

Calendar No. 774

108TH CONGRESS
2D SESSION

S. 2526

[Report No. 108-388]

To reauthorize the Children's Hospitals Graduate Medical Education Program.

IN THE SENATE OF THE UNITED STATES

JUNE 16, 2004

Mr. BOND (for himself, Mr. KENNEDY, Mr. DEWINE, Mrs. MURRAY, Mr. TALENT, Mr. BIDEN, Mr. KERRY, Mr. WARNER, Mr. CORNYN, Mr. DURBIN, Mrs. CLINTON, Mrs. BOXER, Ms. LANDRIEU, Mr. FITZGERALD, Mrs. LINCOLN, Mr. HATCH, Mr. SCHUMER, Mr. VOINOVICH, Mr. BENNETT, Mr. DODD, Mr. DAYTON, Mrs. FEINSTEIN, Mr. ALLEN, and Mr. CAMPBELL) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

OCTOBER 7, 2004

Reported by Mr. GREGG, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To reauthorize the Children's Hospitals Graduate Medical Education Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Children’s Hospitals
3 Educational Equity and Research Act” or the “CHEER
4 Act”.

5 **SEC. 2. REAUTHORIZATION OF CHILDREN’S HOSPITALS**
6 **GRADUATE MEDICAL EDUCATION PROGRAM.**

7 (a) EXTENSION OF PROGRAM.—Section 340E(a) of
8 the Public Health Service Act (42 U.S.C. 256e(a)) is
9 amended by striking “2005” and inserting “2010”.

10 (b) DESCRIPTION OF AMOUNT OF PAYMENTS.—Sec-
11 tion 340E(b) of the Public Health Service Act (42 U.S.C.
12 256e(b)) is amended—

13 (1) in paragraph (1)(B), by striking “relating
14 to teaching residents in such” and inserting “associ-
15 ated with graduate medical residency training”; and

16 (2) in paragraph (2)(A), by inserting before the
17 period at the end “, except as provided under para-
18 graphs (1)(A) and (2)(B) of subsection (f)”.

19 (c) DIRECT GRADUATE MEDICAL EDUCATION.—Sec-
20 tion 340E(e) of the Public Health Service Act (42 U.S.C.
21 245e(e)) is amended—

22 (1) in paragraph (1)—

23 (A) in the matter preceding subparagraph
24 (A), by striking “product” and inserting
25 “sum”;

1 (B) in subparagraph (A), by striking “(A)
2 the updated per resident” and inserting the fol-
3 lowing:

4 “~~(A) the product of—~~

5 “(i) the updated per resident”.

6 (C) by redesignating subparagraph (B) as
7 clause (ii) and indenting appropriately;

8 (D) in subparagraph (A)(ii) (as so redesi-
9 gnated)—

10 (i) by inserting “but without giving
11 effect to section 1886(h)(7) of such Act”
12 after “section 1886(h)(4) of the Social Se-
13 curity Act”; and

14 (ii) by striking the period and insert-
15 ing “; and”; and

16 (E) by inserting after subparagraph (A)
17 the following:

18 “(B) amounts for other approved edu-
19 cation programs that are provider-operated, as
20 defined for purposes of Medicare payment, lim-
21 ited to not more than 30 percent of costs that
22 would be allowed for such programs under
23 Medicare rules for hospitals reimbursed under
24 section 1886(d) of the Social Security Act.”;
25 and

1 (2) in paragraph (2)(B), by inserting before the
2 period at the end “, without giving effect to section
3 1886(d)(3)(E)(ii) of the Social Security Act”.

4 (d) INDIRECT GRADUATE MEDICAL EDUCATION.—
5 Section 340E(d) of the Public Health Service Act (42
6 U.S.C. 256e(d)) is amended—

7 (1) in paragraph (1), by striking “related to”
8 and inserting “associated with”; and

9 (2) in paragraph (2)(A)—

10 (A) by inserting “ratio of the” after “hos-
11 pitals and the”; and

12 (B) by inserting at the end before the
13 semicolon “to beds (but excluding beds or bassi-
14 nets assigned to healthy newborn infants)”.

15 (e) NATURE OF PAYMENTS.—Section 340E(e) of the
16 Public Health Service Act (42 U.S.C. 256e(e)) is amend-
17 ed—

18 (1) in paragraph (2), by striking the first sen-
19 tence;

20 (2) in paragraph (3)—

21 (A) by striking “made to pay” and insert-
22 ing “made and pay”; and

23 (B) by striking “to the extent possible”
24 and all that follows through the end of the
25 paragraph and inserting the following: “. To

1 the greatest extent possible, amounts recouped
2 from a hospital are to be distributed to other
3 hospitals in the same fiscal year. Amounts re-
4 couped from a hospital and not disbursed to
5 other hospitals in the same fiscal year shall re-
6 main available for distribution during the sub-
7 sequent fiscal year. Unless there is fraud,
8 amounts paid to a hospital without a demand
9 for recoupment by the end of the fiscal year
10 shall be final and not subject to recoupment.”;
11 and

12 ~~(3)~~ by adding at the end the following:

13 ~~“(4) APPEALS.—~~

14 ~~“(A) IN GENERAL.—A decision affecting~~
15 ~~the amount payable to a hospital pursuant to~~
16 ~~this section shall—~~

17 ~~“(i) be subject to review under section~~
18 ~~1878 of the Social Security Act in the~~
19 ~~same manner as a final determination of a~~
20 ~~fiscal intermediary of the amount of pay-~~
21 ~~ment under 1886(d) of such Act is subject~~
22 ~~to review; and~~

23 ~~“(ii) be handled expeditiously so that~~
24 ~~the review decision is reflected in the final~~

1 reconciliation for the year in which the ap-
 2 peal is made.

3 “(B) LIMITATION.—A review decision pur-
 4 suant to this section shall not affect payments
 5 for a fiscal year prior to the fiscal year in which
 6 the review decision is rendered.

7 “(C) APPLICATION TO SUBSEQUENT FIS-
 8 CAL YEARS.—The Secretary shall apply a re-
 9 view decision in determining the amount of pay-
 10 ment for the appealing hospital in the fiscal
 11 year in which the decision is rendered and in
 12 subsequent years, unless the law at issue in the
 13 review decision is amended or there are mate-
 14 rial differences between the facts for the fiscal
 15 year for which the review decision is rendered
 16 and the year for which payment is made. Noth-
 17 ing in this section shall be construed to prohibit
 18 a hospital from appealing similar determina-
 19 tions in subsequent periods.”.

20 (f) AUTHORIZATION OF APPROPRIATIONS.—Section
 21 340E(f) of the Public Health Service Act (42 U.S.C.
 22 256e(f)) is amended—

23 (1) in paragraph (1)—

24 (A) in subparagraph (A)—

25 (i) in clause (ii), by striking “and”;

1 (ii) in clause (iii), by striking the pe-
2 riod at the end and inserting a semicolon;
3 and

4 (iii) by adding at the end the fol-
5 lowing:

6 “~~(iv)~~ for fiscal year 2006,
7 \$110,000,000; and

8 “~~(v)~~ for each of fiscal years 2007
9 through 2010, such sums as may be nec-
10 essary, including an annual adjustment to
11 reflect increases in the Consumer Price
12 Index.”; and

13 (B) in subparagraph (B), by striking “for
14 fiscal year 2000” and all that follows and in-
15 serting “for fiscal year 2006 and each subse-
16 quent fiscal year shall remain available for obli-
17 gation for the year appropriated and the subse-
18 quent fiscal year.”; and

19 (2) in paragraph (2)—

20 (A) by redesignating subparagraphs (A),
21 (B), and (C) as clauses (i), (ii), and (iii), re-
22 spectively, and indenting appropriately;

23 (B) by striking “There are hereby author-
24 ized” and inserting the following:

1 “(A) IN GENERAL.—There are author-
2 ized”;

3 (C) in clause (ii) (as redesignated by this
4 paragraph), by striking “and”;

5 (D) in clause (iii) (as redesignated by this
6 paragraph), by striking the period at the end
7 and inserting a semicolon;

8 (E) by adding at the end of subparagraph
9 (A) (as designated by this paragraph), the fol-
10 lowing:

11 “(iv) for fiscal year 2006,
12 \$220,000,000; and

13 “(v) for each of fiscal years 2007
14 through 2010, such sums as may be nec-
15 essary, including an annual adjustment to
16 reflect increases in the Consumer Price
17 Index.”; and

18 (F) at the end of paragraph (2), by adding
19 the following:

20 “(B) CARRYOVER OF EXCESS.—To the ex-
21 tent that amounts are not expended in the year
22 for which they are appropriated, the amounts
23 appropriated under subparagraph (A) for fiscal
24 year 2006 and each subsequent fiscal year shall

1 remain available for obligation through the end
2 of the following fiscal year.”.

3 (g) **DEFINITIONS.**—Section 340E(g)(3) of the Public
4 Health Service Act (42 U.S.C. 256e(g)(3)) is amended by
5 striking “has” and all that follows through the end of the
6 sentence and inserting the following: “includes—

7 “(A) the meaning given such term in sec-
8 tion 1886(h)(5)(C) of the Social Security Act;
9 and

10 “(B) costs of approved educational activi-
11 ties, as such term is used in section 1886(a)(4)
12 of the Social Security Act.”.

13 **SECTION 1. SHORT TITLE.**

14 *This Act may be cited as the “Children’s Hospitals*
15 *Educational Equity and Research Act” or the “CHEER*
16 *Act”.*

17 **SEC. 2. REAUTHORIZATION OF CHILDREN’S HOSPITALS**
18 **GRADUATE MEDICAL EDUCATION PROGRAM.**

19 (a) **EXTENSION OF PROGRAM.**—Section 340E(a) of the
20 *Public Health Service Act (42 U.S.C. 256e(a)) is amended*
21 *by striking “2005” and inserting “2010”.*

22 (b) **DIRECT GRADUATE MEDICAL EDUCATION.**—Sec-
23 *tion 340E(c) of the Public Health Service Act (42 U.S.C.*
24 *256e(c)) is amended—*

1 (1) in paragraph (1)(B), by inserting “but with-
2 out giving effect to section 1886(h)(7) of such Act)”
3 after “section 1886(h)(4) of the Social Security Act”;
4 and

5 (2) in paragraph (2)(E)(ii), by striking “de-
6 scribed in subparagraph (C)(ii)” and inserting “ap-
7 plied under section 1886(d)(3)(E) of the Social Secu-
8 rity Act for discharges occurring during the preceding
9 fiscal year”.

10 (c) *INDIRECT GRADUATE MEDICAL EDUCATION.*—Sec-
11 tion 340E(d)(2)(A) of the Public Health Service Act (42
12 U.S.C. 256e(d)(2)(A)) is amended—

13 (1) by inserting “ratio of the” after “hospitals
14 and the”; and

15 (2) by inserting before the semicolon the fol-
16 lowing: “to beds (excluding beds or bassinets assigned
17 to healthy newborn infants)”.

18 (d) *NATURE OF PAYMENTS.*—Section 340E(e)(3) of the
19 Public Health Service Act (42 U.S.C. 256e(e)(3)) is amend-
20 ed by striking “made to pay” and inserting “made and
21 pay”.

22 (e) *AUTHORIZATION OF APPROPRIATIONS.*—Section
23 340E(f) of the Public Health Service Act (42 U.S.C. 256e(f))
24 is amended—

25 (1) in paragraph (1)(A)—

1 (A) in clause (ii), by striking “and”;

2 (B) in clause (iii), by striking the period
3 and inserting a semicolon; and

4 (C) by adding at the end the following:

5 “(iv) for fiscal year 2006,
6 \$110,000,000; and

7 “(v) for each of fiscal years 2007
8 through 2010, such sums as may be nec-
9 essary.”; and

10 (2) in paragraph (2)—

11 (A) in the matter preceding subparagraph

12 (A)—

13 (i) by striking “There are hereby au-
14 thorized” and inserting “There are author-
15 ized”; and

16 (ii) by striking “(b)(1)(A)” and insert-
17 ing “(b)(1)(B)”;

18 (B) in subparagraph (B), by striking
19 “and”;

20 (C) in subparagraph (C), by striking the
21 period and inserting a semicolon; and

22 (D) by adding at the end the following:

23 “(D) for fiscal year 2006, \$220,000,000;
24 and

1 “(E) for each of fiscal years 2007 through
2 2010, such sums as may be necessary.”.

3 (f) *TECHNICAL AMENDMENT.*—Section 340E(e)(2) of
4 *the Public Health Service Act (42 U.S.C. 256e(e)(2))* is
5 *amended by striking the first sentence.*

6 **SEC. 3. SENSE OF THE SENATE.**

7 *It is the sense of the Senate that perinatal hospitals*
8 *play an important role in providing quality care and en-*
9 *suring the best possible outcomes for thousands of seriously*
10 *ill newborns each year, and that medical training programs*
11 *at perinatal hospitals give providers essential training in*
12 *treating healthy mothers and babies as well as patients in*
13 *neonatal intensive care units.*

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