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In the Senate of the United States,

December 21, 2005.

Resolved, That the Senate agree to the amendment of the House of Representatives to the bill (S. 1932) entitled "An Act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)." with the following

SENATE AMENDMENT TO HOUSE AMENDMENT:

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

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

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—LIHEAP 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. 7982(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. 7982) is amended by striking "2005" each place it appears in subsections (f) and (g)(1) and inserting "2007".

(c) CONFORMING AMENDMENTS.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended—

(1) in subsection (g)(1), by striking "and subsection (h)"; and

(2) by striking subsection (h).

SEC. 1102. ADVANCE DIRECT PAYMENTS.

(a) COVERED COMMODITIES.—Section 1103(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.

7953(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. 7937) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)(1)—

(A) in subparagraph (B), by striking ", adjusted for the value of any certificate issued under subsection (a),"; and

(B) in subparagraph (C), by striking ", for the value of any certificates issued under subsection (a)".

(b) EFFECTIVE DATE.—The amendments made by this section take effect on August 1, 2006.

Subtitle B—Conservation

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(h)(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 1238A(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. 3841(a)(3)) is amended by striking "not more than $6,037,000,000" and all that follows through "2014." and inserting the following: "not more than—

"(A) $1,954,000,000 for the period of fiscal years 2006 through 2010; and

"(B) $5,650,000,000 for the period of fiscal years 2006 through 2015.".

SEC. 1203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) EXTENSION.—Section 1240B(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(a)(1)) is amended by striking "2007" and inserting "2010".

(b) LIMITATION ON PAYMENTS.—Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amended by striking "the period of fiscal years 2002 through 2007" and inserting "any six-year period".

(c) FUNDING.—Section 1241(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D); and

(2) by striking subparagraph (E) and inserting the following new subparagraphs:

"(E) $1,270,000,000 in each of fiscal years 2007 through 2009; and

"(F) $1,300,000,000 in fiscal year 2010.".

Subtitle C—Energy

SEC. 1301. RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS PROGRAM.

Section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)) is amended by striking "2007" and inserting "2006 and $3,000,000 for fiscal year 2007".

Subtitle D—Rural Development

SEC. 1401. ENHANCED ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

The authority to obligate funds previously made available under section 601(j)(1) of the Rural Electrification Act of 1936 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 (Pub. L. 106–224; 7 U.S.C. 1621 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. 2009cc–18) is amended by inserting after "necessary" the following: "through fiscal year 2006".

(b) CANCELLATION OF UNOBLIGATED PRIOR-YEAR FUNDS.—The authority to obligate funds previously made available under such section and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1404. RURAL BUSINESS STRATEGIC INVESTMENT GRANTS.

The authority to obligate funds previously made available under section 385E of the Consolidated Farm and Rural Development Act and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1405. RURAL FIREFIGHTERS AND EMERGENCY PERSONNEL GRANTS.

(a) TERMINATION OF FISCAL YEAR 2007 FUNDING.—Subsection (c) of section 6405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2655) is amended by striking "2007" and inserting "2006".

(b) CANCELLATION OF UNOBLIGATED PRIOR-YEAR FUNDS.—The authority to obligate funds previously made available under such section for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

Subtitle E—Research

SEC. 1501. INITIATIVE FOR FUTURE FOOD AND AGRICULTURE SYSTEMS.

(a) TERMINATION OF FISCAL YEAR 2007, 2008, AND 2009 TRANSFERS.—Subsection (b)(3)(D) of section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is amended by striking "2006" and inserting "2009".

(b) TERMINATION OF MULTI-YEAR AVAILABILITY OF FISCAL YEAR 2006 FUNDS.—Paragraph (6) of subsection (f) of such section is amended to read as follows:

"(6) AVAILABILITY OF FUNDS.—

"(A) TWO-YEAR AVAILABILITY.—Except as provided in subparagraph (B), funds for grants under this section shall be available to the Sec-

retary for obligation for a 2-year period beginning on the date of the transfer of the funds under subsection (b).

"(B) EXCEPTION FOR FISCAL YEAR 2006 TRANSFER.—In the case of the funds required to be transferred by subsection (b)(3)(C), the funds shall be available to the Secretary for obligation for the 1-year period beginning on October 1, 2005."

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, such as use restrictions, rent restrictions, and rehabilitation requirements.

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

(4) The term "loan market value" means the value of a multifamily loan, without taking into account any affordability requirements.

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

(6) The term "multifamily loan" means a loan held by the Secretary and secured by a multifamily rental or cooperative housing project of 5 or more units that was formerly insured under title II of the National Housing Act.

(7) The term "property market value" means the value of a multifamily real property for its current

use, without taking into account any affordability requirements.

(8) 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(l) or 246 of the National Housing Act (12 U.S.C. 1713(l), 1715z–11), section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11), or section 204 of the Departments 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 proceeds. If the multifamily real property is sold, during such fiscal years, for an amount equal to or greater than the property market value then the transaction is not subject to the availability of appropriations.

(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. 661 et seq.), a discount loan sale during fiscal years 2006 through 2010 under section 207(k) of the National Housing Act (12 U.S.C. 1713(k)), section 203(k) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(k)), or section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a(a)), shall be subject to the availability of appropriations to the extent that the loan market value 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 Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies 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 subsection during fiscal years 2006 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(f)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(f)(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.".

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

Subtitle B—Deposit Insurance

SEC. 2101. SHORT TITLE.

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

SEC. 2102. MERGING THE BIF AND SAIF.

(a) IN GENERAL.—

(1) MERGER.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund.

(2) 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.

(3) 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.

(b) REPEAL OF OUTDATED MERGER PROVISION.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is repealed.

(c) 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. 2103. INCREASE IN DEPOSIT INSURANCE COVERAGE.

(a) IN GENERAL.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

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

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

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

"(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.—

"(i) 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 prescribe 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—

"(I) $100,000; and

"(II) 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 date this subparagraph takes effect under the Federal Deposit Insurance Reform Act of 2005.

The values used in the calculation under subclause (II) shall be, as of the date of the calculation, the values most recently published by the Department of Commerce.

"(ii) ROUNDING.—If the amount determined under clause (ii) for any period is not a multiple of $10,000, the amount so determined shall be rounded down to the nearest $10,000.

"(iii) PUBLICATION AND REPORT TO THE CONGRESS.—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) jointly submit a report to the Congress containing the amounts described in subclause (I).

"(iv) 6-MONTH IMPLEMENTATION PERIOD.—Unless an Act of Congress enacted before July 1 of the calendar year in which an adjustment is required to be calculated under clause (i) provides otherwise, the increase in the standard maximum deposit insurance amount and the standard maximum share insurance amount shall take ef-

fect on January 1 of the year immediately succeeding such calendar year.

"(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—

"(I) the overall state of the Deposit Insurance Fund and the economic conditions affecting insured depository institutions;

"(II) potential problems affecting insured depository institutions; or

"(III) whether the increase will cause the reserve ratio of the fund to fall below 1.15 percent of estimated insured deposits.".

(b) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—Section 11(a)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(D)) is amended to read as follows:

"(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

"(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 same meaning as in paragraph (5)(B)(ii), 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.".

(c) INCREASED AMOUNT OF DEPOSIT INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)(A)) is amended by striking "$100,000" and inserting "$250,000 (which amount shall be subject to inflation adjustments as provided in paragraph (1)(F), except that $250,000 shall be substituted for $100,000 wherever such term appears in such paragraph)".

(d) 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)(2) take effect.

SEC. 2104. SETTING ASSESSMENTS AND REPEAL OF SPECIAL RULES RELATING TO MINIMUM ASSESSMENTS AND FREE DEPOSIT INSURANCE.

(a) SETTING ASSESSMENTS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

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

"(A) IN GENERAL.—The Board of Directors shall set assessments for insured depository institutions in such amounts as the Board of Directors may determine to be necessary or appropriate, subject to subparagraph (D).

"(B) FACTORS TO BE CONSIDERED.—In setting assessments under subparagraph (A), the Board of Directors shall consider the following factors:

"(i) The estimated operating expenses of the Deposit Insurance Fund.

"(ii) The estimated case resolution expenses and income of the Deposit Insurance Fund.

"(iii) The projected effects of the payment of assessments on the capital and earnings of insured depository institutions.

"(iv) The risk factors and other factors taken into account pursuant to paragraph (1) under the risk-based assessment system, including the requirement under such paragraph to maintain a risk-based system.

"(v) Any other factors the Board of Directors may determine to be appropriate."; and

(2) by inserting after subparagraph (C) the following new subparagraph:

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

(b) ASSESSMENT RECORDKEEPING PERIOD SHORTENED.—Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(5) DEPOSITORY INSTITUTION 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 due date of the assessment; or

"(B) in the case 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.".

(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 to read as follows:

"(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) the failure to pay an assessment is due to a dispute between the insured depository institution and the Corporation over the amount of such assessment; and

"(B) the insured depository institution deposits security satisfactory to the Corporation for payment upon final determination of the issue.

"(3) SPECIAL RULE FOR SMALL ASSESSMENT AMOUNTS.—If the amount of the assessment which an

insured depository institution fails or refuses to pay is less than $10,000 at the time of such failure or refusal, the amount of any penalty to which such institution is subject under paragraph (1) shall not exceed $100 for each day that such violation continues.

"(4) AUTHORITY TO MODIFY OR REMIT PENALTY.—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) STATUTE OF LIMITATIONS FOR ASSESSMENT ACTIONS.—Subsection (g) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(g)) is amended to read as follows:

"(g) ASSESSMENT ACTIONS.—

"(1) IN GENERAL.—The Corporation, in any court of competent jurisdiction, shall be entitled to recover from any insured depository institution the amount of any unpaid assessment lawfully payable by such insured depository institution.

"(2) STATUTE OF LIMITATIONS.—The following provisions shall apply to actions relating to assess-

ments, notwithstanding any other provision in Federal law, or the law of any State:

"(A) Any action by an insured depository institution to recover from the Corporation the overpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to the exception in subparagraph (E).

"(B) Any action by the Corporation to recover from an insured depository institution the underpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to the exceptions in subparagraphs (C) and (E).

"(C) If an insured depository institution has made a false or fraudulent statement with intent to evade any or all of its assessment, the Corporation shall have until 3 years after the date of discovery of the false or fraudulent statement in which to bring an action to recover the underpaid amount.

"(D) Except as provided in subparagraph (C), assessment deposit information contained in records no longer required to be maintained pur-

suant to subsection (b)(4) shall be considered conclusive and not subject to change.

"(E) Any action for the underpaid or overpaid amount of any assessment that became due before the amendment to 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 at the time the assessment became due.".

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that 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 shall designate the reserve ratio applicable with respect to the Deposit In-

surance Fund and publish the reserve ratio so designated.

"(ii) RULEMAKING REQUIREMENT.—Any change to the designated reserve ratio shall be made by the Board of Directors by regulation after notice and opportunity for comment.

"(B) RANGE.—The reserve ratio designated by the Board of Directors for any year—

"(i) may not exceed 1.5 percent of estimated insured deposits; and

"(ii) may not be less than 1.15 percent of estimated insured deposits.

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

"(i) take into account the risk of losses to the Deposit Insurance Fund in such year and future years, including historic experience and potential and estimated losses from insured depository institutions;

"(ii) take into account economic conditions generally affecting insured depository institutions so as to allow the designated reserve ratio to increase during more favor-

able economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions, as determined to be appropriate by the Board of Directors;

"(iii) seek to prevent sharp swings in the assessment rates for insured depository institutions; and

"(iv) take into account such other factors as the Board of Directors may determine to be appropriate, consistent with the requirements of this subparagraph.

"(D) PUBLICATION OF PROPOSED CHANGE IN RATIO.—In soliciting comment on any proposed change in the designated reserve ratio in accordance with subparagraph (A), the Board of Directors shall include in the published proposal a thorough analysis of the data and projections on which the proposal is based.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 9(a)(1) take effect.

SEC. 2106. REQUIREMENTS APPLICABLE TO THE RISK-BASED ASSESSMENT SYSTEM.

Section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) is amended by adding at the end the following new subparagraphs:

"(E) INFORMATION CONCERNING RISK OF LOSS AND ECONOMIC CONDITIONS.—

"(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 collect information, as appropriate, from all sources the Board of Directors considers appropriate, such as reports of condition, inspection reports, and other information from all Federal banking agencies, any information available from State bank supervisors, State insurance and securities regulators, the Securities and Exchange Commission (including information described in section 35), the Secretary of the Treasury, the Commodity Futures Trading Commission, the Farm Credit Administration, the Federal Trade Commission, any Federal reserve bank or Federal home loan bank, and other

regulators of financial institutions, and any information available from credit rating entities, and other private economic or business analysts.

"(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 AGGREGATE BASIS.—In the case of insured depository institutions that are well capitalized (as defined in section 38) and, in the most recent examination, were found to be well managed, the consultation under subclause (I) concerning the assessment of the risk of loss posed by such institutions may be made on an aggregate basis.

"(iii) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as providing any new authority for the Corporation to require submission of information by insured depository institutions to the Corporation.

"(F) MODIFICATIONS TO THE RISK-BASED ASSESSMENT SYSTEM ALLOWED ONLY AFTER NOTICE AND COMMENT.—In revising or modifying the risk-based assessment system at any time after the date of the enactment of the Federal Deposit Insurance Reform Act of 2005, the Board of Directors may implement such revisions or modification in final form only after notice and opportunity for comment.".

SEC. 2107. REFUNDS, DIVIDENDS, AND CREDITS FROM DEPOSIT INSURANCE FUND.

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

"(e) REFUNDS, DIVIDENDS, AND CREDITS.—

"(1) REFUNDS OF OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

"(A) refund the amount of the excess payment to the insured depository institution; or

"(B) credit such excess amount toward the payment of subsequent assessments until such credit is exhausted.

"(2) DIVIDENDS FROM EXCESS AMOUNTS IN DEPOSIT INSURANCE FUND.—

"(A) RESERVE RATIO IN EXCESS OF 1.5 PERCENT OF ESTIMATED INSURED DEPOSITS.—If, at the end of a calendar year, the reserve ratio of the Deposit Insurance Fund exceeds 1.5 percent of estimated insured deposits, the Corporation shall declare the amount in the Fund in excess of the amount required to maintain the reserve ratio at 1.5 percent of estimated insured deposits, as dividends to be paid to insured depository institutions.

"(B) RESERVE RATIO EQUAL TO OR IN EXCESS OF 1.35 PERCENT OF ESTIMATED INSURED DEPOSITS AND NOT MORE THAN 1.5 PERCENT.—If, at 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 declare the amount in

the Fund that is equal to 50 percent of the amount in excess of the amount required to maintain the reserve ratio at 1.35 percent of the estimated insured deposits as dividends to be paid to insured depository institutions.

"(C) BASIS FOR DISTRIBUTION OF DIVIDENDS.—

"(i) IN GENERAL.—Solely 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 such institution's 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:

"(I) The ratio of the assessment base of an insured depository institution (including any predecessor) on December 31, 1996, to the assessment

base of all eligible insured depository institutions on that date.

"(II) The total amount of assessments paid 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).

"(III) That portion of assessments paid by an insured depository institution (including any predecessor) that reflects higher levels of risk assumed by such institution.

"(IV) Such other factors as the Corporation may determine to be 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 such losses will be sufficiently high as to justify a finding by the Board that the reserve ratio should temporarily be allowed—

"(I) to grow without requiring dividends under subparagraph (B); or

"(II) to exceed the maximum amount established under subsection (b)(3)(B)(i).

"(F) CONSIDERATIONS.—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 ade-

quately addresses concerns over funding levels in the Deposit Insurance Fund; and

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

"(G) REVIEW OF DETERMINATION.—

"(i) ANNUAL REVIEW.—A determination to suspend or limit dividends under subparagraph (E) shall be reviewed by the Board of Directors annually.

"(ii) ACTION BY 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 renewal or new determination, the Corporation 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 the enactment of the Federal Deposit Insurance Reform

Act of 2005, the Board of Directors shall, by regulation after notice and opportunity for comment, provide for a credit to each eligible insured depository institution (or a successor insured depository institution), based on the assessment base of the institution on December 31, 1996, as compared to the combined aggregate assessment base of all eligible insured depository institutions, taking into account such factors as the Board of Directors may determine to be appropriate.

"(B) CREDIT LIMIT.—The aggregate amount of credits available under subparagraph (A) to all eligible insured depository institutions shall equal the amount that the Corporation could collect if the Corporation imposed an assessment of 10.5 basis points on the combined assessment base of the Bank Insurance Fund and the Savings Association Insurance Fund as of December 31, 2001.

"(C) ELIGIBLE INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'eligible insured depository institution' means any insured depository institution that—

"(i) was in existence on December 31, 1996, and paid a deposit insurance assessment prior to that date; or

"(ii) is a successor to any insured depository institution described in clause (i).

"(D) APPLICATION OF CREDITS.—

"(i) IN GENERAL.—Subject to clause (ii), the amount of a credit to any eligible insured depository institution under this paragraph shall be applied by the Corporation, subject to subsection (b)(3)(E), to the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning after the effective date of regulations prescribed under subparagraph (A).

"(ii) TEMPORARY RESTRICTION ON USE OF CREDITS.—The amount of a credit to any eligible insured depository institution under this paragraph may not be applied to more than 90 percent of the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning in fiscal years 2008, 2009, and 2010.

"(iii) REGULATIONS.—The regulations prescribed under subparagraph (A) shall establish the qualifications and procedures governing the application of assessment credits pursuant to clause (i).

"(E) LIMITATION ON AMOUNT OF CREDIT FOR CERTAIN DEPOSITORY INSTITUTIONS.—In the case of an insured depository institution that exhibits financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or is not adequately capitalized (as defined in section 38) at the beginning of an assessment period, the amount of any credit allowed under this paragraph against the assessment on that depository institution for such period may not exceed the amount calculated by applying to that depository institution the average assessment rate on all insured depository institutions for such assessment period.

"(F) SUCCESSOR DEFINED.—The Corporation shall define the term 'successor' for purposes of this paragraph, by regulation, and may consider any factors as the Board may deem appropriate.

"(4) ADMINISTRATIVE REVIEW.—

"(A) IN GENERAL.—The regulations prescribed under paragraphs (2)(D) and (3) shall include provisions allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of the credit or dividend determined under paragraph (2) or (3) for such institution.

"(B) ADMINISTRATIVE REVIEW.—Any review under subparagraph (A) of any determination of the Corporation under paragraph (2) or (3) shall be final and not subject to judicial review.".

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

"(3) RESERVE RATIO.—The term 'reserve ratio', when used with regard to the Deposit Insurance Fund other than in connection with a reference to the designated reserve ratio, means the ratio of the net worth of the Deposit Insurance Fund to the value of the aggregate estimated insured deposits.".

SEC. 2108. DEPOSIT INSURANCE FUND RESTORATION PLANS.

Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) (as amended by section 2105(a) of this subtitle) is amended by adding at the end the following new subparagraph:

"(E) DIF RESTORATION PLANS.—

"(i) IN GENERAL.—Whenever—

"(I) the Corporation projects that the reserve ratio of the Deposit Insurance Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio; or

"(II) the reserve ratio of the Deposit Insurance Fund actually falls below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio without any determination under subclause (I) having been made,

the Corporation shall establish and implement a Deposit Insurance Fund restoration plan within 90 days that meets the requirements of clause (ii) and such other condi-

tions as the Corporation determines to be appropriate.

"(ii) REQUIREMENTS OF RESTORATION PLAN.—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 subparagraph (B)(ii) for the designated reserve ratio before 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 subparagraph, 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 RESTRICTION.—Notwithstanding clause (iii), while any restoration plan under this subparagraph is in effect, the Corporation shall apply credits

provided to an insured depository institution under subsection (e)(3) against any assessment imposed on the institution for any assessment period in an amount equal to the lesser of—

"(I) the amount of the assessment; or

"(II) the amount equal to 3 basis points of the institution's assessment base.

"(v) TRANSPARENCY.—Not more 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) designating 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 2105 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 2107 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 2107 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 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 DIF MEMBERS UNDER EXISTING REGULATIONS.—As of the date 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 2005".

(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 DEADLINE.

(a) AMENDMENTS.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(1) in subparagraph (A)—

(A) by inserting "full-power" before "television broadcast license"; and

(B) by striking "December 31, 2006" and inserting "February 17, 2009";

(2) by striking subparagraph (B);

(3) in subparagraph (C)(i)(I), by striking "or (B)";

(4) in subparagraph (D), by striking "subparagraph (C)(i)" and inserting "subparagraph (B)(i)"; and

(5) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) TERMINATIONS OF ANALOG LICENSES AND BROADCASTING.—The Federal Communications Commission shall take such actions as are necessary—

(1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by February 18, 2009; and

(2) to require by February 18, 2009, that all broadcasting by Class A stations, whether in the ana-

log television service or digital television service, and all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive).

(c) CONFORMING AMENDMENTS.—

(1) Section 337(e) of the Communications Act of 1934 (47 U.S.C. 337(e)) is amended—

(A) in paragraph (1)—

(i) by striking "CHANNELS 60 TO 69" and inserting "CHANNELS 52 TO 69";

(ii) by striking "person who" and inserting "full-power television station licensee that";

(iii) by striking "746 and 806 megahertz" and inserting "698 and 806 megahertz"; and

(iv) by striking "the date on which the digital television service transition period terminates, as determined by the Commission" and inserting "February 17, 2009"; and

(B) in paragraph (2), by striking "746 megahertz" and inserting "698 megahertz".

SEC. 3003. AUCTION OF RECOVERED SPECTRUM.

(a) DEADLINE FOR AUCTION.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) by redesignating the second paragraph (15) of such section (as added by section 203(b) of the Commercial Spectrum Enhancement Act (Pub. L. 108–494; 118 Stat. 3993)), as paragraph (16) of such section; and

(2) in the first paragraph (15) of such section (as added by section 3(a) of the Auction Reform Act of 2002 (Pub. L. 107–195; 116 Stat. 716)), by adding at the end of subparagraph (C) the following new clauses:

"(v) ADDITIONAL DEADLINES FOR RECOVERED ANALOG SPECTRUM.—Notwithstanding subparagraph (B), the Commission shall conduct the auction of the licenses for recovered analog spectrum by commencing the bidding not later than January 28, 2008, and shall deposit the proceeds of such auction in accordance with paragraph (8)(E)(ii) not later than June 30, 2008.

"(vi) RECOVERED ANALOG SPECTRUM.—For purposes of clause (v), the term 'recovered analog spectrum' means the spec-

trum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television service broadcasting under paragraph (14), other than—

"(I) the spectrum required by section 337 to be made available for public safety services; and

"(II) the spectrum auctioned prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.".

(b) EXTENSION OF AUCTION AUTHORITY.—Section 309(j)(11) of such Act (47 U.S.C. 309(j)(11)) is amended by striking "2007" and inserting "2011".

SEC. 3004. RESERVATION OF AUCTION PROCEEDS.

Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) in subparagraph (A), by striking "subparagraph (B) or subparagraph (D)" and inserting "subparagraphs (B), (D), and (E)";

(2) in subparagraph (C)(i), by inserting before the semicolon at the end the following: ", except as otherwise provided in subparagraph (E)(ii)"; and

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

"(E) TRANSFER OF RECEIPTS.—

"(i) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the Digital Television Transition and Public Safety Fund.

"(ii) PROCEEDS FOR FUNDS.—Notwithstanding subparagraph (A), the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection with respect to recovered analog spectrum shall be deposited in the Digital Television Transition and Public Safety Fund.

"(iii) TRANSFER OF AMOUNT TO TREASURY.—On September 30, 2009, the Secretary shall transfer $7,363,000,000 from the Digital Television Transition and Public Safety Fund to the general fund of the Treasury.

"(iv) RECOVERED ANALOG SPECTRUM.—For purposes of clause (i), the term

'recovered analog spectrum' has the meaning provided in paragraph (15)(C)(vi).".

SEC. 3005. DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

(a) CREATION OF PROGRAM.—The Assistant Secretary shall—

(1) implement and administer a program through which households in the United States may obtain coupons that can be applied toward the purchase of digital-to-analog converter boxes; and

(2) make payments of not to exceed $990,000,000, in the aggregate, through fiscal year 2009 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 $1,500,000,000, 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) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) TWO-PER-HOUSEHOLD MAXIMUM.—A household may obtain coupons by making a request as required by the regulations under this section between January 1, 2008, and March 31, 2009, inclusive. The Assistant Secretary shall ensure that each requesting household receives, via the United States Postal Service, no more than two coupons.

(B) NO COMBINATIONS OF COUPONS.—Two coupons may not be used in combination toward the purchase of a single digital-to-analog converter box.

(C) DURATION.—All coupons shall expire 3 months after issuance.

(2) DISTRIBUTION OF COUPONS.—The Assistant Secretary shall expend not more than $100,000,000 on administrative expenses and shall ensure that the sum of—

(A) all administrative expenses for the program, including not more than $5,000,000 for consumer education concerning the digital television transition and the availability of the digital-to-analog converter box program; and

(B) the total maximum value of all the coupons redeemed, and issued but not expired, does not exceed $990,000,000.

(3) USE OF ADDITIONAL AMOUNT.—If the Assistant Secretary transmits to the Committee on Energy and Commerce of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a statement certifying that the sum permitted to be expended under paragraph (2) will be insufficient to fulfill the requests for coupons from eligible households—

(A) paragraph (2) shall be applied—

(i) by substituting "$160,000,000" for "$100,000,000"; and

(ii) by substituting "$1,500,000,000" for "$990,000,000";

(B) subsection (a)(2) shall be applied by substituting "$1,500,000,000" for "$990,000,000"; 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.

(d) DEFINITION 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 features or functions except those necessary to enable a consumer to convert any channel broadcast in the digital television service into a format that the consumer can display on 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 assist public safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that utilize, or enable interoperability with 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 Tele-

vision 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 nongovernmental organization authorized by such entity, whose sole 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 amongst 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 9/11 DIGITAL TRANSITION.

(a) FUNDS 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)) the Assistant Secretary shall make payments of not to exceed $30,000,000, in the aggregate, which shall be available to carry out this section for fiscal years 2007 through 2008. The Assistant Secretary may borrow from the Treasury beginning October 1, 2006 such sums as may be necessary not to exceed $30,000,000 to implement and administer the program in accordance with this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(b) USE OF FUNDS.—The sums available under subsection (a) shall be made available by the Assistant Secretary by grant to be used to reimburse the Metropolitan Television Alliance for costs incurred in the design and de-

ployment 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.

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

(1) METROPOLITAN TELEVISION ALLIANCE.—The term "Metropolitan Television Alliance" means the organization formed by New York City television broadcast station licensees to locate new shared facilities as a result of the attacks on September 11, 2001 and the loss of use of shared facilities that housed broadcast equipment.

(2) NEW YORK CITY AREA.—The term "New York City area" means the five counties comprising New York City and counties of northern New Jersey in immediate proximity to New York City (Bergen, Essex, Union, and Hudson Counties) .

SEC. 3008. LOW-POWER TELEVISION AND TRANSLATOR DIGITAL-TO-ANALOG CONVERSION.

(a) CREATION OF PROGRAM.—The Assistant Secretary shall make payments of not to exceed $10,000,000, in the aggregate, during the fiscal year 2008 and 2009 period 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 eligible low-power television station may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station's analog channel. An eligible low-power television station may receive such compensation only if it submits a request for such compensation on or before February 17, 2009. Priority compensation shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning October 1, 2006 such sums as may be necessary, but not to exceed $10,000,000, 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) ELIGIBLE STATIONS.—For purposes of this section, the term "eligible low-power television station" means a low-power television broadcast station, Class A television

station, television translator station, or television booster station—

(1) that is itself broadcasting exclusively in analog format; and

(2) that has not purchased a digital-to-analog conversion device prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.

SEC. 3009. LOW-POWER TELEVISION AND TRANSLATOR UPGRADE PROGRAM.

(a) ESTABLISHMENT.—The Assistant Secretary shall make payments of not to exceed $65,000,000, in the aggregate, during fiscal year 2009 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 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 section 610(b)(2) of the Rural Electrification Act of 1937 (7 U.S.C. 950bb(b)(2)). Such reimbursements shall be issued to eligible stations no earlier than October 1, 2010. Priority reimbursements shall be given to eligible low-power television stations in which the license is held by a non-profit

corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

(b) ELIGIBLE STATIONS.—For purposes of this section, the term "eligible low-power television station" means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

(1) that is itself broadcasting exclusively in analog format; and

(2) that has not converted from analog to digital operations prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.

SEC. 3010. NATIONAL ALERT AND TSUNAMI WARNING PROGRAM.

The Assistant Secretary shall make payments of not to exceed $156,000,000, in the aggregate, during the fiscal year 2007 through 2012 period 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 a unified national alert system capable of alerting the public, on a national, regional, or local basis to emergency situations by using a variety of communications technologies. The Assistant Sec-

retary shall use $50,000,000 of such amounts to implement a tsunami warning and coastal vulnerability program.

SEC. 3011. ENHANCE 911.

The Assistant Secretary shall make payments of not to exceed $43,500,000, in the aggregate, 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 the ENHANCE 911 Act of 2004.

SEC. 3012. ESSENTIAL AIR SERVICE PROGRAM.

(a) IN GENERAL.—If the amount appropriated to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, equals or exceeds $110,000,000 for fiscal year 2007 or 2008, then the Secretary of Commerce shall make $15,000,000 available, from the Digital Television Transition and Public Safety Fund established by section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)), to the Secretary of Transportation for use in carrying out the essential air service program for that fiscal year.

(b) APPLICATION WITH OTHER FUNDS.—Amounts made available under subsection (a) for any fiscal year shall be in addition to any amounts—

(1) appropriated for that fiscal year; or

(2) derived from fees collected pursuant to section 45301(a)(1) of title 49, United States Code, that are made available for obligation and expenditure to carry out the essential air service program for that fiscal year.

(c) ADVANCES.—The Secretary of Transportation may borrow from the Treasury such sums 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 Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) and made available to the Secretary under subsection (a).

SEC. 3013. SUPPLEMENTAL LICENSE FEES.

In addition to any fees assessed under the Communications Act of 1934 (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 "13.5 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 March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132), is amended by striking "9 cents per ton" and all that follows through "and 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 2 cents".

TITLE V—MEDICARE

Subtitle A—Provisions Relating to Part A

SEC. 5001. HOSPITAL QUALITY IMPROVEMENT.

(a) SUBMISSION OF HOSPITAL DATA.—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) in subclause (XIX), by striking "2007" and inserting "2006"; and

(B) in subclause (XX), by striking "for fiscal year 2008 and each subsequent fiscal year," and inserting "for each subsequent fiscal year, subject to clause (viii),";

(2) in clause (vii)—

(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, each"; 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 on measures selected 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. Such 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 clause (i) for a subsequent fiscal year, and the Secretary and the Medicare Payment Advisory Commission shall carry out the requirements under section 5001(b) of the Deficit Reduction Act of 2005.

"(II) Each subsection (d) hospital shall submit data on measures selected under this clause to the Secretary in a form and manner, and at a time, specified by the Secretary for purposes of this clause.

"(III) The Secretary shall expand, beyond the measures specified under clause (vii)(II) and consistent with the succeeding

subclauses, the set of measures that the Secretary determines to be appropriate for the measurement of the quality of care furnished by hospitals in inpatient settings.

"(IV) Effective for payments beginning with fiscal year 2007, in expanding the number of measures under subclause (III), the Secretary shall begin to adopt the baseline set of performance measures as set forth in the November 2005 report by the Institute of Medicine of the National Academy of Sciences under section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

"(V) Effective for payments beginning with fiscal year 2008, the Secretary shall add other measures that reflect consensus among affected parties and, to the extent feasible and practicable, shall include measures set forth by one or more national consensus building entities.

"(VI) For purposes of this clause and clause (vii), the Secretary may replace any measures or indicators in appropriate cases, such as where all hospitals are effectively in

compliance or the measures or indicators have been subsequently shown not to represent the best clinical practice.

"(VII) The Secretary shall establish procedures for making data submitted under this clause available to the public. Such procedures shall ensure that a hospital has the opportunity to review the data that are to be made public with respect to the hospital prior to such data being made public. The Secretary shall report quality measures of process, structure, outcome, patients' perspectives on care, efficiency, and costs of care that relate to services furnished in inpatient settings in hospitals on the Internet website of the Centers for Medicare & Medicaid Services.".

(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 2009.

(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 demonstrations 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 be assigned under this paragraph for a discharge described in clause (ii) shall be a diagnosis-related group that does not result in higher payment based on the presence 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.

"(iii) As part of the information 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.

"(iv) By not later than October 1, 2007, the Secretary shall select diagnosis codes associated with at least two conditions, each of which codes meets all of the following requirements (as determined by the Secretary):

"(I) Cases described by such code have a high cost or high volume, or both, under this title.

"(II) The code results in the assignment of a case to a diagnosis-related group that has a higher payment when the code is present as a secondary diagnosis.

"(III) The code describes such conditions that could reasonably have been prevented through the application of evidence-based guidelines.

The Secretary may from time to time revise (through addition or deletion of codes) the diagnosis codes selected under this clause so long as there are diagnosis codes associated with at least two conditions selected for discharges occurring during any fiscal year.

"(v) In selecting and revising diagnosis codes under clause (iv), the Secretary shall consult with the Centers for Disease Control and Prevention and other appropriate entities.

"(vi) Any change resulting from the application of this subparagraph shall not be taken into account in adjusting

the weighting factors under subparagraph (C)(i) or in applying budget neutrality under subparagraph (C)(iii).".

(2) NO JUDICIAL REVIEW.—Section 1886(d)(7)(B) of such Act (42 U.S.C. 1395ww(d)(7)(B)) is amended by inserting before the period the following: ", including the selection and revision of codes under paragraph (4)(D)".

SEC. 5002. CLARIFICATION OF DETERMINATION OF MEDICAID PATIENT DAYS FOR DSH COMPUTATION.

(a) IN GENERAL.—Section 1886(d)(5)(F)(vi) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(vi)) is amended by adding after and below subclause (II) the following:

"In determining under subclause (II) the number of the hospital's patient days for such period which consist of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX, the Secretary may, to the extent and for the period the Secretary determines appropriate, include patient days of patients not so eligible but who are regarded as such because they receive benefits under a demonstration project approved under title XI.".

(b) RATIFICATION AND PROSPECTIVE APPLICATION OF PREVIOUS REGULATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), regulations described in paragraph (3), insofar as such regulations provide for the treatment of individuals eligible for medical assistance under a demonstration project approved under title XI of the Social Security Act under section 1886(d)(5)(F)(vi) of such Act, are hereby ratified, effective as of the date of their respective promulgations.

(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) 2000 REGULATION.—Regulations promulgated on January 20, 2000, at 65 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)(II)—

(i) 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(b)(3)(D) of such Act (42 U.S.C. 1395ww(b)(3)(D)) is amended—

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

(I) 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 13501(e)(2) of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 1395ww note) is amended by striking "through fiscal year 2005" and inserting "through fiscal year 2011".

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

(1) in subparagraph (D), by inserting "subject to subparagraph (K)," after "(d)(5)(G)),"; and

(2) 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)(i) the 12-month cost reporting period beginning during fiscal year 2002; and

"(II) any reference in such subparagraph to the 'first cost reporting period' described in such subparagraph is deemed a reference to the first cost reporting period beginning on or after October 1, 2006.

"(ii) This subparagraph shall only apply to a hospital if the substitution 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)(II) of such Act (42 U.S.C. 1395ww(d)(5)(G)(iv)(II)) 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)(xiv)(II) of such Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended by inserting "or, in the case of discharges occurring on or after October 1, 2006, as 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. 1395x(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, 2005, the amount of bad

debts otherwise treated as allowed costs which are attributable to the coinsurance amounts under this title for individuals who are entitled to benefits under part A and—

"(i) are not described in section 1935(c)(6)(A)(ii) shall be reduced by 30 percent of such amount otherwise allowable; and

"(ii) are described in such section shall not be reduced.".

(b) TECHNICAL AMENDMENT.—Section 1861(v)(1)(T) of such Act (42 U.S.C. 1395x(v)(1)(T)) is amended by striking "section 1833(t)(5)(B)" and inserting "section 1833(t)(8)(B)".

SEC. 5005. EXTENDED PHASE-IN OF THE INPATIENT REHABILITATION FACILITY CLASSIFICATION CRITERIA.

(a) IN GENERAL.—Notwithstanding section 412.23(b)(2) of title 42, Code of Federal Regulations, the Secretary of Health and Human Services shall apply the applicable percent specified in subsection (b) in the classification criterion 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 the Medicare program under title XVIII of the Social Security Act.

(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 July 1, 2006, is 60 percent;

(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 rule 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" (69 Fed. Reg. 25752).

SEC. 5006. DEVELOPMENT OF A 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 and implementing plan to address issues described in paragraph (2) regarding physician investment in specialty hospitals (as defined in section 1877(h)(7)(A)

of the Social Security Act (42 U.S.C. 1395nn(h)(7)(A)).

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

(A) Proportionality of investment return.

(B) Bona fide investment.

(C) Annual disclosure of investment information.

(D) 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.

(E) Appropriate enforcement.

(b) REPORTS.—

(1) 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

status of the development of the plan under subsection (a).

(2) FINAL REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit a final 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.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall continue the suspension on enrollment of new specialty 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 subsection (b)(2); or

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

(2) EXTENSION OF SUSPENSION.—If the Secretary fails to submit the final report described in subsection (b)(2) 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 553 of title 5, United States Code, as the Secretary determines necessary.

(e) FUNDING.—Out of any 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. MEDICARE DEMONSTRATION PROJECTS 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) REQUIREMENTS DESCRIBED.—A demonstration project under this section shall meet the following requirements for purposes of maintaining or improving quality while achieving cost savings:

(1) ARRANGEMENT FOR REMUNERATION AS SHARE OF SAVINGS.—The demonstration project shall involve an arrangement between a hospital and a physician under which the hospital provides remuneration to the physician that represents solely a share of the savings incurred directly as a result of collaborative efforts between the hospital and the physician.

(2) WRITTEN 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) includes 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 1128B 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 that an arrangement between a hospital and a physician does not violate paragraph (1) or (2) of section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7(a)).

(d) PROGRAM ADMINISTRATION.—

(1) SOLICITATION 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 number of demonstration projects that will be conducted under this section.

(2) PROJECT UPDATE.—By not later than December 1, 2007, the Secretary shall submit to Congress a report on the details of such projects (including the project improvements towards quality and efficiency described in subsection (b)(2)(B)).

(3) QUALITY IMPROVEMENT AND SAVINGS.—By not later than December 1, 2008, the Secretary shall submit to Congress a report on quality improvement and savings achieved as a result of the qualified

gainsharing demonstration program established under subsection (a).

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

(f) FUNDING.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2006 $6,000,000, to carry out this section.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available for expenditure through fiscal year 2010.

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

(1) DEMONSTRATION PROJECT.—The term "demonstration project" means a project implemented under the qualified gainsharing demonstration program established under subsection (a).

(2) HOSPITAL.—The term "hospital" means a hospital that receives payment under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), and does not include a critical access hospital (as defined in section 1861(mm) of such Act (42 U.S.C. 1395x(mm))).

(3) MEDICARE.—The term "Medicare" means the programs under title XVIII of the Social Security Act.

(4) PHYSICIAN.—The term "physician" means, with respect to a demonstration project, a physician described in paragraph (1) or (3) of section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)) who is licensed as such a physician in the area in which the project is located and meets requirements to provide services for which benefits are provided under Medicare. Such term shall be deemed to include a practitioner described in section 1842(e)(18)(C) of such Act (42 U.S.C. 1395u(e)(18)(C)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 5008. POST-ACUTE CARE PAYMENT REFORM DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—By not later than January 1, 2008, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration program for purposes of understanding costs and outcomes across different post-acute care sites. Under such program, with respect to diagnoses specified by the Secretary, an indi-

vidual who receives treatment from a provider for such a diagnosis shall receive a single comprehensive assessment on the date of discharge from a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) of the needs of the patient and the clinical characteristics of the diagnosis to determine the appropriate placement of such patient in a post-acute care site. The Secretary shall use a standardized patient assessment instrument across all post-acute care sites to measure functional status and other factors during the treatment and at discharge from each provider. Participants in the program shall provide information on the fixed and variable costs for each individual. An additional comprehensive assessment shall be provided at the end of the episode of care.

(2) NUMBER OF SITES.—The Secretary shall conduct the demonstration program under this section with sufficient numbers to determine statistically reliable results.

(3) DURATION.—The Secretary shall conduct the demonstration program under this section for a 3-year period.

(b) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII of the Social Secu-

rity Act (42 U.S.C. 1301 et seq.; 42 U.S.C. 1395 et seq.) as may be necessary for the purpose of carrying out the demonstration program under this section.

(c) REPORT.—Not later than 6 months after the completion of the demonstration program under this section, the Secretary shall submit to Congress a report on such program, that includes the results of the program and recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(d) FUNDING.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i), $6,000,000 for the costs of carrying out the demonstration program under this section.

Subtitle B—Provisions Relating to Part B

CHAPTER 1—PAYMENT PROVISIONS

SEC. 5101. BENEFICIARY OWNERSHIP OF CERTAIN DURABLE MEDICAL EQUIPMENT (DME).

(a) DME.—

(1) IN GENERAL.—Section 1834(a)(7)(A) of the Social Security Act (42 U.S.C. 1395m(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) RENTAL.—

"(I) IN GENERAL.—Except as provided in clause (iii), 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 36 months).

"(II) PAYMENT AMOUNT.—Subject to subparagraph (B), the amount recognized for the item, for each of the first 3 months of such period, is 10 percent of the purchase price recognized under paragraph (8) with respect to the item, and, for each of the remaining months of such period, is 7.5 percent of such purchase price.

"(ii) OWNERSHIP AFTER RENTAL.—On the first day that begins after the 36th continuous month during which payment is 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) 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.

"(iv) MAINTENANCE AND SERVICING.—After the supplier transfers title to the item under clause (ii) 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), and such payments shall be in an amount determined to be appropriate by the Secretary.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished for which the first rental month occurs on or after January 1, 2006.

(b) OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(5) of such Act (42 U.S.C. 1395m(a)(5)) is amended—

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

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

"(F) OWNERSHIP OF EQUIPMENT.—

"(i) IN GENERAL.—Payment for oxygen equipment (including portable oxygen equipment) under this paragraph may not extend over a period of continuous use (as determined by the Secretary) of longer than 36 months.

"(ii) OWNERSHIP.—

"(I) TRANSFER OF TITLE.—On the first day that begins after the 36th continuous month during which payment is made for the equipment under this paragraph, the supplier of the

equipment shall transfer title to the equipment to the individual.

"(II) PAYMENTS FOR OXYGEN AND MAINTENANCE AND SERVICING.—After the supplier transfers title to the equipment under subclause (I)—

"(aa) payments for oxygen shall continue to be made in the amount recognized for oxygen under paragraph (9) for the period of medical need; and

"(bb) 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 equipment), and such payments shall be in an amount determined to be appropriate by the Secretary.".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

(B) APPLICATION TO CERTAIN INDIVIDUALS.—In the case of an individual receiving oxygen equipment on December 31, 2005, for which payment is made under section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), the 36-month period described in paragraph (5)(F)(i) of such section, as added by paragraph (1), shall begin on January 1, 2006.

SEC. 5102. ADJUSTMENTS IN PAYMENT FOR IMAGING SERVICES.

(a) MULTIPLE PROCEDURE PAYMENT REDUCTION FOR IMAGING EXEMPTED FROM BUDGET NEUTRALITY.—Section 1848(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(B)) is amended—

(1) in clause (ii)(II), by striking "clause (iv)" and inserting "clauses (iv) and (v)";

(2) in clause (iv) in the heading, by inserting "OF CERTAIN ADDITIONAL EXPENDITURES" after "EXEMPTION"; and

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

"(v) EXEMPTION OF CERTAIN REDUCED EXPENDITURES FROM BUDGET-NEUTRALITY CALCULATION.—The following reduced expenditures, as estimated by the Secretary, shall not be taken into account in applying clause (ii)(II):

"(I) REDUCED PAYMENT FOR MULTIPLE IMAGING PROCEDURES.—Effective for fee schedules established beginning with 2007, reduced expenditures attributable to the multiple procedure payment reduction for imaging under the final rule published by the Secretary in the Federal Register on November 21, 2005 (42 CFR 405, et al.) insofar as it relates to the physician fee schedules for 2006 and 2007.".

(b) REDUCTION IN PHYSICIAN FEE SCHEDULE TO OPD PAYMENT AMOUNT FOR IMAGING SERVICES.—Section 1848 of such Act (42 U.S.C. 1395w–4) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR IMAGING SERVICES.—

"(A) IN GENERAL.—In the case of imaging services described in subparagraph (B) furnished on or after January 1, 2007, if—

"(i) the technical component (including the technical component portion of a global fee) of the service established for a year under the fee schedule described in paragraph (1) without application of the geographic adjustment factor described in paragraph (1)(C), exceeds

"(ii) the Medicare OPD fee schedule amount established under the prospective payment system for hospital outpatient department services under paragraph (3)(D) of section 1833(t) for such service for such year, determined without regard to geographic adjustment under paragraph (2)(D) of such section,

the Secretary shall substitute the amount described in clause (ii), adjusted by the geographic adjustment factor described in paragraph (1)(C), for the fee schedule amount for such technical component for such year.

"(B) IMAGING SERVICES DESCRIBED.—For purposes of subparagraph (A), imaging services

described in this subparagraph are imaging and computer-assisted imaging services, including X-ray, ultrasound (including echocardiography), nuclear medicine (including positron emission tomography), magnetic resonance imaging, computed tomography, and fluoroscopy, but excluding diagnostic and screening mammography.";

and

(2) in subsection (c)(2)(B)(v), as added by subsection (a)(3), by adding at the end the following new subclause:

"(II) OPD PAYMENT CAP FOR IMAGING SERVICES.—Effective for fee schedules established beginning with 2007, reduced expenditures attributable to subsection (b)(4).".

SEC. 5103. LIMITATION ON PAYMENTS FOR PROCEDURES IN AMBULATORY SURGICAL CENTERS.

Section 1833(i)(2) of the Social Security Act (42 U.S.C. 1395l(i)(2)) is amended—

(1) in subparagraph (A), by inserting "subject to subparagraph (E)," after "subparagraph (D),";

(2) in subparagraph (D)(ii), by inserting before the period at the end the following: "and taking into account reduced expenditures that would apply if sub-

paragraph (E) were to continue to apply, as estimated by the Secretary"; and

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

"(E) With respect to surgical procedures furnished on or after January 1, 2007, and before the effective date of the implementation of a revised payment system under subparagraph (D), if—

"(i) the standard overhead amount under subparagraph (A) for a facility service for such procedure, without the application of any geographic adjustment, exceeds

"(ii) the Medicare OPD fee schedule amount established under the prospective payment system for hospital outpatient department services under paragraph (3)(D) of section 1833(t) for such service for such year, determined without regard to geographic adjustment under paragraph (2)(D) of such section,

the Secretary shall substitute under subparagraph (A) the amount described in clause (ii) for the standard overhead amount for such service referred to in clause (i).".

SEC. 5104. UPDATE FOR PHYSICIANS' SERVICES FOR 2006.

(a) UPDATE FOR 2006.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended—

(1) in paragraph (4)(B), in the matter preceding clause (i), by striking "paragraph (5)" and inserting "paragraphs (5) and (6)"; and

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

"(6) UPDATE FOR 2006.—The update to the single conversion factor established in paragraph (1)(C) for 2006 shall be 0 percent.".

(b) NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.—The amendments made by subsection (a) shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)).

(c) MEDPAC REPORT.—

(1) IN GENERAL.—By not later than March 1, 2007, the Medicare Payment Advisory Commission shall submit a report to Congress on mechanisms that could be used to replace the sustainable growth rate system under section 1848(f) of the Social Security Act (42 U.S.C. 1395w–4(f)).

(2) REQUIREMENTS.—The report required under paragraph (1) shall—

(A) identify and examine alternative methods for assessing volume growth;

(B) review options to control the volume of physicians' services under the Medicare program while maintaining access to such services by Medicare beneficiaries;

(C) examine the application of volume controls under the Medicare physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4);

(D) identify levels of application of volume controls, such as group practice, hospital medical staff, type of service, geographic area, and outliers;

(E) examine the administrative feasibility of implementing the options reviewed under subparagraph (B), including the availability of data and time lags;

(F) examine the extent to which the alternative methods identified and examined under subparagraph (A) should be specified in such section 1848; and

(G) identify the appropriate level of discretion for the Secretary of Health and Human Services to change payment rates under the Medicare physician fee schedule or otherwise take steps that affect physician behavior.

Such report shall include such recommendations on alternative mechanisms to replace the sustainable growth rate system as the Medicare Payment Advisory Commission determines appropriate.

(3) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Medicare Payment Advisory Commission $550,000, to carry out this subsection.

SEC. 5105. THREE-YEAR TRANSITION OF HOLD HARMLESS PAYMENTS FOR SMALL RURAL HOSPITALS UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) by inserting "(I)" before "In the case"; and

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

"(II) In the case of a hospital located in a rural area and that has not more than 100 beds and that is not a sole community hospital (as defined in section 1886(d)(5)(D)(iii)), for covered OPD services furnished on or after January 1, 2006, and before January 1, 2009, for which the

PPS amount is less than the pre-BBA amount, the amount of payment under this subsection shall be increased by the applicable percentage of the amount of such difference. For purposes of the previous sentence, with respect to covered OPD services furnished during 2006, 2007, or 2008, the applicable percentage shall be 95 percent, 90 percent, and 85 percent, respectively.".

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

Section 1881(b)(12) of the Social Security Act (42 U.S.C. 1395rr(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 redesignating 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 system under subparagraph (B) for dialysis services fur-

nished on or after January 1, 2006, by 1.6 percent above the amount of such composite rate component for such services furnished on December 31, 2005.".

SEC. 5107. REVISIONS TO PAYMENTS FOR THERAPY SERVICES.

(a) EXCEPTION TO CAPS FOR 2006.—

(1) IN GENERAL.—Section 1833(g) of the Social Security Act (42 U.S.C. 1395l(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, 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.".

(2) 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 Pub. L. 108–173) as are necessary to implement the amendments made by paragraph (1) on a timely basis and, notwithstanding any other provision of law, may implement such amendments by program instruction or otherwise. There shall be no administrative or judicial review under section 1869 or section 1878 of the Social Security Act (42 U.S.C. 1395ff and 1395oo), or otherwise of the process (including the establishment of the process) under section 1833(g)(5) of such Act, as added by paragraph (1).

(b) IMPLEMENTATION OF CLINICALLY APPROPRIATE CODE EDITS IN ORDER TO IDENTIFY AND ELIMINATE IMPROPER PAYMENTS FOR THERAPY SERVICES.—By not later than July 1, 2006, the Secretary of Health and Human Services shall implement clinically appropriate code edits with respect to payments under part B of title XVIII of the Social Security Act for physical therapy services, occupational therapy services, and speech-language pathology services in order to identify and eliminate improper pay-

ments for such services, including edits of clinically illogical combinations of procedure codes and other edits to control inappropriate billings.

CHAPTER 2—MISCELLANEOUS

SEC. 5111. ACCELERATED IMPLEMENTATION OF INCOME-RELATED REDUCTION IN PART B PREMIUM SUBSIDY.

Section 1839(i)(3)(B) of the Social Security Act (42 U.S.C. 1395r(i)(3)(B)) is amended—

(1) in the heading, by striking "5-YEAR" and inserting "3-YEAR";

(2) in the matter preceding clause (i), by striking "2011" and inserting "2009";

(3) in clause (i), by striking "20 percent" and inserting "33 percent";

(4) in clause (ii), by striking "40 percent" and inserting "67 percent"; and

(5) by striking clauses (iii) and (iv).

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. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraph (Y);

(B) by adding "and" at the end of subparagraph (Z) and moving such subparagraph 2 ems to the left; and

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

"(AA) ultrasound screening for abdominal aortic aneurysm (as defined in subsection (bbb)) for an individual—

"(i) who receives a referral for such an ultrasound screening as a result of an initial preventive physical examination (as defined in section 1861(ww)(1));

"(ii) who has not been previously furnished such an ultrasound screening under this title; and

"(iii) who—

"(I) has a family history of abdominal aortic aneurysm; or

"(II) manifests risk factors included in a beneficiary category recommended for screening by the United States Preventive Services Task Force regarding abdominal aortic aneurysms;"; and

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

"Ultrasound Screening for Abdominal Aortic Aneurysm

"(bbb) The term 'ultrasound screening for abdominal aortic aneurysm' means—

"(1) a procedure using sound waves (or such other procedures using alternative technologies, of commensurate accuracy and cost, that the Secretary may specify) provided for the early detection of abdominal aortic aneurysm; and

"(2) includes a physician's interpretation of the results of the procedure.".

(b) INCLUSION OF ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSM IN INITIAL PREVENTIVE PHYSICAL EXAMINATION.—Section 1861(ww)(2) of such Act (42 U.S.C. 1395x(ww)(2)) is amended by adding at the end the following new subparagraph:

"(L) Ultrasound screening for abdominal aortic aneurysm as defined in section 1861(bbb).".

(c) PAYMENT FOR ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSM.—Section 1848(j)(3) of such Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting "(2)(AA)," after "(2)(W),".

(d) FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by striking the semicolon at the end of subparagraph (M) and inserting ", and"; and

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

"(N) in the case of ultrasound screening for abdominal aortic aneurysm which is performed more frequently than is provided for under section 1861(s)(2)(AA);".

(e) NON-APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended in the first sentence—

(1) by striking "and" before "(6)"; and

(2) by inserting ", and (7) such deductible shall not apply with respect to ultrasound screening for abdominal aortic aneurysm (as defined in section 1861(bbb))" before the period at the end.

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

SEC. 5113. IMPROVING PATIENT ACCESS TO, AND UTILIZATION OF, COLORECTAL CANCER SCREENING.

(a) NON-APPLICATION OF DEDUCTIBLE FOR COLORECTAL CANCER SCREENING TESTS.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)), as

amended by section 5112(e), is amended in the first sentence—

(1) by striking "and" before "(7)"; and

(2) by inserting ", and (8) such deductible shall not apply with respect to colorectal cancer screening tests (as described in section 1861(pp)(1))" before the period at the end.

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

(1) by striking "DEDUCTIBLE AND" in the heading; and

(2) in subclause (I), by striking "deductible 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. 5114. DELIVERY OF SERVICES AT FEDERALLY QUALIFIED HEALTH CENTERS.

(a) COVERAGE.—

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

(A) in subparagraph (A), by striking ", and" and inserting "and services described in subsections (qq) and (vv); and";

(B) in subparagraph (B), by striking "sections 329, 330, and 340" and inserting "section 330"; and

(C) in the flush matter at the end, by inserting "by the center or by a health care professional under contract with the center" after "outpatient of a Federally qualified health center".

(2) CONSOLIDATED BILLING.—The first sentence of section 1842(b)(6)(F) of such Act (42 U.S.C. 1395u(b)(6)(F)) is amended—

(A) by striking "and (G)" and inserting "(G)"; and

(B) by inserting before the period at the end the following: ", and (H) in the case of services described in section 1861(aa)(3) that are furnished by a health care professional under contract with a Federally qualified health center, payment shall be made to the center".

(b) TECHNICAL CORRECTIONS.—Clauses (i) and (ii)(II) of section 1861(aa)(4)(A) of such Act (42 U.S.C.

1395x(aa)(4)(A)) are each amended by striking "(other than subsection (h))".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to services furnished on or after January 1, 2006.

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

(a) IN GENERAL.—

(1) WAIVER OF PENALTY.—Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended in the second sentence by inserting the following before the period at the end: "or months for which the individual can demonstrate that the individual was an individual described in section 1837(k)(3)".

(2) SPECIAL ENROLLMENT PERIOD.—

(A) IN GENERAL.—Section 1837 of such Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

"(k)(1) In the case of an individual who—

"(A) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is described in paragraph (3), and has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period; or

"(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 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 1838 of such Act (42 U.S.C. 1395q) 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 1837(k), the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply to months beginning with January 2007 and the amendments made by subsection (a)(2) shall take effect on January 1, 2007.

Subtitle C—Provisions Relating to Parts A and B

SEC. 5201. HOME HEALTH PAYMENTS.

(a) 2006 UPDATE.—Section 1895(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)(ii)) is amended—

(1) in subclause (III), by striking "each of 2005 and 2006" and inserting "all of 2005";

(2) by striking "or" at the end of subclause (III);

(3) in subclause (IV), by striking "2007 and" and by redesignating such subclause as subclause (V); and

(4) by inserting after subclause (III) the following new subclause:

"(IV) 2006, 0 percent; and".

(b) APPLYING RURAL ADD-ON POLICY FOR 2006.—Section 421(a) of Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173; 117 Stat. 2283) is amended by inserting "and episodes and visits beginning on or after January 1, 2006, and before January 1, 2007," after "April 1, 2005,".

(c) HOME HEALTH CARE QUALITY IMPROVEMENT.—Section 1895(b)(3)(B) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)) is amended—

(1) in clause (ii)(V), as redesignated by subsection (a)(3), by inserting "subject to clause (v)," after "subsequent year,"; and

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

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

"(I) ADJUSTMENT.—For purposes of clause (ii)(V), for 2007 and each subsequent year, in the case of a home health agency that does not submit data to the Secretary in accordance with subclause (II) with respect to such a year, the home health market basket percentage increase applicable under such clause for such year shall be re-

duced by 2 percentage points. Such reduction shall apply only with respect to the year involved, and the Secretary shall not take into account such reduction in computing the prospective payment amount under this section for a subsequent year, and the Medicare Payment Advisory Commission shall carry out the requirements under section 5201(d) of the Deficit Reduction Act of 2005.

"(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 appropriate 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 subclause (II)

available to the public. Such procedures shall ensure that a 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.''.

(d) 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 adjustments 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 thresholds, the size of such payments, sources of funds, and the relationship of payments for improvement and attainment of quality.

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

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. 1395h(c)(3)(B)(ii)) is amended by striking "26 days" and inserting "28 days".

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

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

SEC. 5203. TIMEFRAME 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 from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t) for claims submitted under part A or B of title XVIII of such Act for items and services furnished under such part A or B, respectively, that would otherwise be payable during the period beginning on September 22, 2006,

and ending on September 30, 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), the amount"; and

(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.".

Subtitle D—Provisions Relating to Part C

SEC. 5301. PHASE-OUT OF RISK ADJUSTMENT BUDGET NEUTRALITY IN DETERMINING THE AMOUNT OF PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

(a) IN GENERAL.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (j)(1)—

(A) in subparagraph (A)—

(i) by inserting "(or, beginning with 2007, 1/12 of the applicable amount determined under subsection (k)(1))" after "1853(c)(1)"; and

(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 AMOUNTS.—

"(1) APPLICABLE AMOUNT DEFINED.—For purposes of subsection (j), subject to paragraph (2), the term 'applicable 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 the area for 2006—

"(I) first adjusted by the rescaling factor for 2006 for the area (as made available by the Secretary in the announcement of the rates on April 4, 2005, under subsection (b)(1), but excluding any national adjustment factors for coding intensity and risk adjustment budget neutrality that were included in such factor); and

"(II) then increased by the national per capita MA growth percentage, described in subsection (c)(6) for 2007, but not taking into account any adjustment under subparagraph (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; 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 this paragraph for the area for the previous year (determined without regard to paragraph (2)), increased by the national per capita MA growth percentage, described in subsection (c)(6) for that succeeding year, but not taking into account any adjustment under subparagraph (C) of such subsection for a year before 2004; and

"(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.

"(2) PHASE-OUT OF BUDGET NEUTRALITY FACTOR.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), in the case of 2007 through 2010, 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.—

"(i) IN GENERAL.—For purposes of 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 (II) exceeds the risk rate described in subclause (III).

"(II) DEMOGRAPHIC RATE.—The demographic rate described in this subclause is the Secretary's estimate of the total payments that would have been made under this part in the year if all the monthly payment amounts for all MA plans were equal to 1/12 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 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 had not applied) under subsection (j) for the area and year, adjusted pursuant to subsection (a)(1)(C).

"(iii) DENOMINATOR BASED ON RISK RATE.—The denominator described in this clause is equal to the total amount estimated for the year under clause (ii)(III).

"(iv) REQUIREMENTS.—In estimating the amounts under the previous clauses, the Secretary shall—

"(I) use a complete set of the most recent and representative Medicare Advantage risk scores under subsection (a)(3) that are available from the risk adjustment model announced for the year;

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

"(III) 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);

"(IV) 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.

"(v) AUTHORITY.—In computing such amounts 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, 0.40;

"(iii) for 2009, 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 (2)(B) for any year.

"(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the Secretary to make adjustments to the applicable amounts determined under paragraph (1) as appropriate for purposes of updating data or for purposes of adopting an improved risk adjustment methodology.".

(b) REFINEMENTS TO HEALTH STATUS ADJUSTMENT.—Section 1853(a)(1)(C) of such Act (42 U.S.C. 1395w–23) is amended—

(1) by designating the matter after the heading as a clause (i) with the following heading: "IN GENERAL.—" and indenting appropriately; and

(2) by adding at the end the following:

1 *"(ii) APPLICATION DURING PHASE-OUT*
2 *OF BUDGET NEUTRALITY FACTOR.—For*
3 *2006 through 2010:*
4 *"(I) In applying the adjustment*
5 *under clause (i) for health status to*
6 *payment amounts, the Secretary shall*
7 *ensure that such adjustment reflects*
8 *changes in treatment and coding prac-*
9 *tices in the fee-for-service sector and re-*
10 *flects differences in coding patterns be-*
11 *tween Medicare Advantage plans and*
12 *providers under part A and B to the*
13 *extent that the Secretary has identified*
14 *such differences.*
15 *"(II) In order to ensure payment*
16 *accuracy, the Secretary shall conduct*
17 *an analysis of the differences described*
18 *in subclause (I). The Secretary shall*
19 *complete such analysis by a date nec-*
20 *essary to ensure that the results of such*
21 *analysis are incorporated into the risk*
22 *scores only for 2008, 2009, and 2010.*
23 *In conducting such analysis, the Sec-*
24 *retary shall use data submitted with*

respect to 2004 and subsequent years, as available.".

SEC. 5302. RURAL PACE PROVIDER GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CMS.—The term "CMS" means the Centers for Medicare & Medicaid Services.

(2) PACE PROGRAM.—The term "PACE program" has the meaning given that term in sections 1894(a)(2) and 1934(a)(2) of the Social Security Act (42 U.S.C. 1395eee(a)(2); 1396u–4(a)(2)).

(3) PACE PROVIDER.—The term "PACE provider" has the meaning given that term in section 1894(a)(3) or 1934(a)(3) of the Social Security Act (42 U.S.C. 1395eee(a)(3); 1396u–4(a)(3)).

(4) RURAL AREA.—The term "rural area" has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

(5) RURAL PACE PILOT SITE.—The term "rural PACE pilot site" means a PACE provider that has been approved to provide services in a geographic service area that is, in whole or in part, a rural area, and that has received a site development grant under this section.

(6) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(b) SITE DEVELOPMENT GRANTS AND TECHNICAL ASSISTANCE PROGRAM.—

(1) SITE DEVELOPMENT GRANTS.—

(A) IN GENERAL.—The Secretary shall establish a process and criteria to award site development grants to qualified PACE providers that have been approved to serve a rural area.

(B) AMOUNT PER AWARD.—A site development grant awarded under subparagraph (A) to any individual rural PACE pilot site shall not exceed $750,000.

(C) NUMBER OF AWARDS.—Not more than 15 rural PACE pilot sites shall be awarded a site development grant under subparagraph (A).

(D) 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 required for calculation of outlier payments or 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, or other fixed costs until the provider reaches sufficient enrollment size.

(ix) Startup 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.—

(i) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this subsection for fiscal year 2006, $7,500,000.

(ii) AVAILABILITY.—Funds appropriated under clause (i) 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.

(c) COST OUTLIER PROTECTION FOR RURAL PACE PILOT SITES.—

(1) 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 by which the recognized outlier costs exceeds $50,000.

(2) ELIGIBLE OUTLIER PARTICIPANT.—For purposes of this subsection, the term "eligible outlier participant" means a PACE program eligible individual (as defined in sections 1894(a)(5) and 1934(a)(5) of the Social Security Act (42 U.S.C. 1395eee(a)(5); 1396u–4(a)(5))) 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) RECOGNIZED OUTLIER COSTS DEFINED.—

(A) IN GENERAL.—For purposes of this subsection, the term "recognized outlier costs" means, with respect to services furnished to an eligible outlier participant by a 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) If the services are provided under a contract between the pilot site and the pro-

vider, the payment rate specified under the contract.

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

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

(B) INCLUSION 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.

(4) LIMITATIONS.—

(A) COSTS INCURRED PER ELIGIBLE OUTLIER PARTICIPANT.—The total amount of outlier expense payments made under this subsection to a rural PACE pilot site with respect to an eligible outlier participant for any 12-

month period shall not exceed $100,000 for the 12-month period used to calculate the payment.

(B) COSTS INCURRED PER PROVIDER.—No rural PACE pilot site may receive more than $500,000 in total outlier expense payments in a 12-month period.

(C) LIMITATION OF OUTLIER COST REIMBURSEMENT PERIOD.—A rural PACE pilot site shall only receive outlier expense payments under this subsection with respect to costs incurred during the first 3 years of the site's operation.

(5) REQUIREMENT TO ACCESS RISK RESERVES PRIOR TO PAYMENT.—A rural PACE pilot site shall access and exhaust any risk reserves held or arranged for the provider (other than revenue or reserves maintained to satisfy the requirements of section 460.80(c) of title 42, Code of Federal Regulations) and any working capital established through a site development grant awarded under subsection (b)(1), prior to receiving any payment from the outlier fund.

(6) APPLICATION.—In order to receive an outlier expense payment under this subsection with respect to an eligible outlier participant, a rural PACE pilot site shall submit an application containing—

(A) documentation of the costs incurred with respect to the participant;

(B) a certification that the site has complied with the requirements under paragraph (4); and

(C) such additional information as the Secretary may require.

(7) APPROPRIATION.—

(A) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this subsection for fiscal year 2006, $10,000,000.

(B) AVAILABILITY.—Funds appropriated under subparagraph (A) shall remain available for expenditure through fiscal year 2010.

(d) EVALUATION OF PACE PROVIDERS SERVING RURAL SERVICE AREAS.—Not later than 60 months after the date of enactment of this Act, the Secretary shall submit a report to Congress containing an evaluation of the experience of rural PACE pilot sites.

(e) AMOUNTS IN ADDITION TO PAYMENTS UNDER SOCIAL SECURITY ACT.—Any amounts paid under the authority of this section to a PACE provider shall be in addition to payments made to the provider under section 1894 or

1934 of the Social Security Act (42 U.S.C. 1395eee; 1396u–4).

TITLE VI—MEDICAID AND SCHIP

Subtitle A—Medicaid

CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS

SEC. 6001. FEDERAL UPPER PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS AND OTHER DRUG PAYMENT PROVISIONS.

(a) MODIFICATION OF FEDERAL UPPER PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS; DEFINITION OF MULTIPLE SOURCE DRUGS.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (e)(4)—

(A) by striking "The Secretary" and inserting "Subject to paragraph (5), the Secretary"; and

(B) by inserting "(or, effective January 1, 2007, two or more)" after "three or more";

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

"(5) USE OF AMP IN UPPER PAYMENT LIMITS.—Effective January 1, 2007, in applying the Federal upper reimbursement limit under paragraph (4) and section 447.332(b) of title 42 of the Code of Federal

Regulations, the Secretary shall substitute 250 percent of the average manufacturer price (as computed without regard to customary prompt pay discounts extended to wholesalers) for 150 percent of the published price.";

(3) in subsection (k)(7)(A)(i), in the matter preceding subclause (I), by striking "are 2 or more drug products" and inserting "at least 1 other drug product"; and

(4) in subclauses (I), (II), and (III) of subsection (k)(7)(A)(i), by striking "are" and inserting "is" each place it appears.

(b) DISCLOSURE OF PRICE INFORMATION TO STATES AND THE PUBLIC.—Subsection (b)(3) of such section is amended—

(1) in subparagraph (A)—

(A) in clause (i), by inserting "month of a" after "last day of each"; and

(B) by adding at the end the following: "Beginning July 1, 2006, the Secretary shall provide on a monthly basis to States under subparagraph (D)(iv) the most recently reported average manufacturer prices for single source drugs and for multiple source drugs and shall, on at least

a quarterly basis, update the information posted on the website under subparagraph (D)(v).''; and

(2) in subparagraph (D)—

(A) by striking ''and'' at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting a comma; and

(C) by inserting after clause (iii) the following new clauses:

''(iv) to States to carry out this title, and

''(v) to the Secretary to disclose (through a website accessible to the public) average manufacturer prices.''.

(c) DEFINITION OF AVERAGE MANUFACTURER PRICE.—

(1) EXCLUSION OF CUSTOMARY PROMPT PAY DISCOUNTS EXTENDED TO WHOLESALERS.—Subsection (k)(1) of such section is amended—

(A) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), the term'';

(B) by striking '', after deducting customary prompt pay discounts''; and

(C) by adding at the end the following:

"(B) EXCLUSION OF CUSTOMARY PROMPT PAY DISCOUNTS EXTENDED TO WHOLESALERS.—The average manufacturer price for a covered outpatient drug shall be determined without regard to customary prompt pay discounts extended to wholesalers.".

(2) MANUFACTURER REPORTING OF PROMPT PAY DISCOUNTS.—Subsection (b)(3)(A)(i) of such section is amended by inserting ", customary prompt pay discounts extended to wholesalers," after "(k)(1))".

(3) REQUIREMENT TO PROMULGATE REGULATION.—

(A) INSPECTOR GENERAL RECOMMENDATIONS.—Not later than June 1, 2006, the Inspector General of the Department of Health and Human Services shall—

(i) review 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; and

(ii) shall submit to the Secretary of Health and Human Services and Congress such recommendations for changes in such

requirements or manner as the Inspector General determines to be appropriate.

(B) DEADLINE FOR PROMULGATION.—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, taking into consideration the recommendations submitted to the Secretary in accordance with subparagraph (A)(ii).

(d) EXCLUSION OF SALES AT A NOMINAL PRICE FROM DETERMINATION OF BEST PRICE.—

(1) MANUFACTURER REPORTING OF SALES.—Subsection (b)(3)(A)(iii) of such section is amended by inserting before the period at the end the following: ", and, for calendar quarters beginning on or after January 1, 2007 and only with respect to the information described in subclause (III), for covered outpatient drugs".

(2) LIMITATION ON SALES AT A NOMINAL PRICE.—Subsection (c)(1) of such section is amended by adding at the end the following new subparagraph:

"(D) LIMITATION ON SALES AT A NOMINAL PRICE.—

1 *"(i) IN GENERAL.—For purposes of*
2 *subparagraph (C)(ii)(III) and subsection*
3 *(b)(3)(A)(iii)(III), only sales by a manufac-*
4 *turer of covered outpatient drugs at nomi-*
5 *nal prices to the following shall be consid-*
6 *ered to be sales at a nominal price or mere-*
7 *ly nominal in amount:*
8 *"(I) A covered entity described in*
9 *section 340B(a)(4) of the Public Health*
10 *Service Act.*
11 *"(II) An intermediate care facil-*
12 *ity for the mentally retarded.*
13 *"(III) A State-owned or operated*
14 *nursing facility.*
15 *"(IV) Any other facility or entity*
16 *that the Secretary determines is a safe-*
17 *ty net provider to which sales of such*
18 *drugs at a nominal price would be ap-*
19 *propriate based on the factors described*
20 *in clause (ii).*
21 *"(ii) FACTORS.—The factors described*
22 *in this clause with respect to a facility or*
23 *entity are the following:*
24 *"(I) The type of facility or entity.*

"(II) The services provided by the facility or entity.

"(III) The patient population served by the facility or entity.

"(IV) The number of other facilities or entities eligible to purchase at nominal prices in the same service area.

"(iii) NONAPPLICATION.—Clause (i) shall not apply with respect to sales by a manufacturer at a nominal price of covered outpatient drugs pursuant to a master agreement under section 8126 of title 38, United States Code.".

(e) RETAIL SURVEY PRICES; STATE PAYMENT AND UTILIZATION RATES; AND PERFORMANCE RANKINGS.—Such section is further amended by inserting after subsection (e) the following new subsection:

"(f) SURVEY OF RETAIL PRICES; STATE PAYMENT AND UTILIZATION RATES; AND PERFORMANCE RANKINGS.—

"(1) SURVEY OF RETAIL PRICES.—

"(A) USE OF VENDOR.—The Secretary may contract services for—

"(i) the determination on a monthly basis of retail survey prices for covered out-

patient drugs that represent a nationwide average of consumer purchase prices for such drugs, net of all discounts and rebates (to the extent any information with respect to such discounts and rebates is available); and

"(ii) the notification of the Secretary when a drug product that is therapeutically and pharmaceutically equivalent and bioequivalent becomes generally available.

"(B) SECRETARY RESPONSE TO NOTIFICATION OF AVAILABILITY OF MULTIPLE SOURCE PRODUCTS.—If contractor notifies the Secretary under subparagraph (A)(ii) that a drug product described in such subparagraph has become generally available, the Secretary shall make a determination, within 7 days after receiving such notification, as to whether the product is now described in subsection (e)(4).

"(C) USE OF COMPETITIVE BIDDING.—In contracting for such services, the Secretary shall competitively bid for an outside vendor that has a demonstrated history in—

"(i) surveying and determining, on a representative nationwide basis, retail

prices for ingredient costs of prescription drugs;

"(ii) working with retail pharmacies, commercial payers, and States in obtaining and disseminating such price information; and

"(iii) collecting and reporting such price information on at least a monthly basis.

In contracting for such services, the Secretary may waive such provisions of the Federal Acquisition Regulation as are necessary for the efficient implementation of this subsection, other than provisions relating to confidentiality of information and such other provisions as the Secretary determines appropriate.

"(D) ADDITIONAL PROVISIONS.—A contract with a vendor under this paragraph shall include such terms and conditions as the Secretary shall specify, including the following:

"(i) The vendor must monitor the marketplace and report to the Secretary each time there is a new covered outpatient drug generally available.

"(ii) The vendor must update the Secretary no less often than monthly on the retail survey prices for covered outpatient drugs.

"(iii) The contract shall be effective for a term of 2 years.

"(E) AVAILABILITY OF INFORMATION TO STATES.—Information on retail survey prices obtained under this paragraph, including applicable information on single source drugs, shall be provided to States on at least a monthly basis. The Secretary shall devise and implement a means for providing access to each State agency designated under section 1902(a)(5) with responsibility for the administration or supervision of the administration of the State plan under this title of the retail survey price determined under this paragraph.

"(2) ANNUAL STATE REPORT.—Each State shall annually report to the Secretary information on—

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

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

"(C) 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 (collected under paragraph (1)) for such drugs with data on prices under this title for each such drug for each State.

"(B) AVAILABILITY OF INFORMATION.—The Secretary shall submit to Congress and the States full information regarding the annual rankings made under subparagraph (A).

"(4) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services $5,000,000 for each of fiscal years 2006 through 2010 to carry out this subsection.".

(f) MISCELLANEOUS AMENDMENTS.—

(1) IN GENERAL.—Sections 1927(g)(1)(B)(i)(II) and 1861(t)(2)(B)(ii)(I) of such Act are each amended by inserting "(or its successor publications)" after "United States Pharmacopoeia-Drug Information".

(2) PAPERWORK REDUCTION.—The last sentence of section 1927(g)(2)(A)(ii) of such Act (42 U.S.C. 1396r–8(g)(2)(A)(ii)) is amended by inserting before the period at the end the following: ", or to require verification of the offer to provide consultation or a refusal of such offer".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(g) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on January 1, 2007, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

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

(a) IN GENERAL.—Section 1927(a) of the Social Security Act (42 U.S.C. 1396r–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.—

"(A) 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, 2006, the State shall provide for the collection and 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.

"(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 that 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 to reflect changes in such volume.

"(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 (as determined by the Secretary), that is on the list published under clause (i), and that is administered on or after January 1, 2008, 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.

"(C) USE OF NDC CODES.—Not later than January 1, 2007, the information shall be submitted under subparagraphs (A) and (B)(ii) using National Drug Code codes unless the Secretary specifies that an alternative coding system should be used.

"(D) HARDSHIP WAIVER.—The Secretary may delay the application of subparagraph (A) or (B)(ii), or both, in the case of a State to prevent hardship to States which require additional

time to implement the reporting system required under the respective subparagraph.".

(b) LIMITATION ON PAYMENT.—Section 1903(i)(10) of such Act (42 U.S.C. 1396b(i)(10)), is amended—

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

(2) by striking "or" at the end of subparagraph (B) and inserting "and"; and

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

"(C) with respect to covered outpatient drugs described in section 1927(a)(7), unless 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 A NEW DRUG APPLICATION APPROVED UNDER SECTION 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. 1396r–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—

"(I) on the average manufacturer price (as defined in subsection (k)(1)) for covered outpatient drugs for the rebate period under 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), on the manufacturer's best price (as defined in subsection (c)(1)(C)) for such drugs for the rebate period under the agreement;"; and

(2) in clause (ii), by inserting "(including for such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)" after "drugs".

(b) CONFORMING AMENDMENTS.—Section 1927 of such Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (c)(1)(C)—

(A) in clause (i), in the matter preceding subclause (I), by inserting after "or innovator multiple source drug of a manufacturer" the following: "(including the lowest price available to any entity for any such drug of a manufacturer that is sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)"; and

(B) in clause (ii)—

(i) in subclause (II), by striking "and" at the end;

(ii) in subclause (III), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(IV) in the case of a manufacturer that approves, allows, or other-

wise permits any other drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, shall be inclusive of the lowest price for such authorized drug available from the manufacturer during the rebate period 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).''; and

(2) in subsection (k), as amended by section 6001(c)(1), by adding at the end the following:

''(C) INCLUSION OF SECTION 505(c) DRUGS.—In the case of a manufacturer that approves, allows, or otherwise permits any drug of the manufacturer to be sold under a new drug application 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 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. 1396r–8(a)(5)(B)) is amended by inserting before the period at the end the following: "and a children's hospital described in section 1886(d)(1)(B)(iii) which meets the requirements of clauses (i) and (iii) of section 340B(b)(4)(L) of the Public Health Service Act and which would meet the requirements of clause (ii) of such section if that clause were applied by taking into account the percentage of care provided by the hospital to patients eligible for medical assistance under a State plan under this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs purchased 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 the Deficit Reduction Act of 2005" before ", 60 months".

(b) CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY.—Section 1917(c)(1)(D) of such Act (42 U.S.C. 1396p(c)(1)(D)) is amended—

(1) by striking "(D) The date" and inserting "(D)(i) In the case of a transfer of asset made before the date of the enactment of the Deficit Reduction Act of 2005, the date"; and

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

"(ii) In the case of a transfer of asset made on or after the date of the enactment of the Deficit Reduction Act of 2005, the date specified in this subparagraph is the first

day of a month during or after which assets have been transferred for less than fair market value, or the date on which the individual is eligible for medical assistance under the State plan and would otherwise be receiving institutional level care described in subparagraph (C) based on an approved application for such care but for the application of the penalty period, whichever is later, and which does not occur during any other period of ineligibility under this subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made on or after the date of the enactment of this Act.

(d) AVAILABILITY OF HARDSHIP WAIVERS.—Each State shall provide for a hardship waiver process in accordance with section 1917(c)(2)(D) of the Social Security Act (42 U.S.C. 1396p(c)(2)(D))—

(1) under which an undue hardship exists when application of the transfer of assets provision would deprive the individual—

(A) of medical care such that the individual's health or life would be endangered; or

(B) of food, clothing, shelter, or other necessities of life; and

(2) which provides for—

(A) notice to recipients that an undue hardship exception exists;

(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—

(A) by striking the semicolon at the end of subparagraph (D) and inserting a period; and

(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 is 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: "While

an application for an undue hardship waiver is pending under subparagraph (D) in the case of an individual who is a resident of a nursing facility, if the application meets such criteria as the Secretary specifies, the State may provide for payments for nursing facility services in order to hold the bed for the individual at the facility, but not in excess of payments for 30 days.".

SEC. 6012. DISCLOSURE AND TREATMENT OF ANNUITIES.

(a) IN GENERAL.—Section 1917 of the Social Security Act (42 U.S.C. 1396p) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1) In order to meet the requirements of this section for purposes of section 1902(a)(18), a State shall require, as a condition for the provision of medical assistance for services described in subsection (c)(1)(C)(i) (relating to long-term care services) for an individual, the application of the individual for such assistance (including any recertification of eligibility for such assistance) shall disclose a description of any interest the individual or community spouse has in an annuity (or similar financial instrument, as may be specified 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.

"(2)(A) In the case of disclosure concerning an annuity under subsection (c)(1)(F), the State shall notify the issuer of the annuity of the right of the State under such subsection as a preferred remainder beneficiary in the annuity for medical assistance furnished to the individual. Nothing in this paragraph shall be construed as preventing such an issuer from notifying persons with any other remainder interest of the State's remainder interest under such subsection.

"(B) In the case of such an issuer receiving notice under subparagraph (A), the State may require the issuer to notify the State when there is a change in the amount of income or principal being withdrawn from the amount that was being withdrawn at the time of the most recent disclosure described in paragraph (1). A State shall take such information into account in determining the amount of the State's obligations for medical assistance or in the individual's eligibility for such assistance.

"(3) The Secretary may provide guidance to States on categories of transactions that may be treated as a transfer of asset for less than fair market value.

"(4) Nothing in this subsection shall be construed as preventing a State from denying eligibility for medical assistance for an individual based on the income or resources derived from an annuity described in paragraph (1).".

(b) REQUIREMENT FOR STATE TO BE NAMED AS A REMAINDER BENEFICIARY.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), is amended by adding at the end the following:

"(F) For purposes of this paragraph, the purchase of an annuity shall be treated as the disposal of an asset for less than fair market value unless—

"(i) the State is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the annuitant under this title; or

"(ii) the State is named as such a beneficiary in the second position after the community spouse or minor or disabled child and is named in the first position if such spouse or a representative of such child disposes of any such remainder for less than fair market value.".

(c) INCLUSION OF TRANSFERS TO PURCHASE BALLOON ANNUITIES.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsection (b), is amended by adding at the end the following:

"(G) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' 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 annuity is—

"(I) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue Code of 1986; or

"(II) purchased with proceeds from—

"(aa) an account or trust described in subsection (a), (c), or (p) of section 408 of such Code;

"(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—

"(I) is irrevocable and nonassignable;

"(II) is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief 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 transactions (including the purchase of an annuity) occurring on or after the date of the enactment of this Act.

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

(a) IN GENERAL.—Section 1924(d) of the Social Security Act (42 U.S.C. 1396r–5(d)) is amended by adding at the end the following new subparagraph:

"(6) APPLICATION OF 'INCOME FIRST' RULE TO REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—For purposes of this subsection and subsections (c) and (e), a State must consider that all income of the 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 minimum 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.

SEC. 6014. DISQUALIFICATION FOR LONG-TERM CARE ASSISTANCE FOR INDIVIDUALS WITH SUBSTANTIAL HOME EQUITY.

(a) IN GENERAL.—Section 1917 of the Social Security Act, as amended by section 6012(a), is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1)(A) Notwithstanding any other provision of this title, subject to subparagraphs (B) and (C) of this paragraph and paragraph (2), in determining eligibility of an individual for medical assistance with respect to nursing facility services or other long-term care services, the individual shall not be eligible for such assistance if the individual's equity interest in the individual's home exceeds $500,000.

"(B) A State may elect, without regard to the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(B) (relating to comparability), to

apply subparagraph (A) by substituting for '$500,000', an amount that exceeds such amount, but does not exceed $750,000.

"(C) The dollar amounts specified in this paragraph shall be increased, beginning with 2011, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest $1,000.

"(2) Paragraph (1) shall not apply with respect to an individual if—

"(A) the spouse of such individual, or

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614,

is lawfully residing in the individual's home.

"(3) Nothing in this subsection shall be construed as preventing an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home.

"(4) The Secretary shall establish a process whereby paragraph (1) is waived in the case of a demonstrated hardship.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who are determined eligible for medical assistance with respect to nursing facility services or other long-term care services based on an application filed on or after January 1, 2006.

SEC. 6015. ENFORCEABILITY OF CONTINUING CARE RETIREMENT COMMUNITIES (CCRC) AND LIFE CARE COMMUNITY ADMISSION CONTRACTS.

(a) ADMISSION POLICIES OF NURSING FACILITIES.—Section 1919(c)(5) of the Social Security Act (42 U.S.C. 1396r(c)(5)) is amended—

(1) in subparagraph (A)(i)(II), by inserting "subject to clause (v)," after "(II)"; and

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

"(v) TREATMENT OF CONTINUING CARE RETIREMENT COMMUNITIES ADMISSION CONTRACTS.—Notwithstanding subclause (II) of subparagraph (A)(i), subject to subsections (c) and (d) of section 1924, contracts for admission to a State licensed, registered, certified, or equivalent continuing care retire-

ment community or life care community, including services in a nursing facility that is part of such community, may require residents to spend on their care resources declared for the purposes of admission before applying for medical assistance.".

(b) TREATMENT OF ENTRANCE FEES.—Section 1917 of such Act (42 U.S.C. 1396p), as amended by sections 6012(a) and 6014(a), is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) TREATMENT OF ENTRANCE FEES OF INDIVIDUALS RESIDING IN CONTINUING CARE RETIREMENT COMMUNITIES.—

"(1) IN GENERAL.—For purposes of determining 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 FEE.—For purposes of this subsection, an individual's 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 should other resources or income of the individual be insufficient to pay for such 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 and leaves the community; and

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

SEC. 6016. ADDITIONAL REFORMS OF MEDICAID ASSET TRANSFER RULES.

(a) REQUIREMENT TO IMPOSE PARTIAL MONTHS OF INELIGIBILITY.—Section 1917(c)(1)(E) of the Social Security Act (42 U.S.C. 1396p(c)(1)(E)) is amended by adding at the end the following:

"(iv) A State shall not round down, or otherwise disregard any fractional period of ineligibility determined under clause (i) or (ii) with respect to the disposal of assets.".

(b) AUTHORITY FOR STATES TO ACCUMULATE MULTIPLE TRANSFERS INTO ONE PENALTY PERIOD.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsections (b) and (c) of section 6012, is amended by adding at the end the following:

"(H) Notwithstanding the preceding provisions of this paragraph, in the case of an individual (or individual's spouse) who makes multiple fractional transfers of assets in more than 1 month for less than fair market value on or after the applicable look-back date specified in subparagraph (B), a State may determine the period of ineligibility applicable to such individual under this paragraph by—

"(i) treating the total, cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) during all months on or after the look-back date specified in subparagraph (B) as 1 transfer for purposes of clause (i) or (ii) (as the case may be) of subparagraph (E); and

"(ii) beginning such period on the earliest date which would apply under subparagraph (D) to any of such transfers.".

(c) INCLUSION OF TRANSFER OF CERTAIN NOTES AND LOANS ASSETS.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsection (b), is amended by adding at the end the following:

"(I) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes funds used to purchase a promissory note, loan, or mortgage unless such note, 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 satisfy the requirements of clauses (i) through (iii), the value of such note, loan, or mortgage shall be the outstanding balance due as of the date 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:

"(J) 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 payments under title XIX of the Social Security 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 final regulations to carry out 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;

(B) with respect to assets disposed of on or before the date of enactment of this Act; or

(C) with respect to trusts established on or before the date of enactment of this Act.

(3) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of 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 regarded as failing to comply with the requirements of such title 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 the 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 is considered to be a separate regular session of the State legislature.

Subchapter B—Expanded Access to Certain Benefits

SEC. 6021. 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) in clause (ii), 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 (iii))" after "1993,"; and

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

"(iii) 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 resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a long-term care insurance policy if the following requirements are met:

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

"(II) The policy is a qualified long-term care insurance policy (as defined in section 7702B(b) of the Internal Revenue Code of 1986) issued not earlier than the effective date of the State plan amendment.

"(III) The policy meets the model regulations and the requirements of the model Act specified in paragraph (5).

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

"(aa) has not attained age 61 as of the date of purchase, the policy provides compound annual inflation protection;

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

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

"(V) The State Medicaid agency under section 1902(a)(5) provides information and technical assistance to the State insurance department on the insurance department's role of assuring that any individual who sells a long-term care insurance policy under the partnership receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care.

"(VI) The issuer of the policy provides regular reports to the Secretary, in accordance with regulations of the Secretary, that include notifi-

cation regarding when benefits provided under the policy have been paid and the amount of such benefits paid, notification regarding when the policy otherwise terminates, and such other information as the Secretary determines may be appropriate to the administration of such partnerships.

"(VII) The State does not impose any requirement affecting the terms or benefits of such a policy unless the State imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with such a partnership.

In the case of a long-term care insurance policy which is exchanged for another such policy, subclause (I) shall be applied based on the coverage of the first such policy that was exchanged. For purposes of this clause and paragraph (5), the term 'long-term care insurance policy' includes a certificate issued under a group insurance contract.

"(iv) With respect to a State which had a State plan amendment approved as of May 14, 1993, such a State satisfies this clause for purposes of clause (ii) if the Secretary determines that the State plan

amendment provides for consumer protection standards which are no less stringent than the consumer protection standards which applied under such State plan amendment as of December 31, 2005.

"(v) The regulations of the Secretary required under clause (iii)(VI) shall be promulgated after consultation with the National Association of Insurance Commissioners, issuers of long-term care insurance policies, States with experience with long-term care insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, and shall specify the type and format of the data and information to be reported and the frequency with which such reports are to be made. The Secretary, as appropriate, shall provide copies of the reports provided in accordance with that clause to the State involved.

"(vi) The Secretary, in consultation with other appropriate Federal agencies, issuers of long-term care insurance, the National Association of Insurance Commissioners, State insurance commissioners, States with experience with long-term care insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, shall develop recommendations for Congress to authorize

and fund a uniform minimum data set to be reported electronically by all issuers of long-term care insurance policies under qualified State long-term care insurance partnerships to a secure, centralized electronic query and report-generating mechanism that the State, the Secretary, and other Federal agencies can access.”; and

(B) by adding at the end the following:

“(5)(A) For purposes of clause (iii)(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:

“(I) Section 6A (relating to guaranteed renewal or noncancellability), 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.

“(III) Section 6C (relating to extension of benefits).

“(IV) Section 6D (relating to continuation or conversion of coverage).

"(V) Section 6E (relating to discontinuance and replacement of policies).

"(VI) Section 7 (relating to unintentional lapse).

"(VII) Section 8 (relating to disclosure), other than sections 8F, 8G, 8H, and 8I thereof.

"(VIII) Section 9 (relating to required disclosure of rating practices to consumer).

"(IX) Section 11 (relating to prohibitions against post-claims underwriting).

"(X) Section 12 (relating to minimum standards).

"(XI) Section 14 (relating to application forms and replacement coverage).

"(XII) Section 15 (relating to reporting requirements).

"(XIII) Section 22 (relating to filing requirements for marketing).

"(XIV) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C.

"(XV) Section 24 (relating to suitability).

"(XVI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(XVII) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

"(XVIII) Section 29 (relating to standard format outline of coverage).

"(XIX) Section 30 (relating to requirement to deliver shopper's guide).

"(ii) In the case of the model Act, the following:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(III) The provisions of section 8 relating to contingent nonforfeiture benefits.

"(IV) Section 6F (relating to right to return).

"(V) Section 6G (relating to outline of coverage).

"(VI) Section 6H (relating to requirements for certificates under group plans).

"(VII) Section 6J (relating to policy summary).

"(VIII) Section 6K (relating to monthly reports on accelerated death benefits).

"(IX) Section 7 (relating to incontestability period).

"(B) For purposes of this paragraph and paragraph (1)(C)—

"(i) the terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000);

"(ii) any provision of the model regulation or model Act listed under subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision; and

"(iii) with respect to a long-term care insurance policy issued in a State, the policy shall be deemed to meet applicable requirements of the model regulation or the model Act if the State plan amendment under paragraph (1)(C)(iii) provides that the State insurance commissioner for the State certifies (in a

manner satisfactory to the Secretary) that the policy meets such requirements.

"(C) Not later than 12 months after the National Association of Insurance Commissioners issues a revision, update, or other modification of a model regulation or model Act provision specified in subparagraph (A), or of any provision of such regulation or Act that is substantively related to a provision specified in such subparagraph, the Secretary shall review the changes made to the provision, determine whether incorporating such changes into the corresponding provision specified in such subparagraph would improve qualified State long-term care insurance partnerships, and if so, shall incorporate the changes into such provision.".

(2) STATE REPORTING REQUIREMENTS.—Nothing in clauses (iii)(VI) and (v) of section 1917(b)(1)(C) of the Social Security Act (as added by paragraph (1)) shall be construed as prohibiting a State from requiring an issuer of a long-term care insurance policy sold in the State (regardless of whether the policy is issued under a qualified State long-term care insurance partnership under section 1917(b)(1)(C)(iii) of such Act) to require the issuer to report information or data to the State that is in addition to the information or data required under such clauses.

(3) EFFECTIVE DATE.—A State plan amendment that provides for a qualified State long-term care insurance partnership under the amendments made by paragraph (1) may provide that such amendment is effective for long-term care insurance policies issued on or after a date, specified in the amendment, that is not earlier than 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 partnership plans, other States, and representatives of consumers of long-term care insurance policies, standards for uniform reciprocal recognition of such policies among States with qualified 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) States with such partnerships shall 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 1917(b)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(ii)) (as amended by subsection (a)(1)). Such reports shall include analyses of the extent to which such partnerships expand or limit access of individuals to long-term care and the impact of such partnerships on Federal and State expenditures under the Medicare and Medicaid programs. Nothing in this section shall be construed as requiring the Secretary to 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).

(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 be established through a contract or interagency agreement.

(2) DUTIES.—

(A) IN GENERAL.—The National Clearinghouse for Long-Term Care Information shall—

(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 coverage, including eligibility and estate recovery requirements under State Medicaid programs;

(ii) provide objective information to assist consumers with the decisionmaking process for determining whether to purchase long-term care insurance or to pursue other private market alternatives for purchasing long-term care and provide contact infor-

mation 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.

(B) REQUIREMENT.—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.

(3) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this subsection, $3,000,000 for each of fiscal years 2006 through 2010.

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

SEC. 6031. 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 1908A the following:

"STATE FALSE CLAIMS ACT REQUIREMENTS FOR INCREASED STATE SHARE OF RECOVERIES

"SEC. 1909. (a) IN GENERAL.—Notwithstanding section 1905(b), if a State has in effect a law relating to false or fraudulent claims that meets the requirements of subsection (b), the Federal medical assistance percentage with respect to any amounts recovered 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 Attorney General, determines that the State has in effect a law that meets the following requirements:

"(1) The law establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to any expenditure described in section 1903(a).

"(2) The law contains provisions that are at least as effective in rewarding and facilitating qui tam actions for false or fraudulent claims as those described in sections 3730 through 3732 of title 31, United States Code.

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

"(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.

"(c) DEEMED COMPLIANCE.—A State that, as of January 1, 2007, has a law in effect that meets the requirements of subsection (b) shall be deemed to be in compliance with such requirements for so long as the law continues to meet such requirements.

"(d) NO PRECLUSION OF BROADER LAWS.—Nothing in this section shall be construed as prohibiting a State that has in effect a law that establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to programs in addition to the State program under this title, or with respect to expenditures in addition to expenditures described in section 1903(a), from being considered to be in compli-

ance with the requirements of subsection (a) so long as the law meets such requirements.".

(b) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by this section take effect on January 1, 2007.

SEC. 6032. EMPLOYEE EDUCATION ABOUT FALSE CLAIMS RECOVERY.

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

(1) in paragraph (66), by striking "and" at the end;

(2) in paragraph (67) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (67) the following:

"(68) provide that any entity that receives or makes annual payments under the State plan of at least $5,000,000, as a condition of receiving such payments, shall—

"(A) establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, ad-

ministrative 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, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f));

"(B) include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and

"(C) include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse.".

(b) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by subsection (a) take effect on January 1, 2007.

SEC. 6033. PROHIBITION ON RESTOCKING AND DOUBLE BILLING OF PRESCRIPTION DRUGS.

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

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "; or" at the end and inserting ", and"; and

(3) by adding at the end the following:

"(D) with respect to any amount expended for reimbursement to a pharmacy under this title for the ingredient cost of a covered outpatient drug for which the pharmacy has already received payment under this title (other than with respect to a reasonable restocking fee for such drug); or".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the first day of the first fiscal year quarter that begins after the date of enactment of this Act.

SEC. 6034. MEDICAID INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICAID INTEGRITY PROGRAM.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1936 as section 1937; and

(2) by inserting after section 1935 the following:

"MEDICAID INTEGRITY PROGRAM

"SEC. 1936. (a) IN GENERAL.—There is hereby established the Medicaid Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the program under this title by entering into contracts in accordance with this section with eligible entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED—Activities described in this subsection are as follows:

"(1) Review of the actions of individuals or entities furnishing items or services (whether on a fee-for-service, risk, or other basis) for which payment may be made under a State plan approved under this title (or under any waiver of such plan approved under section 1115) to determine whether fraud, waste, or abuse has occurred, is likely to occur, or whether such actions have any potential for resulting in an expenditure of funds under this title in a manner which is not intended under the provisions of this title.

"(2) Audit of claims for payment for items or services furnished, or administrative services rendered, under a State plan under this title, including—

"(A) cost reports;

"(B) consulting contracts; and

"(C) risk contracts under section 1903(m).

"(3) Identification of overpayments to individuals or entities receiving Federal funds under this title.

"(4) Education of providers of services, managed care entities, beneficiaries, and other individuals with respect to payment integrity and quality of care.

"(c) ELIGIBLE ENTITY AND CONTRACTING REQUIREMENTS.—

"(1) IN GENERAL.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if the entity satisfies the requirements of paragraphs (2) and (3).

"(2) ELIGIBILITY REQUIREMENTS.—The requirements of this paragraph are the following:

"(A) The entity has demonstrated capability to carry out the activities described in subsection (b).

"(B) In carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, in the inves-

tigation and deterrence 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—

"(i) when entering into new contracts under this section;

"(ii) when entering into contracts that may result in the elimination of responsibilities under section 202(b) of the Health Insurance Portability and Accountability Act of 1996; and

"(iii) at any other time considered appropriate by the Secretary.

"(C) Procedures under which a contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

The Secretary may enter into such contracts without regard to final rules having been promulgated.

"(4) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(d) COMPREHENSIVE PLAN FOR PROGRAM INTEGRITY.—

"(1) 5-YEAR PLAN.—With respect to the 5-fiscal year period beginning with fiscal year 2006, and each such 5-fiscal year period that begins thereafter, the Secretary shall establish a comprehensive plan for en-

suring the integrity of the program established under this title by combatting fraud, waste, and abuse.

"(2) CONSULTATION.—Each 5-fiscal year plan established under paragraph (1) shall be developed by the Secretary in consultation with the Attorney General, the Director of the Federal Bureau of Investigation, the Comptroller General of the United States, the Inspector General of the Department of Health and Human Services, and State officials with responsibility for controlling provider fraud and abuse under State plans under this title.

"(e) APPROPRIATION.—

"(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to carry out the Medicaid Integrity Program under this section, without further appropriation—

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

"(B) for each of fiscal years 2007 and 2008, $50,000,000; and

"(C) for each fiscal year thereafter, $75,000,000.

"(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

"(3) INCREASE IN CMS STAFFING DEVOTED TO PROTECTING MEDICAID PROGRAM INTEGRITY.—From the amounts appropriated under paragraph (1), the Secretary shall increase by 100 the number of full-time equivalent employees whose duties consist solely of protecting the integrity of the Medicaid program established under this section by providing effective support and assistance to States to combat provider fraud and abuse.

"(4) ANNUAL REPORT.—Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), 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.".

(b) STATE REQUIREMENT TO COOPERATE WITH INTEGRITY PROGRAM EFFORTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 6033(a), is amended—

(1) in paragraph (67), 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 1936.".

(c) INCREASED FUNDING FOR MEDICAID FRAUD AND ABUSE CONTROL ACTIVITIES.—

(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated 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.).

(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 for activities of such Office with respect to the Medicaid program.

(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.

(d) NATIONAL EXPANSION OF THE MEDICARE-MEDICAID (MEDI-MEDI) DATA MATCH PILOT PROGRAM.—

(1) REQUIREMENT OF THE MEDICARE INTEGRITY PROGRAM.—Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended—

(A) in subsection (b), by adding at the end the following:

"(6) The Medicare-Medicaid Data Match Program in accordance with subsection (g)."; and

(B) by adding at the end the following:

"(g) MEDICARE-MEDICAID DATA MATCH PROGRAM.—

"(1) EXPANSION OF PROGRAM.—

"(A) IN GENERAL.—The Secretary shall enter into contracts with eligible entities for the

purpose of ensuring that, beginning with 2006, the Medicare-Medicaid Data Match Program (commonly referred to as the 'Medi-Medi Program') is conducted with respect to the program established under this title and State Medicaid programs under title XIX for the purpose of—

"(i) identifying program vulnerabilities in the program established under this title and the Medicaid program established under title XIX through the use of computer algorithms to look for payment anomalies (including billing or billing patterns identified with respect to service, time, or patient that appear to be suspect or otherwise implausible);

"(ii) working with States, the Attorney General, and the Inspector General of the Department of Health and Human Services to coordinate appropriate actions to protect the Federal and State share of expenditures under the Medicaid program under title XIX, as well as the program established under this title; and

"(iii) increasing the effectiveness and efficiency of both such programs through

cost avoidance, savings, and recoupments of fraudulent, wasteful, or abusive expenditures.

"(B) REPORTING REQUIREMENTS.—The Secretary shall make available in a timely manner any data and statistical information collected by the Medi-Medi Program to the Attorney General, the Director of the Federal Bureau of Investigation, the Inspector General of the Department of Health and Human Services, and the States (including a Medicaid fraud and abuse control unit described in section 1903(q)). Such information shall be disseminated no less frequently than quarterly.

"(2) LIMITED WAIVER AUTHORITY.—The Secretary shall waive only such requirements of this section and of titles XI and XIX as are necessary to carry out paragraph (1).".

(2) FUNDING.—Section 1817(k)(4) of such Act (42 U.S.C. 1395i(k)(4)), as amended by section 5204 of this Act, is amended—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B), (C), and (D)"; and

(B) by adding at the end the following:

"(D) EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PROGRAM.—The amount appropriated under subparagraph (A) for a fiscal year is further increased as follows for purposes of carrying out section 1893(b)(6) for the respective fiscal year:

"(i) $12,000,000 for fiscal year 2006.

"(ii) $24,000,000 for fiscal year 2007.

"(iii) $36,000,000 for fiscal year 2008.

"(iv) $48,000,000 for fiscal year 2009.

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

(e) 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 failing to comply 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.

SEC. 6035. ENHANCING THIRD PARTY IDENTIFICATION AND PAYMENT.

(a) CLARIFICATION OF THIRD PARTIES LEGALLY RESPONSIBLE FOR PAYMENT OF A CLAIM FOR A HEALTH CARE ITEM OR SERVICE.—Section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by inserting ", self-insured plans" after "health insurers"; and

(B) by striking "and health maintenance organizations" and inserting "managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service"; and

(2) in subparagraph (G)—

(A) by inserting "a self-insured plan," after "1974,"; and

(B) by striking "and a health maintenance organization" and inserting "a managed care organization, a pharmacy benefit manager, or

other party that is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service".

(b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS DATA.—Section 1902(a)(25) of such Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by adding "and" after the semicolon at the end; and

(3) by inserting after subparagraph (H), the following:

"(I) that the State shall provide assurances satisfactory to the Secretary that the State has in effect laws requiring health insurers, including self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service, as a condition of doing business in the State, to—

"(i) provide, with respect to individuals who are eligible for, or are provided, medical assistance under the State plan, upon the request of the State, information to determine during what period the individual or their spouses or their dependents may be (or may have been) covered by a health insurer and the nature of the coverage that is or was provided by the health insurer (including the name, address, and identifying number of the plan) in a manner prescribed by the Secretary;

"(ii) accept the State's right of recovery and the assignment to the State of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State plan;

"(iii) respond to any inquiry by the State regarding a claim for payment for any health care item or service that is submitted not later than 3 years after the date of the provision of such health care item or service; and

"(iv) agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if—

"(I) the claim is submitted by the State within the 3-year period beginning on the date on which the item or service was furnished; and

"(II) any action by the State to enforce its rights with respect to such claim is commenced within 6 years of the State's submission of such claim;".

(c) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by this section take effect on January 1, 2006.

SEC. 6036. IMPROVED ENFORCEMENT OF DOCUMENTATION REQUIREMENTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (i), as amended by section 104 of Public Law 109–91—

(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 after paragraph (21) the following new paragraph:

"(22) with respect to amounts expended for medical assistance for an individual who declares under section 1137(d)(1)(A) 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 (x) is met."; and

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

"(x)(1) For purposes of subsection (i)(23), the requirement of this subsection is, with respect to an individual declaring to be a citizen or national of the United States, that, subject to paragraph (2), there is presented 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 any part of title XVIII;

"(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 had been previously presented.

"(3)(A) For purposes of this subsection, the term 'satisfactory documentary evidence of citizenship or nationality' means—

"(i) any document described in subparagraph (B); or

"(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

"(B) The following are documents described in this subparagraph:

"(i) A United States passport.

"(ii) Form N–550 or N–570 (Certificate of Naturalization).

"(iii) Form N–560 or N–561 (Certificate of United States Citizenship).

"(iv) A valid State-issued driver's license or other identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act, but only if the State issuing the license or such document requires proof of United States citizenship before issuance of such license or document or obtains a social security number from the applicant and

verifies before certification that such number is valid and assigned to the applicant who is a citizen.

"(v) Such other document as the Secretary may specify, by regulation, that provides proof of United States citizenship or nationality and that provides a reliable means of documentation of personal identity.

"(C) The following are documents described in this subparagraph:

"(i) A certificate of birth in the United States.

"(ii) Form FS–545 or Form DS–1350 (Certification of Birth Abroad).

"(iii) Form I–97 (United States Citizen Identification Card).

"(iv) Form FS–240 (Report of Birth Abroad of a Citizen of the United States).

"(v) Such other document (not described in subparagraph (B)(iv)) as the Secretary may specify that provides proof of United States citizenship or nationality.

"(D) The following are documents described in this subparagraph:

"(i) Any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act.

"(ii) Any other documentation of personal identity of such other type as the Secretary finds, by regulation, provides a reliable means of identification.

"(E) A reference in this paragraph to a form includes a reference to any successor form.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations of initial eligibility for medical assistance made on or after July 1, 2006, and to redeterminations of eligibility made on or after such date in the case of individuals for whom the requirement of section 1903(z) of the Social Security Act, as added by such amendments, was not previously met.

(c) IMPLEMENTATION REQUIREMENT.—As soon as practicable after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an outreach program that is designed to educate individuals who are likely to be affected by the requirements of subsections (i)(23) and (x) of section 1903 of the Social Security Act (as added by subsection (a)) about such requirements and how they may be satisfied.

CHAPTER 4—FLEXIBILITY IN COST SHARING AND BENEFITS

SEC. 6041. STATE OPTION FOR ALTERNATIVE MEDICAID PREMIUMS AND COST SHARING.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by inserting after section 1916 the following new section:

"STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING

"SEC. 1916A. (a) STATE FLEXIBILITY.—

"(1) IN GENERAL.—Notwithstanding sections 1916 and 1902(a)(10)(B), a State, at its option and through a State plan amendment, may impose premiums and cost sharing for any group of individuals (as specified by the State) and for any type of services (other than drugs for which cost sharing may be imposed under subsection (c)), and may vary such premiums and cost sharing among such groups or types, consistent with the limitations established under this section. Nothing in this section shall be construed as superseding (or preventing the application of) section 1916(g).

"(2) DEFINITIONS.—In this section:

"(A) PREMIUM.—The term 'premium' includes any enrollment fee or similar charge.

"(B) COST SHARING.—The term 'cost sharing' includes any deduction, copayment, or similar charge.

"(b) LIMITATIONS ON EXERCISE OF AUTHORITY.—

"(1) INDIVIDUALS WITH FAMILY INCOME BETWEEN 100 AND 150 PERCENT OF THE POVERTY LINE.—In the case of an individual whose family income exceeds 100 percent, but does not exceed 150 percent, of the poverty line applicable to a family of the size involved, subject to subsections (c)(2) and (e)(2)(A)—

"(A) no premium may be imposed under the plan; and

"(B) with respect to cost sharing—

"(i) the cost sharing imposed under subsection (a) with respect to any item or service may not exceed 10 percent of the cost of such item or service; and

"(ii) the total aggregate amount of cost sharing imposed under this section (including any cost sharing imposed under subsection (c) or (e)) for all individuals in the family may not exceed 5 percent of the family income of the family involved, as ap-

plied on a quarterly or monthly basis (as specified by the State).

"(2) INDIVIDUALS WITH FAMILY INCOME ABOVE 150 PERCENT OF THE POVERTY LINE.—In the case of an individual whose family income exceeds 150 percent of the poverty line applicable to a family of the size involved, subject to subsections (c)(2) and (e)(2)(A)—

"(A) the total aggregate amount of premiums and cost sharing imposed under this section (including any cost sharing imposed under subsection (c) or (e)) for all individuals in the family may not exceed 5 percent of the family income of the family involved, as applied on a quarterly or monthly basis (as specified by the State); and

"(B) with respect to cost sharing, the cost sharing imposed with respect to any item or service under subsection (a) may not exceed 20 percent of the cost of such item or service.

"(3) ADDITIONAL LIMITATIONS.—

"(A) PREMIUMS.—No premiums shall be imposed under this section with respect to the following:

"(i) Individuals under 18 years of age that are required to be provided medical assistance under section 1902(a)(10)(A)(i), and including individuals with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ii) Pregnant women.

"(iii) Any terminally ill individual who is receiving hospice care (as defined in section 1905(o)).

"(iv) Any individual who is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(v) Women who are receiving medical assistance by virtue of the application of

sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(B) COST SHARING.—Subject to the succeeding provisions of this section, no cost sharing shall be imposed under subsection (a) with respect to the following:

"(i) Services furnished to individuals under 18 years of age that are required to be provided medical assistance under section 1902(a)(10)(A)(i), and including services furnished to individuals with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ii) Preventive services (such as well baby and well child care and immunizations) provided to children under 18 years of age regardless of family income.

"(iii) Services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy.

"(iv) Services furnished to a terminally ill individual who is receiving hospice care (as defined in section 1905(o)).

"(v) Services furnished to any individual who is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(vi) Emergency services (as defined by the Secretary for purposes of section 1916(a)(2)(D)).

"(vii) Family planning services and supplies described in section 1905(a)(4)(C).

"(viii) Services furnished to women who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from exempting additional classes of indi-

viduals from premiums under this section or from exempting additional individuals or services from cost sharing under subsection (a).

"(4) DETERMINATIONS OF FAMILY INCOME.—In applying this subsection, family income shall be determined in a manner specified by the State for purposes of this subsection, including the use of such disregards as the State may provide. Family income shall be determined for such period and at such periodicity as the State may provide under this title.

"(5) POVERTY LINE DEFINED.—For purposes of this section, the term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(6) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) as preventing a State from further limiting the premiums and cost sharing imposed under this section beyond the limitations provided under this section;

"(B) as affecting the authority of the Secretary through waiver to modify limitations on premiums and cost sharing under this section; or

"(C) as affecting any such waiver of requirements in effect under this title before the date of the enactment of this section with regard to the imposition of premiums and cost sharing.

"(d) ENFORCEABILITY OF PREMIUMS AND OTHER COST SHARING.—

"(1) PREMIUMS.—Notwithstanding section 1916(c)(3) and section 1902(a)(10)(B), a State may, at its option, condition the provision of medical assistance for an individual upon prepayment of a premium authorized to be imposed under this section, or may terminate eligibility for such medical assistance on the basis of failure to pay such a premium but shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. A State may apply the previous sentence for some or all groups of beneficiaries as specified by the State and may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(2) COST SHARING.—Notwithstanding section 1916(e) or any other provision of law, a State may permit a provider participating under the State plan

to require, as a condition for the provision of care, items, or services to an individual entitled to medical assistance under this title for such care, items, or services, the payment of any cost sharing authorized to be imposed under this section with respect to such care, items, or services. Nothing in this paragraph shall be construed as preventing a provider from reducing or waiving the application of such cost sharing on a case-by-case basis.".

(b) INDEXING NOMINAL COST SHARING AND CONFORMING AMENDMENT.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (f), by inserting "and section 1916A" after "(b)(3)"; and

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

"(h) In applying this section and subsections (c) and (e) of section 1916A, with respect to cost sharing that is 'nominal' in amount, the Secretary shall increase such 'nominal' amounts for each year (beginning with 2006) by the annual percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average) as rounded up in an appropriate manner.".

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

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

(a) IN GENERAL.—Section 1916A of the Social Security Act, as inserted by section 6041(a), is amended by inserting after subsection (b) the following new subsection:

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

"(1) 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) costly 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, but 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 preferred drugs 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).

"(2) 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, the amount of nominal cost sharing (as otherwise determined under section 1916); or

"(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) LIMITATION TO NOMINAL FOR EXEMPT POPULATIONS.—In the case of an individual who is otherwise not subject to cost sharing due to the application of subsection (b)(3)(B), any cost sharing under paragraph (1)(A) with respect to a non-preferred drug may not exceed a nominal

amount (as otherwise determined under section 1916).

"(C) CONTINUED APPLICATION OF AGGREGATE CAP.—In addition to the limitations imposed under subparagraphs (A) and (B), any cost sharing under paragraph (1)(A) continues to be subject to the aggregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be.

"(3) WAIVER.—In carrying out paragraph (1), a State shall provide for the application of cost sharing levels applicable to a preferred drug in the case of a drug that is not a preferred drug if the prescribing physician determines that the preferred drug for treatment of the same condition either would not be as effective for the individual or would have adverse effects for the individual or both.

"(4) EXCLUSION AUTHORITY.—Nothing in this subsection shall be construed as preventing a State from excluding specified drugs or classes of drugs from the application of paragraph (1).".

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

SEC. 6043. EMERGENCY ROOM COPAYMENTS FOR NON-EMERGENCY CARE.

(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 HOSPITALS TO IMPOSE COST SHARING FOR NON-EMERGENCY CARE FURNISHED IN AN EMERGENCY DEPARTMENT.—

"(1) IN 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 PROVIDER.—The individual has actually available and accessible (as such terms are applied by the Secretary under section 1916(b)(3)) an alternate non-emergency services provider with respect to such services.

"(B) NOTICE.—The hospital must 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 the 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 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 (iii).

"(2) LIMITATIONS.—

"(A) FOR POOREST BENEFICIARIES.—In the case of an individual described in subsection (b)(1), the cost sharing imposed under this subsection may not exceed twice the amount determined to be nominal under section 1916, subject to the percent of income limitation otherwise applicable under subsection (b)(1).

"(B) APPLICATION TO EXEMPT POPULATIONS.—In the case of an individual who is otherwise not subject to cost sharing under subsection (b)(3), a State may impose cost sharing under paragraph (1) for care in an amount that does not exceed a nominal amount (as otherwise determined under section 1916) so long as no cost sharing is imposed to receive such care through an outpatient department or other alternative health care provider in the geographic area of the hospital emergency department involved.

"(C) CONTINUED APPLICATION OF AGGREGATE CAP; RELATION TO OTHER COST SHARING.—In addition to the limitations imposed under subparagraphs (A) and (B), any cost sharing under paragraph (1) is subject to the ag-

gregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be. Cost sharing imposed for services under this subsection shall be instead of any cost sharing that may be imposed for such services under subsection (a).

"(3) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) to limit a hospital's obligations with respect to screening and stabilizing treatment of an emergency medical condition under section 1867; or

"(B) to modify any obligations under either State or Federal standards relating to the application of a prudent-layperson standard with respect to payment or coverage of emergency services by any managed care organization.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) NON-EMERGENCY SERVICES.—The term 'non-emergency services' means any care or services furnished in an emergency department of a hospital that the physician determines do not constitute an appropriate medical screening examination or stabilizing examination and

treatment required to be provided by the hospital under section 1867.

"(B) ALTERNATE NON-EMERGENCY SERVICES PROVIDER.—The term 'alternative non-emergency services provider' means, with respect to non-emergency services for the diagnosis or treatment of a condition, a health care provider, such as a physician's office, health care clinic, community health center, hospital outpatient department, or similar health care provider, that can provide clinically appropriate services for the diagnosis or treatment of a condition contemporaneously with the provision of the non-emergency services that would be provided in an emergency department of a hospital for the diagnosis or treatment of a condition, and that is participating in the program under this title.".

(b) GRANT FUNDS FOR ESTABLISHMENT OF ALTERNATE NON-EMERGENCY SERVICES PROVIDERS.—Section 1903 of the Social Security Act (42 U.S.C. 1396b), as 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), subject to paragraph (2), the Secretary shall provide for payments to States under such subsection for the establishment of alternate non-emergency service providers (as defined in section 1916A(e)(5)(B)), or networks of such providers.

"(2) LIMITATION.—The total amount of payments under this subsection shall not exceed $50,000,000 during the 4-year period beginning with 2006. 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.

"(3) PREFERENCE.—In providing for payments to States under this subsection, the Secretary shall provide preference to States that establish, or provide for, alternate non-emergency services providers or networks of such providers that—

"(A) serve rural or underserved areas where beneficiaries under this title may not have regular access to providers of primary care services; or

"(B) are in partnership with local community hospitals.

"(4) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made only upon the filing of such application in such form and in such manner as the Secretary shall specify. Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a).".

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

SEC. 6044. USE OF BENCHMARK BENEFIT PACKAGES.

(a) IN GENERAL.—Title XIX of the Social Security Act, as amended by section 6035, is amended by redesignating section 1937 as section 1938 and by inserting after section 1936 the following new section:

"STATE FLEXIBILITY IN BENEFIT PACKAGES

"SEC. 1937. (a) STATE OPTION OF PROVIDING BENCHMARK BENEFITS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, a State, at its option as a State plan amendment, may provide for medical assistance under this title to individuals within one or more groups of individuals specified by the State through enrollment in coverage that provides—

"(i) benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2); and

"(ii) for any child under 19 years of age who is covered under the State plan under section 1902(a)(10)(A), wrap-around benefits to the benchmark coverage or benchmark equivalent coverage consisting of early and periodic screening, diagnostic, and treatment services defined in section 1905(r).

"(B) LIMITATION.—The State may only exercise the option under subparagraph (A) for an individual eligible under an eligibility category that had been established under the State plan on or before the date of the enactment of this section.

"(C) OPTION OF WRAP-AROUND BENEFITS.—In the case of coverage described in subparagraph (A), a State, at its option, may provide such wrap-around or additional benefits as the State may specify.

"(D) TREATMENT AS MEDICAL ASSISTANCE.—Payment of premiums for such coverage under this subsection shall be treated as payment

of other insurance premiums described in the third sentence of section 1905(a).

"(2) APPLICATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State may require that a full-benefit eligible individual (as defined in subparagraph (C)) within a group obtain benefits under this title through enrollment in coverage described in paragraph (1)(A). A State may apply the previous sentence to individuals within 1 or more groups of such individuals.

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

"(i) 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)(i).

"(ii) BLIND OR DISABLED INDIVIDUALS.—The individual qualifies for medical assistance under the State plan on the basis of being blind or disabled (or being treated

as being blind or disabled) without regard to whether the individual is eligible for supplemental security income benefits under title XVI on the basis of being blind or disabled and including an individual who is eligible for medical assistance on the basis of section 1902(e)(3).

"(iii) DUAL ELIGIBLES.—The individual is entitled to benefits under any part of title XVIII.

"(iv) TERMINALLY ILL HOSPICE PATIENTS.—The individual is terminally ill and is receiving benefits for hospice care under this title.

"(v) ELIGIBLE ON BASIS OF INSTITUTIONALIZATION.—The individual is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, and is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(vi) MEDICALLY FRAIL AND SPECIAL MEDICAL NEEDS INDIVIDUALS.—The individual is medically frail or otherwise an individual with special medical needs (as identified in accordance with regulations of the Secretary).

"(vii) BENEFICIARIES QUALIFYING FOR LONG-TERM CARE SERVICES.—The individual qualifies based on medical condition for medical assistance for long-term care services described in section 1917(c)(1)(C).

"(viii) CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES AND CHILDREN RECEIVING FOSTER CARE OR ADOPTION ASSISTANCE.—The individual is an individual with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ix) TANF AND SECTION 1931 PARENTS.—The individual qualifies for medical assistance on the basis of eligibility to re-

ceive assistance under a State plan funded under part A of title IV (as in effect on or after the welfare reform effective date defined in section 1931(i)).

"(x) WOMEN IN THE BREAST OR CERVICAL CANCER PROGRAM.—The individual is a woman who is receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(xi) LIMITED SERVICES BENEFICIARIES.—The individual—

"(I) qualifies for medical assistance on the basis of section 1902(a)(10)(A)(ii)(XII); or

"(II) is not a qualified alien (as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and receives care and services necessary for the treatment of an emergency medical condition in accordance with section 1903(v).

"(C) FULL-BENEFIT ELIGIBLE INDIVIDUALS.—

"(i) IN GENERAL.—For purposes of this paragraph, subject to clause (ii), the term 'full-benefit eligible individual' means for a State for a month an individual who is determined eligible by the State for medical assistance for all services defined in section 1905(a) which are covered under the State plan under this title for such month under section 1902(a)(10)(A) or under any other category of eligibility for medical assistance for all such services under this title, as determined by the Secretary.

"(ii) EXCLUSION OF MEDICALLY NEEDY AND SPEND-DOWN POPULATIONS.—Such term shall not include an individual determined to be eligible by the State for medical assistance under section 1902(a)(10)(C) or by reason of section 1902(f) or otherwise eligible based on a reduction of income based on costs incurred for medical or other remedial care.

"(b) BENCHMARK BENEFIT PACKAGES.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), each of the following coverages shall be considered to be benchmark coverage:

"(A) FEHBP-EQUIVALENT HEALTH INSURANCE COVERAGE.—The standard Blue Cross/Blue Shield preferred provider option service benefit plan, described in and offered under section 8903(1) of title 5, United States Code.

"(B) STATE EMPLOYEE COVERAGE.—A health benefits coverage plan that is offered and generally available to State employees in the State involved.

"(C) COVERAGE OFFERED THROUGH HMO.—The health insurance coverage plan that—

"(i) is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act), and

"(ii) has the largest insured commercial, non-medicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved.

"(D) SECRETARY-APPROVED COVERAGE.—Any other health benefits coverage that the Secretary determines, upon application by a State,

provides appropriate coverage for the population proposed to be provided such coverage.

"(2) BENCHMARK-EQUIVALENT COVERAGE.—For purposes of subsection (a)(1), coverage that meets the following requirement shall be considered to be benchmark-equivalent coverage:

"(A) INCLUSION OF BASIC SERVICES.—The coverage includes benefits for items and services within each of the following categories of basic services:

"(i) Inpatient and outpatient hospital services.

"(ii) Physicians' surgical and medical services.

"(iii) Laboratory and x-ray services.

"(iv) Well-baby and well-child care, including age-appropriate immunizations.

"(v) Other appropriate preventive services, as designated by the Secretary.

"(B) AGGREGATE ACTUARIAL VALUE EQUIVALENT TO BENCHMARK PACKAGE.—The coverage has an aggregate actuarial value that is at least actuarially equivalent to one of the benchmark benefit packages described in paragraph (1).

"(C) SUBSTANTIAL ACTUARIAL VALUE FOR ADDITIONAL SERVICES INCLUDED IN BENCHMARK PACKAGE.—With respect to each of the following categories of additional services for which coverage is provided under the benchmark benefit package used under subparagraph (B), the coverage has an actuarial value that is equal to at least 75 percent of the actuarial value of the coverage of that category of services in such package:

"(i) Coverage of prescription drugs.

"(ii) Mental health services.

"(iii) Vision services.

"(iv) Hearing services.

"(3) DETERMINATION OF ACTUARIAL VALUE.—The actuarial value of coverage of benchmark benefit packages shall be set forth in an actuarial opinion in an actuarial report that has been prepared—

"(A) by an individual who is a member of the American Academy of Actuaries;

"(B) using generally accepted actuarial principles and methodologies;

"(C) using a standardized set of utilization and price factors;

"(D) using a standardized population that is representative of the population involved;

"(E) applying the same principles and factors in comparing the value of different coverage (or categories of services);

"(F) without taking into account any differences in coverage based on the method of delivery or means of cost control or utilization used; and

"(G) taking into account the ability of a State to reduce benefits by taking into account the increase in actuarial value of benefits coverage offered under this title that results from the limitations on cost sharing under such coverage.

The actuary preparing the opinion shall select and specify in the memorandum the standardized set and population to be used under subparagraphs (C) and (D).

"(4) COVERAGE OF RURAL HEALTH CLINIC AND FQHC SERVICES.—Notwithstanding the previous provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark equivalent coverage under this section unless—

"(A) the individual has access, through such coverage or otherwise, to services described in subparagraphs (B) and (C) of section 1905(a)(2); and

"(B) payment for such services is made in accordance with the requirements of section 1902(bb).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on March 31, 2006.

CHAPTER 5—STATE FINANCING UNDER MEDICAID

SEC. 6051. MANAGED CARE ORGANIZATION PROVIDER TAX REFORM.

(a) IN GENERAL.—Section 1903(w)(7)(A)(viii) of the Social Security Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of managed care organizations (including health maintenance organizations, preferred provider organizations, and such other similar organizations as the Secretary may specify by regulation).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendment made by subsection (a) shall be effective as of the date of the enactment of this Act.

(2) DELAY IN EFFECTIVE DATE.—

(A) IN GENERAL.—Subject to subparagraph (B), in the case of a State specified in subparagraph (B), the amendment made by subsection (a) shall be effective as of October 1, 2009.

(B) SPECIFIED STATES.—For purposes of subparagraph (A), the States specified in this subparagraph are States that have enacted a law providing for a tax on the services of a Medicaid managed care organization with a contract under section 1903(m) of the Social Security Act as of December 8, 2005.

(c) CLARIFICATION REGARDING NON-REGULATION OF TRANSFERS.—

(1) IN GENERAL.—Nothing in section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall be construed by the Secretary of Health and Human Services as prohibiting a State's use of funds as the non-Federal share of expenditures under title XIX of such Act where such funds are transferred from or certified by a publicly-owned regional medical center located in another State and described in paragraph (2), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(2) CENTER DESCRIBED.—A center described in this paragraph is a publicly-owned regional medical center that—

(A) provides level 1 trauma and burn care services;

(B) provides level 3 neonatal care services;

(C) is obligated to serve all patients, regardless of State of origin;

(D) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States, including the States described in paragraph (1);

(E) serves as a tertiary care provider for patients residing within a 125-mile radius; and

(F) meets the criteria for a disproportionate share hospital under section 1923 of such Act in at least one State other than the one in which the center is located.

(3) EFFECTIVE PERIOD.—This subsection shall apply through December 31, 2006.

SEC. 6052. REFORMS OF CASE MANAGEMENT AND TARGETED CASE MANAGEMENT.

(a) IN GENERAL.—Section 1915(g) of the Social Security Act (42 U.S.C. 1396n(g)(2)) is amended by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection:

"(A)(i) The term 'case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

"(ii) Such term includes the following:

"(I) Assessment of an eligible individual to determine service needs, including activities that focus on needs identification, to determine the need for any medical, educational, social, or other services. Such assessment activities include the following:

"(aa) Taking client history.

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

"(cc) Gathering information from other sources such as family members, medical providers, social workers, and educators, 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, including 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 providers or other programs and services that are capable of providing needed services, such as making referrals to providers for needed services and scheduling appointments for the individual.

"(IV) 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 eligible individual has been referred, including, with respect to the direct delivery of foster care services, services such as (but not limited to) the following:

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

"(II) Assessing adoption placements.

"(III) Recruiting or interviewing potential foster care parents.

"(IV) Serving legal papers.

"(V) Home investigations.

"(VI) Providing transportation.

"(VII) Administering foster care subsidies.

"(VIII) Making placement arrangements.

"(B) The term 'targeted case management services' are case management services that are furnished without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B) to specific classes of individuals or to individuals who reside in specified areas.

"(3) With respect to contacts with individuals who are not eligible for medical assistance under the State plan or, in the case of targeted case management services, individuals who are eligible for such assistance but are not part of the target population specified in the State plan, such contacts—

"(A) are considered an allowable case management activity, when the purpose of the contact is directly related to the management of the eligible individual's care; and

"(B) are not considered an allowable case management activity if such contacts relate directly to the identification and management of the noneligible or nontargeted individual's needs and care.

"(4)(A) In accordance with section 1902(a)(25), Federal financial participation only is available under this title for case management services or targeted case manage-

ment services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other 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 OMB Circular A–87 (or any related or successor guidance or regulations regarding allocation of costs among federally funded programs) under an approved cost allocation program.

"(5) 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 to carry out the amendment made by subsection (a) which may be effective and final immediately on an interim basis as of the date of publication of the interim final regulation. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comments 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 DECREASE.—Notwithstanding the first sentence of 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., 1397aa et seq.), the Federal medical assistance percentage determined for the State specified in section 4725(a) of Public Law 105–33 for fiscal year 2006 or fiscal year 2007 is less than the Federal medical assistance percentage determined for such State for fiscal year 2005, the Federal medical assistance percentage determined for such State for fiscal year 2005 shall be substituted for the Federal medical assistance percentage otherwise determined for such State for fiscal year 2006 or fiscal year 2007, as the case may be.

(b) HOLD HARMLESS FOR KATRINA IMPACT.—Notwithstanding any other provision of law, for purposes of titles XIX and XXI of the Social Security Act, the Secretary of Health and Human Services, in computing the Federal medical assistance percentage under section 1905(b) of such Act (42 U.S.C. 1396d(b)) for any year after 2006 for a State that the Secretary determines has a significant number of evacuees who were evacuated to, and live in, the State as a result of Hurricane Katrina as of October 1, 2005, shall disregard such evacuees (and income attributable to such evacuees) from such computation.

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 fiscal year 2006 and each subsequent fiscal year, the table in subsection (f)(2) of such section is amended under each of the columns for fiscal year 2000, fiscal year 2001, and fiscal year 2002, in the entry for 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 adjustment expenditures applicable to fiscal year 2006 and subsequent fiscal years made on or after that date.

SEC. 6055. INCREASE IN MEDICAID PAYMENTS TO INSULAR AREAS.

Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended—

(1) in paragraph (2), by inserting "and subject to paragraph (3)" after "subsection (f)"; and

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

"(3) FISCAL YEARS 2006 AND 2007 FOR CERTAIN INSULAR AREAS.—The amounts otherwise determined under this subsection for Puerto Rico, the Virgin Is-

lands, Guam, the Northern Mariana Islands, and American Samoa for fiscal year 2006 and fiscal year 2007 shall be increased by the following amounts:

"(A) For Puerto Rico, $12,000,000 for fiscal year 2006 and $12,000,000 for fiscal year 2007.

"(B) For the Virgin Islands, $2,500,000 for fiscal year 2006 and $5,000,000 for fiscal year 2007.

"(C) For Guam, $2,500,000 for fiscal year 2006 and $5,000,000 for fiscal year 2007.

"(D) For the Northern Mariana Islands, $1,000,000 for fiscal year 2006 and $2,000,000 for fiscal year 2007.

"(E) For American Samoa, $2,000,000 for fiscal year 2006 and $4,000,000 for fiscal year 2007.

Such amounts shall not be taken into account in applying paragraph (2) for fiscal year 2007 but shall be taken into account in applying such paragraph for fiscal year 2008 and subsequent fiscal years.".

CHAPTER 6—OTHER PROVISIONS

Subchapter A—Family Opportunity Act

SEC. 6061. SHORT TITLE OF SUBCHAPTER.

This subchapter may be cited as the "Family Opportunity Act of 2005" or the "Dylan Lee James Act".

SEC. 6062. OPPORTUNITY FOR FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.

(a) STATE OPTION TO ALLOW FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.—

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

(A) in subsection (a)(10)(A)(ii)—

(i) by striking "or" at the end of subclause (XVII);

(ii) by adding "or" at the end of subclause (XVIII); and

(iii) by adding at the end the following new subclause:

"(XIX) who are disabled children described in subsection (cc)(1);"; and

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

"(cc)(1) Individuals described in this paragraph are individuals—

"(A) who are children who have not attained 19 years of age and are born—

"(i) on or after January 1, 2001 (or, at the option of a State, on or after an earlier date),

in the case of the second, third, and fourth quarters of fiscal year 2007;

"(ii) on or after October 1, 1995 (or, at the option of a State, on or after an earlier date), in the case of each quarter of fiscal year 2008; and

"(iii) after October 1, 1989, in the case of each quarter of fiscal year 2009 and each quarter of any fiscal year thereafter;

"(B) who would be considered disabled under section 1614(a)(3)(C) (as determined under title XVI for children but without regard to any income or asset eligibility requirements that apply under such title with respect to children); and

"(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 2110(c)(5)) applicable to a family of the size involved; or

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

"(I) any medical assistance provided to an individual whose family income ex-

ceeds 300 percent of such poverty line may only be provided with State funds; and

"(II) no Federal financial participation shall be provided under section 1903(a) for any medical assistance provided to such an individual.".

(2) INTERACTION WITH EMPLOYER-SPONSORED FAMILY COVERAGE.—Section 1902(cc) of such Act (42 U.S.C. 1396a(cc)), as added by paragraph (1)(B), is amended by adding at the end the following new paragraph:

"(2)(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 2791(a) of the Public Health Service Act), the State shall—

"(i) notwithstanding section 1906, require such parent to apply for, enroll in, and pay premiums for such coverage as a condition of such parent's child being or remaining eligible for medical assistance under subsection (a)(10)(A)(ii)(XIX) if the parent is determined eligible for such coverage and the employer contributes at least 50 percent of the total cost of annual premiums for such coverage; and

"(ii) if such coverage is obtained—

"(I) subject to paragraph (2) of section 1916(h), reduce the premium imposed by the State under that section in an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability; and

"(II) treat such coverage as a third party liability under subsection (a)(25).

"(B) In the case of a parent to which subparagraph (A) applies, a State, notwithstanding section 1906 but subject to paragraph (1)(C)(ii), may provide for payment of any portion of the annual premium for such family coverage that the parent is required to pay. Any payments made by the State under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.".

(b) STATE OPTION TO IMPOSE INCOME-RELATED PREMIUMS.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (a), by striking "subsection (g)" and inserting "subsections (g) and (i)"; and

(2) by adding at the end, as amended by section 6041(b)(2), the following new subsection:

"(i)(1) With respect to disabled children provided medical assistance under section 1902(a)(10)(A)(ii)(XIX), sub-

ject to paragraph (2), a State may (in a uniform manner for such children) require the families of such children to pay monthly premiums set on a sliding scale based on family income.

"(2) A premium requirement imposed under paragraph (1) may only apply to the extent that—

"(A) in the case of a disabled child described in that paragraph whose family income—

"(i) does not exceed 200 percent of the poverty line, the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) and other cost-sharing charges do not exceed 5 percent of the family's income; and

"(ii) exceeds 200, but does not exceed 300, percent of the poverty line, the aggregate amount of such premium and any premium that the parent is required to pay for family 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 is imposed consistent with section 1902(cc)(2)(A)(ii)(I).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of a child under section 1902(a)(10)(A)(ii)(XIX) for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of at least 60 days from the date on which the premium became past due. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.".

(c) CONFORMING AMENDMENTS.—(1) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XIX)," after "1902(a)(10)(A)(ii)(XVIII),".

(2) Section 1905(u)(2)(B) of such Act (42 U.S.C. 1396d(u)(2)(B)) is amended by adding at the end the following sentence: "Such term excludes any child eligible for medical assistance only by reason of section 1902(a)(10)(A)(ii)(XIX).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after January 1, 2007.

SEC. 6063. DEMONSTRATION PROJECTS REGARDING HOME AND COMMUNITY-BASED ALTERNATIVES TO PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN.

(a) IN GENERAL.—The Secretary is authorized to conduct, during each of fiscal years 2007 through 2011, demonstration projects (each in the section referred to as a "demonstration project") in accordance with this section under which up to 10 States (as defined for purposes of title XIX of the Social Security Act) are awarded grants, on a competitive basis, to test the effectiveness in improving or maintaining a child's functional level and cost-effectiveness of providing coverage of home and community-based alternatives to psychiatric residential treatment for children enrolled in the Medicaid program under title XIX of such Act.

(b) APPLICATION OF TERMS AND CONDITIONS.—

(1) IN GENERAL.—Subject to the provisions of this section, for the purposes of the demonstration projects, and only with respect to children enrolled under such demonstration projects, a psychiatric residential treatment facility (as defined in section 483.352 of title 42 of the Code of Federal Regulations) shall be deemed to be a facility specified in section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), and to be included in each reference in

such section 1915(c) to hospitals, nursing facilities, and intermediate care facilities for the mentally retarded.

(2) STATE OPTION TO ASSURE CONTINUITY OF MEDICAID COVERAGE.—Upon the termination of a demonstration project under this section, the State that conducted the project may elect, only with respect to a child who is enrolled in such project on the termination date, to continue to provide medical assistance for coverage of home and community-based alternatives to psychiatric residential treatment for the child in accordance with section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as modified through the application of paragraph (1). Expenditures incurred for providing such medical assistance shall be treated as a home and community-based waiver program under 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 and conditions as apply to a waiver under section 1915(c) of the Social Security

Act (42 U.S.C. 1396n(c)), including the waiver of certain requirements under the first sentence of paragraph (3) of such section 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 which the Secretary estimates 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 TO SCOPE AND FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), a demonstration project approved by the Secretary under this section shall be treated as a home and community-based waiver program under 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).

(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 (f)(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 fiscal years 2007 through 2011, a total of $218,000,000, of which—

(A) the amount specified in paragraph (2) shall be available for each of fiscal years 2007 through 2011; and

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

(2) FISCAL YEAR LIMIT.—

(A) IN GENERAL.—For purposes of paragraph (1), the amount specified in this 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 previously expended under paragraph (1)(A) for such prior fiscal years.

(B) FISCAL YEAR AMOUNTS.—The amount specified in this subparagraph 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 $53,000,000; and

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

SEC. 6064. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

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 spe-

cial projects of regional and national significance for the development and support 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, managed care organizations, 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. 6065. 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 ") and" 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 the following: ", or (cc) who are under 21 years of 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 Follows the Person Rebalancing Demonstration

SEC. 6071. MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION.

(a) PROGRAM PURPOSE AND AUTHORITY.—The Secretary is authorized to 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 restrict the flexible use of Medicaid funds to enable Medicaid-eligible individuals to re-

ceive support for appropriate and necessary long-term services in the settings of their choice.

(3) CONTINUITY OF SERVICE.—Increase the ability of the State Medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institutional to a community setting.

(4) 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 services (including home health and personal care services) that are provided under the State's qualified HCB program or that could be provided under such a program but are otherwise provided under the Medicaid program.

(2) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means, with respect to an MFP demonstration project of a State, an individual in the State—

(A) who, immediately before beginning participation in the MFP demonstration project—

(i) resides (and has resided, for a period of not less than 6 months or for such longer minimum period, not to exceed 2 years, as may be specified by the State) in an inpatient facility;

(ii) is receiving Medicaid benefits for inpatient services furnished by such inpatient facility; and

(iii) with respect to whom a determination has been made that, but for the provision of home and community-based long-term care services, the individual would continue to require the level of care provided in an inpatient facility and, in any case in which the State applies a more stringent level of care standard as a result of implementing the State plan option permitted under section 1915(i) of the Social Security Act, the individual must continue

to require at least the level of care which had resulted in admission to the institution; and

(B) who resides in a qualified residence beginning on the initial date of participation in the demonstration project.

(3) INPATIENT FACILITY.—The term "inpatient facility" means a hospital, nursing facility, or intermediate care facility for the mentally retarded. Such term includes an institution for mental diseases, but only, with respect to a State, to the extent medical assistance is available under the State Medicaid plan for services provided by such institution.

(4) MEDICAID.—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 under such title or under section 1115 of such Act relating to such title).

(5) QUALIFIED HCB PROGRAM.—The term "qualified HCB program" means a program providing home and community-based long-term care services operating under Medicaid, whether or not operating under waiver authority.

(6) QUALIFIED RESIDENCE.—The term "qualified residence" means, with respect to an eligible individual—

(A) a home owned or leased by the individual or the individual's family member;

(B) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and

(C) a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside.

(7) QUALIFIED EXPENDITURES.—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).

(8) SELF-DIRECTED SERVICES.—The term "self-directed" means, with respect to home and community-based long-term care services for an eligible indi-

vidual, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative (as defined by the Secretary), including the amount, duration, scope, provider, and location of such services, under the State Medicaid program consistent with the following requirements:

(A) ASSESSMENT.—There is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

(B) SERVICE PLAN.—Based on such assessment, there is developed jointly with such individual or the individual's authorized representative a plan for such services for such individual that is approved by the State and that—

(i) specifies those services, if any, which the individual or the individual's authorized representative would be responsible for directing;

(ii) identifies the methods by which the individual or the individual's authorized representative or an agency designated by an individual or representative will select, manage, and dismiss providers of such services;

(iii) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

(iv) is developed through a person-centered process that—

(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 life and that respects 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 responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities of the indi-

vidual 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 values in such budgets 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.

(9) STATE.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

(c) STATE APPLICATION.—A State seeking approval of an MFP demonstration project shall submit to the Sec-

retary, 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 PROCESS.—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 that allows for input from eligible individuals, the families of such individuals, authorized representatives of such individuals, providers, and other interested parties.

(2) OPERATION IN CONNECTION WITH QUALIFIED HCB PROGRAM TO ASSURE CONTINUITY OF SERVICES.—The State will conduct the MFP demonstration project for eligible individuals in conjunction with the operation of a qualified HCB program that is in operation (or approved) in the State for such individuals in a manner that assures continuity of Medicaid coverage for such individuals so long as such individuals continue to be eligible for medical assistance.

(3) DEMONSTRATION PROJECT PERIOD.—The application shall specify the period of the MFP demonstration project, which shall include at least 2 con-

secutive fiscal years in the 5-fiscal-year period beginning with fiscal year 2007.

(4) SERVICE AREA.—The application shall specify the service area or areas of the MFP demonstration project, which may be a statewide area or 1 or more geographic areas of the State.

(5) 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 a qualified residence during each fiscal year of the MFP demonstration project;

(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 the opportunity to make an informed choice re-

garding whether to participate in the MFP demonstration project;

(B) each eligible individual or the individual's authorized representative will choose 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 consistent with applicable requirements, home and community-based long-term care services to each individual who completes participation in the MFP demonstration project for as long as the individual remains eligible for medical assistance for such services under such qualified HCB program (including meeting a requirement relating to requiring a level of care provided in an inpatient facility and continuing to require such services, and, if the State applies a more stringent level of care standard as a result of implementing the State plan option permitted under section 1915(i) of the Social Security Act, meeting the requirement

for at least the level of care which had resulted in the individual's admission to the institution).

(7) REBALANCING.—The application shall—

(A) provide such information as the Secretary may require concerning the dollar amounts of State Medicaid expenditures for the fiscal year, immediately preceding the first fiscal year of the State's MFP demonstration project, for long-term care services and the percentage of such expenditures that were for institutional long-term care services or were for home and community-based long-term care services;

(B)(i) specify the methods to be used by the State to increase, for each fiscal year during the MFP demonstration project, the dollar amount of such total expenditures for home and community-based long-term care services and the percentage of such total expenditures for long-term care services that are for home and community-based long-term care services; and

(ii) describe the extent to which the MFP demonstration project will contribute to accomplishment of objectives described in subsection (a).

(8) MONEY FOLLOWS THE PERSON.—The application shall describe the methods to be used by the State to eliminate any legal, budgetary, or other barriers to flexibility in the availability of Medicaid funds to pay for long-term care services for eligible individuals participating in the project in the appropriate settings of their choice, including costs to transition from an institutional setting to a qualified residence.

(9) MAINTENANCE OF EFFORT AND COST-EFFECTIVENESS.—The application shall contain or be accompanied by such information and assurances as may be required to satisfy the Secretary that—

(A) total expenditures under the State Medicaid program for home and community-based long-term care services will not be less for any fiscal year during the MFP demonstration project than for the greater of such expenditures for—

(i) fiscal year 2005; or

(ii) any succeeding fiscal year before the first year of the MFP demonstration project; and

(B) in the case of a qualified HCB program operating under a waiver under subsection (c) or

(d) of section 1915 of the Social Security Act (42 U.S.C. 1396n), but for the amount awarded under a grant under this section, the State program would continue to meet the cost-effectiveness requirements of subsection (c)(2)(D) of such section or comparable requirements under subsection (d)(5) of such section, respectively.

(10) WAIVER REQUESTS.—The application shall contain or be accompanied by requests for any modification or adjustment of waivers of Medicaid requirements described in subsection (d)(3), including adjustments to the maximum numbers of individuals included and package of benefits, including one-time transitional services, provided.

(11) 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 welfare 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.

(12) 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)(8)) under 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 ELECTION.—A description of how eligible individuals will be provided with 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 provide oversight of eligible individual's receipt of such self-directed services, including steps to assure the quality of services provided and that the provision of such services are consistent with the service plan under such subsection.

Nothing in this section shall be construed as requiring a State to make an election under the project to provide for home and community-based long-term care services as self-directed services, or as requiring an individual to elect to receive self-directed services under the project.

(13) REPORTS AND EVALUATION.—The application shall provide that—

(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.

(d) SECRETARY'S AWARD OF COMPETITIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants under this section on a competitive basis to States selected from among those with applications meeting the requirements of subsection (c), in accordance with the provisions of this subsection.

(2) SELECTION AND MODIFICATION OF STATE APPLICATIONS.—In selecting State applications for the awarding of such a grant, the Secretary—

(A) shall take into consideration the manner in which, and extent to which, the State proposes to achieve the objectives specified in subsection (a);

(B) shall seek to achieve an appropriate national balance in the numbers of eligible individuals, within different target groups of eligible individuals, who are assisted to transition to qualified residences under MFP demonstration projects, and in the geographic distribution of States operating MFP demonstration projects;

(C) shall give preference to State applications proposing—

(i) to provide transition assistance to eligible individuals within multiple target groups; and

(ii) to provide eligible individuals with the opportunity to receive home and community-based long-term care services as self-directed services, as defined in subsection (b)(8); and

(D) shall take such objectives into consideration in setting the annual amounts of State grant awards under this section.

(3) WAIVER AUTHORITY.—The Secretary is authorized to waive the following provisions of title XIX of the Social Security Act, to the extent necessary to enable a State initiative to meet the requirements and accomplish the purposes of this section:

(A) STATEWIDENESS.—Section 1902(a)(1), in order to permit implementation of a State initiative in a selected area or areas of the State.

(B) COMPARABILITY.—Section 1902(a)(10)(B), in order to permit a State initiative to assist a selected category or categories of individuals described in subsection (b)(2)(A).

(C) INCOME AND RESOURCES ELIGIBILITY.—Section 1902(a)(10)(C)(i)(III), in order

to permit a State to apply institutional eligibility rules to individuals transitioning to community-based care.

(D) PROVIDER AGREEMENTS.—Section 1902(a)(27), in order to permit a State to implement self-directed services in a cost-effective manner.

(4) CONDITIONAL APPROVAL OF OUTYEAR GRANT.—In awarding grants under this section, the Secretary shall condition the grant for the second and any subsequent fiscal years of the grant period on the following:

(A) NUMERICAL BENCHMARKS.—The State must demonstrate to the satisfaction of the Secretary that it is meeting numerical benchmarks specified in the grant agreement for—

(i) increasing State Medicaid support for home and community-based long-term care services under subsection (c)(5); and

(ii) numbers of eligible individuals assisted to transition to qualified residences.

(B) QUALITY OF CARE.—The State must demonstrate to the satisfaction of the Secretary that it is meeting the requirements under sub-

section (c)(11) to assure the health and welfare of MFP demonstration project participants.

(e) PAYMENTS TO STATES; CARRYOVER OF UNUSED GRANT AMOUNTS.—

(1) PAYMENTS.—For each calendar quarter in a fiscal year during the period a State is awarded a grant under subsection (d), the Secretary shall pay to the State from its grant award for such fiscal year an amount equal to the lesser of—

(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 for such fiscal year (taking into account the application of paragraph (2)).

(2) CARRYOVER OF UNUSED AMOUNTS.—Any portion of a State grant award for a fiscal year under this section remaining at the end of such fiscal year shall remain available to the State for the next 4 fiscal years, subject to paragraph (3).

(3) REAWARDING OF CERTAIN UNUSED AMOUNTS.—In the case of a State that the Secretary determines pursuant to subsection (d)(4) has failed to meet the conditions 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 1903(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 available to pay 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 the first sentence of 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.

(f) 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, and oversight of, States for purposes of upgrading quality assurance and quality improvement systems under Medicaid home and community-based waivers, including—

(A) dissemination of information on promising practices;

(B) guidance on system design elements addressing the unique needs of participating beneficiaries;

(C) ongoing consultation on quality, including assistance in developing necessary tools, resources, and monitoring systems; and

(D) guidance on remedying programmatic and systemic problems.

(2) FUNDING.—From the amounts appropriated under subsection (h)(1) for the portion of fiscal year 2007 that begins on January 1, 2007, and ends on September 30, 2007, and for fiscal year 2008, not more than $2,400,000 shall be available to the Sec-

retary 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 grant or contract, shall provide for research on, and a national evaluation of, the program under this section, including assistance to the Secretary in preparing the final report required under paragraph (2). The evaluation shall include an analysis of projected and actual savings related to the transition of individuals to qualified residences in each State conducting an MFP demonstration project.

(2) FINAL REPORT.—The Secretary shall make a final report to the President and Congress, not later than September 30, 2011, reflecting the evaluation described in paragraph (1) and providing findings and conclusions on the conduct and effectiveness of MFP demonstration projects.

(3) FUNDING.—From the amounts appropriated under subsection (h)(1) for each of fiscal years 2008 through 2011, not more than $1,100,000 per year shall be available to the Secretary to carry out this subsection.

(h) APPROPRIATIONS.—

(1) IN GENERAL.—There are appropriated, from any funds in the Treasury not otherwise appropriated, for grants to carry out this section—

(A) $250,000,000 for the portion of fiscal year 2007 beginning on January 1, 2007, and ending on September 30, 2007;

(B) $300,000,000 for fiscal year 2008;

(C) $350,000,000 for fiscal year 2009;

(D) $400,000,000 for fiscal year 2010; and

(E) $450,000,000 for fiscal year 2011.

(2) AVAILABILITY.—Amounts made available under paragraph (1) for a fiscal year shall remain available for the awarding of grants to States by not later than September 30, 2011.

Subchapter C—Miscellaneous

SEC. 6081. MEDICAID TRANSFORMATION GRANTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b), as amended by sections 6037(a)(2) and 6043(b), is amended by adding at the end the following new subsection:

"(z) MEDICAID TRANSFORMATION PAYMENTS.—

"(1) IN GENERAL.—In addition to the payments provided under subsection (a), subject to paragraph (4), the Secretary shall provide for payments to States for the adoption of innovative methods to im-

prove the effectiveness and efficiency in providing medical assistance under this title.

"(2) PERMISSIBLE USES OF FUNDS.—The following are examples of innovative methods for which funds provided under this subsection may be used:

"(A) Methods for reducing patient error rates through the implementation and use of electronic health records, electronic clinical decision support tools, or e-prescribing programs.

"(B) Methods for improving rates of collection from estates of amounts owed under this title.

"(C) Methods for reducing waste, fraud, and abuse under the program under this title, such as reducing improper payment rates as measured by annual payment error rate measurement (PERM) project rates.

"(D) Implementation of a medication risk management program as part of a drug use review program under section 1927(g).

"(E) Methods in reducing, in clinically appropriate ways, expenditures under this title for covered outpatient drugs, particularly in the categories of greatest drug utilization, by increasing the utilization of generic drugs through the use

of education programs and other incentives to promote greater use of generic drugs.

"(F) Methods for improving access to primary and specialty physician care for the uninsured using integrated university-based hospital and clinic systems.

"(3) APPLICATION; TERMS AND CONDITIONS.—

"(A) IN GENERAL.—No payments shall be made to a State under this subsection unless the State applies to the Secretary for such payments in a form, manner, and time specified by the Secretary.

"(B) TERMS AND CONDITIONS.—Such payments are made under such terms and conditions consistent with this subsection as the Secretary prescribes.

"(C) ANNUAL REPORT.—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.

"(4) FUNDING.—

"(A) 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 made available under this subsection among States. Such method shall provide preference for States that design programs that target health providers 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 ensures 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 use of established principles and standards for drug utilization review

and best practices to analyze prescription drug claims of targeted beneficiaries and identify outlier physicians.

"(ii) On an ongoing basis provide outlier 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.

"(iii) Monitor 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 are identified as having high prescription drug costs and medical costs, such as individuals

with behavioral disorders or multiple chronic diseases who are taking multiple medications.".

SEC. 6082. HEALTH OPPORTUNITY ACCOUNTS.

Title XIX of the Social Security Act, as amended by sections 6035 and 6044, is amended—

(1) by redesignating 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 under a statewide waiver 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 section 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 has been 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) GAO REPORT.—

"(i) IN GENERAL.—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.

"(ii) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Comptroller General of the United States, $550,000 for the period of fiscal years 2007 through 2010 to carry out clause (i).

"(3) 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 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. Nothing in this section shall be construed as preventing a State demonstration program 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 additional account contributions for an individual demonstrating healthy prevention practices.

"(4) NO REQUIREMENT FOR STATEWIDENESS.—Nothing in this section or any other provision of law shall be construed to require that a State must provide for the implementation of a State demonstration program on a Statewide basis.

"(b) ELIGIBLE POPULATION GROUPS.—

"(1) IN GENERAL.—A State demonstration program under this section shall specify the eligible population groups consistent with paragraphs (2) and (3).

"(2) ELIGIBILITY LIMITATIONS DURING INITIAL DEMONSTRATION 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.

"(3) ADDITIONAL LIMITATIONS.—A State demonstration program shall not apply to any individual within a category of individuals described in section 1937(a)(2)(B).

"(4) LIMITATIONS.—

"(A) STATE OPTION.—This subsection shall not be construed as preventing a State from further limiting eligibility.

"(B) ON ENROLLEES IN MEDICAID MANAGED CARE ORGANIZATIONS.—Insofar as the

State provides for eligibility of individuals who are enrolled in Medicaid 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 any such organization:

"(i) In no case may the number of such individuals enrolled in the organization who participate in the program 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 REENROLLMENT.—An eligible individual who, for any reason, is disenrolled from a State demonstration program conducted under this section shall not be permitted to reenroll in such program before the end of 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) coverage for medical expenses in a year for items and services for which benefits are otherwise provided under this title after an annual deductible described in paragraph (2) has been met; and

"(B) contribution into a health opportunity account.

Nothing in subparagraph (A) shall be construed as preventing a State from providing for coverage of preventive care (referred to in subsection (a)(3)) within the alternative benefits without regard to the annual deductible.

"(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 opportunity account under subsection (d)(2)(A)(i), determined without regard to any limitation described in subsection (d)(2)(C)(i)(II).

"(3) ACCESS TO NEGOTIATED PROVIDER PAYMENT 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 Medicaid services from—

"(i) any participating provider under this title at the same payment rates that

would be applicable to such services if the deductible described in paragraph (1)(A) was not applicable; or

"(ii) any other provider at payment rates that do not exceed 125 percent of the payment rate that would be applicable to such services furnished by a participating provider under this title if the deductible described in paragraph (1)(A) was not applicable.

"(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 organization under which the individual may obtain demonstration program Medicaid services from any provider described in clause (ii) of subparagraph (A) at payment rates that do not exceed the payment rates that may be imposed under that clause.

"(C) COMPUTATION.—The payment rates described in subparagraphs (A) and (B) shall be computed without regard to any cost sharing

that would be otherwise applicable under sections 1916 and 1916A.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) The term 'demonstration program Medicaid services' means, with respect to an individual participating in a State demonstration program, services for which the individual would be provided medical assistance under this title but for the application of the deductible described in paragraph (1)(A).

"(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 agreement with the State for the provision of services to individuals entitled to benefits under the State plan; or

"(II) with respect to an individual described in subparagraph (B) who is enrolled in a Medicaid managed care organization, a health care pro-

vider that has entered into an arrangement for the provision of services to enrollees of the organization under this title.

"(4) NO EFFECT ON SUBSEQUENT BENEFITS.—Except as provided under paragraphs (1) and (2), alternative benefits for an eligible individual shall consist of the benefits otherwise provided to the individual, including cost sharing relating to such benefits.

"(5) OVERRIDING COST SHARING AND COMPARABILITY REQUIREMENTS FOR ALTERNATIVE BENEFITS.—The provisions of this title relating to cost sharing for benefits (including sections 1916 and 1916A) shall not apply with respect to benefits to which the annual deductible under paragraph (1)(A) applies. The provisions of section 1902(a)(10)(B) (relating to comparability) shall not apply with respect to the provision of alternative benefits (as described in this subsection).

"(6) TREATMENT AS MEDICAL ASSISTANCE.—Subject to subparagraphs (D) and (E) of subsection (d)(2), payments for alternative benefits under this section (including contributions into a health oppor-

tunity account) shall be treated as medical assistance for purposes of section 1903(a).

"(7) USE OF TIERED DEDUCTIBLE AND COST SHARING.—

"(A) IN GENERAL.—A State—

"(i) may vary the amount of the annual deductible applied under paragraph (1)(A) based on the income of the family involved so long as it does not favor families with higher income over those with lower income; and

"(ii) may vary the amount of the maximum out-of-pocket cost sharing (as defined in subparagraph (B)) based on the income of the family involved so long as it does not favor families with higher income over those with lower income.

"(B) MAXIMUM OUT-OF-POCKET COST SHARING.—For purposes of subparagraph (A)(ii), the term 'maximum out-of-pocket cost sharing' means, for an individual or family, the amount by which the annual deductible level applied under paragraph (1)(A) to the individual or family exceeds the balance in the health opportunity account for the individual or family.

"(8) CONTRIBUTIONS BY EMPLOYERS.—Nothing in this section shall be construed as preventing 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 section, the term 'health opportunity account' means an account that meets the requirements 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 specify the contribution amount that shall be deposited under subparagraph (A)(i) into a health opportunity account.

"(C) LIMITATION ON ANNUAL STATE CONTRIBUTION PROVIDED AND PERMITTING IMPOSITION OF MAXIMUM ACCOUNT BALANCE.—

"(i) IN GENERAL.—A State—

"(I) may impose limitations on the maximum contributions that may be deposited under subparagraph (A)(i) into a health opportunity account in a year;

"(II) may limit contributions into such an account once the balance in the account reaches a level specified by the State; and

"(III) subject to clauses (ii) and (iii) and subparagraph (D)(i), may not provide contributions described in subparagraph (A)(i) to 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.—For each year after 2006, the dol-

lar amounts specified in clause (i)(III) shall be annually increased by the Secretary 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)(III) (as increased under clause (ii)) for specified individuals if the State provides assurances satisfactory to the Secretary that contributions otherwise made to other individuals will be reduced in a manner so as to provide for aggregate contributions that do not exceed the aggregate contributions that would otherwise be permitted under this subparagraph.

"(D) LIMITATIONS ON FEDERAL MATCHING.—

"(i) STATE CONTRIBUTION.—A State may contribute under subparagraph (A)(i) amounts to a health opportunity account in excess of the limitations provided under subparagraph (C)(i)(III), but no Federal fi-

nancial participation shall be provided under section 1903(a) with respect to contributions in excess of such limitations.

"(ii) NO FFP FOR PRIVATE CONTRIBUTIONS.—No Federal financial participation shall be provided under section 1903(a) with respect to any contributions described in subparagraph (A)(ii) to a health opportunity account.

"(E) APPLICATION OF DIFFERENT MATCHING RATES.—The Secretary shall provide a method under which, for expenditures made from a health opportunity account for medical care for which the Federal matching rate under section 1903(a) 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.—

"(i) IN GENERAL.—Subject to the succeeding provisions of this paragraph, amounts in a health opportunity account may be used for payment of such health care expenditures as the State specifies.

"(ii) GENERAL LIMITATION.—Subject to subparagraph (B)(ii), in no case shall such account be used for payment for health care expenditures that are not payment of medical care (as defined by section 213(d) of the Internal Revenue Code of 1986).

"(iii) STATE RESTRICTIONS.—In applying clause (i), a State may restrict payment for—

"(I) providers of items and services to providers that are licensed or otherwise authorized 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 found, whether with respect to this title or any other health benefit program, to have failed to meet quality standards or to have committed 1 or more acts of fraud or abuse; and

"(II) items and services insofar as the State finds they are not medically appropriate or necessary.

"(iv) ELECTRONIC WITHDRAWALS.—The State demonstration program shall pro-

vide for a method whereby withdrawals may be made from the account for such purposes using an electronic system and shall not permit withdrawals from the account in cash.

"(B) MAINTENANCE OF HEALTH OPPORTUNITY ACCOUNT AFTER BECOMING INELIGIBLE FOR PUBLIC BENEFIT.—

"(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);

"(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 with-

drawals under the same terms and conditions as if the account holder remained eligible for such benefits, and such withdrawals shall be treated as medical assistance in accordance with subsection (c)(6).

"(ii) SPECIAL RULES.—Withdrawals under this subparagraph from an account—

"(I) shall be available for the purchase of health insurance coverage; and

"(II) may, subject to clause (iv), be made available (at the option of the State) for such additional expenditures (such as job training and tuition expenses) specified by the State (and approved by the Secretary) as the State may specify.

"(iii) EXCEPTION FROM 25 PERCENT SAVINGS TO GOVERNMENT FOR PRIVATE CONTRIBUTIONS.—Clause (i)(II) shall not apply to the portion of the account that is attributable to contributions described in paragraph (2)(A)(ii). For purposes of accounting for such contributions, withdrawals from a health opportunity account

shall first be attributed to contributions described in paragraph (2)(A)(i).

"(iv) CONDITION FOR NON-HEALTH WITHDRAWALS.—No withdrawal may be made from an account under clause (ii)(II) unless the account holder has participated in the program under this section for at least 1 year.

"(v) NO REQUIREMENT FOR CONTINUATION OF COVERAGE.—An account holder of a health opportunity account, after becoming ineligible for medical assistance under this title, is not required to purchase high-deductible or other insurance as a condition of maintaining or using the account.

"(4) ADMINISTRATION.—A State may coordinate administration of health opportunity accounts through the use of a third party administrator and reasonable expenditures for the use of such administrator shall be reimbursable to the State in the same manner as other administrative expenditures under section 1903(a)(7).

"(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 the health opportunity account based on nonqualified withdrawals by the individual from such an account; and

"(B) to recoup costs that derive from such nonqualified withdrawals.".

SEC. 6083. STATE OPTION TO ESTABLISH NON-EMERGENCY MEDICAL TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 6033(a) and 6035(b), is amended—

(1) in paragraph (68), by striking "and" at the end;

(2) in paragraph (69) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (69) the following:

"(70) 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 who need access to medical care or services and have no other means of transportation which—

"(A) may include a wheelchair van, taxi, stretcher car, bus passes and tickets, 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 based on the State's evaluation of the broker's experience, performance, references, resources, qualifications, and costs;

"(ii) has oversight procedures to monitor beneficiary access and complaints 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 such requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on the prohibitions on physician referrals 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. 6084. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.

Effective as if enacted on December 31, 2005, activities authorized by sections 510 and 1925 of the Social Security Act shall continue through December 31, 2006, in the manner authorized for fiscal year 2005, notwithstanding section 1902(e)(1)(A) 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 for such purpose. Grants and payments may be made pursuant to this authority through the first quarter of fiscal year 2007 at the level provided for such activities through the first quarter of fiscal year 2006.

SEC. 6085. EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS FOR MEDICAID MANAGED CARE ENROLLEES.

(a) IN GENERAL.—Section 1932(b)(2) of the Social Security Act (42 U.S.C. 1396u–2(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS.—Any provider of emergency services that does not have in effect a contract with a Medicaid managed care entity that establishes payment amounts for services furnished to a beneficiary enrolled in the entity's Medicaid managed care plan must accept as payment in full no more than the amounts (less any payments for indirect costs of medical education and direct costs of graduate medical education) that it could collect if the beneficiary received medical assistance under this title other than through enrollment in such an entity. In a State where rates paid to hospitals under the State plan are negotiated by contract and not publicly released, the payment amount applicable under this subparagraph shall be the average contract rate that would apply under the State plan for general acute care hospitals or the aver-

age contract rate that would apply under such plan for tertiary hospitals.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2007.

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 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

"(i) STATE PLAN AMENDMENT OPTION TO PROVIDE HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND DISABLED INDIVIDUALS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a State may provide through a State plan amendment for the provision of medical assistance for home and community-based services (within the scope of services described in paragraph (4)(B) of subsection (c) for which the Secretary has the authority to approve a waiver and not including room and board or such other services requested by the State as the Secretary may approve) for individuals eligible for medical assistance under

the State plan whose income does not exceed 150 percent of the poverty line (as defined in section 2110(c)(5)), without determining that but for the provision of such services the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded, but only if the State meets the following requirements:

"(A) NEEDS-BASED CRITERIA FOR ELIGIBILITY FOR, AND RECEIPT OF, HOME AND COMMUNITY-BASED SERVICES.—The State establishes needs-based criteria for determining an individual's eligibility under the State plan for medical assistance for such 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.

"(B) ESTABLISHMENT OF MORE STRINGENT NEEDS-BASED ELIGIBILITY CRITERIA FOR INSTITUTIONALIZED CARE.—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 under the State plan or under any waiver of such plan

that are more stringent than the needs-based criteria established under subparagraph (A) for determining eligibility for home and community-based services.

"(C) PROJECTION OF NUMBER OF INDIVIDUALS TO BE PROVIDED HOME AND COMMUNITY-BASED SERVICES.—

"(i) 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.

"(ii) AUTHORITY TO LIMIT NUMBER OF ELIGIBLE INDIVIDUALS.—A State may limit the number of individuals who are eligible for such services and may establish waiting lists for the receipt of such services.

"(D) CRITERIA BASED ON INDIVIDUAL ASSESSMENT.—

"(i) IN GENERAL.—The criteria established by the State for purposes of subparagraphs (A) and (B) requires an assessment of an individual's support needs and capabilities, and may take into account the in-

ability of the individual to perform 2 or more activities of daily living (as defined in section 7702B(c)(2)(B) of the Internal Revenue Code of 1986) or the need for significant assistance to perform such activities, and such other risk factors as the State determines to be appropriate.

"(ii) ADJUSTMENT AUTHORITY.—The State plan amendment provides the State with the option to modify the criteria established 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 exceeds the projected enrollment submitted for purposes of subparagraph (C), 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 modi-

fication 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 requires 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 application of the more stringent criteria developed under subparagraph (B).

"(E) INDEPENDENT EVALUATION AND ASSESSMENT.—

"(i) ELIGIBILITY DETERMINATION.—The State uses an independent evaluation for making the determinations described in subparagraphs (A) and (B).

"(ii) ASSESSMENT.—In the case of an individual who is determined to be eligible

for home and community-based services, the State uses an independent assessment, based on the needs of the individual to—

"(I) determine a necessary level of services and supports to be provided, consistent with an individual's physical and mental capacity;

"(II) prevent the provision of unnecessary or inappropriate care; and

"(III) establish an individualized care plan for the individual in accordance with subparagraph (G).

"(F) ASSESSMENT.—The independent assessment required under subparagraph (E)(ii) shall include the following:

"(i) An objective evaluation of an individual's inability to perform 2 or more activities of daily living (as defined in section 7702B(c)(2)(B) of the Internal Revenue Code of 1986) or the need for significant assistance to perform such activities.

"(ii) A face-to-face evaluation of the individual by an individual trained in the assessment and evaluation of individuals whose physical or mental conditions trigger

a potential need for home and community-based services.

"(iii) Where appropriate, consultation with the individual's family, spouse, guardian, or other responsible individual.

"(iv) Consultation with appropriate treating and consulting health and support professionals caring for the individual.

"(v) An examination of the individual's relevant history, medical records, and care and support needs, guided by best practices and research on effective strategies that result in improved health and quality of life outcomes.

"(vi) If the State offers individuals the option to self-direct the purchase of, or control the receipt of, home and community-based service, an evaluation of the ability of the individual or the individual's representative to self-direct the purchase of, or control the receipt of, such services if the individual so elects.

"(G) INDIVIDUALIZED CARE PLAN.—

"(i) IN GENERAL.—In the case of an individual who is determined to be eligible

for home and community-based services, the State uses the independent assessment required under subparagraph (E)(ii) to establish a written individualized care plan for the individual.

"(ii) PLAN REQUIREMENTS.—The State ensures that the individualized care plan for an individual—

"(I) is developed—

"(aa) 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 the individual's family, caregiver, or representative; and

"(bb) taking into account the extent of, and need for, any family or other supports for the individual;

"(II) identifies the necessary home and community-based services to be furnished to the individual (or, if the individual elects to self-direct the pur-

chase of, or control the receipt of, such services, funded for the individual); and

"(III) is reviewed at least annually and as needed when there is a significant change in the individual's circumstances.

"(iii) STATE OPTION TO OFFER ELECTION FOR SELF-DIRECTED SERVICES.—

"(I) INDIVIDUAL CHOICE.—At the option of the State, the State may allow an individual or the individual's representative to elect to receive self-directed home and community-based services in a manner which gives them the most control over such services consistent with the individual's abilities and the requirements of subclauses (II) and (III).

"(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 a plan for such services for such individual that is approved by the State and that satisfies the requirements of subclause (III).

"(III) PLAN REQUIREMENTS.—For purposes of subclause (II)(bb), the requirements of this subclause are that the plan—

"(aa) specifies those services which the individual or the individual's authorized representative would be responsible for directing;

"(bb) identifies the methods by which the individual or the individual's authorized representative will select, manage, and dismiss providers of such services;

"(cc) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

"(dd) is developed through a person-centered process that is directed by the individual or the individual's authorized representative, builds upon the individual's capacity to engage in activities that promote community life and that respects the individual's preferences, choices, and abilities, and involves families, friends, and

professionals as desired or required by the individual or the individual's authorized representative;

"(ee) includes appropriate risk management techniques that recognize the roles and sharing of responsibilities 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

"(ff) 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.

"(IV) BUDGET PROCESS.—With respect to individualized budgets described in subclause (III)(ff), the State plan amendment—

"(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.—

"(i) 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 evaluation and the independent assessment to safeguard against conflicts of interest.

"(I) REDETERMINATIONS AND APPEALS.—The State allows for at least annual redeter-

minations 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. Such 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.

"(2) DEFINITION OF INDIVIDUAL'S REPRESENTATIVE.—In this section, the term 'individual's representative' means, with respect to an individual, a parent, a family member, or a guardian of the individual, an advocate for the individual, or any other individual who is authorized to represent the individual.

"(3) NONAPPLICATION.—A State may elect in the State plan amendment approved under this section to not comply with the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community), but only for purposes of provided home and community-based services in accordance with such amendment. Any such election shall not be construed to apply to the provision of services to an individual receiving medical assistance in an institutionalized setting as a result of a determination that the individual requires the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded.

"(4) NO EFFECT ON OTHER WAIVER AUTHORITY.—Nothing in this subsection shall be construed as affecting the option of a State to offer home and community-based services under a waiver under subsections (c) or (d) of this section or under section 1115.

"(5) CONTINUATION OF FEDERAL FINANCIAL PARTICIPATION FOR MEDICAL ASSISTANCE PROVIDED TO INDIVIDUALS AS OF EFFECTIVE DATE OF STATE PLAN AMENDMENT.—Notwithstanding paragraph

(1)(B), Federal financial participation shall continue to be available for an individual who is receiving medical assistance in an institutionalized setting, or home and community-based services provided under a waiver under this section or section 1115 that is in effect as of the effective date of the State plan amendment submitted under this subsection, as a result of a determination that the individual requires the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded, without regard to whether such individuals satisfy the more stringent eligibility criteria established under that paragraph, until such time as the individual is discharged from the institution or waiver program or no longer requires such level of care.".

(b) QUALITY OF CARE MEASURES.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall consult with consumers, health and social service providers and other professionals knowledgeable about long-term care services and supports to develop program performance indicators, client function indicators, and measures of client satisfaction with respect to home and community-based services offered under State Medicaid programs.

(2) BEST PRACTICES.—The Secretary shall—

(A) use the indicators and measures developed under paragraph (1) to assess such home and community-based services, the outcomes associated with the receipt of such services (particularly with respect to the health and welfare of the recipient of the services), and the overall system for providing home and community-based services under the Medicaid program under title XIX of the Social Security Act; and

(B) make publicly available the best practices identified through such assessment and a comparative analyses of the system features of each State.

(3) 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 this subsection.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect on January 1, 2007, and apply to expenditures for medical assistance for home and community-based services provided in accordance with section 1915(i) of the Social Security Act (as added by subsections (a) and (b)) on or after that date.

SEC. 6087. OPTIONAL CHOICE OF SELF-DIRECTED PERSONAL ASSISTANCE SERVICES (CASH AND COUNSELING).

(a) EXEMPTION FROM CERTAIN REQUIREMENTS.—Section 1915 of the Social Security Act (42 U.S.C. 1396n), as amended by section 6086(a), is amended by adding at the end the following new subsection:

"(j)(1) A State may provide, as 'medical assistance', payment for part or all of the cost of self-directed personal assistance services (other than room and board) under the plan which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that, but for the provision of such services, the individuals would require and receive personal care services under the plan, or home and community-based services provided pursuant to a waiver under subsection (c). Self-directed personal assistance services may not be provided under this subsection to individuals who reside in a home or property that is owned, operated, or controlled by a provider of services, not related by blood or marriage.

"(2) The Secretary shall not grant approval for a State self-directed personal assistance services program under this section unless the State provides assurances satisfactory to the Secretary of the following:

"(A) Necessary safeguards have been taken to protect the health and welfare of individuals provided

services under the program, and to assure financial accountability for funds expended with respect to such services.

"(B) The State will provide, with respect to individuals who—

"(i) are entitled to medical assistance for personal care services under the plan, or receive home and community-based services under a waiver granted under subsection (c);

"(ii) may require self-directed personal assistance services; and

"(iii) may be eligible for self-directed personal assistance services,

an evaluation of the need for personal care under the plan, or personal services under a waiver granted under subsection (c).

"(C) Such individuals who are determined to be likely to require personal care under the plan, or home and community-based services under a waiver granted under subsection (c) are informed of the feasible alternatives, if available under the State's self-directed personal assistance services program, at the choice of such individuals, to the provision of personal care services under the plan, or personal assistance services under a waiver granted under subsection (c).

"(D) The State will provide for a support system that ensures participants in the self-directed personal assistance services program are appropriately assessed and counseled prior to enrollment and are able to manage their budgets. Additional counseling and management support may be provided at the request of the participant.

"(E) The State will provide to the Secretary an annual report on the number of individuals served and total expenditures on their behalf in the aggregate. The State shall also provide an evaluation of overall impact on the health and welfare of participating individuals compared to non-participants every three years.

"(3) A State may provide self-directed personal assistance services under the State plan without regard to the requirements of section 1902(a)(1) and may limit the population eligible to receive these services and limit the number of persons served without regard to section 1902(a)(10)(B).

"(4)(A) For purposes of this subsection, the term 'self-directed personal assistance services' means personal care and related services, or home and community-based services otherwise available under the plan under this title or subsection (c), that are provided to an eligible participant under a self-directed personal assistance services program

under this section, under which individuals, within an approved self-directed services plan and budget, purchase personal assistance and related services, and permits participants to hire, fire, supervise, and manage the individuals providing such services.

"(B) At the election of the State—

"(i) a participant may choose to use any individual capable of providing the assigned tasks including legally liable relatives as paid providers of the services; and

"(ii) the individual may use the individual's budget to acquire items that increase independence or substitute (such as a microwave oven or an accessibility ramp) for human assistance, to the extent that expenditures would otherwise be made for the human assistance.

"(5) For purpose of this section, the term 'approved self-directed services plan and budget' means, with respect to a participant, the establishment of a plan and budget for the provision of self-directed personal assistance services, consistent with the following requirements:

"(A) SELF-DIRECTION.—The participant (or in the case of a participant who is a minor child, the participant's parent or guardian, or in the case of an incapacitated adult, another individual recognized by

State law to act on behalf of the participant) exercises choice and control over the budget, planning, and purchase of self-directed personal assistance services, including the amount, duration, scope, provider, and location of service provision.

"(B) ASSESSMENT OF NEEDS.—There is an assessment of the needs, strengths, and preferences of the participants for such services.

"(C) SERVICE PLAN.—A plan for such services (and supports for such services) for the participant has been developed and approved by the State based on such assessment through a person-centered process that—

"(i) builds upon the participant's capacity to engage in activities that promote community life and that respects the participant's preferences, choices, and abilities; and

"(ii) involves families, friends, and professionals in the planning or delivery of services or supports as desired or required by the participant.

"(D) SERVICE BUDGET.—A budget for such services and supports for the participant has been developed and approved by the State based on such assessment and plan and on a methodology that uses valid,

reliable cost data, is open to public inspection, and includes a calculation of the expected cost of such services if those services were not self-directed. The budget may not restrict access to other medically necessary care and services furnished under the plan and approved by the State but not included in the budget.

"(E) APPLICATION OF QUALITY ASSURANCE AND RISK MANAGEMENT.—There are appropriate quality assurance and risk management techniques used in establishing and implementing such plan and budget that recognize the roles and responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan and budget based upon the participant's resources and capabilities.

"(6) 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 (a) shall apply to services furnished on or after January 1, 2007.

Subtitle B—SCHIP

SEC. 6101. ADDITIONAL ALLOTMENTS TO ELIMINATE FISCAL YEAR 2006 FUNDING SHORTFALLS.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by inserting after subsection (c) the following:

"(d) ADDITIONAL ALLOTMENTS TO ELIMINATE FUNDING SHORTFALLS.—

"(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments 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 State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of December 16, 2005, that the projected expenditures under such plan for such State for fiscal year 2006 will exceed the sum of—

"(A) the amount of the State's allotments for each of fiscal years 2004 and 2005 that will not be expended by the end of fiscal year 2005;

"(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 fiscal year 2006.

"(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under 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 such 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—

(1) in subsection (a), by inserting "subject to subsection (d)," after "under this section,";

(2) in subsection (b)(1), by inserting "and subsection (d)" after "Subject to paragraph (4)"; and

(3) in subsection (c)(1), by inserting "subject to subsection (d)," after "for a fiscal year,".

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after October 1, 2005, without regard to whether or not regulations implementing such amendments have been issued.

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. 1397gg) is amended by adding at the end the following:

"(f) LIMITATION OF WAIVER AUTHORITY.—Notwithstanding subsection (e)(2)(A) and section 1115(a), the Secretary may not approve a 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. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.".

(b) CONFORMING AMENDMENTS.—Section 2105(c)(1) of such Act (42 U.S.C. 1397ee(c)(1)) is amended—

(1) by inserting "and may not include coverage of a nonpregnant childless adult" after "section 2101)"; and

(2) by adding at the end the following: "For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.".

(c) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to—

(1) authorize the waiver of any provision of title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) that is not otherwise authorized to be waived under such titles or under title XI of such Act (42 U.S.C. 1301 et seq.) as of the date of enactment of this Act;

(2) imply congressional approval of any waiver, experimental, pilot, or demonstration project affecting funds made available under the State children's health insurance program under title XXI of the Social Security Act (42 U.S.C. 1397aa et. seq.) or any amendment to such a waiver or project that has been approved as of such date of enactment; or

(3) apply to any waiver, experimental, pilot, or demonstration project that would allow funds made available under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult that is approved before the date of enactment of this Act or to any extension, renewal, or amendment of such a waiver or project that is approved on or after such date of enactment.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as if enacted on October 1, 2005, and shall apply to any waiver, experimental, pilot, or demonstration project that is approved on or after that date.

SEC. 6103. CONTINUED AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.

(a) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(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 of the Social Security Act (42 U.S.C. 1396 et seq.) on or after October 1, 2005.

Subtitle C—Katrina Relief

SEC. 6201. ADDITIONAL FEDERAL PAYMENTS UNDER HURRICANE-RELATED MULTI-STATE SECTION 1115 DEMONSTRATIONS.

(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 "section 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 child health assistance furnished under title XXI of such Act;

(B) with respect to evacuees who do not have other coverage for such assistance through insurance, including (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 project for the total uncompensated care costs incurred for medically necessary services and supplies beyond those included as medical assistance or child health assistance under the State's approved

plan under title XIX or title XXI of the Social Security Act;

(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 insurance, including (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 affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies beyond those included as medical assistance or child health assistance under the State's ap-

proved plan under title XIX or title XXI of the Social Security Act.

(2) For reimbursement of the reasonable administrative costs related to subparagraphs (A) through (D) of paragraph (1) as determined by the Secretary.

(3) Only with respect to affected counties or parishes, for reimbursement with respect to individuals receiving medical assistance under existing State plans approved by the Secretary of Health and Human Services for the following non-Federal share of expenditures:

(A) For medical assistance furnished under title XIX of the Social Security Act.

(B) For child health assistance furnished under title XXI of such Act.

(4) For other purposes, if approved by the Secretary under the Secretary's authority, to restore access to health care in impacted communities.

(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 408 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 Medicaid matching requirements, the effect of which is to provide fiscal relief to the State in which the Medicaid eligible individual originally resided.

(d) TIME LIMITS ON PAYMENTS.—

(1) No payments shall be made by the Secretary under subsection (a)(1)(A) or (a)(1)(C), 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 31, 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 individual has received from an individual or organization as part of a public or private hurricane relief effort.

(e) APPROPRIATIONS.—For the purpose of providing funds for payments under this section, in addition to any funds made available for the National Disaster Medical System under the Department of Homeland Security for health care costs related to Hurricane Katrina, including under a section 1115 project, there is appropriated out of any money in the Treasury not otherwise appropriated, $2,000,000,000, to remain available to the Secretary until expended. The total amount of payments made under subsection (a) may not exceed the total amount appropriated under this subsection.

SEC. 6202. STATE HIGH RISK HEALTH INSURANCE POOL FUNDING.

(a) IN GENERAL.—There are hereby authorized and appropriated for fiscal year 2006—

(1) $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

(2) $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 enactment of the State High Risk Pool Funding Extension Act of 2005—

(1) subsection (a)(1) shall be applied by substituting "subsections (b)(2) and (c)(3)" for "subsection "(b)(1)";

(2) subsection (b)(1) shall be applied by substituting "(d)(1)(B)" for "(c)(2)"; and

(3) subsection (b)(2) shall be applied by substituting "(d)(1)(A)" for "(c)(1)".

SEC. 6203. IMPLEMENTATION FUNDING.

For purposes of implementing the provisions of, and amendments made by, title V of this Act and this title—

(1) the Secretary of Health and Human Services shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established

under section 1841 of such Act (42 U.S.C. 1395t), of $30,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2006; and

(2) out of any funds in the Treasury not otherwise appropriated, there are appropriated to such Secretary for the Centers for Medicare & Medicaid Services Program Management Account, $30,000,000 for fiscal year 2006.

TITLE VII—HUMAN RESOURCES AND OTHER PROVISIONS

SEC. 7001. REFERENCES.

Except as otherwise expressly provided, wherever in this title an amendment or repeal 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 made to a section or other provision of the Social Security Act.

Subtitle A—TANF

SEC. 7101. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND RELATED PROGRAMS FUNDING THROUGH SEPTEMBER 30, 2010.

(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 Emergency Re-

sponse 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 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 activities for the corresponding quarter of fiscal year 2004 (or, as applicable, at such greater level as may result from the application of this subtitle, the amendments made by this subtitle, and the TANF Emergency Response 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 fiscal year 2008 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 403(a)(3)(H)(ii), by striking "December, 31, 2005" and inserting "fiscal year 2008";

(2) in section 403(b)(3)(C)(ii), by striking "2006" and inserting "2010"; and

(3) in section 409(a)(7)—

(A) in subparagraph (A), by striking "or 2007" and inserting "2007, 2008, 2009, 2010, or 2011"; and

(B) in subparagraph (B)(ii), by striking "2006" and inserting "2010".

(c) EXTENSION OF THE NATIONAL RANDOM SAMPLE 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 activities for the corresponding quarter of fiscal 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 program funded with qualified State ex-

penditures (as defined in section 409(a)(7)(B)(i))" after "this part"; and

(B) by striking clause (ii) and inserting the following:

"(ii) the average monthly number of families that received assistance under any State program 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 close parenthesis 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)(i), (c)(2)(A)(i), (e)(1), and (e)(2), by inserting "or any other State program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" after "this part".

(2) Section 411(a)(1) (42 U.S.C. 611(a)(1)) is amended—

(A) in subparagraph (A), by inserting "or any other State program funded with qualified 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 to read as follows:

"(i) VERIFICATION OF WORK AND WORK-ELIGIBLE INDIVIDUALS IN ORDER TO IMPLEMENT REFORMS.—

"(1) SECRETARIAL DIRECTION AND OVERSIGHT.—

"(A) REGULATIONS FOR DETERMINING 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.—

"(i) IN GENERAL.—Not later than June 30, 2006, the Secretary shall promulgate regulations to ensure consistent measurement of work participation rates under

State programs funded under this part and State programs funded with qualified State expenditures (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 for reporting hours of work by a recipient of assistance;

"(III) the type of documentation needed to verify reported hours of work by a recipient of assistance; and

"(IV) the circumstances under which a parent who resides with a child who is a recipient of assistance should be included in the work participation rates.

"(ii) ISSUANCE OF REGULATIONS ON AN INTERIM FINAL BASIS.—The regulations referred to in clause (i) may be effective and final immediately on an interim basis as of the date of publication of the regulations. If

the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comment on the regulation after the date of publication. The Secretary may change or revise the regulation after the public comment period.

"(B) OVERSIGHT OF STATE PROCEDURES.—The Secretary shall review the State procedures established in accordance with paragraph (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 under the State programs funded under this part and any other State programs funded with qualified State expenditures (as so defined).

"(2) 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 procedures for determining, with respect to recipients of assistance under the State program funded under this part or under any State programs funded with qualified State expenditures (as so defined), whether activities may be counted as work

activities, how to count and verify reported hours of work, and who is a work-eligible individual, in accordance with the regulations promulgated pursuant to paragraph (1)(A)(i) and shall establish internal controls to ensure compliance with the procedures.".

(2) 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 determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(i)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding 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) PENALTY 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. 7103. GRANTS FOR HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD.

(a) HEALTHY MARRIAGE AND FAMILY FUNDS.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended to read as follows:

"(2) HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD GRANTS.—

"(A) IN GENERAL.—

"(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 research and demonstration 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 healthy marriage promotion activities or for the purpose of carrying out activities promoting responsible fatherhood unless the entity has submitted to the Secretary an application which—

"(I) describes—

"(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 or activities is voluntary, and to inform potential participants that their participation is voluntary; and

"(II) contains a commitment by the entity—

"(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.

"(iii) HEALTHY MARRIAGE PROMOTION ACTIVITIES.—In clause (ii), the term 'healthy marriage promotion activities' means the following:

"(I) Public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health.

"(II) Education in high schools on the value of marriage, relationship skills, and budgeting.

"(III) 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.

"(IV) Pre-marital education and marriage skills training for engaged couples and for couples or individuals interested in marriage.

"(V) Marriage enhancement and marriage skills training programs for married couples.

"(VI) Divorce reduction programs that teach relationship skills.

"(VII) Marriage mentoring programs which use married couples as role models and mentors in at-risk communities.

"(VIII) Programs to reduce the disincentives to marriage in means-tested aid programs, if offered in conjunction with any activity described in this subparagraph.

"(B) LIMITATION ON USE OF FUNDS FOR DEMONSTRATION PROJECTS FOR COORDINATION OF PROVISION OF CHILD WELFARE AND TANF SERVICES TO TRIBAL FAMILIES AT RISK OF CHILD ABUSE OR NEGLECT.—

"(i) IN GENERAL.—Of the amounts made available under subparagraph (D) for

a fiscal year, the Secretary may not award more than $2,000,000 on a competitive basis to fund demonstration projects designed to test the effectiveness of tribal governments or tribal consortia in coordinating the provision to tribal families at risk of child abuse or neglect of child welfare services and services under tribal programs funded under this part.

"(ii) LIMITATION ON USE OF FUNDS.—A grant made pursuant to clause (i) to such a project shall not be used for any purpose other than—

"(I) to improve case management for families eligible for assistance from such a tribal program;

"(II) for supportive services and assistance to tribal children in out-of-home placements and the tribal families caring for such children, including families who adopt such children; and

"(III) for prevention services and assistance to tribal families at risk of child abuse and neglect.

"(iii) REPORTS.—The Secretary may require a recipient of funds awarded under this subparagraph to provide the Secretary with such information as the Secretary deems relevant to enable the Secretary to facilitate and oversee the administration of any project for which funds are provided under this subparagraph.

"(C) LIMITATION ON USE OF FUNDS FOR ACTIVITIES PROMOTING RESPONSIBLE FATHERHOOD.—

"(i) IN GENERAL.—Of the amounts made available under subparagraph (D) for a fiscal year, the Secretary may not award more than $50,000,000 on a competitive basis to States, territories, Indian tribes and tribal organizations, and public and nonprofit community entities, including religious organizations, for activities promoting responsible fatherhood.

"(ii) ACTIVITIES PROMOTING RESPONSIBLE FATHERHOOD.—In this paragraph, the term 'activities promoting responsible fatherhood' means the following:

"(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 on 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, and divorce education and reduction programs, including mediation and counseling.

"(II) Activities to promote responsible parenting through activities such as counseling, mentoring, and mediation, disseminating information about good parenting practices, skills-based parenting education, encouraging child support payments, and other methods.

"(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, including career-advancing education, dissemination of employment materials, coordination with existing employment services such as welfare-to-work programs, referrals to local employment training initiatives, and other methods.

"(IV) Activities to promote responsible fatherhood that are conducted through a contract with a nationally recognized, nonprofit fatherhood promotion organization, such as the devel-

opment, 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.

"(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 this paragraph.".

(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:

"(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 401(a).".

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:

"(G) $2,917,000,000 for each of fiscal years 2006 through 2010.".

Subtitle C—Child Support

SEC. 7301. ASSIGNMENT AND DISTRIBUTION OF CHILD SUPPORT.

(a) MODIFICATION OF RULE REQUIRING ASSIGNMENT OF SUPPORT RIGHTS AS A CONDITION OF RECEIVING TANF.—Section 408(a)(3) (42 U.S.C. 608(a)(3)) is amended to read as follows:

"(3) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—A State to which a grant is made under section 403 shall require, as a condition of paying assistance to a family under the State program funded under this part, that a 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 has applied for or is receiving 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.".

(b) INCREASING CHILD SUPPORT PAYMENTS TO FAMILIES AND SIMPLIFYING CHILD SUPPORT DISTRIBUTION RULES.—

(1) DISTRIBUTION RULES.—

(A) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)) is amended to read as follows:

"(a) IN GENERAL.—Subject to subsections (d) and (e), the amounts collected on behalf 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 the 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 pay 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) CURRENT SUPPORT.—To the extent that the amount collected does 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—

"(I) pay to the Federal Government the Federal share of the excess

amount described in this clause, subject to paragraph (3)(A); and

"(II) 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.

"(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 shall not exceed the Federal share of the amount assigned with respect to the family pursuant to section 408(a)(3).

"(B) STATE REIMBURSEMENTS.—The total of the amounts retained by the State under paragraphs (1) and (2) of this subsection with respect to a family shall not exceed the State share of the amount assigned with respect to the family pursuant to section 408(a)(3).

"(4) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute to the family the portion of the

amount so collected that remains after withholding any fee pursuant to section 454(6)(B)(ii).

"(5) FAMILIES UNDER CERTAIN AGREEMENTS.—Notwithstanding paragraphs (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.".

(B) STATE OPTION TO PASS THROUGH ADDITIONAL SUPPORT WITH FEDERAL FINANCIAL PARTICIPATION BEGINNING WITH FISCAL YEAR 2009.—

(i) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)) is amended by adding at the end the following:

"(7) STATE OPTION TO PASS THROUGH ADDITIONAL SUPPORT WITH FEDERAL FINANCIAL PARTICIPATION.—

"(A) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—Notwithstanding paragraph (2), a State shall not be required to pay to the Federal Government the Federal share of an amount collected on behalf of a family that formerly received assistance from the State to the extent that the State pays the amount to the family.

"(B) FAMILIES THAT CURRENTLY RECEIVE ASSISTANCE.—

"(i) IN GENERAL.—Notwithstanding paragraph (1), in the case of a family that receives assistance from the State, a State shall not be required to pay to the Federal Government the Federal share of the excepted portion (as defined in clause (ii)) of any amount collected on behalf of such family during a month to the extent that—

"(I) the State pays the excepted portion to the family; and

"(II) the excepted portion is disregarded in determining the amount and type of assistance provided to the family under such program.

"(ii) EXCEPTED PORTION DEFINED.—For purposes of this subparagraph, the term "excepted portion" means that portion of the amount collected on behalf of a family during a month that does not exceed $100 per month, or in the case of a family that includes 2 or more children, that does not exceed an amount established by the State that is not more than $200 per month.".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect on October 1, 2008.

(iii) REDESIGNATION.—Effective October 1, 2009, paragraph (7) of section 457(a) of the Social Security Act (as added by clause (i)) is redesignated as paragraph (6).

(C) STATE PLAN TO INCLUDE ELECTION AS TO WHICH RULES TO APPLY IN DISTRIBUTING CHILD SUPPORT ARREARAGES COLLECTED ON BEHALF OF FAMILIES FORMERLY RECEIVING ASSISTANCE.—Section 454 (42 U.S.C. 654) is amended—

(i) by striking "and" at the end of paragraph (32);

(ii) by striking the period at the end of paragraph (33) and inserting "; and"; and

(iii) by inserting after paragraph (33) the following:

"(34) include an election by the State to apply section 457(a)(2)(B) of this Act or former section 457(a)(2)(B) of this Act (as in effect for the State immediately before the date this paragraph first applies to the State) to the distribution of the amounts which are the subject of such sections and, for so long as the

State elects to so apply such former section, the amendments made by subsection (b)(1) of section 7301 of the Deficit Reduction Act of 2005 shall not apply with respect to the State, notwithstanding subsection (e) of such section 7301.".

(2) CURRENT SUPPORT AMOUNT DEFINED.—Section 457(c) (42 U.S.C. 657(c)) is amended by adding at the end the following:

"(5) CURRENT SUPPORT AMOUNT.—The term 'current support amount' means, with respect to amounts collected as support on behalf of a family, the amount designated as the monthly support obligation of the noncustodial parent in the order requiring the support or calculated by the State based on the order.".

(c) STATE OPTION TO DISCONTINUE OLDER SUPPORT ASSIGNMENTS.—Section 457(b) (42 U.S.C. 657(b)) is amended to read as follows:

"(b) CONTINUATION OF ASSIGNMENTS.—

"(1) STATE OPTION TO DISCONTINUE PRE-1997 SUPPORT ASSIGNMENTS.—

"(A) IN GENERAL.—Any rights to support obligations assigned to a State as a condition of receiving assistance from the State under part A and in effect on September 30, 1997 (or such

earlier date on or after August 22, 1996, as the State may choose), 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).

"(2) STATE OPTION TO DISCONTINUE POST-1997 ASSIGNMENTS.—

"(A) IN GENERAL.—Any rights to support obligations accruing before the date on which a family first receives assistance 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 as-

signed and may distribute the amounts to the family in accordance with subsection (a)(4).".

(d) CONFORMING AMENDMENTS.—Section 6402(c) of the Internal Revenue Code of 1986 (relating to offset of past-due support against overpayments) is amended—

(1) in the first sentence, by striking "the Social Security Act." and inserting "of such Act."; and

(2) by striking the third sentence and inserting the following: "The Secretary shall apply a reduction under this subsection first to an amount certified by the State as past due support under section 464 of the Social Security Act before any other reductions allowed by law.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by the preceding provisions of this section shall take effect on October 1, 2009, and shall apply to payments under parts A and D of title IV of the Social Security Act for calendar quarters beginning on or after such date, and 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.

(2) 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 apply to the State and to amounts collected by the State (and the payments under parts A and D), on and after such date as the State may select that is not earlier than October 1, 2008, and not later than September 30, 2009.

(f) USE OF TAX REFUND INTERCEPT PROGRAM TO COLLECT PAST-DUE CHILD SUPPORT ON BEHALF OF CHILDREN WHO ARE NOT MINORS.—

(1) IN GENERAL.—Section 464 (42 U.S.C. 664) is amended—

(A) in subsection (a)(2)(A), by striking "(as that term is defined for purposes of this paragraph under subsection (c))"; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking "(1) Except as provided in paragraph (2), as used in" and inserting "In"; and

(II) by inserting "(whether or not a minor)" after "a child" each place it appears; and

(ii) by striking paragraphs (2) and (3).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 1, 2007.

(g) STATE OPTION TO USE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM FOR INTERSTATE CASES.—Section 466(a)(14)(A)(iii) (42 U.S.C. 666(a)(14)(A)(iii)) is amended by inserting before the semicolon the following: "(but the assisting State may establish a corresponding case based on such other State's request for assistance)".

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 ARREARAGE TRIGGERING PASSPORT DENIAL.

(a) IN GENERAL.—Section 452(k)(1) (42 U.S.C. 652(k)(1)) is amended by striking "$5,000" and inserting "$2,500".

(b) CONFORMING AMENDMENT.—Section 454(31) (42 U.S.C. 654(31)) is amended by striking "$5,000" and inserting "$2,500".

(c) 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 this paragraph for fiscal year 2002, whichever is greater" before ", which shall be available".

SEC. 7305. MAINTENANCE OF FEDERAL PARENT LOCATOR SERVICE FUNDING.

Section 453(o) (42 U.S.C. 653(o)) 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:

"(l) COMPARISONS WITH INSURANCE INFORMATION.—

"(1) IN GENERAL.—The Secretary, through the Federal Parent Locator Service, may—

"(A) compare information concerning individuals owing past-due support with information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments; and

"(B) furnish information resulting from the data matches to the State agencies responsible for collecting child support from the individuals.

"(2) LIABILITY.—An insurer (including any agent of an insurer) shall not be liable under any Federal or State law to any person for any disclosure provided for under this subsection, or for any other action taken in good faith in accordance with this subsection.".

(b) STATE REIMBURSEMENT OF FEDERAL COSTS.—Section 453(k)(3) (42 U.S.C. 653(k)(3)) is amended by inserting "or section 452(l)" after "pursuant to this section".

SEC. 7307. REQUIREMENT THAT STATE CHILD SUPPORT ENFORCEMENT AGENCIES SEEK MEDICAL SUPPORT FOR CHILDREN FROM EITHER PARENT.

(a) STATE AGENCIES REQUIRED TO SEEK MEDICAL SUPPORT FROM EITHER PARENT.—

(1) IN GENERAL.—Section 466(a)(19)(A) (42 U.S.C. 666(a)(19)(A)) is amended by striking "which include a provision for the health care coverage of the child are enforced" and inserting "shall include a provision for medical support for the child to be provided by either or both parents, and shall be enforced".

(2) CONFORMING AMENDMENTS.—

(A) TITLE IV–D.—

(i) Section 452(f) (42 U.S.C. 652(f)) is amended 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".

(ii) Section 466(a)(19) (42 U.S.C. 666(a)(19)), as amended by paragraph (1) of this subsection, is amended—

(I) in subparagraph (A)—

(aa) by striking "section 401(e)(3)(C)" and inserting "section 401(e)"; and

(bb) by striking "section 401(f)(5)(C)" and inserting "section 401(f)";

(II) in subparagraph (B)—

(aa) by striking "noncustodial" each place it appears; and

(bb) in clause (iii), by striking "section 466(b)" and inserting "subsection (b)"; and

(III) in subparagraph (C), by striking "noncustodial" each place it appears and inserting "obligated".

(B) STATE OR LOCAL GOVERNMENTAL GROUP HEALTH PLANS.—Section 401(e)(2) of the Child Support Performance and Incentive Act of 1998 (29 U.S.C. 1169 note) is amended, in the matter preceding subparagraph (A), by striking "who is a noncustodial parent of the child".

(C) CHURCH PLANS.—Section 401(f)(5)(C) of the Child Support Performance and Incentive Act of 1998 (29 U.S.C. 1169 note) is amended by striking "noncustodial" each place it appears.

(b) ENFORCEMENT OF MEDICAL SUPPORT REQUIREMENTS.—Section 452(f) (42 U.S.C. 652(f)), as amended by subsection (a)(2)(A)(i), is amended by inserting after the first sentence the following: "A State agency administering the program under this part may enforce medical support against a custodial parent if health care coverage is available to the custodial parent at a reasonable cost, notwithstanding any other provision of this part.".

(c) DEFINITION OF MEDICAL SUPPORT.—Section 452(f) (42 U.S.C. 652(f)), as amended by subsections (a)(2)(A)(i) and (b) of this section, is amended by adding at the end the following: "For purposes of this part, the term 'medical support' may include health care coverage, such as coverage under a health insurance plan (including payment of costs of premiums, co-payments, and deductibles) and payment for medical expenses incurred on behalf of a child.".

SEC. 7308. REDUCTION OF FEDERAL MATCHING RATE FOR LABORATORY COSTS INCURRED IN DETERMINING PATERNITY.

(a) IN GENERAL.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended by striking "90 percent (rather than the percentage specified in subparagraph (A))" and inserting "66 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2006, and shall apply to costs incurred on or after that date.

SEC. 7309. ENDING FEDERAL MATCHING OF STATE SPENDING OF FEDERAL INCENTIVE PAYMENTS.

(a) IN GENERAL.—Section 455(a)(1) (42 U.S.C. 655(a)(1)) is amended by inserting "from amounts paid to the State under section 458 or" before "to carry out an agreement".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2007.

SEC. 7310. MANDATORY FEE FOR SUCCESSFUL CHILD SUPPORT COLLECTION FOR FAMILY THAT HAS NEVER RECEIVED TANF.

(a) IN GENERAL.—Section 454(6)(B) (42 U.S.C. 654(6)(B)) is amended—

(1) by inserting "(i)" after "(B)";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(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 program funded 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, which shall be retained by the State from support collected on behalf of the individual (but not from the 1st $500 so collected), paid by the individual applying for the services, recovered from the absent parent, or paid by the State out of its own funds (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);".

(b) CONFORMING AMENDMENTS.—Section 457(a)(3) (42 U.S.C. 657(a)(3)) is amended to read as follows:

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute to the family the portion of the amount so collected that remains after withholding any fee pursuant to section 454(6)(B)(ii).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006.

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 438(a) (42 U.S.C. 629h(a)) is amended—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end the following:

"(3) to ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner; and

"(4) to provide for the training of judges, attorneys and other legal personnel in child welfare cases.".

(2) APPLICATIONS.—Section 438(b) (42 U.S.C. 629h(b)) is amended to read as follows:

"(b) 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) in the case of a grant for the purpose described in subsection (a)(3), a description of how courts and child welfare agencies on the local and State levels will 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;

"(B) in the case of a grant for the purpose described in subsection (a)(4), a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or any other agency under contract with the State to administer the State program under the State plan under subpart 1, the State plan approved under section 434, or the State plan approved under part E; and

"(C) in the case of a grant for any purpose described in subsection (a), a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under part B or E, and, where applicable, Indian tribes.

"(2) SEPARATE APPLICATIONS.—A highest State court desiring grants under this section for 2 or more purposes shall submit separate applications for the following grants:

"(A) A grant for the purposes described in paragraphs (1) and (2) of subsection (a).

"(B) A grant for the purpose described in subsection (a)(3).

"(C) A grant for the purpose described in subsection (a)(4).".

(3) ALLOTMENTS.—Section 438(c) (42 U.S.C. 429h(c)) is amended—

(A) in paragraph (1)—

(i) by inserting "of this section for a grant described in subsection (b)(2)(A) of this section" after "subsection (b)"; and

(ii) by striking "paragraph (2) of this subsection" and inserting "subparagraph (B) of this paragraph";

(B) in paragraph (2)—

(i) by striking "this paragraph" and inserting "this subparagraph";

(ii) by striking "paragraph (1) of this subsection" and inserting "subparagraph (A) of this paragraph"; and

(iii) by inserting "for such a grant" after "subsection (b)";

(C) by redesignating and indenting paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by inserting before and above such subparagraph (A) the following:

"(1) GRANTS TO ASSESS AND IMPROVE HANDLING OF COURT PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION.—"; and

(E) by adding at the end the following:

"(2) GRANTS FOR IMPROVED DATA COLLECTION AND TRAINING.—

"(A) IN GENERAL.—Each highest State court which has an application approved under subsection (b) of this section for a grant referred to in subparagraph (B) or (C) of subsection (b)(2) shall be entitled to payment, for each of fiscal years 2006 through 2010, from the amount made available under whichever of paragraph (1) or (2) of subsection (e) applies with respect to the grant, of an amount equal to the sum of $85,000 plus the amount described in subparagraph (B) of this paragraph for the fiscal year with respect to the grant.

"(B) FORMULA.—The amount described in this subparagraph for any fiscal year with respect to a grant referred to in subparagraph (B) or (C) of subsection (b)(2) is the amount that bears the same ratio to the amount made avail-

able under subsection (e) for such a grant (reduced by the dollar amount specified in subparagraph (A) of this paragraph) as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under subsection (b) for such a grant.".

(4) FUNDING.—Section 438 (42 U.S.C. 629h) is amended by adding at the end the following:

"(e) FUNDING FOR GRANTS FOR IMPROVED DATA COLLECTION AND TRAINING.—Out of any money in the Treasury of the United States 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)(2)(B); and

"(2) $10,000,000 for grants referred to in subsection (b)(2)(C).".

(b) REQUIREMENT TO DEMONSTRATE MEANINGFUL COLLABORATION BETWEEN COURTS AND AGENCIES IN CHILD WELFARE SERVICES PROGRAMS.—Section 422(b) (42 U.S.C. 622(b)) is amended—

(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 subpart 1, the State plan approved under subpart 2, and the State plan approved under part E, and in the development and implementation of any program improvement plan required under section 1123A.".

(c) USE OF CHILD WELFARE RECORDS IN STATE COURT PROCEEDINGS.—Section 471 (42 U.S.C. 671) is amended—

(1) in subsection (a)(8), by inserting "subject to subsection (c)," after "(8)"; and

(2) by adding at the end the following:

"(c) USE OF CHILD WELFARE RECORDS IN STATE COURT PROCEEDINGS.—Subsection (a)(8) shall not be construed to limit the flexibility of a State in determining State policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to part B or this part, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and family.".

SEC. 7402. FUNDING OF SAFE AND STABLE FAMILIES PROGRAMS.

Section 436(a) (42 U.S.C. 629f(a)) is amended to read as follows:

"(a) AUTHORIZATION.—In addition to any amount otherwise made available to carry out this subpart, there are authorized to be appropriated to carry out this subpart $345,000,000 for fiscal year 2006. Notwithstanding the preceding sentence, the total amount authorized to be so appropriated for fiscal year 2006 under this subsection and under this subsection (as in effect before the date of the enactment of the Deficit Reduction Act of 2005) is $345,000,000.".

SEC. 7403. CLARIFICATION REGARDING FEDERAL MATCHING OF CERTAIN ADMINISTRATIVE COSTS UNDER THE FOSTER CARE MAINTENANCE PAYMENTS PROGRAM.

(a) ADMINISTRATIVE COSTS RELATING TO UNLICENSED CARE.—Section 472 (42 U.S.C. 672) is amended by inserting after subsection (h) the following:

"(i) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section 474(a)(3) if made with respect to a child who was residing in a foster family home or child-care institution shall

be so considered with respect to a child not residing in such a home or institution—

"(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), only for expenditures—

"(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

"(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

"(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

"(A) reasonable efforts are being made in accordance with section 471(a)(15) to prevent the

need for, or if necessary to pursue, removal of the child from the home; and

"(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.".

(b) CONFORMING AMENDMENT.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended by inserting "subject to section 472(i)" before "an amount equal to".

SEC. 7404. CLARIFICATION OF ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS AND ADOPTION ASSISTANCE.

(a) FOSTER CARE MAINTENANCE PAYMENTS.—Section 472(a) (42 U.S.C. 672(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) ELIGIBILITY.—Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) into foster care if—

"(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

"(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

"(2) REMOVAL AND FOSTER CARE PLACEMENT REQUIREMENTS.—The removal and foster care placement of a child meet the requirements of this paragraph if—

"(A) the removal and foster care placement are 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 have been made;

"(B) the child's placement and care are the responsibility of—

"(i) the State agency administering the State plan approved under section 471; or

"(ii) any other public agency with which the State agency administering or su-

pervising the administration of the State plan has made an agreement which is in effect; and

"(C) the child has been placed in a foster family home or child-care institution.

"(3) AFDC ELIGIBILITY REQUIREMENT.—

"(A) IN GENERAL.—A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

"(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

"(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or

"(II) had been living in the home within 6 months before the month in which the agreement was entered into or the pro-

ceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

"(B) RESOURCES DETERMINATION.—For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than $10,000 shall be considered a child whose resources have a combined value of not more than $1,000 (or such lower amount as the State may determine for purposes of section 402(a)(7)(B)).

"(4) ELIGIBILITY OF CERTAIN ALIEN CHILDREN.—Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in

which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.".

(b) ADOPTION ASSISTANCE.—Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended to read as follows:

"(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if the child—

"(i)(I)(aa) was removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or section 403, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

"(bb) met the requirements of section 472(a)(3) with respect to the home referred to in item (aa) of this subclause;

"(II) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

"(III) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 475(4)(B); and

"(ii) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

"(B) Section 472(a)(4) shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

"(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if the child—

"(i) meets the requirements of subparagraph (A)(ii);

"(ii) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

"(iii) is available for adoption because—

"(I) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

"(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 part; 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. 1383b) 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 2006;

"(ii) at least 40 percent of all such determinations that are made in fiscal year 2007; and

"(iii) at least 50 percent of all such determinations that are made in fiscal year 2008 or 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. PAYMENT OF CERTAIN LUMP SUM BENEFITS IN INSTALLMENTS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) IN GENERAL.—Section 1631(a)(10)(A)(i) (42 U.S.C. 1383(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 relating to section 754 in the table of contents of title VII of that 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 subsection (a) of this section, be distributed under section 754 of the Tariff Act of 1930, shall be distributed as if section 754 of the Tariff Act of 1930 had not been repealed by subsection (a).

Subtitle G—Effective Date

SEC. 7701. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect as if enacted on October 1, 2005.

TITLE VIII—EDUCATION AND PENSION BENEFIT PROVISIONS

Subtitle A—Higher Education Provisions

SEC. 8001. SHORT TITLE; REFERENCE; EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the "Higher Education Reconciliation Act of 2005".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(c) EFFECTIVE DATE.—Except as otherwise provided in this subtitle or the amendments made by this subtitle, the amendments made by this subtitle shall be effective July 1, 2006.

SEC. 8002. MODIFICATION OF 50/50 RULE.

Section 102(a)(3) (20 U.S.C. 1002(a)(3)) is amended—

(1) in subparagraph (A), by inserting "(excluding courses offered by telecommunications as defined in section 484(l)(4))" after "courses by correspondence"; and

(2) in subparagraph (B), by inserting "(excluding courses offered by telecommunications as defined in section 484(l)(4))" after "correspondence courses".

SEC. 8003. ACADEMIC COMPETITIVENESS GRANTS.

Subpart 1 of part A of title IV (20 U.S.C. 1070a) is amended by adding after section 401 the following new section:

"SEC. 401A. ACADEMIC COMPETITIVENESS GRANTS.

"(a) ACADEMIC COMPETITIVENESS GRANT PROGRAM.—

"(1) ACADEMIC COMPETITIVENESS GRANTS AUTHORIZED.—The Secretary shall award grants, in the amounts specified in subsection (d)(1), to eligible students to assist the eligible students in paying their college education expenses.

"(2) ACADEMIC COMPETITIVENESS COUNCIL.—

"(A) ESTABLISHMENT.—There is established an Academic Competitiveness Council (referred to in this paragraph as the 'Council'). From the funds made available under subsection (e) for fiscal year 2006, $50,000 shall be available to the Council to carry out the duties described in subparagraph (B). The Council shall be chaired by the Secretary of Education, and the membership of the Council shall consist of of-

ficials from Federal agencies with responsibilities for managing existing Federal programs that promote mathematics and science (or designees of such officials with significant decision-making authority).

"(B) DUTIES.—The Council shall—

"(i) identify all Federal programs with a mathematics or science focus;

"(ii) identify the target populations being served by such programs;

"(iii) determine the effectiveness of such programs;

"(iv) identify areas of overlap or duplication in such programs; and

"(v) recommend ways to efficiently integrate and coordinate such programs.

"(C) REPORT.—Not later than one year after the date of enactment of the Higher Education Reconciliation Act of 2005, the Council shall transmit a report to each committee of Congress with jurisdiction over a Federal program identified under subparagraph (B)(i), detailing the findings and recommendations under subparagraph (B), including recommendations for legislative or administrative action.

"(b) DESIGNATION.—A grant under this section—

"(1) for the first or second academic year of a program of undergraduate education 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'.

"(c) DEFINITION OF ELIGIBLE STUDENT.—In this section the term '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 second 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, 2005, 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 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) a foreign language 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 for the major described in clause (i).

"(d) GRANT AWARD.—

"(1) AMOUNTS.—

"(A) The Secretary shall award a grant under this section in the amount of—

"(i) $750 for an eligible student under subsection (c)(3)(A);

"(ii) $1,300 for an eligible student under subsection (c)(3)(B); or

"(iii) $4,000 for an eligible student under subsection (c)(3)(C).

"(B) Notwithstanding subparagraph (A)—

"(i) the amount of such grant, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, shall not exceed the student's cost of attendance;

"(ii) if the amount made available under subsection (e) for any fiscal year is less than the amount required to be provided grants to all eligible students in the amounts determined under subparagraph (A) and clause (i) of this subparagraph, then the amount of the grant to each eligible student shall be ratably reduced; and

"(iii) if additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

"(2) LIMITATIONS.—The Secretary shall not award a grant under this section—

"(A) to any student for an academic year of a program of undergraduate education described in subparagraph (A), (B), or (C) of subsection (c)(3) for which the student received credit before the date of enactment of the Higher Education Reconciliation Act of 2005; or

"(B) to any student for more than—

"(i) one academic year under subsection (c)(3)(A);

"(ii) one academic year under subsection (c)(3)(B); or

"(iii) two academic years under subsection (c)(3)(C).

"(e) FUNDING.—

"(1) AUTHORIZATION AND APPROPRIATION OF FUNDS.—There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise 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, the funds available for awarding grants under this section exceed the amount necessary to make such grants in the amounts authorized by subsection (d), then all of the excess funds shall remain available for awarding grants under this section during the subsequent fiscal year.

"(f) RECOGNITION OF PROGRAMS OF STUDY.—The Secretary shall recognize at least one rigorous secondary school program of study in each State under subsection (c)(3)(A) and (B) for the purpose of determining student eligibility under such subsection.

"(g) SUNSET PROVISION.—The authority to make grants under this section shall expire at the end of academic year 2010–2011.".

SEC. 8004. REAUTHORIZATION OF FEDERAL FAMILY EDUCATION LOAN PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 421(b)(5) (20 U.S.C. 1071(b)(5)) is amended by striking "an administrative cost allowance" and inserting "a loan processing and issuance fee".

(b) EXTENSION OF AUTHORITY.—

(1) FEDERAL INSURANCE LIMITATIONS.—Section 424(a) (20 U.S.C. 1074(a)) is amended—

(A) by striking "2004" and inserting "2012"; and

(B) by striking "2008" and inserting "2016".

(2) GUARANTEED LOANS.—Section 428(a)(5) (20 U.S.C. 1078(a)(5)) is amended—

(A) by striking "2004" and inserting "2012"; and

(B) by striking "2008" and inserting "2016".

(3) CONSOLIDATION LOANS.—Section 428C(e) (20 U.S.C. 1078–3(e)) is amended by striking "2004" and inserting "2012".

SEC. 8005. LOAN LIMITS.

(a) FEDERAL INSURANCE LIMITS.—Section 425(a)(1)(A) (20 U.S.C. 1075(a)(1)(A)) is amended—

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

(b) GUARANTEE LIMITS.—Section 428(b)(1)(A) (20 U.S.C. 1078(b)(1)(A)) is amended—

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

(c) FEDERAL PLUS LOANS.—Section 428B (20 U.S.C. 1078–2) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking "Parents" and inserting "A graduate or professional student or the parents";

(B) in subparagraph (A), by striking "the parents" and inserting "the graduate or professional student or the parents"; and

(C) in subparagraph (B), by striking "the parents" and inserting "the graduate or professional student or the parents";

(2) in subsection (b), by striking "any parent" and inserting "any graduate or professional student or any parent";

(3) in subsection (c)(2), by striking "parent" and inserting "graduate or professional student or parent"; and

(4) in subsection (d)(1), by striking "the parent" and inserting "the graduate or professional student or the parent".

(d) UNSUBSIDIZED STAFFORD LOANS FOR GRADUATE OR PROFESSIONAL STUDENTS.—Section 428H(d)(2) (20 U.S.C. 1078–8(d)(2)) is amended—

(1) in subparagraph (C), by striking "$10,000" and inserting "$12,000"; and

(2) in subparagraph (D)—

(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".

(e) EFFECTIVE DATE OF INCREASES.—The amendments made by 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 427A(l)(2) (20 U.S.C. 1077a(l)(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 438(b)(2) (20 U.S.C. 1087–1(b)(2)) is amended—

(A) in clause (iii), by striking ", subject to clause (v) of this subparagraph";

(B) in clause (iv), by striking ", subject to clause (vi) of this subparagraph"; and

(C) by striking clauses (v), (vi), and (vii) and inserting the following:

"(v) RECAPTURE OF EXCESS INTEREST.—

"(I) EXCESS CREDITED.—With respect to a loan on which the applicable interest rate is determined under subsection (k) or (l) of section 427A and for which the first disbursement of

principal is made on or after April 1, 2006, if the applicable interest rate for any 3-month period exceeds the special allowance support level applicable to such loan under this subparagraph for such period, then an adjustment shall be made by calculating the excess interest in the amount computed under subclause (II) of this clause, and by crediting the excess interest to the Government not less often than annually.

"(II) CALCULATION OF EXCESS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

"(aa) the applicable interest rate minus the special allowance support level determined under this subparagraph; multiplied by

"(bb) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

"(cc) four.

"(III) SPECIAL ALLOWANCE SUPPORT LEVEL.—For purposes of this clause, the term 'special allowance support level' means, for any loan, a number expressed as a percentage equal to the sum of the rates determined under subclauses (I) and (III) of clause (i), and applying any substitution rules applicable to such loan under clauses (ii), (iii), and (iv) in determining such sum.".

(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 Education Act of 1965 (20 U.S.C. 1087–1) before April 1, 2006.

SEC. 8007. DEFERMENT 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—

(1) by striking "or" at the end of clause (ii);

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

(b) DIRECT LOANS.—Section 455(f)(2) (20 U.S.C. 1087e(f)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) not in excess of 3 years during which the borrower—

"(i) is serving on active duty during a war or other military operation or national emergency; or

"(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

(c) PERKINS LOANS.—Section 464(c)(2)(A) (20 U.S.C. 1087dd(c)(2)(A)) is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following new clause:

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency;".

(d) DEFINITIONS.—Section 481 (20 U.S.C. 1088) is amended by adding at the end the following new subsection:

"(d) DEFINITIONS FOR MILITARY DEFERMENTS.—For purposes of parts B, D, and E of this title:

"(1) ACTIVE DUTY.—The term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

"(2) MILITARY OPERATION.—The term 'military operation' means a contingency operation as such term is defined in section 101(a)(13) of title 10, United States Code.

"(3) NATIONAL EMERGENCY.—The term 'national emergency' means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

"(4) SERVING ON ACTIVE DUTY.—The term 'serving on active duty during a war or other military operation or national emergency' means service by an individual who is—

"(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

"(B) any other member of an Armed Force on active duty in connection with such emer-

gency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

"(5) QUALIFYING NATIONAL GUARD DUTY.—The term 'qualifying National Guard duty during a war or other military operation or national emergency' means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.".

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to authorize any refunding of any repayment of a loan.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to loans for which the first disbursement is made on or after July 1, 2001.

SEC. 8008. ADDITIONAL LOAN TERMS AND CONDITIONS.

(a) DISBURSEMENT.—Section 428(b)(1)(N) (20 U.S.C. 1078(b)(1)(N)) is amended—

(1) by striking "or" at the end of clause (i); and

(2) by striking clause (ii) and inserting the following:

"(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, and only after verification of the student's enrollment by the lender or guaranty agency, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer be authorized, pursuant to an authorized power-of-attorney; or

"(iii) in the case of a student who is studying outside the United States in a program of study at an eligible foreign institution, are, at the request of the foreign institution, disbursed directly to the student, only after verification of the student's enrollment by the lender or guaranty agency by the means described in clause (i).".

(b) REPAYMENT PLANS: DIRECT LOANS.—Section 455(d)(1) (20 U.S.C. 1087e(d)(1)) is amended by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) a standard repayment plan, consistent with subsection (a)(1) of this section and with section 428(b)(9)(A)(i);

"(B) a graduated repayment plan, consistent with section 428(b)(9)(A)(ii);

"(C) an extended repayment plan, consistent with section 428(b)(9)(A)(v), except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 428(b)(1)(L); and".

(c) ORIGINATION FEES.—

(1) FFEL PROGRAM.—Paragraph (2) of section 438(c) (20 U.S.C. 1087–1(c)) is amended—

(A) by striking the designation and heading of such paragraph and inserting the following:

"(2) AMOUNT OF ORIGINATION FEES.—

"(A) IN GENERAL.—"; and

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

"(B) SUBSEQUENT REDUCTIONS.—Subparagraph (A) shall be applied to loans made under

this part (other than loans made under sections 428C and 439(o))—

"(i) by substituting '2.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2007;

"(ii) by substituting '1.5 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

"(iii) by substituting '1.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

"(iv) by substituting '0.5 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

"(v) by substituting '0.0 percent' for '3.0 percent' with respect to loans for which

the first disbursement of principal is made on or after July 1, 2010.".

(2) DIRECT LOAN PROGRAM.—Subsection (c) of section 455 (20 U.S.C. 1087e(c)) is amended—

(A) by striking "(c) LOAN FEE.—" and inserting the following:

"(c) LOAN FEE.—

"(1) IN GENERAL.—"; and

(B) by adding at the end the following:

"(2) SUBSEQUENT REDUCTION.—Paragraph (1) shall be applied to loans made under this part, other than Federal Direct Consolidation loans and Federal Direct PLUS loans—

"(A) by substituting '3.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after the date of enactment of the Higher Education Reconciliation Act of 2005, and before July 1, 2007;

"(B) by substituting '2.5 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

"(C) by substituting '2.0 percent' for '4.0 percent' with respect to loans for which the first

disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

"(D) by substituting '1.5 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

"(E) by substituting '1.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.".

(3) CONFORMING AMENDMENT.—Section 455(b)(8)(A) (20 U.S.C. 1087e(b)(8)(A)) is amended by inserting "or origination fee" after "reductions in the interest rate".

SEC. 8009. CONSOLIDATION LOAN CHANGES.

(a) CONSOLIDATION BETWEEN PROGRAMS.—Section 428C (20 U.S.C. 1078–3) is amended—

(1) in subsection (a)(3)(B)(i)—

(A) by inserting "or under section 455(g)" after "under this section" both places it appears;

(B) by inserting "under both sections" after "terminates"

(C) by striking "and" at the end of subclause (III);

(D) by striking the period at the end of subclause (IV) and inserting "; and"; and

(E) by adding at the end the following new subclause:

"(V) an individual may obtain a subsequent consolidation loan under section 455(g) only for the purposes of obtaining an income contingent repayment plan, and only if the loan has been submitted to the guaranty agency for default aversion."; and

(2) in subsection (b)(5), by striking the first sentence and inserting the following: "In the event that a lender with an agreement under subsection (a)(1) of this section denies a consolidation loan application submitted to the lender by an eligible borrower under this section, or denies an application submitted to the lender by such a borrower for a consolidation loan with income-sensitive repayment terms, the Secretary shall offer any 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 striking "shall begin—" and all that follows through "earlier date." and inserting the following: "shall begin the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).".

(2) CONFORMING CHANGE TO ELIGIBLE BORROWER DEFINITION.—Section 428C(a)(3)(A)(ii)(I) (20 U.S.C. 1078–3(a)(3)(A)(ii)(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 "428B,";

(2) in subsection (a)(2)—

(A) by striking "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) section 428C shall be known as 'Federal Direct Consolidation Loans'; and "; 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 428C(b)(1)(F).".

SEC. 8010. REQUIREMENTS FOR DISBURSEMENTS OF STUDENT LOANS.

Section 428G (20 U.S.C. 1078–7) is amended—

(1) in subsection (a)(3), by adding at the end the following: "Notwithstanding section 422(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 422(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. 8011. SCHOOL AS LENDER.

Paragraph (2) of section 435(d) (20 U.S.C. 1085(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 be a home study school;

''(iii) 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 title on a competitive basis;

"(v) shall offer loans that carry an origination fee or an interest rate, or both, that are less than such fee or rate authorized under the provisions of this title;

"(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 institution engages in activities as an eligible lender, provide for a compliance audit conducted in accordance with section 428(b)(1)(U)(iii)(I), and the regulations thereunder, and submit the results of such audit to the Secretary;

"(viii) shall use any proceeds from special allowance payments and interest payments from borrowers, interest subsidies received from the Department of Education, and any proceeds from the sale or other dis-

position 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.

"(B) 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.

"(C) SUPPLEMENT, NOT SUPPLANT.—An eligible lender under subparagraph (A) shall ensure that the proceeds described in subparagraph (A)(viii) are used to supplement, and not to supplant, non-Federal funds that would otherwise be used for need-based grant programs.".

SEC. 8012. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW.

Section 437 (20 U.S.C. 1087) is amended—

*(1) in the section heading, by striking "**CLOSED SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**" and inserting "**SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**"; and*

(2) in the first sentence of subsection (c)(1), by inserting "or was falsely certified as a result of a crime of identity theft" after "falsely certified by the eligible institution".

SEC. 8013. ELIMINATION OF TERMINATION DATES FROM TAXPAYER-TEACHER PROTECTION ACT OF 2004.

(a) EXTENSION OF LIMITATIONS ON SPECIAL ALLOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.—Section 438(b)(2)(B) (20 U.S.C. 1087–1(b)(2)(B)) is amended—

(1) in clause (iv), by striking "and before January 1, 2006,"; and

(2) in clause (v)(II)—

(A) by striking "and before January 1, 2006," each place it appears in divisions (aa) and (bb); and

(B) by striking ", and before January 1, 2006" in division (cc).

(b) ADDITIONAL LIMITATION ON SPECIAL ALLOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.—Section 438(b)(2)(B) (20 U.S.C 1087–1(b)(2)(B)) is further amended by adding at the end thereof the following new clauses:

"(vi) Notwithstanding clauses (i), (ii), and (v), but subject to clause (vii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, as the case may be, for a holder of loans—

"(I) that were made or purchased on or after the date of enactment of the Higher Education Reconciliation Act of 2005; or

"(II) that were not earning a quarterly rate of special allowance determined under clauses (i) or (ii) of subparagraph (B) of this paragraph

(20 U.S.C. 1087–1(b)(2)(b)) as of the date of enactment of the Higher Education Reconciliation Act of 2005.

"(vii) Clause (vi) shall be applied by substituting 'December 31, 2010' for 'the date of enactment of the Higher Education Reconciliation Act of 2005' in the case of a holder of loans that—

"(I) was, as of the date of enactment of the Higher Education Reconciliation Act of 2005, and during the quarter for which the special allowance is paid, a unit of State or local government or a nonprofit private entity;

"(II) was, as of such date of enactment, and during such quarter, not owned or controlled by, or under common ownership or control with, a for-profit entity; and

"(III) held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than $100,000,000 on loans for which special allowances were paid under this subparagraph in the most recent quarterly payment prior to September 30, 2005.".

(c) ELIMINATION OF EFFECTIVE DATE LIMITATION ON HIGHER TEACHER LOAN FORGIVENESS BENEFITS.—

(1) TECHNICAL CLARIFICATION.—The matter preceding paragraph (1) of section 2 of the Taxpayer-Teacher Protection Act of 2004 (Pub. L. 108–409; 118 Stat. 2299) is amended by inserting "of the Higher Education Act of 1965" after "Section 438(b)(2)(B)".

(2) AMENDMENT.—Paragraph (3) of section 3(b) of the Taxpayer-Teacher Protection Act of 2004 (20 U.S.C. 1078–10 note) is amended by striking ", and before October 1, 2005".

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall be effective as if enacted on October 30, 2004, and the amendment made by paragraph (2) shall be effective as if enacted on October 1, 2005.

(d) COORDINATION WITH SECOND HIGHER EDUCATION EXTENSION ACT OF 2005.—

(1) REPEAL.—Section 2 of the Second Higher Education Extension Act of 2005 is amended by striking subsections (b) and (c).

(2) EFFECT ON AMENDMENTS.—The amendments made by subsections (a) and (c) of this section shall be effective as if the amendments made in subsections (b) and (c) of section 2 of the Second Higher Education Extension Act of 2005 had not been enacted.

(e) ADDITIONAL CHANGES TO TEACHER LOAN FORGIVENESS PROVISIONS.—

(1) FFEL PROVISIONS.—Section 428J (20 U.S.C. 1078–10) is amended—

(A) in subsection (b)(1)(B), by inserting after "1965" the following: ", or meets the requirements of subsection (g)(3)"; and

(B) in subsection (g), by adding at the end the following new paragraph:

"(3) PRIVATE SCHOOL TEACHERS.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(B), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in 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.".

(2) DIRECT LOAN PROVISIONS.—Section 460 (20 U.S.C. 1087j) is amended—

(A) in subsection (b)(1)(A)(ii), by inserting after "1965" the following: ", or meets the requirements of subsection (g)(3)"; and

(B) in subsection (g), by adding at the end the following new paragraph:

"(3) PRIVATE SCHOOL TEACHERS.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(A)(ii), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in 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. 8014. ADDITIONAL ADMINISTRATIVE PROVISIONS.

(a) INSURANCE PERCENTAGE.—

(1) AMENDMENT.—Subparagraph (G) of section 428(b)(1) (20 U.S.C. 1078(b)(1)(G)) is amended to read as follows:

"(G) insures 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(j) or 439(q);

"(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 '98 percent'; and

"(iii) notwithstanding the preceding provisions of this subparagraph, such program shall insure 100 percent of the unpaid principal amount of exempt claims as defined in subsection (c)(1)(G);".

(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) FEDERAL DEFAULT FEES.—

(1) IN GENERAL.—Subparagraph (H) of section 428(b)(1) (20 U.S.C. 1078(b)(1)(H)) is amended to read as follows:

"(H) provides—

"(i) for loans for which the date of guarantee of principal is before July 1, 2006, for the collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction 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 guarantee 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 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, and ensures that the proceeds of the Federal default fee will not be used for incentive payments to lenders;".

(2) UNSUBSIDIZED LOANS.—Section 428H(h) (20 U.S.C. 1078–8(h)) is amended by adding at the end the following new sentences: "Effective for loans for which the date of guarantee 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 an agreement 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) (20 U.S.C. 1078–1(a)(1)) 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 428H(h).".

(c) TREATMENT OF EXEMPT CLAIMS.—

(1) AMENDMENT.—Section 428(c)(1) (20 U.S.C. 1078(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 '85 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 borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused 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) (20 U.S.C. 1078(c)) is further amended—

(1) in paragraph (2)(A)—

(A) by inserting "(i)" after "including"; and

(B) by inserting before the semicolon at the end the following: "and (ii) requirements estab-

lishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recoveries 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 redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" before "For the purpose of paragraph (2)(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 prin-

cipal and interest of such defaulted loan; and

"(ii) on and after October 1, 2009, remit to the Secretary the entire amount charged under clause (i)(I) with respect to each defaulted loan that is paid off with excess consolidation 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.".

(e) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—Section 428(c) (20 U.S.C. 1078(c)) is further amended—

(1) in paragraph (3)(A)(i)—

(A) by striking "in writing"; and

(B) by inserting "and documented in accordance with paragraph (10)" after "approval of the insurer"; and

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

"(10) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—For the purposes of paragraph (3), the terms of forbearance agreed to by the parties shall be documented by confirming the agreement of the borrower by notice to the borrower from the lender, and by recording the terms in the borrower's file.".

(f) VOLUNTARY FLEXIBLE AGREEMENTS.—Section 428A(a) (20 U.S.C. 1078–1(a)) 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) (20 U.S.C. 1078–2(a)(1)) is further amended—

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

(2) by redesignating 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 repayment of such funds 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 428F(a)(1) (20 U.S.C. 1078–6(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 10 consecutive months";

(2) by redesignating 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).".

(i) EXCEPTIONAL PERFORMANCE INSURANCE RATE.—Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1)) is amended—

(1) in the heading, by striking "100 PERCENT" and inserting "99 PERCENT"; and

(2) by striking "100 percent of the unpaid" and inserting "99 percent of the unpaid".

(j) UNIFORM ADMINISTRATIVE AND CLAIMS PROCEDURE.—Section 432(l)(1)(H) (20 U.S.C. 1082(l)(1)(H)) is amended by inserting "and anticipated graduation date" after "status change".

(1) Section 428(a)(3)(A)(v) (20 U.S.C. 1078(a)(3)(A)(v)) is amended—

(A) by striking "or" at the end of subclause (I);

(B) by striking the period at the end of subclause (II) and inserting "; or"; and

(C) by adding after subclause (II) the following new subclause:

"(III) in the case of a loan disbursed through an escrow agent, 3 days before the first disbursement of the loan.".

(2) Section 428(c)(1)(A) (20 U.S.C. 1078(c)(1)(A)) is amended by striking "45 days" in the last sentence and inserting "30 days".

(3) Section 428(i)(1) (20 U.S.C. 1078(i)(1)) is amended by striking "21 days" in the third sentence and inserting "10 days".

SEC. 8015. FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 458 is amended to read as follows:

"SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.

"(a) ADMINISTRATIVE EXPENSES.—

"(1) MANDATORY FUNDS FOR FISCAL YEAR 2006.—For fiscal year 2006, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

"(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c),

not to exceed (from such funds not otherwise appropriated) $820,000,000 in fiscal year 2006.

"(2) AUTHORIZATION FOR ADMINISTRATIVE COSTS BEGINNING IN FISCAL YEARS 2007 THROUGH 2011.—For each of the fiscal years 2007 through 2011, there are authorized to be appropriated such sums as may be necessary for administrative costs under this part and part B, including the costs of the direct student loan programs under this part.

"(3) CONTINUING MANDATORY FUNDS FOR ACCOUNT MAINTENANCE FEES.—For each of the fiscal years 2007 through 2011, there shall be available to

the Secretary, from funds not otherwise appropriated, funds to be obligated for account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsection (b).

"(4) ACCOUNT MAINTENANCE FEES.—Account maintenance fees under paragraph (3) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

"(5) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year.

"(b) CALCULATION BASIS.—Account maintenance fees payable to guaranty agencies under subsection (a)(3) shall not exceed the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.

"(c) BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for

which administrative expenses under this section are made available.".

SEC. 8016. COST OF ATTENDANCE.

Section 472 (20 U.S.C. 1087ll) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) for less than half-time students (as determined by the institution), tuition and fees and an allowance for only—

"(A) books, supplies, and transportation (as determined by the institution);

"(B) dependent care expenses (determined in accordance with paragraph (8)); and

"(C) room and board costs (determined in accordance with paragraph (3)), except that a student may receive an allowance for such costs under this subparagraph for not more than 3 semesters or the equivalent, of which not more than 2 semesters or the equivalent may be consecutive;";

(2) in paragraph (11), by striking "and" after the semicolon;

(3) in paragraph (12), by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(13) at the option of the institution, for a student in a program requiring professional licensure or certification, the one-time cost of obtaining the first professional credentials (as determined by the institution).".

SEC. 8017. FAMILY CONTRIBUTION.

(a) FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.—

(1) AMENDMENTS.—Section 475 (20 U.S.C. 1087oo) is amended—

(A) in subsection (g)(2)(D), by striking "$2,200" and inserting "$3,000"; and

(B) in subsection (h), by striking "35" and inserting "20".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

(b) FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—

(1) AMENDMENTS.—Section 476 (20 U.S.C. 1087pp) is amended—

(A) in subsection (b)(1)(A)(iv)—

(i) in subclause (I), by striking "$5,000" and inserting "$6,050";

(ii) in subclause (II), by striking "$5,000" and inserting "$6,050"; and

(iii) in subclause (III), by striking "$8,000" and inserting "$9,700"; and

(B) in subsection (c)(4), by striking "35" and inserting "20".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

(c) FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—

(1) AMENDMENT.—Section 477(c)(4) (20 U.S.C. 1087qq(c)(4)) is amended by striking "12" and inserting "7".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

(d) REGULATIONS; UPDATED TABLES.—Section 478(b) (20 U.S.C. 1087rr(b)) is amended—

(1) in paragraph (1), by adding at the end the following: "For the 2007–2008 academic year, the Secretary shall revise the tables in accordance with this paragraph, except that the Secretary shall in-

crease the amounts contained in the table in section 477(b)(4) by a percentage equal to the greater of the estimated percentage increase in the Consumer Price Index (as determined under the preceding sentence) or 5 percent."; and

(2) in paragraph (2)—

(A) by striking "2000–2001" and inserting "2007–2008"; and

(B) by striking "1999" and inserting "2006".

(e) EMPLOYMENT EXPENSE ALLOWANCE.—Section 478(h) (20 U.S.C. 1087rr(h)) is amended—

(1) by striking "476(b)(4)(B),"; and

(2) by striking "meals away from home, apparel and upkeep, transportation, and housekeeping services" and inserting "food away from home, apparel, transportation, and household furnishings and operations".

SEC. 8018. SIMPLIFIED NEED TEST AND AUTOMATIC ZERO IMPROVEMENTS.

(a) AMENDMENTS.—Section 479 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

"(i) the student's parents—

"(I) file, or are eligible to file, a form described in paragraph (3);

"(II) certify that the parents are not required to file a Federal income tax return; or

"(III) received, or the student received, benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) in subparagraph (B), by striking clause (i) and inserting the following:

"(i) the student (and the student's spouse, if any)—

"(I) files, or is eligible to file, a form described in paragraph (3);

"(II) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return; or

"(III) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(B) in the matter preceding subparagraph (A) of paragraph (3), by striking "A student or family files a form described in this subsection, or subsection (c), as the case maybe, if the student or family, respectively, files" and inserting "In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student's parents—

"(i) file, or are eligible to file, a form described in subsection (b)(3);

"(ii) certify that the parents are not required to file a Federal income tax return; or

"(iii) received, or the student received, benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the parents is less than or equal to $20,000; or"; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student (and the student's spouse, if any)—

"(i) files, or is eligible to file, a form described in subsection (b)(3);

"(ii) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return; or

"(iii) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $20,000."; 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 this title, in 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 the benefit, and may include such programs as—

"(1) the supplemental security income program under 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. 2011 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 special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); 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)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 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 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under subsections (b) and (c) of section 479

of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

SEC. 8019. ADDITIONAL NEED ANALYSIS AMENDMENTS.

(a) TREATING ACTIVE DUTY MEMBERS OF THE ARMED FORCES AS INDEPENDENT STUDENTS.—Section 480(d)(3) (20 U.S.C. 1087vv(d)(3)) is amended by inserting before the semicolon at the end the following: "or is currently serving on active duty in the Armed Forces for other than training purposes".

(b) DEFINITION OF ASSETS.—Section 480(f)(1) (20 U.S.C. 1087vv(f)(1)) is amended by inserting "qualified education benefits (except as provided in paragraph (3)), " after "tax shelters,".

(c) 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 the period at the end and inserting "; or"; and

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

"(C) a small business with not more than 100 full-time or full-time equivalent employees (or any part of such a small business) that is owned and controlled by the family.".

(d) ADDITIONAL DEFINITIONS.—Section 480(f) is further amended by adding at the end the following new paragraphs:

"(3) A qualified education benefit shall not be considered an asset of a student for purposes of section 475.

"(4) In determining the value of assets in a determination of need under this title (other than for subpart 4 of part A), the value of a qualified education benefit shall be—

"(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; and

"(B) in the case of a program in which contributions are made to an account that is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, the current balance of such account.

"(5) In this subsection:

"(A) The term 'qualified education benefit' means—

"(i) a qualified tuition program (as defined in section 529(b)(1)(A) of the Internal Revenue Code of 1986) or other prepaid tuition plan offered by a State; and

"(ii) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).

"(B) The term 'qualified higher education expenses' has the meaning given the term in section 529(e) of the Internal Revenue Code of 1986.".

(e) DESIGNATED ASSISTANCE.—Section 480(j) (20 U.S.C. 1087vv(j)) is amended—

(1) in the subsection heading, by striking "; TUITION PREPAYMENT PLANS";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

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

"(3) Notwithstanding paragraph (1) and section 472, assistance not received under this title may be excluded from both estimated financial assistance and cost of attendance, if that assistance is provided by a State and is designated by such State to offset a specific component of the cost of attendance. If that assistance is excluded from either estimated financial assistance or cost of attendance, it shall be excluded from both.".

SEC. 8020. GENERAL PROVISIONS.

(a) ACADEMIC YEAR.—Paragraph (2) of section 481(a) (20 U.S.C. 1088(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) 24 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. 1088(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 by 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 an instructional 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) CORRESPONDENCE COURSES.—Section 484(l)(1) (20 U.S.C. 1091(l)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "for a program of study of 1 year or longer"; and

(B) by striking "unless the total" and all that follows through "courses at the institution"; and

(2) 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. 8021. STUDENT ELIGIBILITY.

(a) FRAUD: REPAYMENT REQUIRED.—Section 484(a) (20 U.S.C. 1091(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; and"; and

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

"(6) if the student has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, have completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud.".

(b) VERIFICATION OF INCOME DATE.—Paragraph (1) of section 484(q) (20 U.S.C. 1091(q)) 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(l)(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(r)(1) (20 U.S.C. 1091(r)(1)) is amended by striking everything preceding the table and inserting the following:

"(1) IN GENERAL.—A student who is convicted of any offense under any Federal or 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 receiving any grant, loan, or work assistance under this title shall not be eligible to receive any grant, loan, or work assistance under this title from the date of that conviction for the period of time specified in the following table:".

SEC. 8022. INSTITUTIONAL REFUNDS.

Section 484B (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 "1 or more leaves of";

(2) in subsection (a)(3)(B)(ii), by inserting "(as determined in accordance with subsection (d))" after "student has completed";

(3) in subsection (a)(3)(C)(i), by striking "grant or loan assistance under this title" and inserting "grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, D, and E,";

(4) in subsection (a)(4), by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—After determining the eligibility of the student for a late disbursement or 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 obligation 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" after "return";

(6) in subsection (b)(2), by amending subparagraph (C) to read as follows:

"(C) GRANT OVERPAYMENT REQUIREMENTS.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which—

"(I) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

"(II) 50 percent of the total grant assistance received by 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 that period as of the day the student withdrew.".

SEC. 8023. COLLEGE ACCESS INITIATIVE.

Part G is further amended by inserting after section 485C (20 U.S.C. 1092c) the following new section:

"SEC. 485D. COLLEGE ACCESS INITIATIVE.

"(a) STATE-BY-STATE INFORMATION.—The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 428(c) to provide to the Secretary the information necessary for the development of Internet web links and access for students and families to a comprehensive listing of the 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 428(c) 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 undertake such 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 that either provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.

"(3) FUNDING.—The activities required by this section may be funded from the guaranty agency's Operating Fund established pursuant to section 422B and, to the extent funds remain, from earnings on the restricted account established pursuant to section 422(h)(4).

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a guaranty agency to duplicate any efforts under way on the date of enactment of the Higher Education Reconciliation Act of 2005 that meet the requirements of this section.

"(c) ACCESS TO INFORMATION.—

"(1) SECRETARY'S RESPONSIBILITY.—The Secretary shall ensure the availability of the information provided, by the guaranty agencies in accordance with this section, to students, parents, and other interested individuals, through Internet web links or other methods prescribed by the Secretary.

"(2) GUARANTY AGENCY RESPONSIBILITY.—The guaranty agencies shall ensure that the information required by this section is available without charge in printed format for students and parents requesting such information.

"(3) PUBLICITY.—Not later than 270 days after the date of enactment of the Higher Education Reconciliation Act of 2005, the Secretary and guaranty agencies shall publicize the availability of the information required by this section, with special emphasis on ensuring that populations that are traditionally underrepresented in postsecondary education are made aware of the availability of such information.".

SEC. 8024. WAGE GARNISHMENT REQUIREMENT.

Section 488A(a)(1) (20 U.S.C. 1095a(a)(1)) is amended by striking "10 percent" and inserting "15 percent".

Subtitle B—Pensions

SEC. 8201. INCREASES IN PBGC PREMIUMS.

(a) FLAT-RATE PREMIUMS.—

(1) SINGLE-EMPLOYER PLANS.—

(A) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "$19" and inserting "$30".

(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:

"(F) 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 pre-

ceding the calendar year in which such plan year begins, to

"(II) the national average wage index (as so defined) for 2004; and

"(ii) the premium rate in effect under clause (i) 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.".

(2) MULTIEMPLOYER PLANS.—

(A) IN GENERAL.—Section 4006(a)(3)(A) of such Act (29 U.S.C. 1306(a)(3)(A)) is amended—

(i) in clause (iii)—

(I) by inserting "and before January 1, 2006," after "Act of 1980,"; and

(II) by striking the period at the end and inserting ", or"; and

(ii) by adding at the end the following:

"(iv) in the case of a multiemployer plan, for plan years beginning after December 31, 2005, $8.00 for each individual who is a participant in such plan during the applicable plan year.".

(B) ADJUSTMENT FOR INFLATION.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)), as amended by this subsection, is amended by adding at the end the following new subparagraph:

"(G) For each plan year beginning in a calendar year after 2006, there shall be substituted for the premium rate specified in clause (iv) of subparagraph (A) an amount equal to the greater of—

"(i) the product derived by multiplying the premium rate specified in clause (iv) 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, to

"(II) the national average wage index (as so defined) for 2004; and

"(ii) the premium rate 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.—Subsection (a) of section 4006 of such Act (29 U.S.C. 1306) is amended by adding at the end the following:

"(7) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

"(A) IN GENERAL.—If there is a termination of a single-employer plan under clause (ii) or (iii) of section 4041(c)(2)(B) or section 4042, there shall be payable to the corporation, with respect to each applicable 12-month period, a premium at a rate equal to $1,250 multiplied by the number of individuals who were participants in the plan immediately before the termination date. Such premium shall be in addition to any other premium under this section.

"(B) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—In the case of a single-employer plan terminated under section 4041(c)(2)(B)(ii) or under section 4042 during 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)(i) 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 until the date of the discharge or dismissal of such person in such case.

"(C) APPLICABLE 12-MONTH PERIOD.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'applicable 12-month period' means—

"(I) the 12-month period beginning with the first month following the month in which the termination date occurs, and

"(II) each of the first two 12-month periods immediately following the period described in subclause (I).

"(ii) PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—In any case in which the requirements of subparagraph (B)(i)(I) are met in connection with the termination of the plan with respect to 1 or more persons 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—

"(I) premiums under this paragraph shall be due within 30 days after the beginning of any applicable 12-month period, and

"(II) the designated payor shall be the person who is the contributing sponsor as of immediately before the termination date.

"(ii) 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.".

(c) 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)".

(d) EFFECTIVE DATES.—

(1) 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.

(2) 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 (or under any similar law of a State or political subdivision of a State), if the proceeding is pursuant to a bankruptcy filing occurring before October 18, 2005.

TITLE IX—LIHEAP PROVISIONS

SEC. 9001. FUNDING AVAILABILITY.

(a) IN GENERAL.—In addition to amounts otherwise made available, there are appropriated, out of any money in the Treasury not otherwise appropriated, to the Secretary of Health and Human Services for a 1-time only obligation and expenditure—

(1) $250,000,000 for fiscal year 2007 for allocation under section 2604(a) through (d) of the Low-In-

come Home Energy Assistance Act of 1981 (42 U.S.C. 8623(a) through (d)); and

(2) $750,000,000 for fiscal year 2007 for allocation under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)).

(b) SUNSET.—The provisions of this section shall terminate, be null and void, and have no force and effect whatsoever after September 30, 2007. No monies provided for under this section shall be available after such date.

TITLE X—JUDICIARY RELATED PROVISIONS

Subtitle A—Civil Filing Adjustments

SEC. 10001. CIVIL CASE FILING FEE INCREASES.

(a) CIVIL ACTIONS FILED IN DISTRICT COURTS.—Section 1914(a) of title 28, United States Code, is amended by striking "$250" and inserting "$350".

(b) APPEALS FILED 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 $450.

(c) EXPENDITURE LIMITATION.—Incremental amounts collected by reason of the enactment of this section shall be

deposited in a special fund in the Treasury to be established after the enactment of this Act. Such amounts shall be available for the purposes specified in section 1931(a) of title 28, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the enactment of this Act.

(d) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect 60 days after the date of the enactment of this Act.

Subtitle B—Bankruptcy Fees

SEC. 11101. BANKRUPTCY FEES.

(a) BANKRUPTCY FILING FEES.—Section 1930(a) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A) by striking "$220" and inserting "$245"; and

(B) in subparagraph (B) by striking "$150" and inserting "$235"; and

(2) in paragraph (2) by striking "$1,000" and inserting "$2,750".

(b) EXPENDITURE LIMITATION.—Incremental amounts collected by reason of the amendments made by subsection (a) shall be deposited in a special fund in the Treasury to be established after the enactment of this Act. Such amounts shall be available for the purposes specified

in section 1931(a) of title 28, 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.

Attest:

Secretary.

109TH CONGRESS
1ST SESSION

S. 1932

SENATE AMENDMENT TO HOUSE AMENDMENT