

VIRGINIA GRAEME BAKER POOL AND SPA SAFETY
REAUTHORIZATION ACT

APRIL 5, 2024.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and
Commerce, submitted the following

R E P O R T

[To accompany H.R. 5202]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred
the bill (H.R. 5202) to reauthorize the Virginia Graeme Baker Pool
and Spa Safety Act, and for other purposes, having considered the
same, reports favorably thereon with an amendment and rec-
ommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Virginia Graeme Baker Pool and Spa Safety Reauthorization Act”.

SEC. 2. COVERED ENTITY DEFINED.

Section 1403 of the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. 8002) is amended—

(1) by amending paragraph (4) to read as follows:

“(4) COVERED ENTITY.—The term ‘covered entity’ means—

- “(A) a State;
- “(B) an Indian Tribe; or
- “(C) a nonprofit organization.”;

(2) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively; and

(3) by inserting after paragraph (6) the following:

“(7) NONPROFIT ORGANIZATION.—The term ‘nonprofit organization’ means an organization that—

- “(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code; and
- “(B) has proven experience (as determined by the Commission) addressing swimming pool or spa safety and drowning prevention.”.

SEC. 3. SWIMMING POOL SAFETY GRANT PROGRAM.

Section 1405 of the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. 8004) is amended to read as follows:

“SEC. 1405. SWIMMING POOL SAFETY GRANT PROGRAM.

“(a) IN GENERAL.—Subject to the availability of appropriations authorized by subsection (i), the Commission shall carry out a grant program to provide assistance to eligible covered entities.

“(b) ELIGIBILITY.—To be eligible for a grant under the program, a covered entity shall—

“(1) demonstrate to the satisfaction of the Commission that, as of the date on which the covered entity submits an application to the Commission for a grant under this section, the covered entity (if the covered entity is a State or an Indian Tribe), or the State in which or the Indian Tribe in the jurisdiction of which the covered entity is proposing to carry out activities using grant funds (if the covered entity is a nonprofit organization), has enacted and provides for the enforcement of a statute that—

- “(A) except as provided in section 1406(a)(1)(A)(i), applies to all swimming pools constructed in the State or in the jurisdiction of the Indian Tribe (as the case may be) on or after such date; and
- “(B) meets the minimum State law requirements of section 1406; and

“(2) submit an application to the Commission at such time, in such form, and containing such additional information as the Commission may require.

“(c) SELECTION OF GRANT RECIPIENTS.—

“(1) PRIORITY.—In selecting covered entities to receive grants under the program, the Commission shall give priority (in such order as the Commission considers appropriate) based on the following factors:

- “(A) A covered entity not having previously been awarded a grant under the program.
- “(B) A covered entity proposing to use grant funds to expand educational activities described in paragraph (1)(B)(i) or (2)(A) of subsection (e) that the covered entity is carrying out at the time when the covered entity submits the application for the grant.
- “(C) A covered entity proposing to use grant funds to build on prior expertise and activities aimed at preventing drownings.
- “(D) A covered entity proposing to use grant funds to carry out activities in a geographic area that has a greater number per capita of drowning or entrapment incidents.
- “(E) A covered entity proposing to use grant funds in underserved, minority, or rural communities to provide services that address and target racial, ethnic, or rural drowning disparities.
- “(F) Such other factors as the Commission considers appropriate.

“(2) GEOGRAPHIC DIVERSITY.—

“(A) IN GENERAL.—In selecting covered entities to receive grants under the program, the Commission shall, to the maximum extent practicable, ensure geographic diversity in the areas where activities will be carried out using grant funds.

“(B) TECHNICAL ASSISTANCE.—If the Commission awards grants to two or more covered entities that will carry out activities using grant funds in the same geographic area, the Commission shall provide technical assistance to such entities regarding how such entities may collaborate in carrying out such activities.

“(d) AMOUNT OF GRANT.—The Commission shall determine the amount of a grant awarded under this section, and shall consider—

“(1) in the case of a covered entity that is a State or an Indian Tribe—

“(A) the population of such State or Indian Tribe;

“(B) the enforcement and implementation needs of such State or Indian Tribe; or

“(C) the education needs of such State or Indian Tribe proposing to use grant funds pursuant to subsection (e)(1)(B)(i);

“(2) in the case of a covered entity that is a nonprofit organization, the number of individuals to whom such nonprofit organization is proposing to provide education described in subsection (e)(2)(A) using grant funds, taking into consideration any increased costs of providing such education due to the rural or remote nature of the area where such nonprofit organization is proposing to provide such education; and

“(3) allocation of grant funds in a manner designed to provide the maximum benefit from the program in terms of protecting children from drowning or entrapment.

“(e) USE OF GRANT FUNDS.—

“(1) STATES AND INDIAN TRIBES.—A State or an Indian Tribe receiving a grant under this section shall use—

“(A) at least 25 percent of amounts made available—

“(i) to hire and train personnel for—

“(I) implementation and enforcement of standards under the swimming pool and spa safety law of the State or Indian Tribe; and

“(II) inspecting and repairing or replacing swimming pool and spa drain covers to ensure compliance with applicable Federal, State, and Tribal law; and

“(ii) to defray administrative costs associated with the hiring and training programs under clause (i); and

“(B) the remainder—

“(i) to educate pool owners, pool operators, and other members of the public about the standards under the swimming pool and spa safety law of the State or Indian Tribe and about the prevention of drowning or entrapment of children using swimming pools and spas; and

“(ii) to defray administrative costs associated with the education programs under clause (i).

“(2) NONPROFIT ORGANIZATIONS.—A nonprofit organization receiving a grant under this section shall use the amounts made available—

“(A) to educate pool owners, pool operators, and other members of the public about the prevention of drowning or entrapment of children using swimming pools and spas; and

“(B) to defray administrative costs associated with the education programs under subparagraph (A).

“(f) RECIPIENT REPORTING.—Not later than 90 days after the end of the pool and spa grant program project period covered by the grants awarded under this section, each covered entity that received such a grant shall submit to the Commission a report that includes the following:

“(1) The amount of grant funds received by the covered entity.

“(2) The purpose or purposes for which the covered entity proposed to use grant funds in the grant application of the covered entity.

“(3) The purpose or purposes for which the covered entity used grant funds.

“(4) Whether the purposes identified under paragraphs (2) and (3) were achieved.

“(5) Any barriers encountered in carrying out activities using grant funds.

“(6) Any best practices or recommendations for future recipients of grant funds.

“(7) Any other information requested by the Commission.

“(g) GRANT AWARENESS CAMPAIGN.—The Commission shall carry out a campaign to conduct outreach to covered entities to ensure covered entities are aware of the availability and importance of the grants under this section.

“(h) EMPLOYEES.—

“(1) DIRECTOR OF DROWNING PREVENTION.—The Commission shall have a Director of Drowning Prevention to coordinate the swimming pool and spa safety

and drowning prevention activities at the Commission, including carrying out duties under this title.

“(2) FULL-TIME EQUIVALENTS.—The Commission shall ensure that more than 1 full-time equivalent is dedicated to carrying out swimming pool and spa safety and drowning prevention activities at the Commission, including the grant program under this section.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission for each of the fiscal years 2024 through 2028 \$2,500,000 to carry out this section.”.

SEC. 4. REAUTHORIZATION OF CPSC EDUCATION AND AWARENESS PROGRAM.

Section 1407 of the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. 8006) is amended to read as follows:

“SEC. 1407. EDUCATION AND AWARENESS PROGRAM.

“(a) IN GENERAL.—The Commission shall establish and carry out an education and awareness program to inform the public of methods to prevent drowning and entrapment in swimming pools and spas. In carrying out the program, the Commission shall develop—

“(1) educational materials designed for swimming pool and spa manufacturers, service companies, and supply retail outlets, including guidance on barrier and drain cover inspection, maintenance, and replacement;

“(2) educational materials designed for swimming pool and spa owners and operators, consumers, States, Indian Tribes, and nonprofit organizations;

“(3) educational materials designed to reach historically disadvantaged communities that have higher rates of drowning than the nationwide average; and

“(4) a national media campaign to promote awareness of swimming pool and spa safety.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission for each of the fiscal years 2024 through 2028 \$2,500,000 to carry out the education and awareness program authorized by subsection (a).”.

SEC. 5. CPSC REPORT.

Section 1408 of the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. 8007) is amended to read as follows:

“SEC. 1408. CPSC REPORT.

“(a) IN GENERAL.—Not later than 1 year after the last day of each fiscal year for which grants are made under section 1405, the Commission shall submit to Congress a report evaluating the implementation of the grant program authorized by that section.

“(b) MATTERS TO BE INCLUDED.—Each report required by subsection (a) shall include, with respect to the fiscal year covered by the report, the following:

“(1) How many applicants applied for grants under the program.

“(2) For each such applicant—

“(A) name;

“(B) location;

“(C) prior experience in swimming pool or spa safety; and

“(D) such other details as the Commission considers appropriate.

“(3) How many applicants received grants under the program and the amount of the grant received by each such applicant.

“(4) How recipients of grants under the program were selected and the purposes for which each such recipient proposed to use grant funds in the grant application of the recipient.

“(5) Any purposes, other than making grants under section 1405, for which the Commission used amounts appropriated under subsection (i) of such section.

“(6) An evaluation of the effectiveness of the program, including any barriers or gaps, and recommendations for legislative changes, if required to increase the effectiveness of the program.”.

PURPOSE AND SUMMARY

H.R. 5202, the “Virginia Graeme Baker Pool and Spa Safety Reauthorization Act,” was introduced by Representative Wasserman Schultz on August 11, 2023. H.R. 5202 was referred to the Committee on Energy and Commerce. H.R. 5202 reauthorizes through fiscal year 2028 and expands swimming pool safety grants and educations and awareness programs.

BACKGROUND AND NEED FOR LEGISLATION

The risk of drowning presents a public safety crisis with nearly 4,000 fatal, unintentional drowning accidents occurring each year.¹ Drowning is especially dangerous for young children and is the leading cause of death for children ages 1 to 4, with most incidents occurring in swimming pools.² The Virginia Graeme Baker Pool and Spa Safety Act, signed into law in 2008, established the Pool Safety Grant Program, which has awarded over \$7.3 million from 2016 to 2023 to state and local jurisdictions to assist in their work to prevent drownings and drain entrapments.³ By reauthorizing this program and creating a national education campaign, this legislation seeks to address harms related to drowning incidents in public and private pools related to suction entrapment incidents, injuries, and deaths.

COMMITTEE ACTION

On September 27, 2023, the Subcommittee on Innovation, Data, and Commerce held a hearing on H.R. 5202. The title of the hearing is “Proposals to Enhance Product Safety and Transparency for Americans.” The Subcommittee received testimony from:

- Kathleen Callahan, Owner, Xpertech Auto Repair;
- Scott Benavidez, Chairman, Automotive Service Association;
- Steven Michael Gentine, Counsel, Arnold & Porter, LLP;
- John Breyault, Vice President of Public Policy, Telecommunications and Fraud, National Consumers League; and,
- David Touhey, Principal, Connett Consulting, appearing on behalf of International Association of Venue Managers.

On November 2, 2023, the Subcommittee on Innovation, Data, and Commerce met in open markup session and forwarded H.R. 5202, as amended, to the full Committee by a record vote of 20 yeas and 0 nays.

On December 5 and 6, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 5202, as amended, favorably reported to the House by a record vote of 40 yeas, 0 nays, and 1 abstention.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

¹Center for Disease Control and Prevention, *Drowning Facts* (Jan. 2, 2024) (<https://www.cdc.gov/drowning/facts/index.html>).

²*Id.*

³EISA Title 14, Pub. L. 110–140; Consumer Product Safety Commission, *Pool Safety Grants* (Sept. 14, 2023) (<https://www.poolsafely.gov/grant-program/>).

**COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 21**

BILL: H.R. 5202, Virginia Graeme Baker Pool and Spa Safety Reauthorization Act

AMENDMENT: A motion by Chair Rodgers to order H.R. 5202 favorably reported to the House, as amended (Final Passage).

DISPOSITION: AGREED TO, by a roll call vote of 40 yeas, 0 nays, and 1 abstention.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone	X		
Rep. Burgess	X			Rep. Eshoo	X		
Rep. Latta	X			Rep. DeGette			
Rep. Guthrie	X			Rep. Schakowsky	X		
Rep. Griffith		Abstain		Rep. Matsui			
Rep. Bilirakis	X			Rep. Castor	X		
Rep. Johnson	X			Rep. Sarbanes	X		
Rep. Bucshon	X			Rep. Tonko	X		
Rep. Hudson	X			Rep. Clarke	X		
Rep. Walberg	X			Rep. Cárdenas	X		
Rep. Carter	X			Rep. Ruiz	X		
Rep. Duncan	X			Rep. Peters	X		
Rep. Palmer	X			Rep. Dingell			
Rep. Dunn				Rep. Veasey	X		
Rep. Curtis				Rep. Kuster	X		
Rep. Lesko	X			Rep. Kelly	X		
Rep. Pence	X			Rep. Barragán	X		
Rep. Crenshaw				Rep. Blunt Rochester	X		
Rep. Joyce	X			Rep. Soto	X		
Rep. Armstrong	X			Rep. Craig			
Rep. Weber	X			Rep. Schrier	X		
Rep. Allen	X			Rep. Trahan	X		
Rep. Balderson	X			Rep. Fletcher			
Rep. Fulcher							
Rep. Pfluger							
Rep. Harshbarger	X						
Rep. Miller-Meeks	X						
Rep. Cammack	X						
Rep. Obernolte	X						

12/06/2023

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held a hearing and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 5202 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

At a Glance

Health Care Legislation

As ordered reported by the House Committee on Energy and Commerce on December 6, 2023

On December 6, 2023, the House Committee on Energy and Commerce ordered reported 41 bills related to health care and energy. This single, comprehensive document provides estimates for 21 bills related to health care and consumer protection.

Five bills would affect spending subject to appropriation. Ten would affect direct spending; thus, pay-as-you-go procedures apply. One bill would significantly increase net direct spending or on-budget deficits in at least one of the four consecutive 10-year periods beginning in 2035. Three bills would impose private-sector mandates. Details of the estimated costs of each bill are discussed in the text below.

Bill	Net Increase or Decrease (-) in the Deficit Over the 2024-2034 Period (Millions of Dollars)	Changes in Spending Subject to Appropriation Over the 2024- 2029 Period (Outlays, Millions of Dollars)	Mandate Effects?
H.R. 133	0	0	No
H.R. 1797	0	6	Yes
H.R. 2365	0	3	No
H.R. 2880	-226	0	No
H.R. 3842	*	0	No
H.R. 4310	0	2	Yes
H.R. 4881 ^a	754	0	No
H.R. 5202	0	22	No
H.R. 5371	0	0	No
H.R. 5372	-145	0	No
H.R. 5380	15	0	No
H.R. 5385	-381	0	No
H.R. 5386	*	0	No
H.R. 5388	0	0	No
H.R. 5389	0	0	No
H.R. 5393	6	0	No
H.R. 5396	0	0	No
H.R. 5397	-139	0	No
H.R. 5555	145	0	No
H.R. 6132	0	3	Yes
H.R. 6364	0	0	No

* = between -\$500,000 and \$500,000.

a. H.R. 4881 would increase on-budget deficits by more than \$5 billion in at least one of the four consecutive 10-year periods beginning in 2035.

Summary: On December 6, 2023, the House Committee on Energy and Commerce ordered 41 pieces of legislation to be reported. This document provides estimates for 21 bills in that package that are related to health care and consumer protection.

Generally, the bills in this group that would affect direct spending would:

- Limit beneficiary cost sharing for certain prescription drugs and add certain drugs to the group of products covered by the Medicare home infusion benefit;
- Prohibit pharmacy benefit managers (PBMs) from collecting certain fees from prescription drug manufacturers and require PBMs to provide additional information to Medicare Part D plans (which provide prescription drug coverage);

- Allow Part D plans more flexibility to add biosimilar biological products to their formularies and to change the cost-sharing status of reference biological products;
- Temporarily increase Medicare payment rates for durable medical equipment (DME); and
- Provide mandatory funding for implementation of certain provisions in several bills.

Estimated Federal cost: The costs of the legislation fall within budget functions 550 (health) and 570 (Medicare).

Basis of estimate: For this estimate, CBO assumes that the bills will be enacted near the middle of fiscal year 2024 and that the estimated amounts will be appropriated each year. This cost estimate does not include any effects of interactions among the bills. If all 21 bills were combined and enacted as a single piece of legislation, the effects could be different from the sum of the separate estimates.

Direct spending: Enacting 10 bills in the group would affect direct spending over the 2024–2034 period (see Table 1).

TABLE 1.—ESTIMATED EFFECTS ON DIRECT SPENDING OF HEALTH CARE LEGISLATION, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON ENERGY AND COMMERCE ON DECEMBER 6, 2023

	By fiscal year, millions of dollars—													
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2024–2029	2024–2034	
INCREASES OR DECREASES (–) IN DIRECT SPENDING														
H.R. 2880:														
Budget Authority	0	0	0	–29	–39	–31	–31	–28	–26	–24	–18	–99	–99	
Outlays	0	0	0	–29	–39	–31	–31	–28	–26	–24	–18	–99	–99	
H.R. 3842:														
Budget Authority	0	*	*	*	*	*	*	*	*	*	*	*	*	*
Outlays	0	*	*	*	*	*	*	*	*	*	*	*	*	*
H.R. 4881:														
Budget Authority	0	0	0	0	77	88	100	106	113	134	136	165	165	754
Outlays	0	0	0	0	77	88	100	106	113	134	136	165	165	754
H.R. 5372:														
Budget Authority	0	–9	–12	–12	–14	–12	–14	–16	–17	–20	–19	–59	–59	–145
Outlays	0	–9	–12	–12	–14	–12	–14	–16	–17	–20	–19	–59	–59	–145
H.R. 5380:														
Budget Authority	15	0	0	0	0	0	0	0	0	0	0	15	15	15
Outlays	13	1	1	0	0	0	0	0	0	0	0	15	15	15
H.R. 5385:														
Budget Authority	55	0	0	–55	–75	–60	–60	–55	–50	–46	–35	–135	–135	–381
Outlays	49	4	2	–55	–75	–60	–60	–55	–50	–46	–35	–135	–135	–381
H.R. 5386:														
Budget Authority	0	0	*	*	*	*	*	*	*	*	*	*	*	*
Outlays	0	0	*	*	*	*	*	*	*	*	*	*	*	*
H.R. 5393:														
Budget Authority	0	6	0	0	0	0	0	0	0	0	0	6	6	6
Outlays	0	6	0	0	0	0	0	0	0	0	0	6	6	6
H.R. 5397:														
Budget Authority	0	0	–9	–13	–15	–14	–15	–17	–17	–20	–19	–37	–37	–139
Outlays	0	0	–9	–13	–15	–14	–15	–17	–17	–20	–19	–37	–37	–139
H.R. 5555:														
Budget Authority	144	1	0	0	0	0	0	0	0	0	0	145	145	145
Outlays	144	1	0	0	0	0	0	0	0	0	0	145	145	145

All amounts for outlays are estimates; except for H.R. 5380 and H.R. 5393, all amounts for budget authority are estimated; = between –\$500,000 and \$500,000.

H.R. 2880, the Protecting Patients Against PBM Abuses Act, would modify the rules with respect to certain fees that PBMs collect from prescription drug manufacturers. In Medicare Part D (which provides prescription drug coverage), sponsors of private insurance plans contract with the government to deliver benefits to Medicare beneficiaries. Those insurance plans usually contract with PBMs to negotiate with drug manufacturers, design formularies, and perform other administrative functions. A PBM can be owned by the plan sponsor or it can be an independent corporate entity.

H.R. 2880 would prohibit PBMs from collecting service fees from manufacturers that are based on drug prices, manufacturer discounts, or formulary placement decisions. Under the bill, those fees would be specific dollar amounts based on the fair market value of a PBM's services. Under current law, PBMs can be compensated for services they provide to manufacturers, but compensation that exceeds the fair market value of a service must be classified as direct and indirect remuneration and reported to the Centers for Medicare & Medicaid Services (CMS). According to the Government Accountability Office, however, CMS does not routinely monitor how PBMs classify those fees.⁴ Under the bill, CMS and the Office of Inspector General would more closely monitor those classifications.

CBO estimates that manufacturers' service fees are roughly 1 percent of Part D retail spending under current law. CBO expects that under H.R. 2880, a portion of those fees would be reclassified as direct and indirect remuneration by PBMs and, because of stronger oversight, passed along to the sponsors of prescription drug plans. That action would reduce bid amounts for plans' expected benefit payments, which in turn would reduce spending in Part D. CBO estimates that the provision would decrease federal spending by \$226 million over the 2024–2034 period, or by roughly 1 percent of the amount expected to be collected in service fees over that period.

H.R. 3842, the Expanding Access to Diabetes Self-Management Training Act of 2023, would allow more providers to refer eligible patients to diabetes self-management training covered by Medicare and would codify regulatory time limits on use of the training. CBO expects that enacting H.R. 3842 would result in more patients receiving such training, which would lead to increased Medicare spending. CBO expects that such training would reduce the use of acute-care services, at least partly offsetting that increase in costs. As a result, CBO estimates that enacting the bill would increase or decrease direct spending by less than \$500,000 over the 2024–2034 period.

H.R. 4881, a bill to amend title XVIII of the Social Security Act to limit cost sharing for drugs under the Medicare program, would limit cost sharing above the deductible to no more than the average net price for a drug, which is the list price minus after-sale discounts from the drug's manufacturer. From 2028 to 2034, CBO projects, less than 1 percent of Part D spending above the deductible under current law will be for drugs with cost sharing that ex-

⁴ See Government Accountability Office, *Medicare Part D: Use of Pharmacy Benefit Managers and Efforts to Manage Drug Expenditures*, GAO–19–498 (July 2019), Appendix III, www.gao.gov/products/gao-19-498.

ceeds net drug costs. Under the bill, CBO expects that some out-of-pocket spending by beneficiaries and some federal subsidies for low-income beneficiaries would shift onto Part D plans, which would increase the bids they submit to the federal government to cover expected benefits spending and therefore increase federal spending. CBO estimates that enacting H.R. 4881 would increase direct spending by \$754 million over the 2024–2034 period.

H.R. 5372, the Expanding Seniors’ Access to Lower Cost Medications Act of 2023, would allow Part D plans to add biosimilar biological products to their formularies and change the cost-sharing status of a reference biological product after the first 60 days of a plan year. (A reference biological product is the approved product against which a proposed biosimilar product is compared.) Under current law, Part D plans must exempt beneficiaries who currently use reference biological products from changes in coverage and cost sharing for the remainder of the year. That restriction limits a plan’s ability to promote use of a biosimilar product immediately following that product’s entry to the market. CMS has proposed rules that overlap with the bill’s provisions concerning formulary substitutions for biosimilar products.⁵ CBO’s estimate of Medicare spending for those products under current law accounts for 50 percent of the effect of the proposed rules. As a result, CBO’s estimate of the decrease in direct spending under H.R. 5372 is larger than it might be if CMS’s rules had become final.

Under the bill, the addition of biosimilar products to formularies could lead to a shift away from the use of reference biological products. CBO estimates that the government will spend about \$10 billion over the 2024–2034 period to cover reference biological products under current law. CBO anticipates that under H.R. 5372 approximately 20 percent of the current use of reference biological products would be replaced by biosimilar products. The prices for biosimilar products are estimated to be 15 percent lower, on average, than the prices for the reference products. Using information about spending on both types of products under current law and adjusting for current regulatory proposals by CMS that would streamline coverage for biosimilar products, CBO estimates that enacting H.R. 5372 would decrease direct spending by \$145 million over the 2024–2034 period.

H.R. 5380, a bill to amend title XVIII of the Social Security Act to increase data transparency for supplemental benefits under Medicare Advantage, would provide \$15 million in 2024 for the Department of Health and Human Services (HHS) to implement reporting requirements for supplemental benefits under Medicare Advantage plans. Based on historical spending patterns for HHS programs, CBO estimates that enacting H.R. 5380 would increase direct spending by \$15 million over the 2024–2034 period.

⁵See Centers for Medicare & Medicaid Services, “Medicare Program; Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly; Health Information Technology Standards and Implementation Specifications,” Notice of Proposed Rulemaking, 88 *Fed. Reg.* 78476 (November 15, 2023), <http://tinyurl.com/vv7yprfm>; and “Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Program, Medicare Cost Plan Program, Medicare Parts A, B, C, and D Overpayment Provisions of the Affordable Care Act and Programs of All-Inclusive Care for the Elderly; Health Information Technology Standards and Implementation Specifications,” Notice of Proposed Rulemaking, 87 *Fed. Reg.* 79452 (December 27, 2022), <http://tinyurl.com/3754c49x>.

H.R. 5385, the Medicare PBM Accountability Act, would require pharmacy benefit managers to provide plan sponsors with information not furnished under current law. Part D plans have access to certain aggregate and drug-specific information from PBMs concerning prescriptions, prices, rebates, and out-of-pocket charges, but may lack information about PBM-affiliated entities and contractors, rationales for formulary decisions, and explanations for benefit designs that favor certain pharmacies. H.R. 5385 would require PBMs to report such information to Part D plans but also, subject to certain restrictions, would allow plans to audit PBMs' business practices and request other information. The bill would provide \$55 million for HHS to implement those requirements.

H.R. 5385 also would require PBMs to make their business practices clearer to Part D plans, thus promoting competition among PBMs. CBO estimates that the increased competition would reduce net spending for Part D by less than 0.1 percent over the 2024–2034 period—reducing federal spending by \$436 million over that period.

CBO estimates that the net effect of the bill would be a reduction in direct spending of \$381 million over the 2024–2034 period.

H.R. 5386, the Cutting Copays Act, would prohibit cost sharing for generic drugs for beneficiaries who are eligible for the low-income subsidy, which pays most or all of their premium and cost-sharing requirements. Under current law, plans have an option but not an obligation to do so. CBO expects that enacting the bill would increase the use of generic drugs, which would increase plan bid submissions for expected benefits payments and, therefore, federal spending. CBO expects that some of the increase would be offset by reduced spending on brand-name drugs and certain medical services. CBO estimates that enacting the bill would increase direct spending by less than \$500,000 over the 2024–2034 period.

H.R. 5393, a bill to amend title XVIII of the Social Security Act to ensure fair assessment of pharmacy performance and quality under Medicare Part D, and for other purposes, would provide \$4 million in 2025 for CMS program management to implement pharmacy performance and quality measures for Part D and \$2 million in that year to implement pharmacy transparency requirements. Based on historical spending patterns for CMS administrative costs, CBO estimates that enacting H.R. 5393 would increase direct spending by \$6 million over the 2024–2034 period.

H.R. 5397, the Joe Fiandra Access to Home Infusion Act of 2023, would add drugs to the current Medicare benefit that allows patients to receive some drugs by infusion under nursing care at home. H.R. 5397 would allow other drugs to meet the statutory criteria for coverage in the home setting by establishing those products as suitable for delivery through a pump and requiring patients receiving those drugs also to receive regular nursing services.

Based on its analysis of the beneficiary population and Medicare payment rates, CBO estimates that enacting the bill would reduce direct spending by \$139 million over the 2024–2034 period, primarily because beneficiaries would bear a larger share of the cost of infusions that occur at home. Under current law, there is a cap on beneficiary cost sharing in outpatient hospital settings, which is where CBO expects that beneficiaries receive those drugs now. There is no equivalent cap for the home infusion benefit.

CBO's estimate for H.R. 5397 is subject to considerable uncertainty. First, it is not known how many drugs would qualify for coverage under the bill. CBO's estimate focused on three products that industry and clinical experts mentioned as likely candidates, but the actual number could be larger or smaller. In addition, given that cost sharing could increase significantly for patients, it is not known how many beneficiaries would choose to receive home infusions.⁶

H.R. 5555, the DMEPOS Relief Act of 2023, would temporarily increase Medicare rates in some areas of the country for DMEPOS (durable medical equipment, prosthetics, orthotics, and supplies). Under current law, Medicare's payments for some equipment are based on competitive bidding among suppliers. CMS uses those results to set rates (either directly or through a blend with the historic fee schedule) in areas of the country where formal bidding has not occurred. Prior legislation directed CMS to use a blend of fee schedule and competitively bid rates in some areas of the country; the use of those blended rates expired at the end of calendar year 2023. Enacting H.R. 5555 would extend the use of those blended rates through calendar year 2024. Based on an analysis of historic claim spending, CBO estimates that the DME provision of the bill would increase direct spending by \$145 million over the 2024–2034 period. H.R. 5555 also would reduce amounts available to the Medicare Improvement Fund by \$177 million, however the Consolidated Appropriations Act, 2024 rescinded all funding from the Medicare Improvement Fund. As a result, the provision would not affect direct spending. In total, CBO estimates that enacting H.R. 5555 would increase net direct spending by \$145 million over the 2024–2034 period.

Legislation with no effect on direct spending: CBO estimates that enacting 11 bills in this estimate would have no effect on direct spending over the 2024–2034 period:

- H.R. 133, the Mandating Exclusive Review of Individual Treatments (MERIT) Act;
- H.R. 1797, the Setting Consumer Standards for Lithium-Ion Batteries Act;
- H.R. 2365, the Dr. Emmanuel Bilirakis National Plan to End Parkinson's Act;
- H.R. 4310, the Youth Poisoning Protection Act;
- H.R. 5202, the Virginia Graeme Baker Pool and Spa Safety Reauthorization Act;
- H.R. 5371, the Choices for Increased Mobility Act of 2023;
- H.R. 5388, the Supporting Innovation for Seniors Act;
- H.R. 5389, the National Coverage Determination Transparency Act;
- H.R. 5396, the Coverage Determination Clarity Act of 2023;
- H.R. 6132, the Awning Safety Act of 2023; and
- H.R. 6364, the Medicare Telehealth Privacy Act of 2023.

⁶CMS proposed a similar but not identical policy in a proposed rulemaking. In the regulatory impact analysis, CMS estimated that, for one product, beneficiaries' cost sharing would be about triple the amount if the product was received in a home setting. For more information, see Centers for Medicare & Medicaid Services, "Medicare Program; Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Policy Issues and Level II of the Healthcare Common Procedure Coding System (HCPCS)," Notice of Proposed Rulemaking, 85 *Fed. Reg.* 70358 (November 4, 2020), <http://tinyurl.com/29djdrvz>.

Spending subject to appropriation: CBO estimates that five bills would increase spending subject to appropriation (see Table 2). Any spending would be subject to the availability of appropriated funds.

TABLE 2.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER HEALTH CARE LEGISLATION, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON ENERGY AND COMMERCE ON DECEMBER 6, 2023

	By fiscal year, millions of dollars—						
	2024	2025	2026	2027	2028	2029	2024–2029
H.R. 1797:							
Estimated Authorization	*	1	1	1	1	2	6
Estimated Outlays	*	1	1	1	1	2	6
H.R. 2365:							
Estimated Authorization	*	1	*	1	*	1	3
Estimated Outlays	*	1	*	1	*	1	3
H.R. 4310:							
Estimated Authorization	*	*	*	1	*	1	2
Estimated Outlays	*	*	*	1	*	1	2
H.R. 5202:							
Authorization	5	5	5	5	5	0	25
Estimated Outlays	4	4	4	5	5	0	22
H.R. 6132:							
Estimated Authorization	*	1	*	1	*	1	3
Estimated Outlays	*	1	*	1	*	1	3

* = between zero and \$500,000.

H.R. 1797, the Setting Consumer Standards for Lithium-Ion Batteries Act, would require the Consumer Product Safety Commission (CPSC) to issue a final safety standard to reduce the risk of fire from rechargeable lithium-ion batteries that are used to power electric-assist bicycles and electric scooters, for example. Based on information provided by the commission, CBO expects that CPSC would need less than two employees for the first two years after enactment and six employees thereafter, at an average annual cost of \$190,000 per employee, to issue and enforce the standard. In total, CBO estimates that it would cost \$6 million over the 2024–2029 period for CPSC to implement H.R. 1797, assuming appropriation of the necessary amounts.

H.R. 2365, the Dr. Emmanuel Bilirakis National Plan to End Parkinsons Act, would require HHS to establish an advisory council and to create and update several plans and reports as part of a national project to prevent, diagnose, treat, and cure Parkinson’s disease. Using information about similar activities, CBO expects that HHS would need two employees for the first year after enactment and three employees thereafter, at an average annual cost in 2024 of \$160,000 per employee, to carry out activities required under the act. In total, CBO estimates that it would cost \$3 million over the 2024–2029 period for HHS to implement H.R. 2365, assuming appropriation of the necessary amounts.

H.R. 4310, the Youth Poisoning Protection Act, would ban the sale of consumer products containing 10 percent or more of sodium nitrite by weight. Using information from CPSC, CBO expects the commission would need less than one employee for the first two years after enactment and around two employees thereafter, at an average annual cost of \$190,000 per employee, to enforce the standard. In total, CBO estimates it would cost about \$2 million over the

2024–2029 period for CPSC to implement H.R. 4310, assuming appropriation of the necessary amounts.

H.R. 5202, the Virginia Graeme Baker Pool and Spa Safety Reauthorization Act, would authorize the appropriation of \$5 million annually over the 2024–2028 period for CPSC to continue a grant program and public outreach concerning the safety of children in pools and spas. The bill would require CPSC to extend grant eligibility to nonprofit organizations, appoint a Director of Drowning Prevention, and report to the Congress annually on the program's results. Using information from CPSC, CBO estimates that the cost of implementing the bill would be \$22 million over the 2024–2029 period, assuming appropriation of the necessary amounts.

H.R. 6132, the Awning Safety Act of 2023, would require CPSC to issue a final safety standard for retractable awnings. Using information from that agency, CBO expects the commission would need an average of two employees per year, at an average annual cost of \$190,000 per employee, to issue and enforce the standard. In total, CBO estimates it would cost about \$3 million over the 2024–2029 period for CPSC to implement H.R. 6132, assuming appropriation of the necessary amounts.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays for the 10 bills that are subject to those pay-as-you-go procedures are shown in Table 1.

Increase in long-term net direct spending and deficits: CBO estimates that enacting H.R. 4881 would increase long-term net direct spending and that such spending would increase by more than \$5 billion in at least one of the four consecutive 10-year periods beginning in 2035.

CBO estimates that none of the other bills discussed in this estimate would increase net direct spending or deficits in any of the four consecutive 10-year periods beginning in 2035.

Mandates: H.R. 1797 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by requiring manufacturers of electric-assist bicycles and electric scooters, for example, to comply with a prospective CPSC safety standard concerning the risk of fire in lithium-ion batteries. Limited data are available about the extent of industry compliance with the current voluntary standards or about the cost of bringing products into compliance. Therefore, CBO cannot determine whether the cost of the mandate would exceed the private-sector threshold established in UMRA (\$200 million in 2024, adjusted annually for inflation).

H.R. 1797 would not impose any intergovernmental mandates.

H.R. 4310 would impose a private-sector mandate as defined in UMRA by banning the sale of consumer products containing 10 percent or more of sodium nitrite by weight. The prohibition would not apply to industrial uses or to food preservation. Because there is only a small market for consumer products containing more than 10 percent by weight and some states already have curtailed the sale of products containing sodium nitrite, CBO estimates that the cost of the mandate would not exceed the private-sector threshold established in UMRA.

H.R. 4310 would not impose any intergovernmental mandates.

H.R. 6132 would impose a private-sector mandate as defined in UMRA by requiring awning manufacturers to comply with a prospective CPSC safety standard concerning fixed and freestanding retractable awnings. CBO expects that the standard could require awnings to be equipped with safety clips and to issue visual or audible alerts when in motion. Based on the cost of such additional equipment and the number of such awnings likely to be sold, CBO estimates that the cost of the mandate would not exceed the private-sector threshold established in UMRA.

H.R. 6132 would not impose any intergovernmental mandates.

CBO has determined that none of the other bills in this estimate would impose intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Austin Barselau (Medicare); Ezra Cohn (public health); Cornelia Hall (Medicare); Hudson Osgood (Medicare); Lara Robillard (Medicare); Sarah Sajewski (Medicare); Katie Zhang (public health); Noah Zwiefel (Medicare); Mandates: Andrew Laughlin.

Estimate reviewed by: Sean Dunbar, Chief, Low-Income Health Programs and Prescription Drugs Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; Sarah Masi, Senior Adviser, Budget Analysis Division; Asha Saavoss, Chief, Medicare and Health Systems Cost Estimates Unit; Chad Chirico, Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to reauthorize the Virginia Graeme Baker Pool and Spa Safety Grant Program and widen the scope of eligible grantees.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 5202 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearing was used to develop or consider H.R. 5202:

- On September 27, 2023, the Subcommittee on Innovation, Data, and Commerce held a hearing on H.R. 5202. The title of the hearing is “Proposals to Enhance Product Safety and Transparency for Americans.” The Subcommittee received testimony from:

- Kathleen Callahan, Owner, Xpertech Auto Repair;
- Scott Benavidez, Chairman, Automotive Service Association;
- Steven Michael Gentine, Counsel, Arnold & Porter, LLP;
- John Breyault, Vice President of Public Policy, Telecommunications and Fraud, National Consumers League; and,
- David Touhey, Principal, Connett Consulting, appearing on behalf of International Association of Venue Managers.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 5202 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 allows the Act to be cited as the “Virginia Graeme Baker Pool and Spa Safety Reauthorization Act.”

Section 2. Covered entity defined

Section 2 adds Indian Tribes and nonprofit organizations with experience addressing pool or spa safety and drowning prevention to the definition of covered entity in the underlying act.

Section 3. Swimming pool safety grant program

Section 3 requires the Consumer Product Safety Commission (CPSC) to consider geographic location, previous awards and educational efforts, per capita drownings and entrapments, and targeting underserved, minority, or rural populations in the selection of grantees and the grant amount. This section also institutes a reporting requirement for grantees detailing the success of the program funded by the grant. Section 3 requires CPSC to name a Director of Drowning Prevention to coordinate the program and is required to maintain one full time equivalent employee responsible

for the program. This section authorizes appropriations of \$2,500,000 per year for 2024 to 2028 for the swimming pool safety grant program.

Section 4. Reauthorization of CPSC education and awareness program

Section 4 authorizes to be appropriated to the Commission \$2,500,000 per year from 2024 to 2028 to carry out the Virginia Graeme Baker Pool and Spa Safety education and awareness program. This section also inserts explicit language relating to inspecting, fixing, and replacing drain covers to ensure compliance, as well as educational materials designed to reach historically disadvantaged communities, which have higher rates of drowning than the nationwide average.

Section 5. CPSC report

Section 5 requires the CPSC to submit an annual report to Congress evaluating the implementation of the authorized grant program. The evaluation shall include: the number of applicants and identifying information of each applicant, the number of grantees selected, the selection criteria for grantees, the purpose of the funds used for purposes other than making grants, and the effectiveness of the program.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

VIRGINIA GRAEME BAKER POOL AND SPA SAFETY ACT

TITLE XIV—POOL AND SPA SAFETY

SEC. 1401. SHORT TITLE.

This title may be cited as the “Virginia Graeme Baker Pool and Spa Safety Act”.

* * * * *

SEC. 1403. DEFINITIONS.

In this title:

(1) ASME/ANSI.—The term “ASME/ANSI” as applied to a safety standard means such a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(2) BARRIER.—The term “barrier” includes a natural or constructed topographical feature that prevents unpermitted access by children to a swimming pool, and, with respect to a hot tub, a lockable cover.

(3) COMMISSION.—The term “Commission” means the Consumer Product Safety Commission.

[(4) COVERED ENTITY.—The term “covered entity” means—

[(A) a State; or
 [(B) an Indian Tribe.]

(4) COVERED ENTITY.—The term “covered entity” means—
 (A) a State;
 (B) an Indian Tribe; or
 (C) a nonprofit organization.

(5) INDIAN TRIBE.—The term “Indian Tribe” has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

(6) MAIN DRAIN.—The term “main drain” means a submerged suction outlet typically located at the bottom of a pool or spa to conduct water to a recirculating pump.

(7) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means an organization that—

(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code; and

(B) has proven experience (as determined by the Commission) addressing swimming pool or spa safety and drowning prevention.

[(7)] (8) SAFETY VACUUM RELEASE SYSTEM.—The term “safety vacuum release system” means a vacuum release system capable of providing vacuum release at a suction outlet caused by a high vacuum occurrence due to a suction outlet flow blockage.

[(8)] (9) SWIMMING POOL; SPA.—The term “swimming pool” or “spa” means any outdoor or indoor structure intended for swimming or recreational bathing, including in-ground and above-ground structures, and includes hot tubs, spas, portable spas, and non-portable wading pools.

[(9)] (10) UNBLOCKABLE DRAIN.—The term “unblockable drain” means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

[(10)] (11) STATE.—The term “State” has the meaning given such term in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a)), and includes the Northern Mariana Islands. For purposes of eligibility for the grants authorized under section 1405, such term shall also include any political subdivision of a State.

* * * * *

[SEC. 1405. SWIMMING POOL SAFETY GRANT PROGRAM.]

[(a) IN GENERAL.—Subject to the availability of appropriations authorized by subsection (e), the Commission shall carry out a grant program to provide assistance to eligible covered entities.

[(b) ELIGIBILITY.—To be eligible for a grant under the program, a covered entity shall—

(1) demonstrate to the satisfaction of the Commission that, as of the date on which the covered entity submits an application to the Commission for a grant under this section, the covered entity has enacted and provides for the enforcement of a statute that—

[(A) except as provided in section 1406(a)(1)(A)(i), applies to all swimming pools constructed in the State or in

the jurisdiction of the Indian Tribe (as the case may be) on or after such date; and

[(B) meets the minimum State law requirements of section 1406; and

[(2) submit an application to the Commission at such time, in such form, and containing such additional information as the Commission may require.

[(c) AMOUNT OF GRANT.—The Commission shall determine the amount of a grant awarded under this section, and shall consider—

[(1) the population of the covered entity;

[(2) the relative enforcement and implementation needs of the covered entity; and

[(3) allocation of grant funds in a manner designed to provide the maximum benefit from the program in terms of protecting children from drowning or entrapment.

[(d) USE OF GRANT FUNDS.—A State or an Indian Tribe receiving a grant under this section shall use—

[(1) at least 25 percent of amounts made available—

[(A) to hire and train personnel for implementation and enforcement of standards under the swimming pool and spa safety law of the State or Indian Tribe; and

[(B) to defray administrative costs associated with the hiring and training programs under subparagraph (A); and

[(2) the remainder—

[(A) to educate pool owners, pool operators, and other members of the public about the standards under the swimming pool and spa safety law of the State or Indian Tribe and about the prevention of drowning or entrapment of children using swimming pools and spas; and

[(B) to defray administrative costs associated with the education programs under subparagraph (A).

[(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission for fiscal year 2023 \$2,500,000 to carry out this section.]

SEC. 1405. SWIMMING POOL SAFETY GRANT PROGRAM.

(a) *IN GENERAL.*—Subject to the availability of appropriations authorized by subsection (i), the Commission shall carry out a grant program to provide assistance to eligible covered entities.

(b) *ELIGIBILITY.*—To be eligible for a grant under the program, a covered entity shall—

(1) demonstrate to the satisfaction of the Commission that, as of the date on which the covered entity submits an application to the Commission for a grant under this section, the covered entity (if the covered entity is a State or an Indian Tribe), or the State in which or the Indian Tribe in the jurisdiction of which the covered entity is proposing to carry out activities using grant funds (if the covered entity is a nonprofit organization), has enacted and provides for the enforcement of a statute that—

(A) except as provided in section 1406(a)(1)(A)(i), applies to all swimming pools constructed in the State or in the jurisdiction of the Indian Tribe (as the case may be) on or after such date; and

(B) meets the minimum State law requirements of section 1406; and

(2) submit an application to the Commission at such time, in such form, and containing such additional information as the Commission may require.

(c) *SELECTION OF GRANT RECIPIENTS.*—

(1) *PRIORITY.*—In selecting covered entities to receive grants under the program, the Commission shall give priority (in such order as the Commission considers appropriate) based on the following factors:

(A) A covered entity not having previously been awarded a grant under the program.

(B) A covered entity proposing to use grant funds to expand educational activities described in paragraph (1)(B)(i) or (2)(A) of subsection (e) that the covered entity is carrying out at the time when the covered entity submits the application for the grant.

(C) A covered entity proposing to use grant funds to build on prior expertise and activities aimed at preventing drownings.

(D) A covered entity proposing to use grant funds to carry out activities in a geographic area that has a greater number per capita of drowning or entrapment incidents.

(E) A covered entity proposing to use grant funds in underserved, minority, or rural communities to provide services that address and target racial, ethnic, or rural drowning disparities.

(F) Such other factors as the Commission considers appropriate.

(2) *GEOGRAPHIC DIVERSITY.*—

(A) *IN GENERAL.*—In selecting covered entities to receive grants under the program, the Commission shall, to the maximum extent practicable, ensure geographic diversity in the areas where activities will be carried out using grant funds.

(B) *TECHNICAL ASSISTANCE.*—If the Commission awards grants to two or more covered entities that will carry out activities using grant funds in the same geographic area, the Commission shall provide technical assistance to such entities regarding how such entities may collaborate in carrying out such activities.

(d) *AMOUNT OF GRANT.*—The Commission shall determine the amount of a grant awarded under this section, and shall consider—

(1) in the case of a covered entity that is a State or an Indian Tribe—

(A) the population of such State or Indian Tribe;

(B) the enforcement and implementation needs of such State or Indian Tribe; or

(C) the education needs of such State or Indian Tribe proposing to use grant funds pursuant to subsection (e)(1)(B)(i);

(2) in the case of a covered entity that is a nonprofit organization, the number of individuals to whom such nonprofit organization is proposing to provide education described in subsection (e)(2)(A) using grant funds, taking into consideration any increased costs of providing such education due to the rural or re-

mote nature of the area where such nonprofit organization is proposing to provide such education; and

(3) allocation of grant funds in a manner designed to provide the maximum benefit from the program in terms of protecting children from drowning or entrapment.

(e) USE OF GRANT FUNDS.—

(1) STATES AND INDIAN TRIBES.—A State or an Indian Tribe receiving a grant under this section shall use—

(A) at least 25 percent of amounts made available—

(i) to hire and train personnel for—

(I) implementation and enforcement of standards under the swimming pool and spa safety law of the State or Indian Tribe; and

(II) inspecting and repairing or replacing swimming pool and spa drain covers to ensure compliance with applicable Federal, State, and Tribal law; and

(ii) to defray administrative costs associated with the hiring and training programs under clause (i); and

(B) the remainder—

(i) to educate pool owners, pool operators, and other members of the public about the standards under the swimming pool and spa safety law of the State or Indian Tribe and about the prevention of drowning or entrapment of children using swimming pools and spas; and

(ii) to defray administrative costs associated with the education programs under clause (i).

(2) NONPROFIT ORGANIZATIONS.—A nonprofit organization receiving a grant under this section shall use the amounts made available—

(A) to educate pool owners, pool operators, and other members of the public about the prevention of drowning or entrapment of children using swimming pools and spas; and

(B) to defray administrative costs associated with the education programs under subparagraph (A).

(f) RECIPIENT REPORTING.—Not later than 90 days after the end of the pool and spa grant program project period covered by the grants awarded under this section, each covered entity that received such a grant shall submit to the Commission a report that includes the following:

(1) The amount of grant funds received by the covered entity.

(2) The purpose or purposes for which the covered entity proposed to use grant funds in the grant application of the covered entity.

(3) The purpose or purposes for which the covered entity used grant funds.

(4) Whether the purposes identified under paragraphs (2) and (3) were achieved.

(5) Any barriers encountered in carrying out activities using grant funds.

(6) Any best practices or recommendations for future recipients of grant funds.

(7) Any other information requested by the Commission.

(g) *GRANT AWARENESS CAMPAIGN.*—*The Commission shall carry out a campaign to conduct outreach to covered entities to ensure covered entities are aware of the availability and importance of the grants under this section.*

(h) *EMPLOYEES.*—

(1) *DIRECTOR OF DROWNING PREVENTION.*—*The Commission shall have a Director of Drowning Prevention to coordinate the swimming pool and spa safety and drowning prevention activities at the Commission, including carrying out duties under this title.*

(2) *FULL-TIME EQUIVALENTS.*—*The Commission shall ensure that more than 1 full-time equivalent is dedicated to carrying out swimming pool and spa safety and drowning prevention activities at the Commission, including the grant program under this section.*

(i) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated to the Commission for each of the fiscal years 2024 through 2028 \$2,500,000 to carry out this section.*

* * * * *

[SEC. 1407. EDUCATION AND AWARENESS PROGRAM.

[(a) IN GENERAL.—*The Commission shall establish and carry out an education and awareness program to inform the public of methods to prevent drowning and entrapment in swimming pools and spas. In carrying out the program, the Commission shall develop—*

[(1) *educational materials designed for swimming pool and spa manufacturers, service companies, and supply retail outlets, including guidance on barrier and drain cover inspection, maintenance, and replacement;*

[(2) *educational materials designed for swimming pool and spa owners and operators, consumers, States, and Indian Tribes; and*

[(3) *a national media campaign to promote awareness of swimming pool and spa safety.*

[(b) AUTHORIZATION OF APPROPRIATIONS.—*There are authorized to be appropriated to the Commission for fiscal year 2023 \$2,500,000 to carry out the education and awareness program authorized by subsection (a).*

[SEC. 1408. CPSC REPORT.

[Not later than 1 year after the last day of each fiscal year for which grants are made under section 1405, the Commission shall submit to Congress a report evaluating the implementation of the grant program authorized by that section.]

SEC. 1407. EDUCATION AND AWARENESS PROGRAM.

(a) IN GENERAL.—*The Commission shall establish and carry out an education and awareness program to inform the public of methods to prevent drowning and entrapment in swimming pools and spas. In carrying out the program, the Commission shall develop—*

(1) educational materials designed for swimming pool and spa manufacturers, service companies, and supply retail outlets, including guidance on barrier and drain cover inspection, maintenance, and replacement;

(2) educational materials designed for swimming pool and spa owners and operators, consumers, States, Indian Tribes, and nonprofit organizations;

(3) educational materials designed to reach historically disadvantaged communities that have higher rates of drowning than the nationwide average; and

(4) a national media campaign to promote awareness of swimming pool and spa safety.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission for each of the fiscal years 2024 through 2028 \$2,500,000 to carry out the education and awareness program authorized by subsection (a).

SEC. 1408. CPSC REPORT.

(a) IN GENERAL.—Not later than 1 year after the last day of each fiscal year for which grants are made under section 1405, the Commission shall submit to Congress a report evaluating the implementation of the grant program authorized by that section.

(b) MATTERS TO BE INCLUDED.—Each report required by subsection (a) shall include, with respect to the fiscal year covered by the report, the following:

(1) How many applicants applied for grants under the program.

(2) For each such applicant—

(A) name;

(B) location;

(C) prior experience in swimming pool or spa safety; and

(D) such other details as the Commission considers appropriate.

(3) How many applicants received grants under the program and the amount of the grant received by each such applicant.

(4) How recipients of grants under the program were selected and the purposes for which each such recipient proposed to use grant funds in the grant application of the recipient.

(5) Any purposes, other than making grants under section 1405, for which the Commission used amounts appropriated under subsection (i) of such section.

(6) An evaluation of the effectiveness of the program, including any barriers or gaps, and recommendations for legislative changes, if required to increase the effectiveness of the program.

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