-term care insurance partnerships established in accordance with section 1907(b)(1) of this title (as amended by section 3729 of title 31, United States Code) and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under section 3731 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of the Federal medical assistance percentage with respect to any amounts re-

covered under a State action brought under such law, shall be decreased by 10 percentage points.

“(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that the Inspector General of the Department of Health and Human Services, in consultation with the National Clearinghouse for Long-Term Care Information, carry out paragraph (1).

“(i) Educate consumers with respect to the availability and limitations of coverage for long-term care under the Medicaid program and provide contact information for obtaining State-specific information on long-term care and estate recovery requirements under State Medicaid programs;

“(ii) Provide objective information to assist consumers with the decision-making process for determining whether to purchase long-term care insurance or to purchase other private market alternatives for purchasing long-term care and provide contact information for additional objective resources on planning for long-term care needs; and

“(iii) Maintain a list of States with State long-term care insurance partnerships under the Medicaid program that provide reciprocal recognition of long-term care insurance policies issued under such partnerships.

“(2) In providing information to consumers on long-term care in accordance with this subsection, the National Clearinghouse for Long-Term Care Information shall not advocate in favor of a specific long-term care insurance provider or a specific long-term care insurance policy.

“(b) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services, $1,000,000 for the period of fiscal years 2006 through 2010 to carry out paragraph (1).

(d) NATIONAL CLEARINGHOUSE FOR LONG-TERM CARE INFORMATION.—

“(1) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a National Clearinghouse for Long-Term Care Information. The Clearinghouse may conduct an independent review of each long-term care insurance policy offered under or in connection with such a partnership.

“(2) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services, $1,000,000 for the period of fiscal years 2006 through 2010 to carry out paragraph (1).

SECTION 6035.—

CHAPETER 3—ELIMINATING FRAUD, WASTE, AND ABUSE IN MEDICAID

SEC. 6032. ENCOURAGING THE ENACTMENT OF STATE FALSE CLAIMS ACTS.

“(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1906a the following:

“STATE FALSE CLAIMS ACT REQUIREMENTS FOR NOVEMBER 1937; and

“(4) The law contains a civil penalty that is not less than the amount of the civil penalty authorized under section 3729 of title 31, United States Code.

“(3) LAW.—The law contains a requirement for filing an action under seal for 60 days with review by the State Attorney General.

“(2) TIMES.—The time limits for bringing an action under the False Claims Act (42 U.S.C. 3731(e), the amendments made by section 6035(e), the amendments made by this section, and the amendments made by this section shall take effect on January 1, 2007.

“(b) EFFECTIVE DATE.—Except as provided in subparagraphs (A) and (B), each such amendment by section (a) takes effect on January 1, 2007.

“(1) IN GENERAL.—Section 1903(i)(10) of the Social Security Act (42 U.S.C. 1396a(i)) is amended by section 6002(b), is amended—

“(1) IN GENERAL.—Section 1903(i)(10) of the Social Security Act (42 U.S.C. 1396a(i)) is amended by section 6002(b), is amended—
“(A) The entity has demonstrated capability to carry out the activities described in subsection (b).

(B) In carrying out such activities, the entity meets standards with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, of safeguarding and detection of fraud and abuse in relation to this title and in other cases arising out of such activities.

(C) The entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement.

(D) The entity meets such other requirements as the Secretary may impose.

(3) CONTRACTING REQUIREMENTS.—The entity has contracted with the Secretary in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

(A) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

(B) Competitive procedures to be used:

(1) shall not be used to enter into contracts under this section;

(2) when entering into contracts that may result in the elimination of responsibilities under this section, without further appropriation, the Secretary shall submit a report to Congress which identifies—

(A) the use of funds appropriated pursuant to paragraph (1); and

(B) the effectiveness of the use of such funds.

(C) State Requirement To Cooperate With Integrity Program Efforts.—Section 1902(a) of such Act (42 U.S.C. 1396aa(a)), as amended by section 603(a), is amended—

(1) by striking ‘‘and’’ at the end;

(2) in paragraph (68), by striking the period at the end and inserting ‘‘; and’’; and

(3) by inserting after paragraph (68), the following:

‘‘(69) provide that the State must comply with any requirements determined by the Secretary to be necessary for carrying out the Medicaid Integrity Program established under section 1321.’’

(D) Increased Funding For Medicaid Fraud And Abuse Control Activities.—

(1) General.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Medicaid Integrity Program established under section 1321.

(2) Availability; Amounts in Addition to Other Amounts Appropriated for Such Activities.—Amounts appropriated pursuant to paragraph (1) shall—

(A) remain available until expended; and

(B) be in addition to any other amounts appropriated or made available to the Office of the Inspector General of the Department of Health and Human Services, without further appropriation, $25,000,000 for each of fiscal years 2006 through 2010, for activities of such Office with respect to the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) Annual Report.—Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), the Inspector General of the Department of Health and Human Services shall submit a report to Congress which identifies—

(A) the use of funds appropriated pursuant to paragraph (1); and

(B) the effectiveness of the use of such funds.

(E) National Expansion of the Medicare-Medicaid Data Match Program.—The amount appropriated under subparagraph (A) for each fiscal year is further increased as follows for purposes of carrying out section 1883(b)(6) for the respective fiscal year:

(1) $12,000,000 for fiscal year 2006.

(2) $24,000,000 for fiscal year 2007.

(3) $36,000,000 for fiscal year 2008.

(4) $48,000,000 for fiscal year 2009.

(5) $60,000,000 for fiscal year 2010 and each fiscal year thereafter.

(F) Delayed Effective Date for Chapter.—Except as otherwise provided in this chapter, in the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this chapter, the State plan shall not be regarded as complying with the requirements of such Act solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

SECT. 6028. ENHANCING THIRD PARTY LIABILITY INTO HOSPITAL AND PAYMENT.

(a) Clarification of Third Parties Legally Responsible for Payment of a Claim...
(a) IN GENERAL.—Section 1903 of the Social Security Act is amended—

(1) in subsection (a), as amended by section 104 of Public Law 109–91 and section 6031(a) of this Act—

(A) by striking ‘‘or’’ at the end of paragraph (20);

(B) by striking the period at the end of paragraph (21) and inserting ‘‘; or’’; and

(C) by inserting at the end of section 1916 the following new paragraph:

‘‘(22) with respect to amounts expended for medical assistance for an individual who declares under oath to be a citizen or national of the United States for purposes of establishing eligibility for benefits under this title, unless the requirement of subsection (k) is met;’’ and

(2) by adding at the end the following new subsection:

‘‘(xx) For purposes of subsection (1)(29), the requirement of this subsection is, with respect to an individual declaring to be a citizen or national of the United States, subject to the following:

(A) and is entitled to or enrolled for benefits under section 1902; (B) on the basis of receiving supplemental security income benefits under title XVI; or

(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3) of the individual).

(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

(A) and is entitled to or enrolled for benefits under section 1902; (B) on the basis of receiving supplemental security income benefits under title XVI; or

(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3) of the individual).

(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

(A) and is entitled to or enrolled for benefits under section 1902; (B) on the basis of receiving supplemental security income benefits under title XVI; or

(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3) of the individual).

(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

(A) and is entitled to or enrolled for benefits under section 1902; (B) on the basis of receiving supplemental security income benefits under title XVI; or

(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3) of the individual).

(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

(A) and is entitled to or enrolled for benefits under section 1902; (B) on the basis of receiving supplemental security income benefits under title XVI; or

(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3) of the individual).

(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

(A) and is entitled to or enrolled for benefits under section 1902; (B) on the basis of receiving supplemental security income benefits under title XVI; or

(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3) of the individual).

(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

(A) and is entitled to or enrolled for benefits under section 1902; (B) on the basis of receiving supplemental security income benefits under title XVI; or

(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3) of the individual).

(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

(A) and is entitled to or enrolled for benefits under section 1902; (B) on the basis of receiving supplemental security income benefits under title XVI; or

(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3) of the individual).
applicable to a family of the size involved, subject to subsections (c)(2) and (e)(2)(A).

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from further limiting cost sharing in a manner specified by the Secretary through waiver to modify limitations provided under this section.

(D) SPECIAL RULES FOR COST SHARING FOR PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1916A of the Social Security Act, as inserted by section 6042(b)(3), is amended by adding at the end the following new subsection:

"(c) SPECIAL RULES FOR COST SHARING FOR PRESCRIPTION DRUGS.

(I) IN GENERAL.—In order to encourage beneficiaries to use drugs (in this subsection referred to as 'preferred drugs') identified by the State as the least (or less) cost effective prescription drugs within a class of drugs (as defined by the State), with respect to one or more groups of beneficiaries specified by the State, subject to paragraph (2), the State may—

"(A) provide cost sharing (instead of the level of cost sharing otherwise permitted under section 1916, and subject to paragraphs (2) and (3)) with respect to drugs that are not preferred drugs within a class; and

"(B) waive or reduce the cost sharing otherwise applicable for drugs that are within such class and shall not apply any such cost sharing for such preferred drugs for individuals for whom cost sharing may not otherwise be imposed under subsection (b)(3)(B).

(II) LIMITATIONS.—;

"(A) BY INCOME GROUP.—In no case may the cost sharing under paragraph (1)(A) with respect to a non-preferred drug exceed—

"(i) in the case of an individual whose family income does not exceed 150 percent of the poverty line applicable to a family of the size involved, 20 percent of the cost of the drug;

"(ii) in the case of an individual whose family income exceeds 150 percent of the poverty line applicable to a family of the size involved, 20 percent of the cost of the drug.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to cost sharing imposed for items and services furnished on or after March 31, 2006.

SEC. 6042. SPECIAL RULE FOR COST SHARING FOR PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1916A of the Social Security Act, as inserted by section 6042(b)(3), is amended by adding at the end the following new subsection:

"(c) SPECIAL RULES FOR COST SHARING FOR PRESCRIPTION DRUGS.

(I) IN GENERAL.—In order to encourage beneficiaries to use drugs (in this subsection referred to as 'preferred drugs') identified by the State as the least (or less) cost effective prescription drugs within a class of drugs (as defined by the State), with respect to one or more groups of beneficiaries specified by the State, subject to paragraph (2), the State may—

"(A) provide cost sharing (instead of the level of cost sharing otherwise permitted under section 1916, and subject to paragraphs (2) and (3)) with respect to drugs that are not preferred drugs within a class; and

"(B) waive or reduce the cost sharing otherwise applicable for drugs that are within such class and shall not apply any such cost sharing for such preferred drugs for individuals for whom cost sharing may not otherwise be imposed under subsection (b)(3)(B).

(II) LIMITATIONS.—

"(A) BY INCOME GROUP.—In no case may the cost sharing under paragraph (1)(A) with respect to a non-preferred drug exceed—

"(i) in the case of an individual whose family income does not exceed 150 percent of the poverty line applicable to a family of the size involved, 20 percent of the cost of the drug;

"(ii) in the case of an individual whose family income exceeds 150 percent of the poverty line applicable to a family of the size involved, 20 percent of the cost of the drug.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to cost sharing imposed for items and services furnished on or after March 31, 2006.

SEC. 6043. EMERGENCY ROOM COPAYMENTS FOR THE MEDICARE ELDERLY POPULATION.

(a) IN GENERAL.—Section 1916A of the Social Security Act, as inserted by section 6041
and as amended by section 6042, is further amended by adding at the end the following new subsection:

"(e) State Option for Permitting Hospital To Delegate Cost Sharing for Non-Emergency Care Furnished in an Emergency Department.—

"(1) General. —Notwithstanding section 1916 and section 1902(a)(1) or the previous provisions of this section, but subject to the limitations of paragraph (2), a State may, by amendment to its State plan under this title, permit a hospital to impose cost sharing for non-emergency services furnished to an individual (within one or more groups of individuals specified by the State) in the hospital emergency department under this subsection if the following conditions are met:

"(A) Access to Non-Emergency Room Providers. —The hospital has actually available and accessible (as such terms are applied by the Secretary under section 1916(b)(3)) an alternate non-emergency services provider for each of the services described in paragraphs (1) and (2), as the case may be.

"(B) Notice.—The hospital shall inform the beneficiary after receiving an appropriate medical screening examination under section 1867 and after a determination has been made that the individual does not have an emergency medical condition, but before providing non-emergency services, of the following:

"(i) The hospital may require the payment of the State specified cost sharing before the service can be provided.

"(ii) The name and location of an alternate non-emergency services provider (described in subparagraph (A)) that is actually available and accessible (as described in such subparagraph).

"(iii) The fact that such alternate provider can provide the services without the imposition of cost sharing otherwise permissible under this section to services described in clause (i).

"(iv) The hospital provides a referral to coordinate scheduling of this treatment.

Nothing in this subsection shall be construed as preventing a State from applying (or waiving) cost sharing otherwise permissible under this section to services described in clause (i).

"(2) Limitations.—

"(A) For Poorest Beneficiaries. —In the case of an individual described in subsection (b)(1), the State may impose cost sharing under subsection (b)(1) if the following conditions are met:

"(i) The hospital may require the payment of $50,000,000 during the 4-year period beginning with 2006. This subsection constitutes budget neutrality with respect to fiscal year 2006. This subsection is amended by section 6037(a)(2), is amended by adding at the end the following new subsection:

"(y) Payments for Establishment of Alternate Non-Emergency Services Providers.—

"(1) Payments.—In addition to the payments otherwise provided under subsection (a), the Secretary shall provide payments to States under such subsection for the establishment of alternate non-emergency service providers (as defined in section 1916(a)(3)) or networks of such providers.

"(2) Limitation.—The total amount of payments under this subsection shall not exceed $50,000,000, except for the period beginning with 2006.

"(C) Option of Wrap-Around Benefits.—In providing for payment of premiums described in paragraph (1) to States that establish, or provide for, alternate non-emergency services providers or networks of such providers—

"(i) serve rural or underserved areas on the basis of being blind or disabled and in-eligible for supplemental security income benefits under title XVI; or

"(ii) serve rural or underserved areas on the basis of being blind or disabled and in-eligible for supplemental security income benefits under title XVI; or

"(iii) serve rural or underserved areas that are not eligible for medical assistance under the State plan on the basis of being blind or disabled and in-eligible for supplemental security income benefits under title XVI; or

"(iv) serve rural or underserved areas that are not eligible for medical assistance under the State plan on the basis of being blind or disabled and in-eligible for supplemental security income benefits under title XVI; or

"(B) Application.—A State may not require under subsection (a) an individual to obtain benefits through enrollment in coverage described in paragraph (1) if the individual is within one of the following categories of individuals:

"(1) Mandatory Pregnant Women.—The individual is a pregnant woman who is required to be covered under the State plan under section 1902(a)(10)(A).

"(2) Blind or Disabled Individuals.—The individual qualifies for medical assistance under the State plan on the basis of being blind or disabled and in-eligible for medical assistance under the State plan on the basis of being blind or disabled; or

"(3) Rural Community Hospitals.—The individual is entitled to benefits under any part of title XVIII.

"(D) Terminally Ill Hospice Patients.—

"(i) The individual is terminally ill and is receiving benefits for hospice care under this title.

"(ii) Eligible on Basis of Institutionalization.—The individual is terminally ill and is receiving services in such institution under the State plan, to provide care for the individual's last illness, to provide a continuing course of special care and habilitation.
generally available to State employees in accordance with the requirements of section 1902(bb)."
social, or other services. Such assessment activities include the following:

(‘‘(aa)’’) Taking client history.

(b) Identifying the needs of the individual, and completing related documentation.

(c) Gathering information from other sources such as family members, medical providers, and others as necessary, and only store if necessary, to form a complete assessment of the eligible individual.

(ii) Development of a specific care plan based on the information collected through an assessment, that specifies the goals and actions to address the medical, social, educational, and other services needed by the eligible individual. Activities such as ensuring the active participation of the eligible individual and working with the individual or the individual’s authorized health care decision maker and others to develop such goals and identify a course of action to respond to the assessed needs of the eligible individual.

(iii) Referral and related activities to help an individual obtain needed services, including activities that help link eligible individuals with medical, social, educational, and other services needed by the eligible individual. Such activities include, but are not limited to, the following:

(1) Research gathering and completion of documentation required by the foster care program.

(2) Assessing adoption placements.

(3) Recruiting or interviewing potential foster care parents.

(4) Serving legal papers.

(V) Monitoring and followup activities, including activities and contacts that are necessary to ensure the care plan is effectively implemented and adequately addressing the needs of the eligible individual, and which may be with the individual, family members, providers, or other entities and conducted as frequently as necessary to help determine such matters as—

(aa) whether services are being furnished in accordance with an individual’s care plan;

(bb) whether the services in the care plan are adequate; and

(cc) whether there are changes in the needs or status of the eligible individual, and if so, making necessary adjustments in the care plan and service arrangements with providers.

(iii) Such term does not include the direct delivery of an underlying medical, educational, social, or other service to which an individual with medical, educational, or other needs or status of the eligible individual.

(iv) Services provided by the individual, family members, providers, or other entities that are not provided or planned as a result of the assessment of the individual’s needs and care.

(b) The term ‘‘targeted case management services’’ includes the following activities:

(1) Identifying the needs of the noneligible or nontargeted individual.

(ii) Directly to the identification and management of the noneligible or nontargeted individual’s need and care.

(A) In accordance with section 1902(a)(25), Federal financial participation is only available under this title for case management case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other service program.

(B) A State shall allocate the costs of any part of such services which are reimbursable under another federally funded program in accordance with section 1902(a)(26) (or any related or successor guidance or regulations regarding allocation of costs among federally funded programs) under an approved cost allocation program.

(3) Nothing in this subsection shall be construed as affecting the application of rules with respect to third party liability under programs or activities carried out under title XXVI of the Public Health Service Act or by the Indian Health Service.’’.

(b) REGULATIONS.—The Secretary shall promulgate regulations about the amendment made by subsection (a) which may be effective and final immediately on an interim basis as of the date of publication of such regulations. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comment on such regulation after the date of publication. The Secretary may change or revise such regulation after completion of the period of public comment.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006.

SEC. 6053. ADDITIONAL FMAP ADJUSTMENTS.

(a) HOLD HARMLESS FOR CERTAIN DR.

ABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.

(i) IN GENERAL.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), if, for purposes of titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1306a et seq.), the Federal medical assistance percentage determined for the State specified in section 2773(a)(1) of Public Law 106-553 is less than the Federal medical assistance percentage determined for such State for fiscal year 2007, the Federal medical assistance percentage determined for such State for fiscal year 2006 shall be substituted for the Federal medical assistance percentage otherwise determined for such State for fiscal year 2006.

(ii) Nothing in this subsection shall be construed as affecting the application of requirements that apply under such title with respect to any income or asset eligibility requirements that apply under such title with respect to children; and

SEC. 6054. DSH ALLOTMENT FOR THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—For purposes of determining the DSH allotment for the District of Columbia under section 1923 of the Social Security Act (42 U.S.C. 1396r–4) for any fiscal year after 2006 and for each subsequent fiscal year, the table in subsection (f)(2) of such section is amended by adding after each of the columns for FY 2007 through FY 2008 and for each subsequent fiscal year, the District of Columbia by striking ‘‘32’’ and inserting ‘‘49’’.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on October 1, 2005, and shall only apply to disproportionate share hospital admissions for any fiscal year 2006 and subsequent fiscal years made on or after that date.
“(C) whose family income does not exceed such income level as the State establishes and does not exceed

(i) 300 percent of the poverty line (as defined in section 215(b)(3) of such Act) applicable to a family of the size involved; or

(ii) such higher percent of such poverty line as a State may establish, except that—

(1) no less than 50 percent of such family income shall be provided under section 1903(a) for any medical assistance provided to such an individual; and

(2) MEDICAID COVERAGE.—Section 1902(cc) of such Act (42 U.S.C. 1396n(cc)), as added by paragraph (1), is amended by adding at the end the following new paragraph:

``(A) If an employer of a parent of an individual described in paragraph (1) offers family coverage under a group health plan (as defined in section 279(a) of the Public Health Service Act), the State shall—

(i) notwithstanding section 1906, require such parent to elect such coverage; or

(ii) require the parent to contribute at least 50 percent of the total cost of such coverage and the employer contributes at least 50 percent of the total cost of such coverage under section 1902(cc)(2)(A)(i) and other cost-sharing charges do not exceed 7.5 percent of the family’s income; and

(B) the requirement imposed pursuant to paragraph (1) shall not terminate eligibility of a child for medical assistance for coverage of home and community-based services for the child in accordance with section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) for purposes of payment under section 1903 of such Act (42 U.S.C. 1396b).''

(c) TERMS OF DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Except as otherwise provided in this section, a demonstration project shall be subject to the same terms as those for purposes of title XIX of the Social Security Act (42 U.S.C. 1396n(cc)), including the waiver of certain requirements under the first sentence of section 1915(c) of such Act (42 U.S.C. 1396n(c)), but not applying the second sentence of such paragraph.

(2) BUDGET NEUTRALITY.—In conducting the demonstration projects under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) do not exceed the amount that would have been paid under that title if the demonstration projects under this section had not been implemented.

(3) EVALUATION.—The application for a demonstration project shall include an assurance to provide for such interim and final evaluations of the demonstration project by independent third parties, and for such interim and final reports to the Secretary, as the Secretary may require.

(d) PAYMENTS TO STATES: LIMITATIONS ON STATE AND FUNDING.—

(1) GENERAL.—Subject to paragraph (2), a demonstration project approved by the Secretary under this section shall be treated as a section 1115 demonstration project under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(cc)) for purposes of payment under section 1903 of such Act (42 U.S.C. 1396b).

(2) LIMITATION.—In no case may the amount of payments made by the Secretary under this section for State demonstration projects for a fiscal year exceed the amount available under subsection (i)(2)(A) for such fiscal year.

(e) SECRETARY’S EVALUATION AND REPORT.—The Secretary shall conduct an interim and final evaluation of State demonstration projects under this section and shall report to the President and Congress the conclusions of such evaluations within 12 months of completing such evaluations.

(f) FUNDING.—

(1) IN GENERAL.—For the purpose of carrying out this section, there are appropriated, from amounts in the Treasury not otherwise appropriated, for the fiscal years 2007 through 2011, a total of $218,000,000, of which—

(A) the amount specified in paragraph (2) shall be available for such fiscal year;

(B) a total of $1,000,000 shall be available to the Secretary for the evaluation and report under subsection (e);

(2) FISCAL YEAR LIMIT.—

(A) IN GENERAL.—For purposes of paragraphs (1), the amount specified in such paragraph for a fiscal year is the amount specified in subparagraph (B) for the fiscal year plus the difference, if any, between the total amount available under this paragraph for prior fiscal years and the total amount specified in subparagraph (A) for such prior fiscal years.

(B) FISCAL YEAR AMOUNTS.—The amount specified in such paragraph for—

(i) fiscal year 2007 is $21,000,000;

(ii) fiscal year 2008 is $37,000,000;

(iii) fiscal year 2009 is $49,000,000;

(iv) fiscal year 2010 is $61,000,000; and

(v) fiscal year 2011 is $57,000,000.

SEC. 6605. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTER.

(a) MANDATORY FUNDING.—Section 501 of the Social Security Act (42 U.S.C. 701) is amended by adding at the end the following new subsection:
(c)(1)(A) For the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance for the development and improvement of family-to-family health information centers described in paragraph (2), there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated—

'(i) $3,000,000 for fiscal year 2007;
(ii) $4,000,000 for fiscal year 2008; and
(iii) $5,000,000 for fiscal year 2009.

(B) Funds appropriated or authorized to be appropriated under subparagraph (A) shall—

(i) be in addition to amounts appropriated under subsection (a) and retained under section 502(a)(1) for the purpose of carrying out activities described in subsection (a)(2); and
(ii) remain available until expended.

(2) The family-to-family health information centers described in this paragraph are centers that—

(A) assist families of children with disabilities or special health care needs to make informed choices about health care in order to promote good treatment decisions, cost-effectiveness, and improved health outcomes for such children;

(B) provide information regarding the health care needs of, and resources available for, such children;

(C) identify successful health delivery models for such children;

(D) develop with representatives of health care providers, federal and state agencies, health care purchasers, and appropriate State agencies, a model for collaboration between families of such children and health professionals;

(E) provide training and guidance regarding caring for such children;

(F) conduct outreach activities to the families of such children, health professionals, schools, and other appropriate entities and individuals; and

(G) are staffed—

(i) by such families who have expertise in Federal and State public and private health care systems; and
(ii) by health professionals.

(3) The Secretary shall develop family-to-family health information centers described in paragraph (2) in accordance with the following:

(A) With respect to fiscal year 2007, such centers shall be developed in not less than 25 States.

(B) With respect to fiscal year 2008, such centers shall be developed in not less than 40 States.

(C) With respect to fiscal year 2009 and each fiscal year thereafter, such centers shall be developed in all States.

(4) The provisions of this title that are applicable to the funds made available to the Secretary under section 502(a)(1) apply in the same manner to funds made available to the Secretary under paragraph (1)(A).

(5) For purposes of this subsection, the term "State" means each of the 50 States and the District of Columbia.

SEC. 605. RESTORATION OF MEDICAID ELIGIBILITY FOR CERTAIN SSI BENEFICIARIES

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

(1) by inserting "(aa)" after "(II)";

(2) by striking "(i)" and inserting "and";

(3) by striking "section or who are" and inserting "section;", (bb) who are"; and

(4) by inserting before the comma at the end of the following: "; or (cc) who are under 12 years in age and with respect to whom supplemental security income benefits would be paid under title XVI if subparagraphs (A) and (B) of section 1611(c)(7) were applied without regard to the phrase "the first day of the month following";`

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance for items and services furnished on or after the date that is 1 year after the date of enactment of this Act.

Subchapter B—Money Followed Person Rebalancing Demonstration

SEC. 607. MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION.

(a) PROGRAM PURPOSE AND AUTHORITY.—The Secretary shall award, on a competitive basis, grants to States in accordance with this section for demonstration projects (each in this section referred to as an "MFP demonstration project") designed to achieve the following objectives with respect to institutional and home and community-based long-term care services under State Medicaid programs:

(1) REBALANCING.—Increase the use of home and community-based, rather than institutional, long-term care services.

(2) MONEY FOLLOWS THE PERSON.—Eliminate barriers or mechanisms, whether in the State law, the State Medicaid plan, the State budget, or otherwise, that prevent or delay the timely transfer of Medicaid funding to eligible individuals who choose to transition from an institutional to a community setting.

(3) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—Ensure that procedures are in place (at least comparable to those required under the qualified HCB program) to provide quality assurance for eligible individuals receiving Medicaid home and community-based long-term care services and to provide for continuous quality improvement in such services.

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

(1) HOME AND COMMUNITY-BASED LONG-TERM CARE SERVICES.—The term "home and community-based long-term care services" means, with respect to a State Medicaid program, home and community-based long-term care services for an eligible individual participating in the MFP demonstration project for home and community-based long-term care services for an eligible individual participating in the MFP demonstration project, but only with respect to services furnished during the 12-month period beginning on the date the individual is discharged from an inpatient facility referred to in paragraph (2)(A)(i).

(2) SELF-DIRECTED SERVICES.—The term "self-directed" means, with respect to home and community-based long-term care services for an eligible individual, such services for the individual which are planned and pur- chased by the individual or the individual's authorized representative, including the amount, duration, source, and provider, and are otherwise provided under the Medicaid program.

(3) QUA LIFIED EXPENDI TR ES.—The term "qualified expenditures" means expenditures by the State under its MFP demonstration project for home and community-based long-term care services for an eligible individual participating in the MFP demonstration project, but only with respect to services furnished during the 12-month period beginning on the date the individual is discharged from an inpatient facility referred to in paragraph (2)(A)(i).

(4) M EDICAID.—The term "Medicaid" means, with respect to a State, the State program under title XIX of the Social Security Act (including any waiver or demonstration project for purposes of title XIX of such Act relating to such title).
(I) is directed by the individual or the individual's authorized representative;
(II) builds upon the individual's capacity to engage in activities that promote community participation in making decisions about the individual's preferences, choices, and abilities; and
(III) involves families, friends, and professionals as desired or required by the individual or the individual's authorized representative;

(v) includes appropriate risk management techniques that recognize the roles and sharing of costs in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities of the individual or the individual's authorized representative; and

(vi) may include an individualized budget which identifies the dollar value of the services and supports under the control and direction of the individual or the individual's authorized representative.

(C) BUDGET PROCESS.—With respect to individualized budgets described in subparagraph (B)(vi), the State application under subsection (c)—

(I) describes the method for calculating the dollar value of services and supporting costs based on reliable costs and service utilization;

(ii) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

(iii) provides a procedure to evaluate expenditures under such budgets.

(D) STATE APPLICATION.—A State seeking approval of a demonstration project shall submit to the Secretary, at such time and in such format as the Secretary requires, an application meeting the following requirements and containing such additional information, provisions, and assurances, as the Secretary may require:

(1) ASSURANCE OF A PUBLIC DEVELOPMENT PROCESSES.—The application contains an assurance that the State has engaged, and will continue to engage, in a public process for the design, development, and evaluation of the MFP demonstration project, which shall in- clude public comment opportunities, including information, provisions, and assurances, as the Secretary may require.

(2) OPERATION IN CONNECTION WITH QUALIFIED HCB PROGRAM TO ASSURE CONTINUITY OF SERVICES.—The demonstration project shall in- clude a provision that allows for input from eligible individuals, the families of such individuals, authorized representatives of such individuals, providers, and other interested parties.

(3) SERVICE AREA.—The application shall specify the service area or areas of the demonstration project, which may be a statewide area or 1 or more geographic areas of the State.

(4) TARGETED GROUPS AND NUMBERS OF INDIVIDUALS SERVED.—The application shall specify—

(A) the target groups of eligible individuals to be assisted to transition from an inpatient facility to residence during fiscal year 2007.

(B) the projected numbers of eligible individuals in each targeted group of eligible individuals to be so assisted during each such year; and

(C) the estimated total annual qualified expenditures for each fiscal year of the MFP demonstration project.

(6) INDIVIDUAL CHOICE, CONTINUITY OF CARE.—The application shall contain assurances that—

(A) each eligible individual or the individual's authorized representative will be provided an opportunity to make an informed choice regarding whether to participate in the MFP demonstration project;

(B) each eligible individual or the individual's authorized representative who chooses to receive services in the qualified residence in which the individual will reside and the setting in which the individual will receive home and community-based long-term care services;

(C) the State will continue to make available, so long as the State operates its qualified HCB program, the dollar amount of State Medicaid expenditures for each fiscal year of the State's MFP demonstration project, and

(D) the State will—

(i) provide such information as the Secretary requires for comparable requirements under subsection (d)(3), including adjustments to the maximum number of individuals included and package of benefits, including one-time transitional services, provided.

(7) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—The application shall include—

(A) a plan satisfactory to the Secretary for quality assurance and quality improvement for home and community-based long-term care services under the State Medicaid program, including a plan to assure the health and safety of individuals participating in the MFP demonstration project; and

(B) an assurance that the State will cooperate in carrying out activities under subsection (f) to develop and implement continuous quality assurance and quality improvement systems for home and community-based long-term care services.

(8) OPTIONAL PROGRAM FOR SELF-DIRECTED SERVICES.—If the State elects to provide for any home and community-based long-term care services as self-directed services (as defined in subsection (b)(2)(D)(i) of the MFP demonstration project, the application shall provide the following:

(A) MEETING REQUIREMENTS.—A description of how the project will meet the applicable requirements of such subsection for the provision of self-directed services.

(B) VOLUNTARY ELECTIVE.—A description of how eligible individuals will be provided the opportunity to make an informed election to receive self-directed services under the project and after the end of the project.

(C) STATE SUPPORT IN SERVICE PLAN DEVELOPMENT.—Satisfactory assurances that the State will provide support to eligible individuals who self-direct in developing and implementing their service plans.

(D) OVERSIGHT OF RECEIPT OF SERVICES.—Satisfactory assurances that the State will have oversight of receipt of eligible individual's receipt of such self-directed services, including steps to ensure the quality of such services provided and that the provision of such services are consistent with the service plan under such subsection.

(9) REPORTS AND EVALUATION.—The application shall include—

(A) the State will furnish to the Secretary such reports concerning the MFP demonstration project, on such timetable, in such uniform format, and containing such information as the Secretary may require, as will allow for reliable comparisons of MFP demonstration projects across States; and

(B) the State will participate in and cooperate with the evaluation of the MFP demonstration project.
(A) the MFP-enhanced FMAP (as defined in paragraph (5)) of the amount of qualified expenditures made during such quarter; or
(B) the total amount remaining in such grant award (as defined in paragraph (2)).

(2) CARRYOVER OF UNUSED AMOUNTS.—Any portion of a State grant award for a fiscal year remaining at the end of such fiscal year shall remain available to the Secretary for the next 4 fiscal years, subject to paragraph (3).

(3) REMAINING OF CERTAIN UNUSED AMOUNTS.—In the case of a State that the Secretary determines pursuant to subsection (b)(4) has failed to make requests for continuation of a MFP demonstration project under this section in a succeeding year or years, the Secretary shall rescind the grant awards for such succeeding year or years, together with any unspent portion of an award for prior years, and shall add such amounts to the appropriation for the immediately succeeding fiscal year for grants under this section.

(4) PREVENTING DUPLICATION OF PAYMENT.—The payment under a MFP demonstration project with respect to qualified expenditures shall be in lieu of any payment with respect to such expenditures that could otherwise be paid under Medicaid, including under section 1905(a) of the Social Security Act. Nothing in the previous sentence shall be construed as preventing the payment under Medicaid for such expenditures in a grant year after amounts are paid for such expenditures under the MFP demonstration project have been exhausted.

(5) MFP-ENHANCED FMAP.—For purposes of paragraph (1)(A), the "MFP-enhanced FMAP", for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in section 1905(b)) for the State increased by a number of percentage points equal to 50 percent of the number of percentage points by which (A) such Federal medical assistance percentage for the State, is less than (B) 100 percent; but in no case shall the MFP-enhanced FMAP for a State exceed 90 percent.

(6) QUALITY ASSURANCE AND IMPROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—

(1) IN GENERAL.—The Secretary, either directly or by grant or contract, shall provide for technical assistance to the Secretary for the adoption of innovative methods to improve the effectiveness and efficiency in providing medical assistance under this title, and for the development of research on, and a national evaluation of, the program under this section, including as a condition to the Secretary to carry out this subsection during the period that begins on January 1, 2007, and ends on September 30, 2011.

(g) RESEARCH AND EVALUATION.—

(1) IN GENERAL.—The Secretary, directly or through contracts or grants, shall provide for research on, and a national evaluation of, the program under this section, including as a condition to the Secretary to carry out the program under such subsections (a) and (b) and paragraphs (1) through (4) of this section, including the payment of a final report required under paragraph (2).

(2) FUNDING.—From the amounts appropriated under subsection (b)(1) for the period that begins on January 1, 2007, and ends on September 30, 2011.

(h) APPROPRIATIONS.—(1) IN GENERAL.—The amounts made available under paragraph (a) shall be deposited in the Treasury to remain available for the purposes specified in this section until expended.
“(B) TERMS AND CONDITIONS.—Such payments are made under such terms and conditions consistent with this subsection as the Secretary prescribes.

“(C) National account.—Payment to a State under this subsection is conditioned on the State submitting to the Secretary an annual report on the programs supported by such payment. Such report shall include information on—

“(i) the specific uses of such payment;

“(ii) an assessment of quality improvements and clinical outcomes under such programs; and

“(iii) estimates of cost savings resulting from such programs.

“(D) LIMITATION ON FUNDS.—The total amount of payments under this subsection shall be equal to, and shall not exceed—

“(i) $75,000,000 for fiscal year 2007; and

“(ii) $75,000,000 for fiscal year 2008. This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this subsection.

“(B) ALLOCATION OF FUNDS.—The Secretary shall specify a method for allocating the funds under this subsection among States. Such method shall provide preference for States that design programs that treat significant numbers of Medicaid beneficiaries. Such method shall provide that not less than 25 percent of such funds shall be allocated among States the population of which (as determined according to data collected by the United States Census Bureau) as of July 1, 2004, was more than 105 percent of the population of the respective State (as so determined) as of April 1, 2000.

“(C) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a). There is no requirement for State matching funds to receive payments under this subsection.

“(5) MEDICATION RISK MANAGEMENT PROGRAM.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘medication risk management program’ means a program for targeted beneficiaries that treat significant numbers of Medicaid beneficiaries. Such method shall provide that not less than 25 percent of such funds shall be allocated among States the population of which (as determined according to data collected by the United States Census Bureau) as of July 1, 2004, was more than 105 percent of the population of the respective State (as so determined) as of April 1, 2000.

“(C) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a). There is no requirement for State matching funds to receive payments under this subsection.

“(D) MEDICATION RISK MANAGEMENT PROGRAM.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘medication risk management program’ means a program for targeted beneficiaries that ensure that covered outpatient drugs are appropriately used to optimize therapeutic outcomes through improved medication use and to reduce the risk of adverse events.

“(B) ELEMENTS.—Such program may include the following elements:

“(i) the establishment of principles and standards for drug utilization review and best practices to analyze prescription drug claims of targeted beneficiaries and identify outliers physicians—

“(I) a comprehensive pharmacy claims history for each targeted beneficiary under their care;

“(II) information regarding the frequency and cost of relapses and hospitalizations of targeted beneficiaries under the physician’s care; and

“(III) applicable best practice guidelines and empirical references.

“(ii) an outlier physician’s prescribing, such as failure to refill, dosage strengths, and provide incentives and information to encourage the adoption of best clinical practices.

“(C) TARGETED BENEFICIARIES.—For purposes of this paragraph, the term ‘targeted beneficiaries’ means Medicaid eligible beneficiaries who meet a specified threshold before the period for which payment is made under such terms and conditions as the Secretary prescribes.

“(D) LIMITATION ON FUNDS.—The total amount of payments under this subsection shall be equal to, and shall not exceed—

“(i) $75,000,000 for fiscal year 2007; and

“(ii) $75,000,000 for fiscal year 2008. This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this subsection.

“(E) ALLOCATION OF FUNDS.—The Secretary shall specify a method for allocating the funds under this subsection among States. Such method shall provide preference for States that design programs that treat significant numbers of Medicaid beneficiaries. Such method shall provide that not less than 25 percent of such funds shall be allocated among States the population of which (as determined according to data collected by the United States Census Bureau) as of July 1, 2004, was more than 105 percent of the population of the respective State (as so determined) as of April 1, 2000.

“(F) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a). There is no requirement for State matching funds to receive payments under this subsection.

“(6) HEALTH OPPORTUNITY ACCOUNTS.

“Title XIX of the Social Security Act, as amended by sections 6035 and 6044, is amended—

“(1) by redesigning section 1938 as section 1939; and

“(2) by inserting after section 1937 the following new section:

“‘HEALTH OPPORTUNITY ACCOUNTS’

“SEC. 1938. (a) AUTHORITY.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall establish a demonstration program under which States may provide under their State plans under this title (including such a plan operating on a State-wide option under section 1115) in accordance with this section for the provision of alternative benefits consistent with subsection (c) for eligible population groups in one or more geographic areas of the State specified by the State. An amendment under the previous sentence is referred to in this section as a ‘State demonstration program’.

“(2) INITIAL DEMONSTRATION.—

“(A) IN GENERAL.—The demonstration program under this subsection shall begin on January 1, 2007. During the first 5 years of such program, the Secretary shall not approve more than 10 States to conduct demonstration programs under this section. With each State demonstration program covering 1 or more geographic areas specified by the State. After such 5-year period—

“(i) unless the Secretary finds, taking into account cost-effectiveness, quality of care, and other criteria that the Secretary specifies, that a State demonstration program previously implemented were unsuccessful, such a demonstration program may be extended or made permanent in the State; and

“(ii) unless the Secretary finds, taking into account cost-effectiveness, quality of care, and other criteria that the Secretary specifies, that all State demonstration programs previously implemented were unsuccessful, other States may implement State demonstration programs.

“(B) QAO REPORT.—Not later than 3 months after the end of the 5-year period described in subparagraph (A), the Comptroller General of the United States shall submit a report to Congress evaluating the demonstration programs conducted under this section during such period.

“(C) APPROVAL.—Out of any funds in the Treasury, or any appropriated funds appropriated by the Comptroller General of the United States, $550,000 for the period of fiscal years 2007 through 2010 to carry out clause (1).

“(D) APPROVAL.—The Secretary shall not approve a State demonstration program under paragraph (1) unless the program includes the following:

“(A) Creating patient awareness of the high cost of medical care.

“(B) Providing incentives to patients to seek preventive care services.

“(C) Reducing inappropriate use of health care services.

“(D) Enabling patients to take responsibility for their health outcomes.

“(E) Providing enrollment counselors and ongoing education activities.

“(F) Providing transactions involving health opportunity accounts to be conducted electronically and without cash.

“(G) Providing access to negotiated provider payment rates consistent with this section.

“(7) LIMITATIONS—

“(A) STATE OPTION.—This subsection shall not be construed as preventing a State from further limiting eligibility.

“(B) ON ENROLLERS IN MEDICARE MANAGED CARE ORGANIZATIONS.—Insofar as the State provides for eligibility of individuals who are enrolled in medicare managed care organizations, such individuals may participate in the State demonstration program only if the State provides assurances satisfactory to the Secretary that the following conditions are met with respect to such individuals:

“(i) in no case the number of such individuals enrolled in the organization who participate in the program shall exceed 5 percent of the total number of individuals enrolled in such organization;

“(ii) the proportion of enrollees in the organization who so participate is not significantly disproportionate to the proportion of such enrollees in other such organizations who participate.

“(iii) the State has provided for an appropriate adjustment in the per capita payments to the organization to account for such participation, taking into account differences in the likelihood of use of health services between enrollees who so participate and enrollees who do not so participate.

“(4) NO REQUIREMENT FOR STATERECOES.—Nothing in this section shall be construed as preventing a State from providing incentives for patients obtaining appropriate preventive care (as defined for purposes of section 223(c)(2)(C) of the Internal Revenue Code of 1986), such as health account contributions for an individual demonstrating healthy prevention practices.

“(5) ELIGIBILITY LIMITATIONS DURING INITIAL DURATION PERIOD.—During the initial 5 years of the demonstration program under this section, a State demonstration program shall not apply to any of the following individuals:

“(A) Individuals who are 65 years of age or older.

“(B) Individuals who are disabled, regardless of whether or not their eligibility for medical assistance under this title is based on such disability.

“(C) Individuals who are eligible for medical assistance under this title only because they are (or were within the previous 60 days) pregnant.

“(D) Individuals who have been eligible for medical assistance for a continuous period of less than 3 months.

“(6) ADDITIONAL LIMITATIONS.—A State demonstration program under this section may apply only to any individual within a category of individuals described in section 1937(a)(2)(B).

“(7) LIMITATIONS.—

“(A) STATE OPTION.—This subsection shall not be construed as preventing a State from further limiting eligibility.

“(B) ON ENROLLERS IN MEDICARE MANAGED CARE ORGANIZATIONS.—Insofar as the State provides for eligibility of individuals who are enrolled in medicare managed care organizations, such individuals may participate in the State demonstration program only if the State provides assurances satisfactory to the Secretary that the following conditions are met with respect to such individuals:

“(i) in no case the number of such individuals enrolled in the organization who participate in the program shall exceed 5 percent of the total number of individuals enrolled in such organization;

“(ii) the proportion of enrollees in the organization who so participate is not significantly disproportionate to the proportion of such enrollees in other such organizations who participate.

“(iii) the State has provided for an appropriate adjustment in the per capita payments to the organization to account for such participation, taking into account differences in the likely use of health services between enrollees who so participate and enrollees who do not so participate.

“(5) VOLUNTARY PARTICIPATION.—An eligible individual shall be enrolled in a State demonstration program only if the individual voluntarily enrolls. Except in such hardship cases as the Secretary shall specify, such an enrollment shall be effective for a period of 12 months, but may be extended for additional periods of 12 months each with the consent of the individual.

“(6) 1-YEAR MORATORIUM FOR REROLL- MATION.—If an eligible individual is disenrolled from a State demonstration program conducted under this subsection not be permitted to reenroll in such State demonstration program during the 1-year period that begins on the effective date of such disenrollment.
‘(c) ALTERNATIVE BENEFITS.—

‘(1) IN GENERAL.—The alternative benefits provided under this section shall consist, consistent with this subsection, of at least—

‘(A) medical care, in a year for items and services for which bene-

fits are otherwise provided under this title after an annual deductible described in para-

graph (2); and

‘(B) contribution into a health oppor-

tunity account.

Nothing in subparagraph (A) shall be con-

sidered as preventing a State from providing for comparability the care referred to in subsection (a)(3) within the alternative benefits without regard to the annual de-

ductible.

‘(2) ANNUAL DEDUCTIBLE.—The amount of the annual deductible described in paragraph (1)(A) shall be at least 100 percent, but no more than 110 percent, of the annualized amount of contributions to the health opportu-


‘(3) ACCESS TO NEGOTIATED PROVIDER PAY-

MENT RATES.—

‘(A) FEE-FOR-SERVICE ENROLLEES.—In the case of an individual who is participating in a State demonstration program and who is not enrolled with a Medicaid managed care organization, the State shall provide that the individual may obtain demonstration program and is enrolled with a Medicaid managed care organization, the State shall provide that the individual may obtain demonstration program medicaid services from—

‘(i) any participating provider under this title at the same payment rates that would be applicable to such services if the deduct-

ible described in paragraph (1)(A) was not applic-

able; or

‘(ii) any other provider at payment rates that exceed 125 percent of the payment rates that would be applicable to such services furnished by a participating pro-

vider under this title if the deductible de-

scribed in paragraph (1)(A) was not applic-

able.

‘(B) TREATMENT UNDER MEDICAID MANAGED CARE PLANS.—In the case of an individual who is participating in a State demonstration program and is enrolled with a Medicaid managed care organization, the State shall enter into an arrangement with the organi-

zation for the provision of services for which the individual may obtain demonstration program medicaid services from any other provider described in clause (ii) of subparagraph (A) at payment rates that exceed the payment rates that may be imposed under that clause.

‘(C) COMPUTATION.—The payment rates de-

scribed in subparagraphs (A) and (B) shall be computed in a manner whereby withdrawals may be made from the account in cash.

‘(D) DEFINITIONS.—For purposes of this paragraph—

‘(i) the term ‘program medicaid services’ means, with respect to an individual participating in a State demon-

stration program (A), a health care provider that has entered into a participation agree-

ment with the State for the provision of services to individuals entitled to benefits under that paragraph; and

‘(ii) the term ‘participating provider’ means—

‘(I) with respect to an individual described in subparagraph (A), a health care provider that has entered into a participation agree-

ment with the State for the provision of services to individuals entitled to benefits under that paragraph;

‘(II) with respect to an individual de-

scribed in subparagraph (B) who is enrolled in a Medicaid managed care organization, a health care provider that has entered into an arrangement for the provision of services to enrollees of the organization under this title.

‘(1) NO EFFECT ON SUBSEQUENT BENEFITS.— Except as provided under paragraphs (1) and (2), alternative benefits for an eligible indi-

vidual shall consist of the benefits otherwise provided under this title relating to cost sharing relating to such benefits.

‘(2) OVERLAPPING COST SHARING AND COM-

PARABILITY REQUIREMENTS FOR ALTERNATIVE BENEFITS.—The provisions relating to cost sharing for benefits (including sections 1916 and 1916A) shall not apply with respect to benefits to which the annual ded-
uctibles described in paragraph (1)(A) (as described in subsection (a)) applies. The provisions of section 1902(a)(10)(B) (relating to comparability) shall not apply with respect to the alternative benefits (as described in this subsection).

‘(3) TREATMENT AS MEDICAL ASSISTANCE.—

Subject to subparagraphs (D) and (E) of sub-
section (d)(2), payments for alternative bene-

fits under this section (including contribu-

tions into a health opportunity account) shall be treated as medical assistance for purposes of section 1902(a).

‘(4) USE OF TIERED Deductible AND COST SHARING.—

For purposes of subparagraph (A)(i), the term ‘maximum out-of-pocket cost sharing (as defined in subparagraph (D)(ii)) at payment rates that exceed 125 percent of the payment rates that may be imposed under that clause.

‘(B) MAXIMUM OUT-OF-POCKET COST SHARING.—

For purposes of subparagraph (A)(i), the term ‘maximum out-of-pocket cost shar-

ing’ means, for an individual or family, the maximum amount of any annual deductible applied under paragraph (1)(A) to the individual or family exceeds the balance in the health opportunity account for the indi-

vidual or family.

‘(C) CONTRIBUTIONS BY EMPLOYERS.—Noth-

ing in this section shall be construed as pre-

venting an employer from providing health benefits coverage consisting of the coverage described in paragraph (1)(A) to individuals who are provided alternative benefits under this section.

‘(D) Health Opportunity Account.—

‘(1) IN GENERAL.—For purposes of this sec-

tion, the term ‘health opportunity account’ means an account that meets the require-

ments of this subsection.

‘(2) CONTRIBUTIONS.—

‘(A) IN GENERAL.—No contribution may be made into a health opportunity account except—

‘(i) contributions by the State under this title; and

‘(ii) contributions by other persons and entities, such as charitable organizations, as permitted under section 1903(w).

‘(B) STATE CONTRIBUTION.—A State shall spec-

ify the contribution amount that shall be deposited under subparagraph (A)(i) into a health opportunity account. No contribution may be made into a health opportunity account on behalf of an individual or family to the extent the amount of such contributions (including both State and Federal shares) exceeds, on an annual basis, $2,500 for each individual (or family member) who is an adult and $1,000 for each individual (or family member) who is a child.

‘(ii) INDEXING OF DOLLAR LIMITATIONS.—On each year after 2006, the dollar amounts specified in clause (i) shall be increased by a percentage that reflects the annual percentage increase in the medical care component of the consumer price index for all urban consumers.

‘(iii) BUDGET NEUTRAL ADJUSTMENT.—A State may provide for dollar limitations in excess of those specified in clause (i) when the dollar amounts specified in clause (i) are increased under clause (ii) for specified indi-

viduals if the State provides assurances sat-

satisfactory to the Secretary that contributions of which the State makes payment to the individuals will be reduced in a manner so as to provide for ag-

gregate contributions that do not exceed the aggregate contributions that would other-

wise be permitted under this subparagraph.

‘(D) LIMITATIONS ON FEDERAL MATCHING.—

‘(i) STATE CONTRIBUTION.—A State may contribute under subparagraph (A)(i) to a health opportunity account in excess of the limitations provided under subparagraph (C)(i)(III), but no Federal financial participation shall be provided under section 1903(b) with respect to contributions in ex-

cess of such limitations.

‘(ii) NO FFP FOR PRIVATE CONTRIBUTIONS.—

No Federal financial participation shall be provided under section 1903(b) with respect to any contributions described in subpara-

graph (A)(ii) to a health opportunity ac-

count.

‘(E) APPLICATION OF DIFFERENT MATCHING RATES.—The Secretary shall provide a method under which, for expenditures that are not payment of medical care for which the Federal matching rate under section 1903(a)(1) exceeds the Federal medical assistance percentage, a State may obtain payment under such section at such higher matching rate for such expenditures.

‘(3) USE.—

‘(A) GENERAL USES.—Subject to the suc-

ceeding provisions of this paragraph, amounts in a health opportunity account may be used for payment of such health care expenditures as the Secretary shall determine.

‘(B) GENERAL LIMITATION.—Subject to sub-

paragraph (B)(i), in no case shall such ac-

counts be used for payment of medical care expenditures that are not payment of med-

ical care (as defined by section 213(d) of the Internal Revenue Code of 1986).

‘(C) STATE RESTRICTIONS.—In applying clause (A), a State may restrict payment for—

‘(i) providers of items and services to pro-

viders that are licensed or otherwise author-

ized under State law to provide the item or service and may deny payment for such a provider on the basis that the provider has been convicted, whether in this State or in any other State, of a crime of moral turpitude, or of fraud or abuse, or

‘(ii) items and services insofar as the State finds they are not medically appro-

riate or necessary.

‘(D) ELECTRONIC WITHDRAWALS.—The State demonstration program shall provide for a method whereby withdrawals may be made from the account for such purposes using an electronic system and shall not permit with-

drawals from the account in cash.

‘(E) MAINTENANCE OF HEALTH OPPORTUNITY ACCOUNT AFTER BECOMING INELIGIBLE FOR PUBLIC ASSISTANCE.—

‘(i) IN GENERAL.—Notwithstanding any other provision of law, if an account holder...
of a health opportunity account becomes ineligible for benefits under this title because of an increase in income or assets—

(i) no additional contribution shall be made into the account under paragraph (2)(A)(i); and

(ii) subject to clause (iii), the balance in the account shall be reduced by 25 percent; and

(iii) subject to the succeeding provisions of this subparagraph, the account shall remain available to the account holder for 3 years after the date on which the individual becomes ineligible for such benefits for withdrawals under the same terms and conditions as if the individual had remained eligible for such benefits, and such withdrawals shall be treated as medical assistance in accordance with subsection (e)(6).

SEC. 6084. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSENCE EDUCATION PROGRAM.

Effective as if enacted on December 31, 2005, activities described in sections 510 and 1925 of the Social Security Act shall continue through December 31, 2006, in the manner authorized for fiscal year 2005, notwithstanding any other provisions of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary to carry out the program described in paragraph (4)(B) of subsection (c) for which payments may be made pursuant to this Act for services provided in the third quarter of fiscal year 2006.

SEC. 6085. EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS FOR MEDICAID MANAGED CARE ENROLLEES.

(a) In General.—Any provider of emergency services furnished by non-contract providers for Medicaid managed care enrollees shall not be subject to clauses (A) and (B) of paragraph (4)(B) of subsection (c) for which payments may be made pursuant to this Act for services furnished in the third quarter of fiscal year 2006.

(b) Definition of Emergency Services.—For purposes of this section—

(1) the term "emergency services furnished by non-contract providers" means services furnished by non-contract providers for which the Secretary approves a Medicaid managed care contract to provide services and includes services for which the Secretary makes payments under paragraph (4)(B) of subsection (c) for which payments may be made pursuant to this Act for services furnished in the third quarter of fiscal year 2006.

(c) Authorization for Services.—Services furnished by non-contract providers for which payments may be made pursuant to this Act for services furnished in the third quarter of fiscal year 2006 shall be treated as medical assistance under this title and may be furnished by an entity that is a non-contract provider of such services.

SEC. 6086. EXPANDED ACCESS TO HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY AND DISABLED.

(a) Home and Community-Based Services as an Optional Benefit for Elderly and Disabled Individuals.—Section 1915(k) of the Social Security Act (42 U.S.C. 1396n) is amended—

(1) in general.—The Secretary may provide through a State plan amendment for the provision of medical assistance for home and community-based services described in paragraph (4)(B) of subsection (c) for which the Secretary has the authority to approve a waiver and no other means of medical assistance under the State plan is available (at the option of the State) for such additional expenditures (such as job training and tuition expenses) specified by the Secretary (and approved by the Secretary) as the State may specify.

(2) State Plan Amendment.—Withdrawals under this subparagraph from an account shall first be attributed to contributions described in paragraph (2)(A)(i).

(3) Condition for Non-Health Withdrawals.—No withdrawal may be made from an account under clause (ii)(I) unless the account holder participated in the program under this section for at least 1 year.

(4) Condition for Non-Health Withdrawals.—No withdrawal may be made from an account under clause (ii)(I) unless the account holder participated in the program under this section for at least 1 year.

(5) Treatment.—Amounts in, or contributed to, a health opportunity account shall not be counted as income or assets for purposes of determining eligibility for benefits under this title.

(6) Unauthorized Withdrawals.—A State may establish procedures—

(A) to penalize or remove an individual from such an account; and

(B) to monitor nonqualified withdrawals by the individual from such an account; and

(C) to require an individual to reimburse the State for the indirect costs attributable to such withdrawals.

SEC. 6087. STATE OPTION TO ESTABLISH NONQUALIFIED WITHDRAWALS FOR HOME AND COMMUNITY-BASED SERVICES.

(a) Nonqualified Withdrawals.—No withdrawal may be made from an account—

(1) which is available (at the option of the State) for the purchase of health insurance coverage; and

(2) which is available (at the option of the State) for the purchase of health opportunity accounts.

(b) Effective Date.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

SEC. 6088. EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS FOR MEDICAID MANAGED CARE ENROLLLEES.

(a) In General.—Section 1396a(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 6033(a) and 6033(b), is amended—

(1) in paragraph (26), by striking "and" at the end;

(2) in paragraph (27) by striking the period at the end and inserting "and"; and

(3) by inserting after paragraph (26) the following:

"(28) at the option of the State and notwithstanding paragraphs (1), (10)(B), and (23), provide for the establishment of a non-emergency medical transportation brokerage program in order to more cost-effectively provide transportation for individuals eligible for medical assistance under the State plan for home and community-based services and have no other means of transportation which—

(A) may include a wheelchair, van, taxi, stretcher, or personal emergency response systems, secured transportation, and such other transportation as the Secretary determines appropriate; and

(B) may be conducted under contract with a broker who—

(i) is selected through a competitive bidding process conducted by the State for the evaluation of the broker's experience, performance, references, resources, qualifications, and costs; and

(ii) has oversight procedures to monitor beneficiary access and compliance and ensure that transport personnel are licensed, qualified, competent, and courteous;

(iii) is subject to regular auditing and oversight by the State in order to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services; and

(iv) complies with all other requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on the prohibitions on physicians referring under section 1877 and such other prohibitions and requirements as the Secretary determines to be appropriate).

(b) Effective Date.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

SEC. 6089. STATE OPTION TO LIMIT NUMBER OF INDIVIDUALS TO BE PROVIDED HOME AND COMMUNITY-BASED SERVICES.

(a) In General.—The State submits to the Secretary, in such form and manner, and upon such frequency as the Secretary shall specify, the projected number of individuals to be provided home and community-based services.

(b) Authority to Limit Number of Individuals.—The State establishes needs-based criteria for determining an individual's eligibility for home and community-based services, and if the individual is eligible for such services, the specific home and community-based services that the individual will receive.

(c) Limitation on Number of Individuals.—The State establishes needs-based criteria for determining whether an individual requires the level of care provided in a hospital, a nursing facility, or an intermediate care facility for the mentally retarded, but only if the State meets the following requirements:

(1) [omitted]

(2) [omitted]

(3) [omitted]
under subparagraph (A) (without having to obtain prior approval from the Secretary) in the event that the enrollment of individuals eligible for home and community-based services included on the most recently submitted enrollment report is not sufficient for purposes of subparagraph (B), but only if—

(I) the State provides at least 60 days notice to the Secretary and the public of the proposed modification;

(II) the State deems an individual receiving home and community-based services on the basis of the most recent version of the criteria in effect prior to the effective date of the modification to be eligible for such services for a period of at least 12 months beginning on the date the individual first received medical assistance for such services; and

(III) after the effective date of such modification, the State, at a minimum, applies the criteria for determining whether an individual meets the level of care provided in a hospital, a nursing facility, or an intermediate care facility for the mentally retarded under the State plan or under any waiver of such plan which applied prior to the adoption of more stringent criteria developed under subparagraph (B).

(E) INDEPENDENT EVALUATION AND ASSESSMENT—

(1) ELIGIBILITY DETERMINATION.—The State uses an independent evaluation for making the determinations described in subparagraphs (A) and (B) of the State plan.

(2) INDEPENDENT EVALUATION.—In the case of an individual who is determined to be eligible for home and community-based services, the State establishes standards for the criteria used to determine such eligibility upon written notice to the Secretary and the public. The State provides the same criteria used to determine whether an individual meets the level of care provided in a hospital, a nursing facility, or an intermediate care facility for the mentally retarded under the State plan or under any waiver of such plan which applied prior to the adoption of more stringent criteria developed under subparagraph (B).

(F) ASSESSMENT—The independent assessment required under subparagraph (E)(ii) shall include the following:

(i) An objective evaluation of an individual's ability to perform 2 or more activities of daily living or to perform self-directed personal care or direct the receipt of, home and community-based services, an evaluation of the ability of the individual or the individual's representative to self-direct the receipt of, control the receipt of, home and community-based services, and an evaluation of the potential need for home and community-based services.

(ii) An examination of the individual's ability to perform 2 or more activities of daily living or to perform self-directed personal care or direct the receipt of, home and community-based services, an evaluation of the potential need for home and community-based services, and an evaluation of the individual's circumstances.

(iii) A face-to-face evaluation of the individual by an individual trained in the assessment of the ability of the individual or the individual's authorized representative to self-direct the receipt of, control the receipt of, home and community-based services, and an examination of the individual's circumstances.

(iv) An examination of the individual's ability to perform 2 or more activities of daily living or to perform self-directed personal care or direct the receipt of, home and community-based services, an examination of the individual's circumstances.

(G) INDIVIDUALIZED CARE PLAN.—

(1) PLAN REQUIREMENTS.—The State ensures that the individualized care plan for an individual—

(a) is developed—

(i) in consultation with the individual, the individual's treating physician, health care or support professional, or other appropriate individuals, as defined by the State, and, where appropriate, on the basis of the individual's family, caregiver, or representative; and

(ii) taking into account the extent of, and need for, any family or other supports for the individual;

(b) identifies the necessary home and community-based services to be furnished to the individual; and

(c) is reviewed at least annually and as needed when there is a significant change in the individual's circumstances.

(2) STATE OPTION TO OFFER ELECTION FOR SELF-DIRECTED SERVICES.—

(a) STATE OPTION.—In the case of an individual the State determines is eligible for home and community-based services, the State shall—

(i) notify the individual that the State allows for at least annual redeterminations of eligibility, and appeals in accordance with the frequency of, and manner in which, redeterminations and appeals of eligibility are made under the State plan;

(ii) establish standards for the criteria used to determine whether an individual is eligible for such services and if the individual is so eligible, the specific home and community-based services that the individual will receive; and

(iii) establish an independent assessment for determining whether an individual is eligible for home and community-based services, an evaluation of the potential need for home and community-based services, and an evaluation of the individual's circumstances.

(G) INDIVIDUALIZED CARE PLAN.—

(II) SELF-DIRECTED SERVICES.—The term 'self-directed' means, with respect to the home and community-based services offered under the State plan amendment, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State plan consistent with the following requirements:

(aa) ASSESSMENT.—There is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

(bb) SERVICE PLAN.—Based on such assessment, there is developed jointly with such individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State plan consistent with the following requirements:

(aa) describes the method for calculating the dollar values in such budgets based on reliable costs and service utilization;

(bb) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

(cc) provides a procedure to evaluate expenditures under such budgets.

(H) QUALITY ASSURANCE; CONFLICT OF INTEREST STANDARDS.—

(1) QUALITY ASSURANCE—The State ensures that the provision of home and community-based services meets Federal and State guidelines for quality assurance.

(II) CONFLICT OF INTEREST STANDARDS.—The State establishes standards for the conduct of the independent assessment and the independent assessment to safeguard against conflicts of interest.

(I) DETERMINATIONS AND APPEALS.—The State allows for at least annual redeterminations of eligibility, and appeals in accordance with the frequency of, and manner in which, redeterminations and appeals of eligibility are made under the State plan.

(J) PRESUMPTIVE ELIGIBILITY FOR ASSESSMENT—The State, at its option, elects to provide for a period of presumptive eligibility (not to exceed a period of 60 days) only for those individuals that the State has reason to believe may be eligible for home and community-based services, and presumptive eligibility shall be limited to medical assistance for carrying out the independent evaluation and assessment under subparagraph (E) to determine an individual's eligibility for such services and if the individual is so eligible, the specific home and community-based services that the individual will receive.

(K) DEFINITION OF INDIVIDUAL'S REPRESENTATIVE.—In this section, the term 'individual's representative' means, with respect to an individual, a parent, or, in the case of an individual who is not an adult, a guardian of the individual, an advocate for the individual, or any other individual who is authorized to represent the individual in any decision affecting the individual.

(L) EXPANDING SELF-DIRECTED SERVICES.—The term 'self-directed' means, with respect to the home and community-based services offered under the State plan amendment, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative.
services program under this section unless the State provides assurances satisfactory to the Secretary of the following:

(A) Necessary safeguards have been taken to provide personal assistance services furnished on or after January 1, 2007, to an eligible participant under a self-directed personal assistance services program, under which individuals, compared to non-participants, also provide an evaluation of overall impact on the health and welfare of participating individuals compared to non-participants every three years.

(B) The State will provide, with respect to a waiver under this section, under which individuals, the budget based upon the participant's resources and capabilities.

(C) A State may employ a financial management entity to make payments to providers, track costs, and make reports under the program. Payment for the activities of the financial management entity shall be at the administrative rate established in section 1903(a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to services furnished on or after January 1, 2007.

Subtitle B—SCHIP

SEC. 6101. ADDITIONAL ALLOCATIONS TO ELIMINATE FISCAL YEAR 2006 FUNDING SHORTFALLS.

(a) In General.—Section 2104 of the Social Security Act (42 U.S.C. 1397d(d)) is amended by inserting, after subsection (c), the following:

"(g) ADDITIONAL ALLOCATIONS TO ELIMINATE FUNDING SHORTFALLS.—

(1) APPROPRIATION.—The purpose of providing additional allocations to shortfall States described in paragraph (2), there is appropriated, out of any money in the Treasury not otherwise appropriated, $283,000,000 for fiscal year 2006.

(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (1), a shortfall State described in this paragraph is a State with a waiver for personal assistance services furnished on or after January 1, 2007, under which individuals, compared to non-participants, also provide an evaluation of overall impact on the health and welfare of participating individuals compared to non-participants every three years.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 2007.
‘‘(B) the amount, if any, that is to be redistributed to the State during fiscal year 2006 in accordance with subsection (f); and

‘‘(C) the amount of the State’s allotment for the fiscal year under the State’s approved plan under title XIX or title XXI of the Social Security Act, and

‘‘(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the State pursuant to paragraph (1) for fiscal year 2006, the Secretary shall allot—

‘‘(A) to each shortfall State described in paragraph (2) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

‘‘(B) to each commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth’s or territory’s allotment under subsection (c) (determined without regard to subsection (f)) to 1.05 percent of the amount appropriated under paragraph (1).

‘‘(4) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are only available for amounts expended under a State plan approved under this title for child health assistance for targeted low-income children.

‘‘(5) 1-YEAR AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2006 shall only remain available for expenditure by the State through September 30, 2006. Any amounts of additional allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f) and shall revert to the Treasury on October 1, 2006.

(b) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding a new paragraph (f) to read as follows:

‘‘(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted on October 1, 2005.

SEC. 6102. PROHIBITION AGAINST COVERING NONPREGNANT CHILDLESS ADULTS WITH SCHIP FUNDS.

(a) PROHIBITION ON USE OF SCHIP FUNDS.—Section 2107 of the Social Security Act (42 U.S.C. 1397g) is amended by adding at the end the following:

‘‘(l) LIMITATION ON WAIVER AUTHORITY.—Notwithstanding subsection (e)(2)(A) and section 1115(a), the Secretary may not approve any waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult that is approved on or after such date of enactment.

(b) CONFORMING AMENDMENTS.—Section 2106 of the Social Security Act (42 U.S.C. 1397g) is amended by adding at the end the following:

‘‘(A) In general.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397j(g)(1)(A)) is amended by striking ‘‘or 2001’’ and inserting ‘‘2001, 2004, or 2005’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures made under title XIX or title XXI of the Social Security Act for a fiscal year after October 1, 2005.

Subtitle K—Katrina Relief

SEC. 6201. ADDITIONAL FEDERAL PAYMENTS UNDER HURRICANE-RELATED MULTI-STATE SECTION 1115 DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall pay to each eligible State, from amounts appropriated pursuant to subsection (e), amounts for the following purposes:

(1) Under the authority of an approved Multi-State Section 1115 Demonstration Project (in this section referred to as an ‘‘1115 project’’):—

(A) with respect to evacuees receiving health care under such project, for the non-Federal share of expenditures:

(i) for medical assistance furnished under title XIX of the Social Security Act, and

(ii) for medical assistance furnished under title XXI of such Act;

(B) with respect to evacuees who do not have other coverage for such assistance (through enrollment in an eligible (but not limited to) private insurance, under title XIX or title XXI of the Social Security Act, or under State-funded health insurance programs, for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those evacuees receiving medical assistance under the State’s approved plan under title XIX or title XXI of the Social Security Act; and

(c) with respect to affected individuals receiving health care under such project for the non-Federal share of the following expenditures:

(i) for medical assistance furnished under title XIX of the Social Security Act, and

(ii) for child health assistance furnished under title XXI of such Act; and

(d) with respect to affected individuals who do not have other coverage for such assistance through enrollment in an eligible private insurance, under title XIX or title XXI of the Social Security Act, or under State-funded health insurance programs, for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons.

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

(1) The term ‘‘affected individual’’ means an individual who resided in an individual assistance designation county or parish pursuant to section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as declared by the President as a result of Hurricane Katrina and continues to reside in the same State that such county or parish is located in.

(2) The term ‘‘affected counties or parishes’’ means a county or parish described in paragraph (1).

(3) The term ‘‘evacuee’’ means an affected individual who has been displaced to another State.

(4) The term ‘‘eligible State’’ means a State that has provided care to affected individuals or evacuees under a section 1115 project.

(c) APPLICATION TO MATCHING REQUIREMENTS.—The non-Federal share paid under this section shall not be regarded as Federal funds for purposes of Federal matching requirements, the effect of which is to provide fiscal relief to the State in which the Medically Eligible Individual originally resided.

(d) TIME LIMITS ON PAYMENTS.—

(1) No payments shall be made by the Secretary under subsections (a)(1)(B) or (a)(1)(D) for costs of health care provided to an eligible evacuee or affected individual for services for such individual incurred after June 30, 2006.

(2) No payments shall be made by the Secretary under subsection (a)(1)(B) or (a)(1)(D) for costs of health care incurred after January 1, 2006.

(3) No payments may be made under subsection (a)(1)(B) or (a)(1)(D) for an item or
service that an evacuee or an affected indi-
vidual has received from an individual or or-
ganization as part of a public or private hur-
ricane relief effort.

(e) Annual Improvements.—For the purpose of providing funds for payments under this sec-
tion, in addition to any funds made available for the National Disaster Medical System under section 409(a)(7)(A)(v) of the Social Security Act, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments pursuant to this authority on a quarterly basis through fiscal year 2010 at the level provided for such ac-
tivities for the corresponding quarter of fis-
ancial year 2009 (or, as applicable, at such greater-
ner level as may result from the application of this subtitle, the amendments made by this subtitle, and the TANF Emergency Re-
source and Recovery Act of 2005), except that in the case of section 403(a)(3) of the Social Security Act, grants and payments may be made pursuant to this authority only through September 30, 2010, and in the case of section 403(a)(4) of the Social Security Act, no grants shall be made for any fiscal year occurring after fiscal year 2005.

SEC. 7002. STATE HIGH RISK HEALTH INSURANCE POOL FUNDING.

(a) In General.—There are hereby author-
ized and appropriated for fiscal year 2006—
$75,000,000 for grants under subsection (b)(1) of section 2745 of the Public Health Service Act (42 U.S.C. 300gg-45); and
$15,000,000 for grants under subsection (a) of such section.

(b) Treatment.—The amount appropriated under
(1) paragraph (1) shall be treated as if it had been appropriated under subsection (c)(2) of such section; and
(2) paragraph (2) shall be treated as if it had been appropriated under subsection (c)(1) of such section.

(c) References.—Effective upon the enact-
ment of this Act, section 1115 under the Depart-
ment of Homeland Security for the National Disaster Medical System to be made to a section or other provision of this title an amendment or re-
peal of, there are appropri-
ated to such Secretary for the Centers for Medicare & Medicaid Services Program Manage-
ment Account, $30,000,000 to the Centers for Medi-
care & Medicaid Services Program Manage-
ment Account, $30,000,000 for fiscal year 2006; and
(2) out of any funds in the Treasury not otherwise appropriated, there are appro-
priated to such Secretary for the Centers for Medi-
care & Medicaid Services Program Manage-
ment Account, $30,000,000 for fiscal year 2006.

TITLE VII—HUMAN RESOURCES AND OTHER PROVISIONS

SEC. 7002. REFERENCES.

Except as otherwise expressly provided, wherever in this title an amendment or re-
pel is expressed in terms of an amendment to, or repeal of, a section or other provision, the amendment or repeal shall be considered to be applicable to a section or other provision of the Social Security Act.

Subtitle A—TANF


(a) In General.—Activities authorized by part A of title IV and section 1108(b) of the Social Security Act (adjusted, as applicable, by or under this subtitle, the amendments made by this subtitle, and the TANF Emer-
gency Response and Recovery Act of 2005) shall continue through September 30, 2010, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States appropriated to an authority on a quarterly basis through fiscal year 2010 at the level provided for such ac-
tivities for the corresponding quarter of fis-
ancial year 2009 (or, as applicable, at such greater-
er level as may result from the application of this subtitle, the amendments made by this subtitle, and the TANF Emergency Re-
source and Recovery Act of 2005), except that in the case of section 403(a)(3) of the Social Security Act, grants and payments may be made pursuant to this authority only through September 30, 2010, and in the case of section 403(a)(4) of the Social Security Act, no grants shall be made for any fiscal year occurring after fiscal year 2005.

(b) Conforming Amendments.—Part A of title IV (42 U.S.C. 601 et seq) is amended—
(1) in section 405(a)(3)(B)(ii), by striking ‘‘December 31, 2005’’ and inserting ‘‘fiscal year 2008’’;
(2) in section 405(b)(3)(C)(ii), by striking ‘‘2006’’ and inserting ‘‘2010’’; and
(3) in section 405(b)(3)(C)(ii), by striking ‘‘2008’’ and inserting ‘‘2010’’.

(c) Extension of the National Random SAMPLING STUDY OF CHILD WELFARE THROUGH SEPTEMBER 30, 2010.—Activities authorized by section 429A of the Social Security Act shall continue through September 30, 2010, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority on a quarterly basis through fiscal year 2010 at the level provided for such ac-
tivities for the corresponding quarter of fis-
ancial year 2004.

SEC. 7102. IMPROVED CALCULATION OF WORK PARTICIPATION RATES AND PROGRAM INTEGRITY.

(a) Recalibration of Caseload Reduction Credit.—
(1) In General.—Section 407(b)(3)(A) (42 U.S.C. 607(b)(3)(A)) is amended—
(A) in clause (i), by inserting ‘‘or any other State programs funded with qualified State expendi-
tures (as defined in section 409(a)(7)(B)(i))’’ after ‘‘this part’’; and
(B) by striking clause (ii) and inserting the fol-
lowing:
’’(ii) the average monthly number of fami-
lies that received assistance under any State pro-
gram referred to in clause (i) during fiscal year 2005.’’

(2) Conforming Amendment.—Section 407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by striking ‘‘and eligibility criteria’’ and all that follows through the paragraph heading and inserting ‘‘and the eligibility criteria in effect during fiscal year 2005’’.

(b) Inclusion of Families Receiving Assistance Under Separate State Programs in Calculation of Participation Rates.—
(1) Section 407 (42 U.S.C. 607) is amended in each of subsections (a)(1), (a)(2), (b)(1)(B), (c)(2)(A)(i), (c)(2)(A)(ii), and (e)(2), by inserting ‘‘or any other State program funded with qual-
fied State expenditures (as defined in section 409(a)(7)(B)(i))’’ before the colon; and

(2) Section 411(a)(1) (42 U.S.C. 611(a)(1)) is amended—
(A) in subparagraph (B), by inserting ‘‘and any other State program funded with qual-
fied State expenditures (as defined in section 409(a)(7)(B)(i))’’ before the colon; and

(B) in subparagraph (B)(ii), by inserting ‘‘and any other State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))’’ after ‘‘this part’’.

(c) Improved Verification and Oversight of Work Participation.—
(1) In General.—Section 407(i) (42 U.S.C. 607(i)) is amended—
(A) in clause (2), by inserting ‘‘the eligibility criteria in effect during fiscal year 2005’’ after ‘‘this part’’;
(B) by striking clause (3) and inserting the fol-
lowing:
’’(3) the circumstances under which a recipient who resides with a child who is a recipi-
ent of assistance should be included in the work participation rate’’.

(2) State Penalty for Failure to Establish or Comply with Work Participation Verification Procedures.—Not later than September 30, 2006, a State to which a grant is made under section 403 shall establish pro-
cedures for determining, with respect to re-
cipients of assistance under the State pro-
gram funded under this part and any other State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)), whether activities may be counted as work activities, how to count and verify reported hours of work, and determining who is a work-eligible individual.

(3) In General.—Not later than June 30, 2006, the Secretary shall promulgate regu-
lations to ensure consistent measurement of work participation rates under State pro-
grams funded with qualified State expendi-
tures (as defined in section 409(a)(7)(B)(i)), which shall include information with respect to—

(i) determining whether an activity of a recipient of assistance may be treated as a work activity under subsection (d);

(ii) uniform methods of counting hours of work by a recipient of assistance; and

(iii) the type of documentation needed to verify reported hours of work by a recipient of assistance.

(4) Oversight of State Procedures.—The Secretary shall review the State pro-
cedures established in accordance with para-
graph (2) to ensure that such procedures are consistent with the regulations promulgated under subparagraph (A) and are adequate to ensure an accurate measurement of work participation rates. Grants and payments under this part and any other State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)) may be paid only on a quarterly basis.

(5) Requirement for States to Establish and Maintain Work Participation Verification Procedures.—Not later than September 30, 2006, a State to which a grant is made under section 403 shall establish pro-
cedures for determining, with respect to re-
cipients of assistance under the State pro-
gram funded under this part and any other State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)), whether activities may be counted as work activities, how to count and verify reported hours of work, and determining who is a work-eligible individual.

(6) State Penalty for Failure to Establish or Comply with Work Participation Verification Procedures.—Section 409(a) (42 U.S.C. 609(a)) is amended by adding at the end the following:

’’(15) Penalty for failure to establish or comply with work participation verification procedures.—(A) In general.—If the Secretary deter-
mences that a State to which a grant is made
under section 403 in a fiscal year has violated section 407(1)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately preceding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

(B) FUNDING BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2006.

SEC. 710. GRANTS FOR HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD.

(a) HEALTHY MARRIAGE AND FAMILY FUNDS.—Section 609(a)(2) (42 U.S.C. 609(a)(2)) is amended to read as follows:

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(2) HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD GRANTS.—

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(A) IN GENERAL.—

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(i) USE OF FUNDS.—Subject to subparagraphs (B) and (C), the Secretary may use the funds made available under subparagraph (D) for the purpose of conducting and supporting demonstrations and projects by public or private entities, and providing technical assistance to States, Indian tribes and tribal organizations, and such other entities as the Secretary may specify that are receiving a grant under another provision of this part.

(ii) LIMITATIONS.—The Secretary may not award funds made available under this paragraph on a noncompetitive basis, and may not provide any such funds to an entity for the purpose of carrying out activities promoting responsible fatherhood unless the entity has submitted to the Secretary an application which—

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(I) describes—

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(aa) how the programs or activities proposed in the application will address, as appropriate, issues of domestic violence; and

(bb) what the applicant will do, to the extent relevant, to ensure that participation in the programs is voluntary; and

(ii) contains a commitment by the entity—

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(aa) to not use the funds for any other purpose; and

(bb) to consult with experts in domestic violence or relevant community domestic violence coalitions in developing the programs and activities.

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(iii) HEALTHY MARRIAGE PROMOTION ACTIVITIES.—In clause (ii), the term ‘healthy marriage promotion activities’ means the following:

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(I) Public advertising campaigns on the value of marriage, relationship skills, and budget management.

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(II) Education in high schools on the value of marriage, relationship skills, and budget management.

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(iii) MARRIAGE EDUCATION, MARRIAGE SKILLS, AND RELATIONSHIP SKILLS PROGRAMS.—The term ‘marriage education, marriage skills, and relationship skills programs, that may include parenting skills, financial management, conflict resolution, and job and career advancement, for non-married pregnant women and non-married expectant fathers.

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(iv) Pre-marital education and marriage skills training programs for engaged couples and for couples or individuals interested in marriage.

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(V) MARRIAGE ENHANCEMENT AND MARRIAGE SKILLS TRAINING PROGRAMS.—The term ‘marriage enhancement and marriage skills training programs’ means programs that—

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(I) Activities to promote marriage or sustain marriage through activities such as counseling, mentoring, disseminating information about the benefits of marriage, and 2-parent involvement for children, enhancing relationship skills, education regarding how to control aggressive behavior, disseminating information about the causes of domestic violence and child abuse, marriage preparation programs, premarital counseling, marital inventories, skills-based marriage education, financial planning seminars, including improving a family’s ability to effectively manage family business affairs by means such as education, counseling, or mentoring on matters related to family finances, including household management, budgeting, banking, and handling of financial transactions and home maintenance, andGold and diversification education programs, including mediation and counseling.

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(II) Activities to promote responsible parenting through activities such as counseling, mentoring, disseminating information about good parenting practices, skills-based parenting education, encouraging child support payments, and other methods.

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(III) Activities to foster economic stability by helping fathers improve their economic status by providing activities such as work first services, job search, job training, subsidized employment, job retention, job enhancement, and encouraging education, training, and employment training initiatives, and other methods.

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(IV) Activities to promote responsible fatherhood that are conducted through a contract with a nationally recognized nonprofit fatherhood promotion organization, such as the development, promotion, and distribution of a media campaign to encourage the appropriate involvement of parents in the life of any child and specifically the issue of responsible fatherhood, and the development of a national clearinghouse to assist States and communities in efforts to promote and support marriage and responsible fatherhood.

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(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $150,000,000 for each of fiscal years 2006 through 2010, for expenditure in accordance with paragraph (B) and (E).

(B) COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—Section 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)) is amended by adding at the end the following:

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''(V) COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—The term ‘qualified State expenditures’ includes the total expenditures by the State during the fiscal year under all State programs for a purpose described in paragraph (3) or (4) of section 409(a).''
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Subtitle B—Child Care

SEC. 7201. ENTITLEMENT FUNDING.

Section 418(a)(3) (42 U.S.C. 618(a)(3)) is amended—

(1) by striking ‘‘and’’ at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(3) by adding at the end the following:

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''(G) $2,917,000,000 for each of fiscal years 2006 through 2010.’’
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Subtitle C—Child Support

SEC. 7301. ASSIGNMENT AND DISTRIBUTION OF CHILDSUPPORT.

(a) MODIFICATION OF RULE REQUIRING ASSIGNMENT OF SUPPORT RIGHTS AS A CONDITION OF RECEIVING TANF.—Section 409(a)(3) (42 U.S.C. 609(a)(3)) is amended to read as follows:

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(3) by adding at the end the following:

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(3) NO ASSISTANCE FOR FAMILIES NOT ASSIGNED CERTAIN SUPPORT RIGHTS TO THE STATE under section 403 shall require, as a condition of paying assistance to a family under the State program funded under this part, that any member of the family assign to the State any right the family member may have (on behalf of the family member or of any other person for whom the family member is legally obligated to receive such assistance) to support from any other person, not exceeding the total amount of assistance so paid to the family, which accrues during the period that the family receives assistance under the program.’’
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(b) INCREASING Child SUPPORT PAYMENTS TO FAMILIES AND SIMPLIFYING CHILD SUPPORT DISTRIBUTION RULES.—

(1) DISTRIBUTION RULES.—

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(A) IN GENERAL.—Section 459(a) (42 U.S.C. 659(a)) is amended to read as follows:

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(a) IN GENERAL.—Subject to subsections (d) and (e), the amounts collected on behalf of

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of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

1. Families receiving assistance.—In the case of a family receiving assistance from a State, the State shall—
   a) pay to the Federal Government the Federal share of the amount collected, subject to paragraph (3)(A);
   b) retain, or provide to the family, the State share of the amount collected, subject to paragraph (3)(B); and
   c) pay to the family any remaining amount.

2. Families that formerly received assistance.—In the case of a family that formerly received assistance from the State—

   a) pay to the Federal Government the Federal share of the amount collected, subject to subsection (3)(A);
   b) retain, or provide to the family, the State share of the amount collected, subject to paragraph (3)(B); and
   c) pay to the family any remaining amount.

3. Limitations.—

   a) Federal reimbursements.—The total of the amounts paid by the State to the Federal Government under paragraphs (1) and (2) of this subsection with respect to a family of the amounts paid by the Federal Government under paragraphs (1) and (2) of this subsection with respect to a family shall not exceed the current support amount, the State shall pay the amount to the family.

   b) Arrearages.—Except as otherwise provided in an election made under section 454(34), to the extent that the amount collected exceeds the current support amount, the State—

     i) shall first pay to the family the excess amount to the extent necessary to satisfy support arrearages not assigned pursuant to section 408(a)(3);
     ii) if the amount collected exceeds the amount required to be paid to the family under clause (i), shall—
       a) pay to the Federal Government the Federal share of the excess amount described in this clause, subject to paragraph (3)(A); and
       b) retain, or pay to the family, the State share of the excess amount described in this clause, subject to paragraph (3)(B); and
     iii) shall pay to the family any remaining amount.

4. Families that never received assistance.—In the case of any other family, the State shall distribute the amount collected, subject to the terms of the agreement provided for in this subsection.

5. Families under certain agreements.—In the case of a family described in this paragraph (1) through (3), in the case of an amount collected for a family in accordance with a cooperative agreement under section 454(33), the State shall distribute the amount collected pursuant to the terms of the agreement.

6. State option to pass through additional support with federal financial participation beginning with fiscal year 2009.—

   a) General.—Section 457(a) (42 U.S.C. 657(a)) is amended by adding at the end the following:

   b) State option to pass through additional support with federal financial participation beginning with fiscal year 2009.—

   a) In general.—Notwithstanding paragraph (1), the amendment made by paragraph (1) shall take effect on October 1, 2008.

   b) Effective date.—The amendment made by paragraph (1) shall take effect on October 1, 2008.

7. State option to discontinue post-1997 assignments.—

   a) In general.—Any rights to support obligations accruing before the date on which a State chooses or a State chooses to discontinue the assignment of a support obligation described in subparagraph (A) to a State under part A that are assigned to a State under that part and in effect before the implementation date of this section may remain assigned after such date.

   b) Distribution of amounts after assignment discontinuation.—If a State chooses to discontinue the assignment of a support obligation described in subparagraph (A), the State may treat amounts collected pursuant to the assignment as if the amounts had never been assigned and may distribute the amounts to the family in accordance with subsection (a)(4).

8. State option to accelerate effective date.—Notwithstanding paragraph (1), a State may elect to have the amendments made by the preceding provisions of this section take effect on October 1, 2009, and shall apply to payments under parts A and D of title IV of the Social Security Act to calendar quarters beginning on or after such date without regard to whether regulations to implement the amendments (in the case of State programs operated under such part D) are promulgated by such date.
SEC. 7302. MANDATORY REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS FOR FAMILIES RECEIVING TANF.

(a) In General.—Section 466(a)(10)(A)(i) (42 U.S.C. 666(a)(10)(A)(i)) is amended—

(1) by striking “parent, or,” and inserting “parent or”; and

(2) by striking “upon the request of the State agency under the State plan or of either parent.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2007.

SEC. 7303. DECREASE IN AMOUNT OF CHILD SUPPORT ALLOWABLE AS EARNINGS TESTING.

(a) In General.—Section 466(a)(19) (42 U.S.C. 666(a)(19)), as amended by paragraph (1) of this subsection, is amended—

(I) by striking “$5,000” and inserting “$2,500.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 7304. MAINTENANCE OF TECHNICAL ASSISTANCE FUNDING.

Section 452(j) (42 U.S.C. 652(j)) is amended by inserting “or the amount appropriated under section 666(a)(2) for fiscal year 2002, whichever is greater” before “, which shall be available”.

SEC. 7305. MAINTENANCE OF FEDERAL PARENT LOCATOR SERVICE FUNDING.

Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) in the first sentence, by inserting “or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater” before “, which shall be available”; and

(2) in the second sentence, by striking “for each of fiscal years 1997 through 2001”.

SEC. 7306. INFORMATION COMPARISONS WITH INSURANCE DATA.

(a) DUTIES OF THE SECRETARY.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

“(2) by inserting “or section 452(l)” after “section 452(a)(1)(B)” and

(b) DEFINITION OF MEDICAL SUPPORT.—Section 454(6)(B) (42 U.S.C. 654(6)(B)) is amended—

(1) by striking “include medical support as part of any child support order and enforce medical support” and inserting “enforce medical support included as part of a child support order”; and

(2) by redesignating clauses (i) and (ii) as (ii) and (iii), respectively;

(3) by adding after and below the end the following new clause:

“(ii) in the case of an individual who has never received assistance under a State plan made under part A and for whom the State has collected at least $500 of support, the State shall impose an annual fee of $25 for each case in which services are furnished, with the fees to be collected from support collected on behalf of the individual (but not from the 1st $500 so collected), paid by the individual applying for the services, reduced appropriately for the part of the fees that is a State share of the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and the fees shall be considered income to the program.”

Sec. 7307. AMENDMENTS.—Section 454(k)(3) (42 U.S.C. 654(k)(3)) is amended to read as follows:

“(b) FORMERLY NON-CUSTODIAL PARENT.—In the case of any other family, the term ‘non-custodial parent’ shall include a provision for medical support included as part of a child support order.”

SEC. 7308. ENDING FEDERAL MATCHING OF FOSTER CARE FUNDING.

(a) IN GENERAL.—The Secretary, through the custodial parent at a reasonable cost, may enter into an agreement with the State to provide foster care in the family that has never received assistance under a State plan made under part A and for whom the State has collected at least $500 of support, the State shall impose an annual fee of $25 for each case in which services are furnished, with the fees to be collected from support collected on behalf of the individual (but not from the 1st $500 so collected), paid by the individual applying for the services, reduced appropriately for the part of the fees that is a State share of the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and the fees shall be considered income to the program.”

Sec. 7309. ENDING FEDERAL MATCHING OF PASSPORT DENIAL.

Sec. 7310. MANDATORY FEE FOR SUCCESSFUL CHASEMENT.

(a) IN GENERAL.—Section 456(b) (42 U.S.C. 656(b)) is amended—

(1) by inserting “(i)” after “(B)”;

(2) by redesigning clauses (i) and (ii) as subclauses (1) and (2), respectively; and

(3) by adding “and” after the semicolon; and

(4) by adding after and below the end the following new clause:

“(ii) in the case of an individual who has never received assistance under a State plan made under part A and for whom the State has collected at least $500 of support, the State shall impose an annual fee of $25 for each case in which services are furnished, with the fees to be collected from support collected on behalf of the individual.”

(b) APPLICABILITY.—Section 3110 (42 U.S.C. 6510 note) is amended to read as follows:

“(c) FAMILY THAT HAS NEVER RECEIVED ASSISTANCE.—In the case of any other family, the Secretary shall be responsible for the family the portion of the amount so collected that remains after withholding any fee pursuant to section 454(d)(B)(i).”

SEC. 7311. EXCEPTION TO GENERAL EFFECTIVE DATE FOR STATE PLANS REQUIRING STATE LAW AMENDMENTS.

In the case of a State plan under part D of title IV of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this subtitle, the effective date of the amendments imposing the additional requirements shall be 3 months after the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

Subtitle D—Child Welfare

SEC. 7401. STRENGTHENING COURTS.

(a) COURT IMPROVEMENT GRANTS.—(1) IN GENERAL.—Section 453(a) (42 U.S.C. 653(a)) is amended—

(1) by striking “and” at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(3) by adding at the end the following:

“(4) to provide for the training of judges, attorneys and other legal personnel in child welfare cases.”

(b) APPLICATIONS.—Section 453(b) (42 U.S.C. 653(b)) is amended to read as follows:

“(2) APPLICATIONS.—(1) IN GENERAL.—In order to be eligible to receive a grant under this section, a highest State court shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including—

(A) the case of a grant for the purpose described in subsection (a)(3), a description of how courts and child welfare agencies on the State and local level collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;
not otherwise appropriated, there are appropriated to the Secretary, for each of fiscal years 2006 through 2010:
(1) $10,000,000 for grants referred to in subsection (b)(1);
(2) $2,000,000 for grants referred to in subsection (b)(2); and

(b) REQUIREMENT TO DEMONSTRATE MEANINGFUL AND ONGOING COLLABORATION.—Subsection (b) of section 436(c) of the Social Security Act is amended by inserting at the end thereof the following:
(1) by striking "and" at the end of paragraph (13);
(2) by striking the period at the end of paragraph (14) and inserting "and"; and
(3) by adding at the end the following:
"(15) demonstrate substantial, ongoing, and meaningful collaboration with State courts in the development and implementation of the State plan under part 1, the State plan approved under part 2, and the State plan approved under part E, and, where applicable, Indian tribes.

(2) SEPARATE APPLICATIONS.—A highest State court shall submit separate applications for the following grants:
(A) A grant for the purposes described in paragraphs (1) and (2) of subsection (a); and
(B) A grant for the purposes described in subsection (a)(3).

(3) ALLOTMENTS.—Section 438(c) of the Social Security Act is amended—
(A) in paragraph (1)—
(i) by inserting after this paragraph the following:
"(i) $10,000,000 for grants referred to in subsection (b)(1) where such grants are described in subsection (b)(2)(A) of this paragraph;
"(ii) a judicial determination to the effect that a portion of the grant will be used for cross-training initiatives that are jointly developed and implemented by the State agency administering the State program under part B or E, and, where applicable, Indian tribes.

(5) FUNDING.—Section 438(c) of the Social Security Act is amended—
(A) in subsection (a), by striking "paragraph (1) of this subsection" and inserting "subparagraph (B) of subsection (b)"; and
(B) in paragraph (5)—
(i) by striking "this paragraph" and inserting "this subparagraph";
(ii) by striking "of this paragraph and subparagraph (A) of this paragraph"; and
(iii) by striking "for such a grant" after "subsection (b)";

(6) IN GENERAL.—Each highest State court which has an application approved under this part shall carry out the purpose described in subsection (a) of this section from the home of a relative specified in section 406(a) of the Social Security Act, and, where applicable, Indian tribes.

(7) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section 471(a)(3) as if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered only if—
(1) the child has been placed in a foster family home or child-care institution in accordance with—
(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1) or
(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child who has been removed have met the AFDC eligibility requirement;

(8) ADMINISTRATIVE COSTS RELATING TO UNLICENSED CARE.—Section 472 of the Social Security Act is amended by inserting after subsection (h) the following:
"(1) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section 471(a)(3) as if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered only if—
(i) the child has been placed in a foster family home or child-care institution in accordance with—
(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child who has been removed have met the AFDC eligibility requirement;

(9) FUNDING.—Section 472 of the Social Security Act is amended by adding at the end thereof the following:
"(iii) and, where applicable, Indian tribes.

(10) IN GENERAL.—Each highest State court which has an application approved under this part shall carry out the purpose described in subsection (a) of this section from the home of a relative specified in section 406(a) of the Social Security Act, and, where applicable, Indian tribes.

(11) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section 471(a)(3) as if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered only if—
(i) the child has been placed in a foster family home or child-care institution in accordance with—
(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child who has been removed have met the AFDC eligibility requirement;
(II) the child’s adoptive parents have died; and
(iv) fails to meet the requirements of subparagraph (A) but would meet such requirements if
(I) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this paragraph; and
(II) the prior adoption were treated as never having occurred.’’. 

Subtitle E—Supplemental Security Income

SEC. 7501. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 (42 U.S.C. 1338b) is amended by adding at the end the following:

‘‘(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

(i) at least 20 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2007; and

(ii) at least 40 percent of all such determinations that are made in fiscal year 2008 and thereafter.

(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect,’’.

SEC. 7502. PAYMENTS OF CERTAIN LUMP SUM BENEFITS IN INSTALLMENTS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) IN GENERAL.—Section 1633(a)(10)(A)(i) (42 U.S.C. 1338b(a)(10)(A)(i)) is amended by striking ‘‘12’’ and inserting ‘‘3’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

Subtitle F—Repeal of Continued Dumping and Subsidy Offset

SEC. 7601. REPEAL OF CONTINUED DUMPING AND SUBSIDY OFFSET.

(a) REPEAL.—Effective upon the date of enactment of this Act, section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c), and the item referred to in the table of contents as defined in section 102(a)(3) of such Act, are repealed.

(b) DISTRIBUTIONS ON CERTAIN ENTRIES.—All duties on entries of goods made and filed before October 1, 2007, that would, but for section (a) or a section of the Tariff Act of 1930, have been dutiable, are hereby transferred to the United States Treasury to be credited to the General Revenue Fund.

Subtitle G—Effective Date

SEC. 7701. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect as if enacted on October 1, 2005.
shall be known as an ‘Academic Competitiveness Grant’; and
(2) for the third or fourth academic year of a program of undergraduate education shall be known as a ‘National Science and Mathematics Access to Retain Talent Grant’ or a ‘National SMART Grant’.
(d) DEFINITION OF ELIGIBLE STUDENT.—In this section, ‘eligible student’ means a full-time student who, for the academic year for which the determination of eligibility is made—
(1) is a citizen of the United States;
(2) is eligible for a Federal Pell Grant; and
(3) in the case of a student enrolled or accepted for enrollment in—
(A) the first academic year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education—
(i) has successfully completed, after January 1, 2006, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; and
(ii) has not been previously enrolled in a program of undergraduate education;
(B) the third or fourth academic year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education—
(i) is pursuing a major in—
(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or
(II) the social sciences, Balanced Journalism, or that the Secretary, in consultation with the Director of National Intelligence, determines is critical to the national security of the United States; and
(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) at the end of the first academic year of such program of undergraduate education; or
(C) the third or fourth academic year of a program of undergraduate education at a four-year degree-granting institution of higher education—
(i) is pursuing a major in—
(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or
(II) the social sciences, Balanced Journalism, or that the Secretary, in consultation with the Director of National Intelligence, determines is critical to the national security of the United States; and
(ii) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the coursework required of an eligible student;
(e) GRANT AWARD.—
(1) AMOUNTS.—
(A) The Secretary shall award a grant under subsection (d)(3)(A) to any student for an academic year equal to the sum of the rates determined under paragraph (a), (B) or (C) of subsection (d)(3)(B) for which the special allowance support level applicable to such loan under section 422A(c)(4)(C) was determined as described in clause (i). There are authorized to be appropriated, for the Department of Education to carry out this section—
(A) $790,000,000 for fiscal year 2006;
(B) $850,000,000 for fiscal year 2007;
(C) $920,000,000 for fiscal year 2008;
(D) $960,000,000 for fiscal year 2009; and
(E) $1,010,000,000 for fiscal year 2010.
(2) USE OF EXCESS FUNDS.—If, at the end of a fiscal year, any funds became unavailable for awarding grants under this section the term ‘eligible student’ means a full-time student who, for the academic year for which the determination of eligibility is made—
(A) has successfully completed, after January 1, 2006, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; and
(B) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the coursework required of an eligible student;
(h) SUNSET PROVISION.—The authority to make grants under this section shall expire at the end of fiscal year 2011.
(2) E FFECTIVE DATE.—The amendments made by subsections subsections (a), (b), and (d) shall be effective July 1, 2007.
SEC. 8006. PLUS LOAN INTEREST RATES AND ZERO SPECIAL ALLOWANCE PAYMENT. (a) PLUS LOANS.—Section 421A(1)(2) (20 U.S.C. 1077a(1)(2)) is amended by striking ‘‘7.9 percent’’ and inserting ‘‘8.5 percent’’.
(b) CONFORMING AMENDMENTS FOR SPECIAL ALLOWANCES. —
(1) AMENDMENTS.—Subparagraph (I) of section 438b(b) (2 U.S.C. 1087–1(b)(1)(b)) is amended—
(A) in clause (i), by striking ‘‘$5,000’’ and inserting ‘‘$7,000’’; and
(B) in clause (ii), by striking ‘‘$5,000’’ and inserting ‘‘$7,000’’.
(2) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by subsections subsections (a), (b), and (d) shall be effective July 1, 2007.
SEC. 8007. REAUTHORIZATION OF FEDERAL FAMILY EDUCA TION LOAN PROGRAM. (a) AUTHORIZATION OF APPROPRIATIONS.—
Section 422I(c) (20 U.S.C. 1071(b)(5)) is amended by striking ‘‘an administrative cost allowance’’ and inserting ‘‘a loan processing and issuance fee’’.
(b) EXPIRATION OF AUTHORITY.—
(1) FEDERAL INSURANCE LIMITATIONS.—Section 424(a) (20 U.S.C. 1074(a)) is amended—
(A) in clause (ii)(I), by striking ‘‘$3,500’’ and inserting ‘‘$4,500’’;
(B) in clause (iv), by striking ‘‘3 percent’’ and inserting ‘‘5 percent’’.
(2) FEDERAL PLUS LOANS.—Section 428B(e) (20 U.S.C. 1078–2) is amended—
(A) in subsection (b)(1), by striking ‘‘$4,000’’ and inserting ‘‘$5,000’’;
(B) in subsection (b)(2), by striking ‘‘$4,000’’ and inserting ‘‘$5,000’’.
(3) CONSOLIDATION LOANS.—Section 422B(e) (20 U.S.C. 1078–2) is amended—
(A) in clause (ii)(I), by striking ‘‘$3,500’’ and inserting ‘‘$4,500’’;
(B) in clause (ii)(I), by striking ‘‘$3,500’’ and inserting ‘‘$4,500’’.
(4) FEDERAL PLUS LOANS.—Section 428B(e) (20 U.S.C. 1078–2) is amended—
(A) in subsection (b)(1), by striking ‘‘$4,000’’ and inserting ‘‘$5,000’’;
(B) in subsection (b)(2), by striking ‘‘$4,000’’ and inserting ‘‘$5,000’’.
(c) FEDERAL PLUS LOANS.—Section 428B(e) (20 U.S.C. 1078–2) is amended—
(A) in subsection (b)(1), by striking ‘‘$4,000’’ and inserting ‘‘$5,000’’;
(B) in subsection (b)(2), by striking ‘‘$4,000’’ and inserting ‘‘$5,000’’.
(2) EFFECTIVE DATE.—The amendments made by this subsection shall not apply with
respect to any special allowance payment made under section 438 of the Higher Edu-

SEC. 8007. DEFEERMENT OF STUDENT LOANS FOR MILITARY SERVICE.

(a) FEDERAL FAMILY EDUCATION LOANS.—Section 428(b)(1)(M) (20 U.S.C. 1078(b)(1)(M)) is amended—

(i) by striking ‘‘or’’ at the end of clause (ii);

(ii) by redesignating clause (iii) as clause (iv); and

(iii) by inserting after clause (ii) the follow-

SEC. 8008. ADDITIONAL LOAN TERMS AND CONDITIONS.

(a) DISBURSEMENT.—Section 428(b)(1)(N) (20 U.S.C. 1078(b)(1)(N)) is amended—

(i) by striking ‘‘or’’ at the end of clause (i); and

(ii) by striking clause (ii) and inserting the follow-

(b) DIRECT LOANS.—Section 455(f)(2) (20 U.S.C. 1087e(f)(2)) is amended—

(i) by redesignating subparagraph (C) as sub-

(c) PERKINS LOANS.—Section 464(c)(2)(A) (20 U.S.C. 1087d(c)(2)(A)) is amended—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(ii) by inserting after clause (ii) the follow-

SEC. 8009. CONSOLIDATION LOAN CHANGES.

(a) CONSOLIDATION BETWEEN PROGRAMS.—Section 428C (20 U.S.C. 1078-3) is amended—

(i) in subsection (a)(3)(B)(1)—

(ii) by inserting ‘‘or under section 455(g)’’ after ‘‘under this section’’ both places it ap-

(c) ORIGINATION FEES.—Section 455(b)(8)(A) (20 U.S.C. 1087e(b)(8)(A)) is amended by inserting ‘‘or origina-

(d) RULE OF CONSTRUCTION.—Nothing in the amend-

Bill text ends here.
such borrower who applies for it, a Federal Direct Consolidation loan. The Secretary shall offer such a loan to a borrower who has defaulted, for the purpose of resolving the default.

(b) REPEAL OF IN-SCHOOL CONSOLIDATION.—
(1) DEFINITION OF REPAYMENT PERIOD.—Section 428(b)(7)(A) (20 U.S.C. 1078(b)(7)(A)) is amended by inserting “as determined under section 428(b)(7)(A)” after “repayment status.”

(2) CONFIRMING CHANGE TO ELIGIBLE BORROWER.—Section 428(a)(3)(A)(i)(I) is amended by inserting “as determined under section 428(b)(7)(A)” after “repayment status.”

(c) ADDITIONAL AMENDMENTS.—Section 428C (20 U.S.C. 1078–3) is amended in subsection (a)(3), by striking subparagraph (C).

(d) CONFORMING AMENDMENTS TO DIRECT LOAN PROGRAM.—Section 455 (20 U.S.C. 1087e) is amended—
(1) in subsection (a)(1) by inserting “428C,” after “426B,;”
(2) in subsection (a)(2)—
(A) by striking “and” at the end of subparagraph (C);
(B) by redesignating subparagraph (C) as subparagraph (D); and
(C) by inserting after subparagraph (B) the following:
(“C) ADDITIONAL AMENDMENTS.—Section 428C shall be known as ‘Fed-
eral Direct Consolidation Loans’; and
(3) in subsection (g)—
(A) by striking the second sentence; and
(B) by adding at the end the following new sentences: “To be eligible for a consolidation loan under this part, a borrower shall meet the eligibility criteria set forth in section 428C(a)(3). The Secretary, upon application for such a loan, shall comply with the requirements applicable to a lender under section 426B(c)(1)(F).”

SEC. 8010. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.

Section 426C (20 U.S.C. 1078–7) is amended—
(1) in subsection (a)(3), by adding at the end the following:
“in accordance with section 426B(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning on the date of enactment of the Higher Education Reconciliation Act of 2005.”;
(2) in subsection (b)(1), by adding at the end the following:
“Notwithstanding section 426B(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph shall be effective beginning on the date of enactment of the Higher Education Reconciliation Act of 2005.”; and
(3) in subsection (e), by striking “, made to a student to cover the cost of attendance at an eligible institution outside the United States.”

SEC. 8012. SCHOOL AS LENDER.

Paragrapg (2) of section 435(d) (20 U.S.C. 1087–3(d)(2)) is amended to read as follows:
“(2) REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—
(A) IN GENERAL.—To be an eligible lender under this part, an eligible institution—
(i) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;
(ii) shall not—
(I) make a loan to any undergraduate student;
(II) make a loan other than a loan under section 428 or 428H to a graduate or professional student; or
(III) make a loan to a borrower who is not enrolled at that institution;
(iv) shall award any contract for financing, servicing, or administration of loans under this part to an eligible lender in a competitive basis;
(v) shall offer loans that carry an origina-
tion fee or an interest rate, or both, that are less than such fee or rate authorized under the provisions of this part;
(vi) shall not have a cohort default rate (as defined in section 435(m)) greater than 10 percent;
(vii) shall, for any year for which the in-
stitution engages in activities as an eligible lender, provide for a compliance audit con-
ducted in accordance with section 426B(b) of the Higher Education Amendments of 1998, that conducts its audits in accordance with, and submit the results of such audit to the Secretary;
(viii) shall use any proceeds from special allowance payments and insurance payments from borrowers, interest subsidies received from the Department of Education, and any proceeds from the sale or other disposition of loans, for need-based grant programs; and
(ix) shall have met the requirements of subparagraphs (A) through (F) of this paragraph as in effect on the day before the date of enactment of the Higher Education Reconciliation Act of 2005, and made loans under this part, on or before April 1, 2006.

(g) ADMINISTRATIVE EXPENSES.—An eligible lender under subparagraph (A) shall be permitted to use a portion of the proceeds described in subparagraph (A)(viii) for reasonable and direct administrative expenses.

(h) SUPPLEMENTAL.—An eligible lender under subparagraph (A) shall ensure that the proceeds described in subpar-
agraph (A)(viii) are used to supplement, and not to supplant funds that would otherwise be used for need-based grant programs.”

SEC. 8013. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF DEFAULTED LOANS; PAYMENT OF INTEREST TO THE SECRETARY. The Secretary of Education shall—
(1) begin the payment of principal and interest on defaulted loans (as defined under subsection (d)) to the Secretary, if the student for whom the loan was made is not employed under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by the States for tailoring the highly qualified teacher requirements under section 9101 of the Elementary and
Secondary Education Act of 1965, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.

(2) INSURANCE PROVISIONS. — Section 460 (20 U.S.C. 1087c) is amended—

(A) in subsection (b)(1)(A)(ii), by inserting after "1965" the following: "or, as the case may be, before the effective date of the amendment made by this subsection shall be calculated as a minimum of 98 percent, which is to be equal to the average of the score achieved by such teacher on each test of the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States."

SEC. 9015. ADDITIONAL ADMINISTRATIVE PROVISIONS.

(a) INSURANCE PERCENTAGES. —

(1) AMENDMENT. — Subparagraph (G) of section 428(b)(1) (20 U.S.C. 1078–1(b)(1)(G)) is amended to read as follows:

"(G) insure 98 percent of the unpaid principal of loans insured under the program, except that:

(i) such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to section 428(b)(2) or 428(b)(3); and

(ii) for any loan for which the first disbursement of principal is made on or after July 1, 2006, the preceding provisions of this subparagraph shall be applied by substituting "97 percent" for "96 percent"; and

(iii) notwithstanding the preceding provisions of this subparagraph, the Secretary shall apply the provisions of—

(I) the fourth sentence of subparagraph (A) by substituting "100 percent" for "95 percent";

(II) subparagraph (B)(i) by substituting "100 percent" for "95 percent"; and

(III) subparagraph (B)(ii) by substituting "100 percent" for "75 percent".

(2) EFFECTIVE DATE OF AMENDMENT. — The amendment made by this subsection shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.

(b) BY INSERTING DEFAULT FEES. —

(1) IN GENERAL. — Subparagraph (H) of section 428(b)(1) (20 U.S.C. 1078–1(b)(1)(H)) is amended to read as follows:

"(H) provides—

(i) for loans for which the date of guaranty of principal is before July 1, 2006, for the collection of a single insurance premium equal to one-half of 1.0 percent of the unpaid principal amount of the loan, which fee shall be collected proportionately from each installment payment of the proceeds of the loan to the borrower, and ensures that the proceeds of the premium will not be used for incentive payments to lenders; or

(ii) for loans for which the date of guaranty of principal is on or after July 1, 2006, for the collection, and the deposit into the Federal Student Loan Reserve Fund under section 422A of a Federal default fee of an amount equal to 3.0 percent of the unpaid principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources that the proceeds of the Federal default fee will not be used for incentive payments to lenders;"

(2) UNSUBSIDIZED LOANS. — Section 428(b)(8) (20 U.S.C. 1078–8(b)(8)) is amended by adding at the end the following new sentence: "Effective for loans for which the date of guaranty of principal is on or after July 1, 2006, in lieu of the insurance premium authorized under the preceding sentence, each State or nonprofit private institution or organization having a contract with the Secretary under section 428(b)(1) shall collect and deposit into the Federal Student Loan Reserve Fund under section 422A, a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources. The Federal default fee shall not be used for incentive payments to lenders."

(3) VOLUNTARY FLEXIBLE AGREEMENTS. — Section 428A(a)(1)(2) (20 U.S.C. 1078–1(a)(1)(2)) is amended—

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

(B) by striking the period at the end of subparagraph (B) and inserting "or"; and

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

"(C) The Federal default fee required by section 428(b)(1)(H) and the second sentence of section 428F(h), "(i) in paragraph (3)—

(1) TREATMENT OF EXEMPT CLAIMS.—

(1) AMENDMENT.—Section 428(c)(1) (20 U.S.C. 1078–1(c)(1)) is amended—

(A) by redesignating subparagraph (G) as subparagraph (H), and moving such subparagraph 2 em spaces to the left; and

(B) by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) Notwithstanding any other provisions of this section, in the case of exempt claims, the Secretary shall apply the provisions of—

(I) the fourth sentence of subparagraph (A) by substituting "100 percent" for "95 percent";

(II) subparagraph (B)(i) by substituting "100 percent" for "95 percent"; and

(III) subparagraph (B)(ii) by substituting "100 percent" for "75 percent".

(ii) For purposes of clause (i) of this subparagraph, the term "exempt claims" means claims with respect to loans for which it is determined that the borrower (or the student on whose behalf a parent has applied), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions or omissions to make the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits thereon.

(2) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this subsection shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.

(d) CONSOLIDATION OF DEFAULTED LOANS. — Section 428(c)(1) (20 U.S.C. 1078–1(c)(1)) is amended—

(1) in paragraph (2)(A)—

(A) by inserting "or" after "including"; and

(B) by inserting before the semicolon at the end the following: "and (ii) requirements establishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recovery on defaulted loans under this part;"

(2) in paragraph (2)(D), by striking "paragraph (6)", and inserting "paragraph (6)(A)"; and

(3) in paragraph (6)—

(A) by redesigning subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "or" before "For the purpose of paragraph (D)"); and

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

"(B) A guaranty agency shall—

(i) on or after October 1, 2006—

(I) not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off through consolidation by the borrower under this title; and

(II) remit to the Secretary a portion of the collection charge under subclause (I) equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and

(ii) on and after October 1, 2006, pay to the Secretary the amount collected under clause (I) with respect to each defaulted loan that is paid off with excess consolidated proceeds.

"(C) For purposes of subparagraph (B), the term 'excess consolidation proceeds' means, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation of defaulted loans under this title that exceed 45 percent of the agency's total collections on defaulted loans in such Federal fiscal year.

"(d) DOCUMENTATION OF FORBEARANCE AGREEMENTS. — Section 428(c)(1) (20 U.S.C. 1078–1(c)(1)) is further amended—

(1) in paragraph (3)(A)—

(A) by striking "in writing"; and

(B) by inserting "and documented in accordance with paragraph (B) after "approval of the insurer"; and

(2) by adding at the end the following new paragraph:

"(D) DOCUMENTATION OF FORBEARANCE AGREEMENTS. — For the purposes of paragraph (3), the terms of forbearance agreed to by the parties shall be documented by confirming agreement of the borrower by notice to the borrower from the lender, and by recording the terms in the borrower's file.

(1) VOLUNTARY FLEXIBLE AGREEMENTS. — Section 428A(a)(1) (20 U.S.C. 1078–1(a)(1)) is further amended—

(1) in paragraph (1)(B), by striking "unless the Secretary" and all that follows through "designated guarantor";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) by striking paragraph (4).

(g) FRAUD: REPAYMENT REQUIRED. — Section 428B(a)(1)(2) (20 U.S.C. 1078–2(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (A); and

(2) by redesigning subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of a graduate or professional student or parent who has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, such graduate or professional student or parent has completed the payment of such amount, or to the Secretary, or to the holder in the case of a loan under this title obtained by fraud; and"

(h) DEFAULT REDUCTION PROGRAM. — Section 428B(a)(1) (20 U.S.C. 1078–2(a)(1)) is amended—

(1) in subparagraph (A), by striking "consecutive payments for 12 months" and inserting "9 payments made within 20 days of the due date during the 10 consecutive months";

(2) by redesigning subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) A guaranty agency may charge the borrower and retain collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of sale of a loan rehabilitated under subparagraph (A)."
SEC. 8017. FUNDS FOR ADMINISTRATIVE EXPENSES.
Section 456 is amended to read as follows:

"SEC. 456. FUNDS FOR ADMINISTRATIVE EXPENSES.

(a) Administrative Expenses.—
(1) In the heading, by striking "Recorded in
the prior and current years (if applicable),
the activities and costs planned for the bud-
get year, and the projection of activities and
costs for each remaining year for which ad-
iministrative expenses under this section are
made available.

SEC. 8017. COST OF ATTENDANCE.
Section 472 (20 U.S.C. 1070j) is amended—
(1) by striking paragraph (4) and inserting the
following:

SEC. 8019. SIMPLIFIED NEED TEST AND AUTOM.

(a) Amendments.—Section 479 (20 U.S.C.
107q) is amended—
(1) in subsection (b)—
(A) in paragraph (1)—
(i) by striking clause (I) and inserting the
following:

SEC. 8018. FAMILY CONTRIBUTION.

(a) Family Contribution for Dependent Students.—
(1) Amendments.—Section 475 (20 U.S.C.
1070c) is amended—
(A) in subsection (f)—
(i) in paragraph (2), by striking 
"1999" and inserting "2006".

(b) Certification Basis.—Account maintain-
ance fees payable to guaranty agencies under part B and cal-
culated in accordance with subsection (b) and (c),
not to exceed (from such funds not otherwise appropriated) $620,000,000 in fiscal year 2006.

"(1) Authorization for Administrative Expenses Beginning in Fiscal Years 2007 Through
the Fiscal Year 2011.—The Secretary may obligate a
percentage equal to the greater of the esti-
mated "20".

"(1) Authorization for Administrative Expenses Beginning in Fiscal Years 2007 Through
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percentage equal to the greater of the esti-
mated "20".

"(1) Authorization for Administrative Expenses Beginning in Fiscal Years 2007 Through
the Fiscal Year 2011.—The Secretary may obligate a
percentage equal to the greater of the esti-
mated "20".
(ii) by striking subparagraph (B) and inserting the following:

"(B) the value of a qualified education benefit shall be—"

"(1) the total amount of any tuition credits or certificates purchased under a qualified education program; and"

(3) by adding at the end the following:

"(d) DEFINITION OF MEANS-TESTED FEDERAL BENEFIT PROGRAM.—In this section, the term 'means-tested Federal benefit program' means a mandatory spending program of the Federal Government, other than a program under title IV of the Social Security Act (42 U.S.C. 601 et seq.), which eligibility for the program’s benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking such benefit, and may include such programs as—"

"(1) the supplemental security income program of title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);"

"(2) the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2001 et seq.);"

"(3) the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);"

"(4) the program of block grants for States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);"

"(5) the supplemental nutrition program for women, infants, and children established under section 310 of the Child Nutrition Act of 1966 (42 U.S.C. 1766); and"

"(6) other programs identified by the Secretary.

(b) EVALUATION OF SIMPLIFIED NEEDS TEST.—

(1) ELIGIBILITY GUIDELINES.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 470 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—For each 3-year period, the Secretary of Education shall evaluate the impact of including the receipt of benefits by a student or parent under a means-tested Federal benefit program as defined in section 476(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under paragraph (1)(A) and (c) of section 470 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

SEC. 8020. ADDITIONAL NEED ANALYSIS AMENDMENTS.—

(b) TREATING ACTIVE DUTY MEMBERS OF THE ARMED FORCES AS INDEPENDENT STUDENTS.—Section 480(f)(3)(A) (20 U.S.C. 1087vv(d)(3)) is amended by inserting before the semicolon at the end the following: "or a full-time student in the Armed Forces for other than training purposes".

(c) DEFINITION OF ASSETS.—Section 480(f)(1) (20 U.S.C. 1087vv(f)(1)) is amended by inserting "of benefits" after "except as provided in paragraph (3)," after "tax shelter.

(d) TREATMENT OF FAMILY OWNERSHIP OF SMALL BUSINESSES.—Section 480(f)(2) (20 U.S.C. 1087vv(f)(2)) is amended—

(1) in subparagraph (A), by striking "or"

(2) in subparagraph (B), by striking "time period at which the student was receiving any grant, loan, or work assistance under this title in which the student was receiving a grant, loan, or work assistance under this title, or to the Secretary, or to an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.

SEC. 8021. GENERAL PROVISIONS.—

(a) ACADEMIC YEAR.—Paragraph (2) of section 481(a) (20 U.S.C. 1088a(a)) is amended to read as follows:

"(2)(A) For the purpose of any program under this title, the term 'academic year' shall—"

"(i) require a minimum of 30 weeks of instructional time for a course of study that measures its program length in credit hours; or"

"(ii) require a minimum of 26 weeks of instructional time for a course of study that measures its program length in clock hours; and"

"(iii) require an undergraduate course of study to contain an amount of instructional time whereby a full-time student is expected to complete at least—"

"(I) 12 semester or trimester hours or 36 quarter credit hours in a course of study that measures its program length in credit hours; or"

"(II) 900 clock hours in a course of study that measures its program length in clock hours.

"(B) The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis. In the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree;

(b) DISTANCE EDUCATION: ELIGIBLE PROGRAM.—Section 481(b) (20 U.S.C. 1088b(b)) is amended by adding at the end the following new paragraphs:

"(3) An otherwise eligible program that is offered in whole or in part through telecommunications is eligible for the purposes of this title if the program is offered by an institution, other than a foreign institution, that has been evaluated and determined (before or after the date of enactment of the Higher Education Reconciliation Act of 2005) to have the capability to effectively deliver distance education programs through an accrediting agency or association that—"

"(A) is recognized by the Secretary under subpart 2 of part H, and"

"(B) has evaluation of distance education programs within the scope of its recognition, as described in section 496(n)(3)."

(4) For purposes of this title, the term "eligible program" includes a distance education program that, in lieu of credit hours or clock hours as the measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, if such assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment. In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to be an eligible program.

(c) DISTANCE EDUCATION PROGRAMS.—Section 481(c) (20 U.S.C. 1089(c)(1)) is amended—

(1) in subparagraph (A)—

"(A) by striking "for a program of study of 1 year or longer";

and

(2) by striking "unless the total" and all that follows through "courses at the institution".

(d) by amending subparagraph (B) to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.

SEC. 8022. STUDENT ELIGIBILITY.—

(a) ELIGIBILITY: REIMBURSEMENT REQUIRED.—Section 484(a)(1) (20 U.S.C. 1091(a)(1)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting ";

and

(2) by adding at the end the following new paragraph:

"(5) if the student has been convicted of, or has been nolo contendere to, a crime involving fraud in obtaining funds under this title, has completed the repayment of such funds to the Secretary, or is in default in the case of a loan under this title obtained by fraud.

(b) VERIFICATION OF INCOME DATE.—Paragraph (1) of section 484(b)(1) (20 U.S.C. 1091(b)(1)) is amended to read as follows:

"(1) CONFIRMATION WITH IRS.—The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the information specified in section 6103(i)(13) of the Internal Revenue Code of 1986 reported by applicants (including parents) under this title on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications.

(c) SUSPENSION OF ELIGIBILITY FOR DRUG OFFENSES.—Section 484(c)(1) (20 U.S.C. 1091(c)(1)) is amended by striking everything following the table and inserting the following:

"(1) IN GENERAL.—A student who is convicted of an offense described in section 928(a) (20 U.S.C. 1015(a)) of the State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student was granted a grant, loan, or work assistance under this title shall not be eligible to receive any grant, loan, or work assistance under this title during the period of time specified in the following table;":
SEC. 8023. INSTITUTIONAL REFUNDS.
Section 401B (20 U.S.C. 1091b) is amended—

(1) in the matter preceding clause (i) of subsection (a)(2)(A), by striking “a leave of” and inserting “the leave of”;

(2) in subsection (a)(3)(B)(ii), by inserting “(as determined in accordance with subparagraph (d))” after “student has completed”;

(3) in subsection (a)(3)(C)(i), by striking “grant or loan assistance under this title” and inserting “grant or loan assistance under this title, or period of enrollment, or the leave of”;

(4) in subsection (a)(4), by amending subparagraph (A) to read as follows:

(A) IN GENERAL.—After determining the eligibility for a leave of absence and post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower’s obligations to repay the funds following any such disbursement. The institution shall document in the borrower’s file the result of such contact and the final determination made concerning such disbursement.”;

(5) in subsection (b)(1), by inserting “not later than 45 days from the determination of withdrawal”;

(6) in subsection (b)(2), by amending subparagraph (C) to read as follows:

(C) GRANT OVERPAYMENT REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount required by the Secretary if—

(i) the amount to be returned by the student (as determined under subparagraphs (A) and (B), and exceeds

(ii) 50 percent of the total grant assistance awarded to the student under this title for the payment period or period of enrollment.

(II) MINIMUM.—A student shall not be required to return amounts of $50 or less.”;

(7) in subsection (d), by striking “(a)(3)(B)(i)” and inserting “(a)(3)(B);” and

(8) in subsection (d)(2), by striking “clock hours—” and all that follows through the period and inserting “clock hours scheduled to be completed by the student in such period as of the date withdrawal occurs.”

SEC. 8024. COLLEGE ACCESS INITIATIVE.

Part G is further amended by inserting after section 485C (20 U.S.C. 1092c) the following new section:

SEC. 8024. COLLEGE ACCESS INITIATIVE.

Part G is further amended by inserting after section 485C (20 U.S.C. 1092c) the following new section:

SEC. 8024. COLLEGE ACCESS INITIATIVE.

(a) STATE-OF-STATE INFORMATION.—The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 485C to provide to the Secretary information necessary for the development of Internet web links and access for students and families to a comprehensive listing of postsecondary education opportunities, programs, publications, Internet web sites, and other services available in the States for which such agency serves as the designated guarantor.

(b) GUARANTY AGENCY ACTIVITIES.—

(1) PLAN AND ACTIVITY REQUIRED.—Each guaranty agency with which the Secretary has an agreement under section 485C shall develop a plan, and undertake the activity necessary, to gather the information required under subsection (a) and to make such information available to the public and to the Secretary in a form and manner as prescribed by the Secretary.

(2) ACTIVITIES.—Each guaranty agency shall conduct activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career preparation, and paying for college. The guaranty agency shall publicize such information and coordinate such activities with other entities to facilitate the public’s ability to disseminate such information in the States for which such guaranty agency serves as the designated guarantor.

SEC. 8025. WAGE GARNISHMENT REQUIREMENT.

Section 484A(a)(1) (20 U.S.C. 1095aa(a)(1)) is amended by striking “10 percent” and inserting “15 percent.”

Subtitle B—Pensions

SEC. 8021. INCREASES IN PBGC PREMIUMS.

(a) FLAT-RATE PREMIUMS.—

(1) SINGLE-EMPLOYER PLANS.—


(B) ADJUSTMENT FOR INFLATION.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

(P) For each plan year beginning in a calendar year after 2006, there shall be substituted for the premium rate specified in clause (i) of subparagraph (A) an amount equal to the greater of—

(i) the product derived by multiplying the premium rate specified in clause (i) of subparagraph (A) by the ratio of—

(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, and

(ii) the national average wage index as so defined for 2004; and

(ii) the product derived in effect under clause (iv) of subparagraph (A) for plan years beginning in the preceding calendar year.

If the amount determined under this subparagraph is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.

(B) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

(A) IN GENERAL.—

(i) if the premium rate specified in clause (iv) of subparagraph (A) for plan years beginning in the preceding calendar year is not a multiple of $1, such product shall be in addition to any other premium under this Act.

(ii) SPECIAL RULE FOR PLANS TERMINATED BY BANKRUPTCY INSOLVENCY ORGANIZATION.—In the case of a single-employer plan terminated under section 4041(c)(2)(B)(ii) or under section 4042 during the pendency of any bankruptcy reorganization proceeding under chapter 11 of title 11, United States Code, or under any similar law of a State or a political subdivision of a State (or a case described in section 4041(c)(2)(B)(ii)) filed by or against such person has been converted, as of such date, to such a case in which reorganization is sought), subparagraph (A) shall not apply to such plan as of the date of the discharge or dismissal of such person in such case.

(2) APPLICABLE 12-MONTH PERIOD.—For purposes of subparagraph (A)—

(i) “the term applicable 12-month period” means—

(I) the 12-month period beginning with the first month following the month in which the computation date occurs, and

(ii) each of the first two 12-month periods immediately following the period described in clause (i)(I).

(B) PLANS TERMINATED IN BANKRUPTCY ORGANIZATION.—In any case in which the requirements of subparagraph (B)(i)(I) are met in connection with the termination of a single-employer plan described in such subparagraph, the 12-month period described in clause (i)(I) shall be the
12-month period beginning with the first month following the month which includes the earliest date as of which each such person is discharged or dismissed in the case described in such clause in connection with such person.

“(D) COORDINATION WITH SECTION 4007.—

“(i) Notwithstanding section 4007—

“(ii) the designated payor shall be the person who is contributing sponsor as of immediately before the termination date.

“(iii) The fifth sentence of section 4007(a) shall not apply in connection with premiums determined under this paragraph.

“(E) TERMINATION.—Subparagraph (A) shall not apply with respect to any plan terminated after December 31, 2010.

“(F) CONFORMING AMENDMENT.—Section 4006(a)(3)(B) of such Act (29 U.S.C. 1306(a)(3)(B)) is amended by striking ‘‘subparagraph (A)(iii)’’ and inserting ‘‘clause (iii) or (IV) of subparagraph (A)’’.

“(G) EFFECTIVE DATES.—

“(i) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to plan years beginning after December 31, 2005.

“(ii) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (b) shall apply to plans terminated after December 31, 2005.

“(B) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY.—The amendment made by subsection (b) shall not apply to a termination of a single-employer plan that is terminated during the pendency of any bankruptcy reorganization proceeding under chapter 11 of title 11, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the enactment of this Act.

“(C) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

“SA 2692. Mr. FRIST (for Mrs. FEINSTEIN (for herself and Mr. BROWNBACK)) proposed an amendment to the bill S. 119, to provide for the protection of unaccompanied alien children, and for other purposes; as follows:

“Strike all after the enacting clause and insert the following:

“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

“(a) SHORT TITLE.—This Act may be cited as the ‘‘Unaccompanied Alien Child Protection Act of 2005’’.

“(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

“Sec. 1. Short title; table of contents.

“Sec. 2. Definitions.

“TITLES I—CUSTODY, RELEASE, FAMILY CONTACT WITH UNACCOMPANIED ALIEN CHILDREN

“SEC. 2. DEFINITIONS.

“SUBTITLE A—Civil Filing Adjustments

“Sec. 1001. Civil Case Filing Fee Increases.

“(a) CHARGES IN DISTRICT COURTS.—Section 1914(a) of title 28, United States Code, is amended by striking ‘‘$250’’ and inserting ‘‘$350’’.

“(b) APPEALS IN COURTS OF APPEALS.—The $250 fee for docketing a case on appeal or review, or docketing any other proceeding in a court of appeals, as prescribed by the Judicial Conference, effective as of January 1, 2005, under section 1913 of title 28, United States Code, shall be increased to $500.

“(c) EXPENDITURE LIMITATION.—Incremental amounts collected by reason of the enact-
THE UNITED STATES.—

lack of capacity.

plication for admission due to age or other
turning to the child's country of nationality
ent of a country described in this subpara-
(2) SUITABILITY ASSESSMENT.—

(IV) verification that such entity's appropriate li-

COMPAI NED ALIEN CHILDREN WITH

RELATIVES IN THE UNITED STATES.

(A) GENERAL.—

(IV) such other information as the Director

and promulgate regulations in accordance
shall decide who is a qualified adult or entity

RELATIVES IN THE UNITED STATES.

COMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR

OF THE UNITED STATES.—

(1) DETERMINATION OF JURISDICTION.—

(A) IN GENERAL.—

and the receiving office shall make prompt
and custody of all unaccompanied alien children, including re-
responsibility for their detention, where appro-
riate, shall be under the jurisdiction of the Office.

(B) EXCEPTION FOR CHILDREN WHO HAVE COM-

mitted crimes.—Notwithstanding subpara-
graph (A), the Department shall retain or as-
sume the custody of any unaccompanied alien child who—

(i) has been charged with any felony, ex-
cluding offenses proscribed by the immigra-
tion and Nationality Act (8 U.S.C. 1101 et seq.),
while such charges are pending; or

(ii) has been convicted of any such felony.

(C) EXCEPTION FOR CHILDREN WHO THREATEN Na-

tional security.—Notwithstanding sub-
paragraph (A), the Department shall retain or as-
sume the custody and care of an unac-
accompanied alien child if the Secretary has

substantial evidence, based on an individual-
ized determination, that such child could
personally endanger the national security of
the United States.

(D) TRAFFICKING VICTIMS.—For purposes of
section 462 of the Homeland Security Act of
2002 (6 U.S.C. 279) and this Act, an unac-
accompanied alien child who is described in
subparagraph (A), the Director shall make an age de-
termination in accordance with section 105,
and take whatever other steps are necessary
to determine whether such alien is eligible
for treatment under section 462 of the Home-
land Security Act of 2002 (6 U.S.C. 279) or this
Act.

(3) TRANSFER OF UNACCOMPANIED ALIEN

CHILDREN.—

(A) TRANSFER TO THE OFFICE.—The care
and custody of an unaccompanied alien child
shall be transferred to the Office—

(i) in the case of a child described in
subparagraph (B) or (C) of paragraph (1),
not later than 72 hours after a determination is
made that such child is an unaccompanied alien
child;

(ii) in the case of a child whose custody
and care has been retained or assumed by
the Department pursuant to subparagraph (B)
or (C) of paragraph (1), a determination that
the child no longer meets the descrip-
tion set forth in such subparagraphs; or

(iii) in the case of a child who was pre-
viously released to an individual or entity
described in section 192(a)(1), upon a deter-
mination by the Director that such indi-
vidual or entity is no longer able to care for
the child.

(B) TRANSFER TO THE DEPARTMENT.—Upon
determining that a child in the custody of the
Office is described in subparagraph (B) or
(C) of paragraph (1), the Director shall trans-
fer the care and custody of such child to the
Department.

(C) PROMPTNESS OF TRANSFER.—In the even-
time of promptness of transfer under this
paragraph, the sending office shall make
prompt arrangements to transfer such child
and the receiving office shall make prompt
arrangements to receive such child.

(c) AGE DETERMINATIONS.—In any case in
which the age of an alien is in question and
the resolution of questions about the age of
such alien would affect the alien's eligibility
for treatment under section 462 of the Home-
the Department shall permit the Office to
promptly arrange access to aliens in the cus-
tody of the Secretary to ensure a prompt de-
termination of the age of such alien, if nec-
essary under subsection (b)(2)(B).

SEC. 102. FAMILY REUNIFICATION FOR UNAC-
COMPANIED ALIEN CHILDREN WITH
RELATIVES IN THE UNITED STATES.

(A) PLACEMENT AUTHORITY. (B) EXCEPTION FOR CHILDREN WHO HAVE COM-

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substantial evidence, based on an individual-
ized determination, that such child could
personally endanger the national security of
the United States.
(B) Home study.—
(i) In general.—A home study shall be conducted prior to release with respect to each proposed custodian described in any of subparagraphs (A) through (F) of paragraph (1) unless waived by the Director.
(ii) Special needs children.—In the case of a special needs child with a disability (as defined under the Americans with Disabilities Act of 1990 (2 U.S.C. 12102(2))), a home study shall be conducted to determine if the child’s needs can be properly met by the custodian.
(C) Contract authority.—The Director may, by grant or contract, arrange for some or all of the activities under this section to be carried out by—
(i) an agency of the State of the child’s proposed residence;
(ii) an agency authorized by such State to conduct such activities; or
(iii) an appropriate voluntary or nonprofit agency.
(D) Database access.—In conducting suitability assessments, the Director shall be given access to all relevant information in the appropriate Federal, State, and local law enforcement and immigration databases.
(E) Right of parent or legal guardian to custody of unaccompanied alien child.—
(a) Placement with parent or legal guardian.—An unaccompanied alien child shall be placed with a parent or legal guardian, and subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall—
(i) assess the suitability of placing the child with the parent or legal guardian; and
(ii) make a written determination on the child’s placement within 30 days.
(b) Rule of construction.—Nothing in this Act shall be construed to—
(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Program of Action, and the Declaration of the Rights of the Child; or
(ii) limit any right or remedy under such international agreement.
(F) Protection from smugglers and traffickers.—
(A) Policies and programs.—
(i) In general.—The Director shall establish policies and programs to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activities.
(ii) Witness protection programs included.—Programs established pursuant to clause (i) may include witness protection programs.
(B) Criminal investigations and prosecutions.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of involvement in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.
(C) Disciplinary action.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of involvement in any activity described in subparagraph (A) shall report the individual to the appropriate bar association of which the attorney is a member, or to other appropriate disciplinary authorities, for appropriate disciplinary action, which may include public censure or censure, suspension, or disbarment of the attorney from the practice of law.
(G) Grants and contracts.—The Director may award grants to, and enter into contracts with, voluntary agencies to carry out this section or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).
(H) Reimbursement of state expenses.—
(i) In general.—The Director may reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this Act or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).
(ii) Confidentiality.—All information obtained by the Office relating to the immigration status of a person described in subparagraph (a)(1) shall remain confidential and may be used only for the purposes of determining such person’s qualifications under subsection (a)(1).
(i) Required disclosure.—The Secretary of Health and Human Services or the Secretary of Homeland Security shall provide the information furnished under this section, and any other information derived from such furnished information, to—
(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1122(a)), when such information is requested in writing by such entity; or
(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).
(j) Penalty.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 103. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.
(a) Standards for placement.—
(i) Prohibition of detention in certain facilities.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.
(ii) Detention in appropriate facilities.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers him may be detained in conditions appropriate to such behavior in a facility appropriate for delinquent children.
(iii) State license.—A child shall not be placed in a facility licensed under paragraph (2) if the State agency that licenses the facility fails to meet the conditions established in subsection (b).
(b) Conditions of detention.—
(A) In general.—The Director and the Secretary shall promulgate regulations setting standards for conditions of detention in such placements that provide for—
(i) educational services appropriate to the child’s age and educational needs;
(ii) medical care;
(iii) mental health care, including treatment of trauma, physical and sexual violence, or abuse;
(iv) access to telephones; and
(v) access to legal services;
(vi) access to interpreters;
(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;
(viii) recreational programs and activities;
(ix) spiritual and religious needs; and
(x) dietary needs.
(B) Notice of children.—Regulations promulgated under subparagraph (A) shall provide that all children are notified of such standards orally and in writing in the child’s native language.

SEC. 104. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.
(a) Country conditions.—
(i) Sense of Congress.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party, and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and security of each child.

SEC. 105. ESTABLISH THE AGE OF AN UNACCOMPANIED ALIEN CHILD.
(a) Procedures.—
(i) In general.—The Director shall develop procedures, in consultation with the Secretary, to make a prompt determination of the age of an alien, to be used—
(A) by the Department, with respect to aliens in the custody of the Department, and
(B) by the Office, with respect to aliens in the custody of the Office.

EVIDENCE.—The procedures developed under paragraph (1) shall—
(A) permit the presentation of multiple forms of evidence, including testimony of...
the alien, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention; and

(B) allow the appeal of a determination to an immigration judge.

(b) PROHIBITION ON SOLICITATION OF DETERMINING AGE.—Radiographs or the attestation of an alien shall not be used as the sole means of determining age for the purposes of determining an alien’s eligibility for treatment under this Act or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(c) PROHIBITION.—Nothing in this section shall be construed to place the burden of proof in determining the age of an alien on the Government.

SEC. 106. EFFECTIVE DATE.

This title shall take effect on the date which is 90 days after the date of enactment of this Act.

TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO CHILD ADVOCATES AND COUNSEL

SEC. 201. CHILD ADVOCATES.

(a) ESTABLISHMENT OF CHILD ADVOCATE PROGRAM.—

(1) APPOINTMENT.—The Director may appoint a child advocate, who meets the qualifications described in paragraph (2), for an unaccompanied alien child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a child advocate under this paragraph.

(2) QUALIFICATIONS OF CHILD ADVOCATE.—

(A) IN GENERAL.—No person shall serve as a child advocate unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A child advocate shall not be—

(i) an employee of the Department, the Office, or the Executive Office for Immigration Review;

(ii) an immediate family member of an individual who has received training in child welfare matters; or

(iii) any other information collected under subparagraph (A) in connection with the delivery of immigration-related legal services to children in immigration proceedings.

(c) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall establish and begin to carry out a pilot program to test the implementation of subsection (a). (2) PURPOSE.—The purpose of the pilot program established under paragraph (1) is to—

(A) study and assess the benefits of providing guardians ad litem to unaccompanied alien children; and

(B) assess the most efficient and cost-effective means of implementing the child advocate provisions in this section; and

(C) assess the feasibility of implementing such provisions on a nationwide basis for all unaccompanied alien children in the care of the Office.

(3) SCOPE OF PROGRAM.—

(A) SELECTION OF SITE.—The Director shall select 3 sites in which to operate the pilot program established under paragraph (1).

(B) NUMBER OF CHILDREN.—To the greatest extent possible, each site selected under subparagraph (A) should have at least 25 children in immigration custody at any given time.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date on which the first pilot program established under paragraph (1) is implemented, the Director shall submit a report on the achievement of the purposes described in paragraph (2) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

SEC. 202. COUNSEL.

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director should ensure, to the extent practicable, that all unaccompanied alien children in the custody of the Office or the Department, who are not described in section 101(a)(2), have competent counsel to represent them in immigration proceedings or matters.

(b) PROHIBITION.—To the maximum extent practicable, the Director should—

(A) make every effort to utilize the services of competent pro bono counsel who shall be permitted to provide representation to such children without charge; and

(B) ensure that placements made under subparagraphs (D), (E), and (F) of section 102(a)(1) will be in cities where there is a demonstrated capacity for competent pro bono representation.

(3) DEVELOPMENT OF NECESSARY INFRASTRUCTURE AND SYSTEMS.—For purposes of this subsection, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(4) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—The Director shall enter into contracts with, or award grants to, non-profit agencies with relevant expertise in the delivery of immigration-related legal services to unaccompanied alien children in order to carry out the responsibilities of this Act, including providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys.

(B) SUBCONTRACTING.—Nonprofit agencies may enter into subcontracts with, or award grants to, private voluntary agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(C) CONSIDERATIONS REGARDING GRANTS AND CONTRACTS.—In awarding grants and entering into contracts with agencies under this paragraph, the Director shall take into consideration the capacity of the agencies in question to properly administer the services covered by such grants or contracts without an undue conflict of interest.

(5) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(A) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings. Such guidelines shall include guidance on children’s asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(B) PURPOSE OF GUIDELINES.—The guidelines developed under subparagraph (A) shall be designed to help protect each child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness and efficiency of the removal proceeding in which the child is involved.

(C) IMPLEMENTATION.—The Executive Office for Immigration Review shall adopt the guidelines developed under subparagraph (A) and submit the guidelines for adoption by national, State, and local bar associations.

(b) DUTIES.—Counsel under this section shall—

(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Department;

(2) appear in person for all individual merits hearings before the Office of Immigration Review and interviews involving the Department; and
(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.

(c) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child’s placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(d) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) ACCESS TO COUNSEL—CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to an interview, inspection, or representation to voluntary departure, unless first afforded an opportunity to consult with counsel.

(e) ACCESS TO RECOMMENDATIONS OF CHILD ADVOCATE.—Counsel shall be given an opportunity to review the recommendation by the child advocate affecting or involving a client who is an unaccompanied alien child.

(f) COUNSEL FOR UNACCOMPANIED ALIEN CHILDREN.—Nothing in this Act requires the United States to pay for counsel for any unaccompanied alien child.

SEC. 203. PRESERVATION OF LAW ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—The child advocate or counsel appointed under this title shall not interfere with Federal investigators or prosecutors in a Federal criminal investigation or prosecution in which the child is a victim or witness.

(b) DEFINITION.—In subsection (a), the term “interfere with” shall include—

(1) restricting access to a victim or witness;

(2) encouraging noncooperation with Federal investigators or prosecutors; and

(3) being present during interrogations of the child or interviews of Federal investigators or prosecutors without the permission of the investigators or prosecutors.

SEC. 204. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This title shall take effect 180 days after the day of enactment of this Act.

(b) APPLICABILITY.—The provisions of this title shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this title.

TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

SEC. 301. SPECIAL IMMIGRANT JUVENILE CLASSIFICATION.

(a) J CLASSIFICATION.—Section 101(a)(27)(J) of the Act (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

“(J) an immigrant, who is 18 years of age or younger on the date of application for the classification and who is present in the United States—

(i) who by a court order supported by written findings of fact in administrative or judicial proceedings that it would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence; and

(ii) with respect to a child in Federal custody, for whom the Office of Refugee Resettlement or the Department of Health and Human Services has determined to be appropriate.

(b) ADJUSTMENT OF STATUS.—Section 245(c)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(c)(3)(A)) is amended to read as follows:

“(A) paragraphs (4), (5)(A), (7)(A), 9(B), and 9(C)(1)(f) of section 212(a) shall not apply; and

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), may be eligible for funds made available under section 412(d) of that Act (8 U.S.C. 1522(d)) until such time as the child attains the age designated in section 412(d)(3)(B) of that Act (8 U.S.C. 1522(c)(3)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

(d) TRANSITION RULE.—Notwithstanding any other provision of law, any child described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) who files an application for discretionary relief for special immigrant juvenile classification before the date of enactment of this Act who was 19, 20, or 21 years of age on the date such application was filed shall not be denied such classification after the date of enactment of this Act because of such alien’s age.

SEC. 302. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training materials, and if requested, direct training, to State and county officials, child welfare officials, and juvenile court officials who come into contact with unaccompanied alien children.

(2) CURRICULUM.—The training shall provide education on the processes pertaining to unaccompanied children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for a core curriculum that can be incorporated into education, training, or orientation modules or formats that are currently used by these professionals.

(3) VIDEO CONFERENCING.—If direct training is requested under this subsection, such training may be conducted through video conferencing.

(b) TRAINING OF DEPARTMENT PERSONNEL.—

The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Department who come into contact with unaccompanied alien children.

(c) GUIDELINES FOR BORDER PATROL AND IMMIGRATION INSPECTORS.—The Director, in consultation with the Commissioner of Customs and Border Protection, shall issue guidelines for Border Patrol agents and immigration inspectors that shall include specific training on identifying children at the United States border and at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or other special immigrant relief may be appropriate, including children described in section 101(a)(2).

SEC. 303. REPORT.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit a report for the previous fiscal year to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that contains—

(1) data related to the implementation of section 462 of the Homeland Security Act (6 U.S.C. 279);

(2) data regarding the care and placement of children in State and Federal custody on, before, or after the date of enactment of this Act;

(3) data regarding the provision of child advocate and counsel services under this Act; and

(4) any other information that the Director or the Secretary of Health and Human Services determines to be appropriate.

SEC. 304. EFFECTIVE DATE.

This amendment made by section 301 shall apply to all aliens who were in the United States before, on, or after the date of enactment of this Act.

TITLE IV—CHILDREN REFUGEES AND ASYLUM SEEKERS

SEC. 401. GUIDELINES FOR CHILDREN’S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress—

(1) commends the former Immigration and Naturalization Service for its issuance of its “Guidelines for Children’s Asylum Claims”, dated December 1998, and encourages and supports the implementation of such guidelines by the Department in an effort to facilitate the handling of children’s affirmative asylum claims;

(2) commends the Executive Office for Immigration Review of the Department of Justice for its issuance of its “Guidelines for Children’s Asylum Claims”, dated September 2004, and encourages and supports the continued implementation of such guidelines by the Executive Office for Immigration Review in its handling of children’s asylum claims before immigration judges; and

(3) understands that the guidelines described in paragraph (2) do not specifically address the issue of asylum claims, but go to the broader issue of unaccompanied alien children in general.

(b) TRAINING.—

(1) IMMIGRATION OFFICERS.—The Secretary shall provide periodic comprehensive training to all officers of the “Guidelines for Children’s Asylum Claims” to asylum officers and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers.

(2) IMMIGRATION JUDGES.—The Executive Office for Immigration Review shall—

(a) provide periodic comprehensive training under the “Guidelines for Immigration Court Cases Involving Unaccompanied Alien Children” to immigration judges and members of the Board of Immigration Appeals; and
(B) redistribute to all Immigration Courts the “Guidelines for Children’s Asylum Claims” as part of its training of immigration judges.

(3) USE OF VOLUNTARY AGENCIES.—Voluntary agencies shall be allowed to assist in the training described in this subsection.

SEC. 402. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), and (7), respectively; and

(b) by inserting after paragraph (2) the following:

“(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region, which shall include an assessment of—

“(A) the number of unaccompanied refugee children, by region;

“(B) the capacity of the Department of State to identify such refugees;

“(C) the capacity of the international community to care for and protect such refugees;

“(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

“(E) the degree to which the United States plans to resettle such refugees in the United States in the fiscal year and

“(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.

(b) TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.—Section 207(f)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking “and” after “countries”; and

(2) inserting before the period at the end the following:

“, and instruction on the needs of unaccompanied refugee children”.

SEC. 403. EXCEPTIONS FOR UNACCOMPANIED ALIEN CHILDREN IN ASYLUM AND REFUGEE-LIKE CIRCUMSTANCES.

(a) PLACEMENT IN REMOVAL PROCEEDINGS.—Any unaccompanied alien child apprehended by the Department, except for an unaccompanied alien child subject to exceptions under paragraph (1)(A) or (2) of section 101(a), shall be placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(b) EXCEPTION FROM TIME LIMIT FOR FILING ASYLUM APPLICATION.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

“(E) APPLICABILITY.—Subparagraphs (A) and (B) shall not apply to an unaccompanied alien child as defined in section 101(a)(31).”.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security, the Department of Justice, and the Department of Health and Human Services, such sums as may be necessary to carry out—

(1) the provisions of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279(b)); and

(2) the provisions of this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

SEC. 501. ADDITIONAL RESPONSIBILITIES AND POWERS OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR.—Section 462(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)) is amended—

(1) in subparagraph (K), by striking “and” and inserting “,” and:

(2) in subparagraph (L), by striking the period at the end and inserting “, including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements; and”;

and

(3) by adding at the end the following:

“(M) ensuring minimum standards of care for all unaccompanied alien children—

“(i) for whom detention is necessary; and

“(ii) who reside in settings that are alternative to detention.”.

(b) ADDITIONAL POWERS OF THE DIRECTOR.—Section 462(b)(3) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)) is amended by adding at the end the following:

“(4) AUTHORITY.—In carrying out the duties under paragraph (3), the Director is authorized to—

“(A) contract with service providers to perform services described in sections 103, 201, and 202 of the Unaccompanied Alien Child Protection Act of 2005; and

“(B) compel compliance with the terms and conditions set forth in section 103 of the Unaccompanied Alien Child Protection Act of 2005, including the power to—

“(i) declare providers to be in breach and seek damages for noncompliance;

“(ii) terminate the contracts of providers that are not in compliance with such conditions; and

“(iii) reassign any unaccompanied alien child to a similar facility that is in compliance with such section.”.

SEC. 502. TECHNICAL CORRECTIONS.

Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)), as amended by section 501, is amended—

(1) in paragraph (3), by striking “paragraph (1)(G)” and inserting “paragraph (1)”;

(2) by adding at the end the following:

“(G) STATUTORY CONSTRUCTION.—Nothing in paragraph (2)(B) may be construed to require that a bond be posted for unaccompanied alien children who are released to a qualified sponsor.”.

SEC. 503. EFFECTIVE DATE.

The amendments made by this title shall take effect as if included in the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

SA 2693. Mr. Frist (for Mr. Lugar) proposed an amendment to the bill S. 3151, to require a report on progress toward the Millennium Development Goals, and for other purposes; as follows:

On page 13, line 21–22, strike “as a fundamental guide on which to base their planning,”

SA 2694. Mr. Frist (for Mr. Craig (for himself and Mr. Akaka)) proposed an amendment to the bill S. 1182, to amend title 38, United States Code, to improve health care for veterans, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Veterans Health Care Act of 2005”.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references to title 38, United States Code; table of contents.

Sec. 2. Care for newborn children of women veterans receiving maternity care.

Sec. 3. Enhancement of pay provisions for health care furnished to certain children of Vietnam veterans.

Sec. 4. Improvements to homeless veterans service providers programs.

Sec. 5. Additional mental health providers.

Sec. 6. Pay comparability for chief nursing officer, office of nursing services.

Sec. 7. Cost comparison studies.

Sec. 8. Improvements and expansion of mental health services.

Sec. 9. Disclosure of medical records.

Sec. 10. Expansion of National Guard Outreach Program.

Sec. 11. Expansion of telehealth services.

Sec. 12. Mental health data sources report.

Sec. 13. Strategic plan for long-term care.


Sec. 15. Compliance report.

Sec. 16. Health care and services for veterans affected by hurricane Katrina.

Sec. 17. Reimbursement for certain veterans’ outstanding emergency treatment expenses.

Sec. 18. Conveyance of Federal land in exchange for fair market value consideration.

Sec. 19. Technical and clerical amendments.

SEC. 2. CARE FOR NEWBORN CHILDREN OF WOMEN VETERANS RECEIVING MATERNITY CARE.

(a) IN GENERAL.—Subchapter VIII of chapter 17 is amended by adding at the end the following:

“§ 1786. Care for newborn children of women veterans receiving maternity care

“The Secretary may furnish care to a newborn child of a woman veteran, who is receiving maternity care furnished by the Department, for not more than 14 days after the birth of the child if the veteran delivered the child in a Department facility or in another facility pursuant to a Department contract for the delivery services.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1785 the following:

“§ 1786. Care for newborn children of women veterans receiving maternity care.”.

SEC. 3. ENHANCEMENT OF PAYER PROVISIONS FOR HEALTH CARE FURNISHED TO CERTAIN CHILDREN OF VIETNAM VETERANS.

(a) HEALTH CARE FOR SPINA BIFIDA AND ASSOCIATED DISABILITIES.—Section 1803 is amended—

(1) by redesigning subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c)(1) If a payment made by the Secretary for health care under this section is less than
the amount billed for such health care, the health care provider or agent of the health care provider may, in accordance with paragraphs (2) through (4), seek payment for the difference between the amount paid by the Secretary from a responsible third party to the extent that the provider or agent would be eligible to receive payment for such health care from such third party.

“(2) The health care provider or agent may not impose any additional charge on the beneficiary who received health care, or the family of such beneficiary, for any service or item for which the Secretary has made payment under this section.

“(3) The total amount of payment a health care provider or agent may receive for health care furnished under this section may not exceed the amount billed to the Secretary.

“(4) The Secretary, upon request, shall disclose to such third party information received for the purposes of carrying out this section.

S 4. IMPROVEMENTS TO HOMELESS VETERANS SERVICE PROVIDERS PROGRAMS

(a) PERMANENT AUTHORITY.—Section 2011 is amended—

(1) in paragraph (1), by striking "(1)"; and

(2) by adding at the end the following:

"(2) by redesignating subsection (c) as subsection (d); and

(2) by inserting after paragraph (9) the following:

"(10) MARRIAGE AND FAMILY THERAPIST.—To be eligible to be appointed to a marriage and family therapist position, a person shall—

"(A) hold a master's degree in marriage and family therapy, or a comparable degree in social work in a case in which the Secretary may waive the requirement of licensure or certification for an individual marriage and family therapist for a reasonable period of time recommended by the Under Secretary for Health.

"(B) be licensed or certified to independently practice marriage and family therapy in a state or other appropriate jurisdiction and be qualified in a manner acceptable to the Secretary.

"(C) be a licensed marriage and family therapist position, a person shall—

"(A) hold a master's degree in mental health counseling, or a related field, from a college or university approved by the Secretary; and

"(B) be licensed or certified to independently practice mental health counseling, as defined in section (d); and

"(2) by inserting after paragraph (b) the following:

"(3) The total amount of payment a health care provider or agent may receive for health care furnished under this section may not exceed the amount billed to the Secretary.

"(4) The Secretary, upon request, shall disclose to such third party information received for the purposes of carrying out this section.

S 5. ADDITIONAL MENTAL HEALTH PROVIDERS

(a) QUALIFICATIONS.—Section 7402(b) is amended—

(1) by striking paragraph (10) as a paragraph (12); and

(2) by inserting after paragraph (9) the following:

"(10) MARRIAGE AND FAMILY THERAPIST.—To be eligible to be appointed to a marriage and family therapist position, a person shall—

"(A) hold a master's degree in marriage and family therapy, or a comparable degree in social work in a case in which the Secretary may waive the requirement of licensure or certification for an individual marriage and family therapist for a reasonable period of time recommended by the Under Secretary for Health.

"(B) be licensed or certified to independently practice marriage and family therapy in a state or other appropriate jurisdiction and be qualified in a manner acceptable to the Secretary.

SEC. 4. IMPROVEMENTS TO HOMELESS VETERANS SERVICE PROVIDERS PROGRAMS.

(a) PERMANENT AUTHORITY.—Section 2011 is amended—

(1) in paragraph (1), by striking "(1)"; and

(2) by striking paragraph (2).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) COMPREHENSIVE SERVICE PROGRAMS FOR HOMELESS VETERANS.—Section 2013 is amended—

(1) in subsection (d), by striking "sub-

chapter III and in" and inserting "subsection (e), subchapter III, and"; and

(2) by adding at the end the following:

"(e) The position of Chief Nursing Officer, Office of Nursing Services, shall be exempt from the provisions of section 7451 of this title and shall be paid at a rate not to exceed the maximum rate established for the Senior Executive Service under section 5922 of title 5 United States Code, as determined by the Secretary.

SEC. 5. COST COMPARISON STUDIES.

(a) STUDIES AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Veterans Affairs may conduct studies to compare the amount that would be expended if private contractors provided the service with the amount that would be expended if the Department of Veterans Affairs provided the service.

(2) LIMITATION.—In the course of conducting the private-public cost comparison studies under paragraph (1), a private contractor may not receive an advantage for a particular purpose that would reduce costs for the Department of Veterans Affairs by—

(A) not making an employer-sponsored health insurance plan available to the work force; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employee to contribute less towards the premium or subscription share than the amount that is paid by the Department of Veterans Affairs for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated $15,000,000 to carry out paragraph (1), of which—

(1) not more than $7,500,000 shall be available to evaluate activities that have been performed by employees of the Federal Government, and

(2) not more than $7,500,000 shall be available to evaluate activities that have been performed by private contractors.

(B) SUNSET DATE.—This paragraph is repealed on September 30, 2011.

SEC. 6. PAY COMPARABILITY FOR CHIEF NURSING OFFICER, OFFICE OF NURSING SERVICES.

Section 7404 is amended—

(1) in subsection (d), by striking "sub-

chapter III and in" and inserting "subsection (e), subchapter III, and"; and

(2) by adding at the end the following:

"(e) The position of Chief Nursing Officer, Office of Nursing Services, shall be exempt from the provisions of section 7451 of this title and shall be paid at a rate not to exceed the maximum rate established for the Senior Executive Service under section 5922 of title 5 United States Code, as determined by the Secretary.

SEC. 7. COST COMPARISON STUDIES.

(a) STUDIES AUTHORIZED.—

(1) In general.—The Secretary of Veterans Affairs may conduct studies to compare the amount that would be expended if private contractors provided the service with the amount that would be expended if the Department of Veterans Affairs provided the service.

(2) In 2001, the minority staff of the Committee on Veterans’ Affairs, the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report that—

(A) identifies the services performed by the Department of Veterans Affairs during fiscal year 2006 to conduct cost comparison studies, including—

(A) studies conducted in accordance with Office of Management and Budget Circular A-76; and

(B) studies to identify the most efficient internal processes for the Department of Veterans Affairs;

(B) LIMITATION.—In the course of conducting the private-public cost comparison studies under paragraph (1), a private contractor may not receive an advantage for a particular purpose that would reduce costs for the Department of Veterans Affairs by—

(A) not making an employer-sponsored health insurance plan available to the work force; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employee to contribute less towards the premium or subscription share than the amount that is paid by the Department of Veterans Affairs for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated $15,000,000 to carry out paragraph (1), of which—

(1) not more than $7,500,000 shall be available to evaluate activities that have been performed by employees of the Federal Government, and

(2) not more than $7,500,000 shall be available to evaluate activities that have been performed by private contractors.

(B) SUNSET DATE.—This paragraph is repealed on September 30, 2011.

SEC. 8. IMPROVEMENTS AND EXPANSION OF MENTAL HEALTH SERVICES.

(a) FINDINGS.—Congress makes the following findings:

(1) Mental health treatment capacity at community-based outpatient clinics remains inadequate and inconsistent, despite the requirement under section 1706(c) of title 38, United States Code, that every primary care health care facility of the Department of Veterans Affairs develop and carry out a plan to meet the mental health care needs of veterans who require such services.

(2) In 2001, the minority staff of the Committee on Veterans’ Affairs of the Senate conducted a survey of community-based outpatient clinics and found that there was no established system wide baseline of acceptable mental health service levels at such clinics.

(3) In February 2001, the Government Accountability Office reported that the Department of Veterans Affairs had not fully met
any of the 24 clinical care and education recommendations made in 2004 by the Special Committee on Post-Traumatic Stress Disorder of the Under Secretary for Health, Veterans Health Administration.

(b) CLINICAL SERVICES AND EDUCATION.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall—

(A) expand the number of clinical treatment teams principally dedicated to the treatment of post-traumatic stress disorder in medical facilities of the Department of Veterans Affairs;

(B) expand and improve the services available to diagnose and treat substance abuse;

(C) expand and improve tele-health initiatives to provide better access to mental health services in areas of the country in which the Secretary determines that a need for such services exist due to the distance of such locations from an appropriate facility of the Department of Veterans Affairs;

(D) improve education programs available to primary care delivery professionals and dedicate such programs to recognize, treat, and clinically manage veterans with mental health care needs;

(E) expand the delivery of mental health services in community-based outpatient clinics of the Department of Veterans Affairs in which such services are not available as of the date of enactment of this Act; and

(F) expand and improve the Mental Health Intensive Case Management Teams for the treatment of mental health disorders from active duty to veteran status (in consultation with the Seamanship and the Secretary of Defense and the Secretary of Veterans Affairs shall establish a joint workgroup on mental health, which shall be comprised of not less than 7 leaders in the field of mental health appointed from their respective departments.

(2) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated $95,000,000 in each of fiscal years 2006 and 2007 to improve and expand the treatment services and options available to veterans in need of mental health treatment from the Department of Veterans Affairs, of which—

(A) $5,000,000 shall be allocated to carry out paragraph (1)(A);

(B) $50,000,000 shall be allocated to carry out paragraph (1)(B);

(C) $10,000,000 shall be allocated to carry out paragraph (1)(C);

(D) $1,000,000 shall be allocated to carry out paragraph (1)(D);

(E) $20,000,000 shall be allocated to carry out paragraph (1)(E); and

(F) $5,000,000 shall be allocated to carry out paragraph (1)(F).

(c) REQUIRED CAPACITY FOR COMMUNITY-BASED OUTPATIENT SERVICES.—

(1) ACCOUNTABILITY FOR THE PROVISION OF MENTAL HEALTH SERVICES.—The Under Secretary shall take appropriate steps and provide necessary incentives (including appropriate performance incentives) to ensure that each Regional Director of the Veterans Health Administration is encouraged to—

(A) in the provision of mental health services to veterans in need of such services;

(B) foster collaborative working environments of all clinicians for the provision of mental health services; and

(C) conduct mental health consultations during primary care appointments.

(2) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(A) IN GENERAL.—The Secretary shall ensure that each community-based outpatient clinic of the Department has the capacity to provide, or monitor the provision of, mental health services to enrolled veterans in need of such services.

(B) CLINICAL TRAINING.—In carrying out subparagraph (A), the Secretary shall ensure that mental health services are provided through—

(i) a community-based outpatient clinic of the Department by an employee of the Department;

(ii) referral to another facility of the Department;

(iii) contract with an appropriate mental health professional in the local community; or

(iv) tele-mental health service.

(3) REPORTING REQUIREMENT.—Not later than January 31, 2008, the Secretary of Veterans Affairs shall submit a report to Congress that—

(A) describes the status and availability of mental health services at community-based outpatient clinics; and

(B) describes the substance of services available at such clinics; and

(C) includes the ratios between mental health staff and patients at such clinics.

(4) COOPERATION ON MENTAL HEALTH AWARENESS AND PREVENTION.—

(1) AGREEMENT.—The Secretary of Defense and the Secretary of Veterans Affairs shall enter into a Memorandum of Understanding—

(A) to ensure that separating service members receive standardized individual mental health and sexual trauma assessments as part of separation exams; and

(B) that includes the development of shared guidelines on how to conduct the assessments.

(2) ESTABLISHMENT OF JOINT VETERANS AFFAIRS–DEPARTMENT OF DEFENSE WORKGROUP ON MENTAL HEALTH.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall establish a joint workgroup on mental health, which shall be comprised of not less than 7 leaders in the field of mental health appointed from their respective departments.

(B) STUDY.—Not later than 1 year after the establishment of the workgroup under subparagraph (A), the workgroup shall analyze the feasibility, content, and scope of initiatives related to—

(i) ways in which the Department of Veterans Affairs can make their expertise in treating mental health disorders more readily available to veterans in need of mental health care providers; and

(ii) family and spousal education to assist family members of veterans and service members to recognize and deal with signs of potential readjustment issues or other mental health disorders; and

(iv) the seamless transition of service members who have been diagnosed with mental health disorders from active duty to veteran status (in consultation with the Seamless Transition Task Force and other entities assisting veterans) or is deceased; and

(C) An individual described in this subparagraph—

(i) is substantially similar in function, professionalism, and reliability to an organization "the Department of Health and Human Services—"(i) a dependent of a member or former member of the Armed Forces; or

(ii) a dependent of a member or former member of the Armed Forces.

(2) In this subsection, the term ‘organization’ has the meaning given the term ‘qualified organization’ in section 570(k) of the Public Health Service Act (42 U.S.C. 273(b)).

(b) DISCLOSURES FROM CERTAIN MEDICAL RECORDS.—Section 7332(b)(2) is amended by adding at the end the following:

"(B) An entity described in this subparagraph is—

(i) an organ procurement organization; or

(ii) an entity that has determined—

"(I) is substantially similar in function, professionalism, and reliability to an organization that includes the Department of Veterans Affairs as part of the Readjustment Counseling Service's Global War on Terrorism Outreach Program (referred to in this section as the "Program".

(b) COORDINATION.—In carrying out subsection (a), the Secretary shall coordinate
participation in the Program by appropriate employees of the Veterans Benefits Administration and the Veterans Health Administration.

(c) INFORMATION AND ASSESSMENTS.—The Secretary shall ensure that—

(1) all appropriate health, education, and benefits information is available to returning national Guard and reserve members;

(2) professional assessments of the needs in each of these areas is made by the Department of Veterans Affairs.

(c) CONCLUSION.—The Secretary of Veterans Affairs shall collaborate with appropriate State National Guard officials and provide such officials with any assets or services under the management of Veterans Affairs that the Secretary determines to be necessary to carry out the Global War on Terrorism Outreach Program.

SEC. 11. EXPANSION OF TELE-HEALTH SERVICES.

(a) IN GENERAL.—The Secretary shall increase the number of Veterans Readjustment Counseling Service facilities capable of providing health services and counseling through tele-health linkages with facilities of the Veterans Health Administration.

(b) PLAN.—The Secretary shall submit to the Senate and the Committee on Veterans' Affairs of the House of Representatives a plan to implement the requirement under subsection (a) that there be facilities that will have such capabilities at the end of each of fiscal years 2005, 2006, and 2007.

SEC. 12. MENTAL HEALTH DATA SOURCES REPORT.

(a) IN GENERAL.—Not less than 180 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall submit a report to the Senate and the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives describing the mental health data maintained by the Department of Veterans Affairs.

(b) CONTENTS.—The report submitted under subsection (a) shall include—

(1) a comprehensive list of the sources of all such data, including the geographic locations of facilities of the Department of Veterans Affairs maintaining such data;

(2) an assessment of the limitations or advantages to maintaining the current data configuration and locations; and

(3) any recommendations, if any, for improving the collection, use, and location of mental health data maintained by the Department of Veterans Affairs.

SEC. 13. STRATEGIC PLAN FOR LONG-TERM CARE.

(a) PUBLICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall publish a strategic plan for long-term care.

(b) CONTENTS.—The plan published under subsection (a) shall—

(1) contain policies and strategies for—

(A) care in domiciliary facilities, residential treatment facilities, and nursing homes, and for seriously mentally ill veterans;

(B) maximizing the use of State veterans homes;

(C) locating domiciliary units as close to patient populations as feasible; and

(D) identifying freestanding nursing homes as an acceptable care model;

(2) include data on—

(A) the care of catastrophically disabled veterans; and

(B) the geographic distribution of catastrophically disabled veterans;

(3) address the spectrum of noninstitutional long-term care options, including—

(A) respite care;

(B) home-based primary care;

(C) geriatric evaluation;

(D) adult day health care;

(E) skilled home health care; and

(F) community residential care; and

(4) provide for—

(A) cost and quality comparison analyses of all the different levels of care;

(B) detailed information about geographic distribution controlled for race; and

(C) specific plans for working with Medicare, Medicaid, and private insurance companies to expand care.

SEC. 14. BLIND REHABILITATION OUTPATIENT SPECIALISTS.

(a) FINDINGS.—Congress makes the following findings:

(1) There are approximately 135,000 blind veterans throughout the United States, including approximately 35,000 who are enrolled with the Department of Veterans Affairs.

(2) Since 1996, when the Department of Veterans Affairs hired its first 14 blind rehabilitation outpatient specialists (referred to in this section as ‘‘Specialists’’), Specialists have been a critical part of the continuum of care for blind and visually impaired veterans.

(3) The Department of Veterans Affairs operates 33 blind rehabilitation centers that are considered among the best in the world. These centers have had long waiting lists, with as many as 1,500 blind veterans waiting for openings in 2004.

(4) Specialists provide—

(A) critically needed services to veterans who are unable to attend residential centers or are waiting for such program;

(B) a range of services, including training with living skills, mobility, and adaptation of manual skills; and

(C) pre-screening and follow-up care for blind rehabilitation centers.

(5) There are not enough Specialist positions to meet the increased numbers and needs of blind veterans.

(b) ESTABLISHMENT OF SPECIALIST POSITIONS.—Not later than 30 months after the date of enactment of this Act, the Secretary of Veterans Affairs shall establish an additional Specialist position at not fewer than 35 additional facilities of the Department of Veterans Affairs.

(c) SELECTION OF FACILITIES.—In identifying the most appropriate facilities to receive a Specialist position under this section, the Secretary shall—

(1) give priority to facilities with large numbers of enrolled legally blind veterans;

(2) ensure that each facility does not have such a position; and

(3) ensure that each facility is in need of the services of such Specialists.

(d) COORDINATION.—The Secretary shall coordinate the provision of blind rehabilitation services for veterans who are unable to attend residential facilities for care of the visually impaired offered by State and local agencies, especially if such care is not available or is lacking, and the similar services to veterans in settings located closer to the residences of such veterans.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $3,500,000 for each of the fiscal years 2006 through 2011.

SEC. 15. COMPLIANCE REPORT.

Section 1706(b)(5)(A) is amended by striking—

‘‘(5)’’ and inserting—‘‘(5)’’.

SEC. 16. HEALTH CARE AND SERVICES FOR VETERANS AFFECTED BY HURRICANE KATRINA.

(a) REQUIREMENT FOR HOSPITAL CARE AND MEDICAL SERVICES FOR PRIORITY 8 VETERANS AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—Notwithstanding any other provision of law and any notwithstanding any previous decisions made by the Secretary of Veterans Affairs pursuant to the provisions of sections 1705 and 1706 of title 38, United States Code, the Secretary shall provide necessary medical and health care services to any veteran affected by Hurricane Katrina as if such veteran were entitled to health care services under section 1705 of title 38, United States Code.

(2) STATUS OF VETERANS.—For purposes of managing the health care system, as required under section 1705 of title 38, United States Code, a veteran who seeks care under paragraph (1) shall not be considered to be an enrollee of the health care system under section 1705 unless the Secretary subsequently designates such a veteran as such an enrollee.

(b) PROHIBITION ON COLLECTION OF COPAYMENTS FOR VETERANS AFFECTED BY HURRICANE KATRINA.—In furnishing hospital care and medical services to any veteran affected by Hurricane Katrina, the Secretary shall not collect from, or with respect to, such veteran any payment for such care and services otherwise required under any provision of law, including any copayment for medical services otherwise required under section 1722A of title 38, United States Code.

(c) DEFINITION.—In this section, the term ‘‘veteran affected by Hurricane Katrina’’ means a veteran who—

(1) resided in the catchment region of the Department of Veterans Affairs medical center in—

(A) New Orleans, Louisiana;

(B) Biloxi, Mississippi; or

(C) Gulfport, Mississippi.

(2) IN general.—The authority under this section shall expire on January 31, 2006.

SEC. 17. REIMBURSEMENT FOR CERTAIN VETERANS’ OUTSTANDING EMERGENCY TREATMENT EXPENSES.

(a) IN GENERAL.—Subchapter III of chapter 17 of title 38, United States Code, is amended by adding after section 1725 the following:

‘‘§ 1725A. Reimbursement for emergency treatment expenses for which certain veterans remain personally liable

‘‘(a)(1) Subject to subsection (c), the Secretary may reimburse a veteran described in subsection (a)(2) for emergency treatment furnished to the veteran in a non-Department facility for which the veteran remains personally liable.

(2) In any case in which reimbursement is authorized under subsection (a)(1), the Secretary, in the Secretary’s discretion, may, in lieu of reimbursing the veteran, make payment—

(A) to a hospital or other health care provider that furnished the treatment; or

(B) to the person or organization that paid for such treatment on behalf of the veteran.

(3) A veteran referred to in subsection (a) is an individual who—

(A) is enrolled in the health care system established under section 1705(a) of this title;

(B) received care under this chapter during the 24-month period preceding the furnishing of such emergency treatment;

(C) is entitled to care or services under a health-care contract that partially reimburses the cost of the veteran’s emergency treatment;

(D) is financially liable to the provider of emergency care treatment for costs not covered by the veteran’s health-care contract, including copayments and deductibles; and

(E) is not eligible for reimbursement for medical care or services under section 1725 or 1725b of this title.

(2)(A) Any amount paid by the Secretary under subsection (a) shall exclude the reimbursement for medical care or services for which the veteran is entitled to reimbursement under—

(A) a health insurance policy; or

(B) any other provision of law.
amount of any payment the veteran would have been required to make to the United States under this chapter if the veteran had received the emergency treatment from the Department.

"(2) The Secretary may not provide reimbursement under this section with respect to any item or service—

(A) if the payment for which payment has been made, or can reasonably be expected to be made, under the veteran’s health-plan contract;

(B) for which payment has been made or can reasonably be expected to be made by a third party.

"(3) Payment by the Secretary under this section on behalf of a veteran to a provider of emergency treatment shall, unless rejected and refunded by the provider within 30 days after receipt, extinguish any liability on the part of the veteran for that treatment.

"(B) The absence of a contract or agreement between the Secretary and the provider, any provision of a contract or agreement, or an assignment to the contrary shall not operate to modify, limit, or negate the requirement under subparagraph (A).

"(4) With stipulations prescribed by the Secretary, the Secretary shall—

(A) establish criteria for determining the amount (which may include a maximum amount) payable under this section; and

(B) delineate the circumstances under which any payment may be made, including requirements for requesting reimbursement.

(1)(1) In accordance with regulations prescribed by the Secretary, the United States shall have the independent right to recover any amount paid under this section if, and to the extent that, a third party subsequently makes a payment for the same emergency treatment.

(2) Any amount paid by the United States to the veteran, the veteran’s personal representative, successor, dependents, or survivors, or to any other person or organization paying for such treatment shall constitute a lien in favor of the United States against any recovery the payee subsequently receives from a third party for the same treatment.

(3) Any amount paid by the United States to a provider that furnished the veteran’s emergency treatment shall constitute a lien against any subsequent amount the provider receives from a third party for the same emergency treatment for which the United States made payment.

(4) The veteran or the veteran’s personal representative, successor, dependents, or survivors shall—

(A) ensure that the Secretary is promptly notified of any payment received from any third party for emergency treatment furnished to the veteran;

(B) immediately forward all documents relating to a payment described in subparagraph (A); and

(C) cooperate with the Secretary in an investigation of a payment described in subparagraph (A);

(5) The Secretary may waive recovery of a payment made to a veteran under this section that is otherwise required under subsection (d)(1) if the Secretary determines that such waiver would be in the best interest of the veteran.

(6) The Secretary may, when it is practicable, establish regulations for the purpose of extinguishing any liability on the part of the veteran as a result of an agreement with a person making payment to the veteran.

SEC. 18. CONVERSION OF FEDERAL LAND IN EXCHANGE FOR FAIR MARKET VALUE CONSIDERATION.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term ‘‘City’’ means the city of Fort Thomas, Kentucky.

(2) FAIR MARKET VALUE CONSIDERATION.—The term ‘‘fair market value consideration’’ means the monetary value of the Federal land as of the date of conveyance under section 2, as determined by the Secretary.

(3) FEDERAL LAND.—The term ‘‘Federal land’’ means an approximately 117.5 acre parcel of federally-owned property, including the 15 structures located on such property, which is managed by the Department of Veterans Affairs and located in the northeastern portion of Tower Park in the City.

(4) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Veterans Affairs.

(b) IN GENERAL.—Subject to valid existing rights, easements, and rights-of-way, the Secretary may convey all right, title, and interest of the United States in and to the Federal land to the City in exchange for fair market value consideration.

(c) RELEASE OF LIABILITY.—Effective on the date of conveyance to the City of the parcel of Federal land under subsection (b), the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the Federal land and facilities conveyed, but shall continue to be liable for damages caused by acts of negligence committed by the United States or by any employee or agent of the United States before the date of conveyance, consistent with chapter 171 of title 28, United States Code.

(d) ADMINISTRATIVE COSTS.—All administrative costs relating to the conveyance of the Federal land under subsection (b) shall be paid by the City to the United States.

SEC. 19. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended as follows:

(1) TYPOGRAPHICAL ERROR.—Section 1117(b)(1) is amended by striking ‘‘notwithstanding’’ and inserting ‘‘notwithstanding’’.

(2) INSERTION OF MISSING WORD.—Section 1513(a) is amended by inserting ‘‘section’’ after ‘‘prescribed’’ by.

3) CITATION CORRECTION.—Section 1718(c)(2) is amended by inserting ‘‘of 1938’’ after ‘‘Act’’.}

4) CITATION CORRECTION.—Section 1721(d)(1) is amended by striking ‘‘Robert B.’’ and inserting ‘‘Robert T.’’.

5) PUNCTUATION CORRECTION.—Section 3021(a)(1) is amended by inserting a closing parenthesis before the period at the end.

6) PUNCTUATION CORRECTION.—Section 3021(a)(1)(C) is amended by inserting a period at the end.

7) CROSS REFERENCE CORRECTION.—Section 2134(a)(3)(A) is amended by striking ‘‘under this chapter’’ and inserting ‘‘established under section 702 of title 22’’.

8) DELETION OF EXTRA WORDS.—Section 3012(a)(1)(C)(ii) is amended by striking ‘‘on or’’.

9) CROSS REFERENCE CORRECTION.—Section 3017(b)(1)(D) is amended by striking ‘‘3011(c)’’ and inserting ‘‘3011(e)’’.

10) STYLISTIC AMENDMENTS.—Section 3018A is amended—

(A) in subsections (b) and (c), by striking ‘‘of this section’’ each place it appears;

(B) in subsections (a)(4), (a)(5), (d)(1), and (d)(2) by striking ‘‘of this subsection’’ each place it appears; and

(C) in subsection (d)(3), by striking ‘‘of this chapter’’ and inserting ‘‘of this title’’.

11) INSERTION OF MISSING WORD.—Section 3021(b)(1) is amended by inserting ‘‘section 8’’ and inserting ‘‘section 8(b)(1)’’; and

(B) by striking ‘‘633(b)’’ and inserting ‘‘633(b)(1)’’.

12) INSERTION OF MISSING WORD.—Section 3021(a)(1) is amended by inserting ‘‘sections’’ after ‘‘under both’’.

13) SUBSECTION HEADINGS.—

(A) Sections 3461, 3462, 3463, 3565, 3680, and 3683 are each amended by revising each subsection heading for a subsection therein (appearing as a centered heading immediately before the text of the subsection) so that such heading appears immediately after the subsection designation and is set forth in capitals-and-small-caps typeface, followed by a period and a one-em dash.

(B) Section 3461(a) is amended by inserting after the subsection designation the following: ‘‘DURATION OF ENTITLEMENT’’.

(C) Section 3462 is amended—

(1) by inserting ‘‘by’’ after the subsection designation the following: ‘‘Prisoners of War’’; and

(2) by striking the section heading of subsection (e), by inserting after the subsection designation the following: ‘‘Termination of Assistance’’.

(D) Cross reference correction.—Section 3722(c)(10)(D) is amended by striking ‘‘clause (B) of paragraphs (5), (6), (7), and (8) of this section’’ and inserting ‘‘paragraphs (5)(B), (6), (7)(B), and (8)(B)’’.

(E) Date of enactment reference.—Section 3733(a)(7) is amended by striking ‘‘the date of the enactment of the Veterans’ Benefits Act of 2003’’ and inserting ‘‘December 16, 2004’’.

(F) Repeal of obsolete provisions.—Section 4102a(c)(7) is amended—

(A) by striking ‘‘With respect to program years beginning during or after fiscal year 2001, one percent of’’ and inserting ‘‘Of’’; and

(B) by striking ‘‘for the program year’’ and inserting ‘‘for any program year, one percent’’.

(G) Repeal of obsolete provisions.—Section 4106(b) is amended—

(A) by striking ‘‘shall provide’’; and all that follows through ‘‘and inserting ‘‘shall’’, on the 15th day of each month, provide the Secretary and the Secretary of Veterans Affairs with updated information regarding’’; and

(B) by striking ‘‘and shall’’ and all that follows through ‘‘the list’’.
(18) CIVILIAN CORRECTION.—Section 410B is amended—

(A) by striking “this Act” and inserting “the Workforce Investment Act of 1998” and “the Workforce Investment Act of 1998” and inserting “that Act (29 U.S.C. 2822(b))”;

(19) CROSS-REFERENCE CORRECTION.—Section 2235 is amended by striking “section 2303(a)(2)(C)(ii)” and inserting “section 2303(a)(2)(C)(ii)”;

(20) CAPITALIZATION CORRECTION.—Section 7223(d) is amended by striking “court” and inserting “Court”.

(21) CITATION CORRECTION.—Section 811(b)(1) is amended by striking “the strategic” and all that follows through “and Results Act” and inserting “into the strategic plan of each Department under section 306 of title 5 and the performance plan of each Department under section 1115 of title 31”.

(22) REPEAL OF OBSOLETE PROVISIONS.—Section 811 is amended further—

(A) in subsection (d)—

(i) in paragraph (2), by striking “effective October 1, 2003,”; and

(ii) in paragraph (3), by striking the last sentence; and

(B) in subsection (e)(2)—

(i) in the second sentence, by striking “shall be implemented no later than October 1, 2003,”; and

(ii) in the third sentence, by striking “, following implementation of the schedule,”;

(22) CROSS-REFERENCE CORRECTION.—Section 811A(a)(2)(B)(i) is amended by striking “Robert B.” and inserting “Robert T.”;

(B) in subsection (e)(2)—

(A) by striking “subsection (a) does not apply to the illumination of aircraft by laser or other devices by—”;

(23) CIVILIAN CORRECTION.—Section 4508 of title 31, United States Code, is amended by adding at the end the following:

"§ 4508. Interference with flight crew vision

"(3) by an individual using a laser emergency signaling device to send an emergency distress signal.

Cy: CONFORMING AMENDMENT.—The chapter analysis for chapter 49 of title 31, United States Code, is amended by adding at the end the following:

"§ 46508. Interference with flight crew vision.

SENATE ACCOMPLISHMENTS IN 2005

Mr. Frist. Mr. President, I have a lot to do in wrapup tonight. As we get those papers ready and bring the year to a close, we have a number of accomplishments over what we have been able to accomplish and then look ahead at what we can expect.

In a letter to John Adams in September 1717, Thomas Jefferson, our third President, wrote:

"A morsel of genuine history is a thing so rare as to be always valuable."

This past year has presented far more than a morsel. We have been witness to an abundance of extraordinary historic milestones, from the Iraqi elections and Saddam’s cedars to the selection of a new Pope in Rome, and a new Chief Justice to lead the Supreme Court to the outpouring of generosity for the American people, first for the tsunami survivors, and then to their fellow citizens on the gulf coast.

Mr. President, 2005 has been a year of outsize events.

I commend to my colleagues an article that appeared in Sunday’s Washington Post. It was on the continuing success of the Army in reenlisting our GIs. It appeared on A–27 entitled “GIs in Iraq Choosing to Re-up.”

Across Iraq, U.S. soldiers on the front lines are reenlisting by the thousands. Since 2001, the Army has surpassed its retention targets by wider and wider margins each year, conjuring up vivid scenes of daring and service, the Post reports that:

On palace rooftops and pockmarked streets, GIs are reenlisting in rituals that range from dramatic to harrowing. Soldiers have taken to the former residences of Saddam Hussein and in the spider hole near Tikrit where the gray-bearded fugitive was captured in December of 2003. . . . Despite the risks and long months away from home, many soldiers . . . say serving in Iraq gives them a powerful sense of purpose.

So during this holiday season, I ask every American to offer their prayers, to offer their thanks to these brave young men and women who are risking their lives in far away lands to protect us and to provide us security.

I am gratified by the passage of the Defense appropriations bill tonight. This important legislation helps ensure that our armed services will receive the resources and authorities they need to protect America. From delivering advanced technologies to improving personnel protection, this bill delivers crucial support for our courageous men and women in uniform.

While our troops are protecting us at home, the PATRIOT Act is protecting us here at home. Tonight we passed a 6-month extension to this critical legislation. By unanimously and in a bipartisan way agreeing to a 6-month extension, the Senate reaffirmed that the PATRIOT Act is one of our most important tools in the war on terror both here and into the future.

Yes, we need to improve that act and, yes, no longer can we tolerate obstruction to that improvement of the act, but in a bipartisan way we came together tonight to say that despite a lot of passions and statements that we would rise above it, put forth a 6-month extension, and then hopefully be able to address and improve the PATRIOT Act.

It has been an intense and productive year for the Senate. We were able to meet many of our goals to deliver meaningful solutions to the needs, wants, and desires of the American people. Strength and security throughout were our guiding principles. We rolled up our shirt sleeves and tackled a number of fundamental structural issues that were driving up gas prices, that were inhibiting and constraining innovation, and that were threatening America’s security.

To strengthen America’s economic security, we passed a sweeping deficit reduction bill today that for the first time in 8 years cuts the growth of mandatory spending. This was a huge victory for the American people. It was a huge victory for fiscal responsibility. It was a victory for American taxpayers. It shows that we are serious as a body about fiscal restraint, about cutting out wasteful Washington spending. Because of these critical reforms, America will be in a stronger position to meet our obligations, especially to the baby boomers who, as we all know, are just beginning to retire, especially to that doubling of the seniors in our population today, especially to the workforce who will be supporting those seniors in the years to come.

This year, we also passed a tax cut extension. We also passed an energy bill, a major highway bill. We addressed free trade through the Central American Free Trade Act. We addressed pensions. Just today, we passed SMART grants, which actually give up to $8,000 over 2 years to disadvantaged or low-income students, to Pell-income students, to encourage them to major in math, science, and engineering, the fields which we know are important to job creation in the future.

By facing these issues head on, by responding to them, by legislating, we are making America less dependent on foreign oil, more prepared to compete with India and China in that global marketplace. We helped rebuild that infrastructure to support and promote our economic growth.

We also addressed a problem that has been hanging over the American business community and the courts for years—the litigation lottery lawsuit abuse. We all know that frivolous litigation has been driving up health care costs. It