



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 110<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 153

WASHINGTON, WEDNESDAY, AUGUST 1, 2007

No. 125

## House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. TAUSCHER).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

August 1, 2007.

I hereby appoint the Honorable ELLEN O. TAUSCHER to act as Speaker pro tempore on this day.

NANCY PELOSI,

*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

From the darkness of the night, the light of a new day emerges gradually, filled with promise. Shed Your light upon Congress, Lord, that its work of unifying this Nation in defense and in leadership may be blessed with solidarity and peace.

May sincere faith and faithfulness to responsibilities demonstrate the Word of the Lord is alive and at work in our midst. It strikes at the very heart and pierces more deftly than any two-edged sword, revealing the truth that will set people free, now and forever. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. POE. Madam Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. POE. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Michigan (Mr. WALBERG) come forward and lead the House in the Pledge of Allegiance.

Mr. WALBERG led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3206. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through December 15, 2007, and for other purposes.

The message also announced that the Senate has passed joint resolutions and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S.J. Res. 7. Joint resolution providing for the reappointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 8. Joint resolution providing for the reappointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution.

S. Con. Res. 26. Concurrent resolution recognizing the 75th anniversary of the Military Order of the Purple Heart and commending

recipients of the Purple Heart for their courageous demonstrations of gallantry and heroism on behalf of the United States.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 15 requests for 1-minute speeches.

### THE TRUTH ABOUT THE HATE CRIMES BILL

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Madam Speaker, some time ago this House passed the Hate Crime Bill, and I was one of the sponsors and one of the supporters. Since that time, there has been a group of right-winged evangelical Republicans, national in scale, who have tried to influence preachers in my district, particularly African American preachers, and make them think that that bill will somehow quell their first amendment rights to speak what they think about the Bible and about people's conduct. That's not true whatsoever. That bill contained in it an amendment by ARTUR DAVIS that said this in no way affects anybody's first amendment right, and it doesn't. That Hate Crime Bill affects acts of violence, not acts of thought or speech; never has in this country's history and never will.

There are the Ten Commandments that we have and we've honored for many years, and one of the Commandments is, "Thou shalt not bear false witness." Well, in Memphis, Tennessee, that group has borne false witness in trying to question the Hate Crimes Bill and the votes of the Members of this House and, hopefully, the Senate when they pass that bill. It only affects violence, and violence aimed at any group is wrong. And if it's aimed at a group to intimidate, it's even more wrong.

This symbol represents the time of day during the House proceedings, e.g.,  1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Printed on recycled paper.

H9281

## IMPROVED CARE FOR WOUNDED

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, yesterday, the final report from the President's bipartisan Commission on Care for America's Returning Wounded Warriors was released. The main goal for the Commission is to assure that every member of our Armed Forces receives the prompt, exceptional care most are already receiving. Included in these recommendations were prevention and treatment of posttraumatic distress disorder and strengthening VA support for families of the wounded. In addition, a single point of contact for patients and families is crucial so the way toward recovery is simplified.

We are striving to ensure that our brave men and women returning from battle are given the best treatment possible. Commission Co-Chair Bob Dole points out that, "Today, seven out of eight survive, many with injuries that would have been fatal in past wars."

I am grateful for the medical personnel that are working diligently to make sure our brave troops are receiving the care they deserve.

In conclusion, God bless our troops, and we will never forget September the 11th.

## PROVIDING RESOURCES EARLY FOR KIDS ACT

(Ms. HIRONO asked and was given permission to address the House for 1 minute.)

Ms. HIRONO. Madam Speaker, I rise today to introduce the Providing Resources Early for Kids Act of 2007, the PRE-K Act.

The PRE-K Act will help more children enter school ready to succeed. It creates a new Federal/State partnership to provide better preschool opportunities for our country's children.

Research shows that participation in a high-quality early education program can improve success in school and later in life. So this bill focuses on quality. It is flexible enough to encompass many types of State-funded preschool programs so long as they are high quality. For example, in Hawaii, an Early Learning Task Force is working on a new State-funded preschool program to ensure Hawaii's children have access to a variety of high-quality preschool experiences, from Head Start to community based organizations.

The PRE-K Act is one of the best investments we can make in our children, our families, and our Nation. I look forward to working with my colleagues to ensure its passage.

## WHAT WOULD THE DEFEATISTS HAVE US DO?

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Madam Speaker, instead of praising and encouraging our troops in their relentless fight against the terrorist insurgents and seeing the success of U.S. troops, some choose to focus on the negative. They seem to preach gloom, doom and despair. They come across as defeatists, retreatists, and losers.

Do these people really want us to lose this war? Is their retreat political agenda more important than America's safety agenda? Now is the time, more than ever, that this Nation be behind our soldiers in this fight.

The dangers to freedom do exist. Right now in Afghanistan, Taliban forces are holding 22 civilians from a South Korean church. They have executed one hostage and plan to murder more. These Islamic radicals kill in the name of religion. Now, what would the surrender advocates have us do? Hide?

Fanatical militants are a threat to the security of free nations and the United States. It is the American troops, however, that are making a difference in beating back the forces of hatred and oppression. Our patriots deserve thanks, respect and our total commitment, not naysayers' words of criticism, contempt and complaining.

And that's just the way it is.

## LOBBYING REFORM: DEMOCRATS CHANGING THE WAY BUSINESS IS CONDUCTED IN D.C.

(Mr. HARE asked and was given permission to address the House for 1 minute.)

Mr. HARE. Madam Speaker, yesterday, this House took a critical step in changing the way business is done in Washington. The Honest Leadership and Open Government Act of 2007 provides the most sweeping lobby reform in a generation, finally bringing unprecedented transparency to lobbyist activities.

During last year's election, the American people unequivocally called for a change in the way business is done in Washington. This bill, along with the ethics reform our Democratic majority enacted in the first 100 hours of the 110th Congress, are significant steps forward in cleaning up the culture of corruption that has plagued Washington for far too long.

As soon as Democrats took control of this Congress, we began a new era of honest and open government, finally returning this House to the American people and making sure that the work we do here is something that we can be proud of.

Madam Speaker, by passing the comprehensive lobbying reform yesterday, we are keeping our promise to the American people to make this Congress the most honest and open in history.

## REFORM FISA

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of South Carolina. Madam Speaker, one reason America has remained free of attack for the last 7 years is because we have given the tools necessary to those on the front lines, whether it be our military or our intelligence officers. Many tactics to defend and protect this country have been used, one being electronic surveillance through the FISA Act.

Madam Speaker, FISA was first implemented to assist the gathering of information during another era, well before the invention of cell phones, satellite tracking, or even the Internet. Terrorist groups and, more specifically, al Qaeda, have adapted to modern technology, and it's time the U.S. did the same. We're not talking about skirting the legal process but, rather, giving our intelligence officers the ability to gather information coming from foreign and/or known terrorists in the United States.

I urge the majority to fix this problem now and help keep our country safe.

## THE CHAMP ACT

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Good morning, Madam Speaker. You know, it's simple: If America is the greatest country in the world, then all our children should have health care. That's what Democrats believe.

Today, we're going to pass the CHAMP Act to provide health insurance to an additional 5 million children here in America, the children of the working poor. Who are the working poor? They're the people, one-half of them women, who work in service industries, who work in retail. They're laborers, they're the self-employed. Their employees don't provide health insurance, and they can't afford it. They barely make ends meet.

Now, with this bill we will move a long way toward the goal of providing universal health insurance for all American children, and I think that's a good idea. Now, during the course of the day you're going to hear lots of arguments, arguments about processing and why this wasn't fair or done in the right way. You will hear arguments about cost. But let me tell you, at the end of the day, that is all just empty rhetoric and rationalizations. Because the fact is, if America is the greatest country in the world, then all our children should have health insurance. Period.

## SCHIP MAKES TITANIC WRECK LOOK SMALL

(Mr. AKIN asked and was given permission to address the House for 1 minute.)

Mr. AKIN. Madam Speaker, we can all think of instances where some great

calamity was about to happen, and yet we have to stand by powerless to help; like the pilot of the Titanic, he sees the glacier emerging through the midst, he spins the wheel too late. And that is the case this morning, not with a steamship but with SCHIP, the State Children's Health Insurance Plan.

It doesn't take any towering intellect to see the problems. We're going to vote to tax Americans with private health insurance, and we're going to take the benefits away from older Americans, with their Medicare, and we're going to give that money to give free health insurance to children with families making more than \$80,000, children of illegal immigrants.

All of history suggests that socialized medicine is not the way to go, and yet the Democrats are about to vote for something which will make the Titanic wreck look small.

---

#### SCHIP

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Madam Speaker, in 2002, when I was campaigning for Congress, I met Dolores Sweeney, who had three children. She worked full time at an insurance company, was too rich for Medicaid and too poor to get her own private insurance because her company didn't provide it.

Today, her three children are enrolled in SCHIP. Those kids, today, have health care because we did right, where, between private sector not providing health care and Medicaid, a woman who worked full time did right by her children, got healthcare for her kids, and her 19-year-old today is going to college and doing the right choices.

The question we have before us, as my colleague from South Carolina just asked, are we going to provide our constituents with the healthcare that our own children and Members of Congress get, that taxpayers pay for? That is the question that is going to be before us today: Are we going to do right by the Dolores Sweeneys of the world in the same way that our constituents do right by us, as Members of Congress, and for our own children? These are people who have worked full time, at no fault of their own, whose children don't have health care. And we will provide those children, 11 million children, the health care that their parents cannot provide.

---

□ 1015

#### THE LEGISLATIVE PROCESS AND GOOD GOVERNANCE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, as a member of the Energy and Commerce Committee, which shares jurisdiction over the SCHIP bill, H.R. 3162, I would

like to express my frustration with the way this bill has been rammed through the legislative process.

Since January, we had only one hearing on the SCHIP program. We did not have a legislative hearing on H.R. 3162, which is supposed to be the Democrats' signature piece of health care legislation this Congress, no markup in subcommittee, and it was written in secret with no input from our side of the aisle. In fact, the text of the bill was not even provided to members of the committee until 11:33 the night before the full committee markup was supposed to take place.

Madam Speaker, bringing a bill with over \$200 billion in authorized spending to the floor without allowing the bill to go through the proper legislative process is simply poor governance.

---

#### THE CHAMP ACT AND DEMOCRATIC EFFORTS TO ENSURE MORE CHILDREN HAVE ACCESS TO HEALTH INSURANCE

(Mr. WELCH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELCH of Vermont. The question before the House today is really very simple: Will the United States of America, the wealthiest country in the world, pass legislation that guarantees access to health care for all the children of the citizens of this country?

Many of our States, including Vermont, have taken the lead. They answered that question in the affirmative: The children of working parents, children whose parents are doing the right thing, should have the health care they need when they need it.

That has been done on a bipartisan basis. Republican and Democratic Governors in my State of Vermont have supported access to health care for our kids; 98 percent are covered in Vermont.

Why is it that this Congress has been unable to take that step until today? We will change that. It is the right thing to do. It is good for our kids. It is good for our country. It is well within the reach of this Congress to do.

Madam Speaker, I hope that our friends on the Republican side will join us in what will be a historic day for our kids.

---

#### TOWARDS FISCALLY RESPONSIBLE SCHIP LEGISLATION

(Mr. WALBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALBERG. Madam Speaker, I support renewing SCHIP to aid children in low-income families. But the bill that the Democratic leadership plans to bring to the floor this week is an absolute train wreck that will lead to a nanny-state, government-run health care system.

This bill would cause 3.2 million seniors in 22 States, including over 14,000

in my district, to lose their Medicare Advantage benefits. The Congressional Budget Office says this bill would shift 2.1 million children who are currently in private health care plans to less effective, government-run health care.

Additionally, this bill guts several fiscal responsibility measures designed to keep Medicare spending in check, encourage illegal immigrants to apply for SCHIP and Medicaid benefits by eliminating the requirement that persons applying for such services show proof of citizenship or nationality, and makes it possible for people 25 years old to receive SCHIP benefits.

In summation, this bill takes a program designed to aid children of low-income families and instead expands our welfare state and sides with bureaucracy rather than the needy children and seniors.

Madam Speaker, I strongly encourage my colleagues to oppose this form of legislation.

---

#### AN OPEN AND HONEST CONGRESS FOR EVERYDAY AMERICANS

(Mr. ARCURI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARCURI. Madam Speaker, on the first day of the 110th Congress, the Democratic majority in this House enacted the toughest ethics reform in a generation by passing a landmark rules package that broke the link between lobbyists and legislators. This important step toward cleaning up Congress ended gifts, private jets and meals paid for by lobbyists.

Yesterday, we continued our commitment to restore accountability to Washington and passed the final House-Senate agreement on the Honest Leadership and Open Government Act of 2007. This tough legislation, which ends the tight-knit relationship between lobbyists and lawmakers takes another major step toward making this Congress the most open and honest in American history.

I am proud to have supported this critical bill, which has been hailed by reform groups as a "sea of change for citizens" and "landmark reform." I am proud of our Democratic majority that works so quickly to enact real change for Americans, which they demanded during last year's election.

Madam Speaker, this Democratic House is dedicated to making sure that Congress works for everyday Americans and not just special interests.

---

#### EGYPT NEEDS TO PROTECT PEOPLE OF ALL FAITHS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, I want to take a moment to talk about Shaymaa el-Sayed, an Egyptian woman. Security forces in Egypt tortured this young woman for converting

to Christianity. Fanatic relatives of Shaymaa el-Sayed, 26 years old, attacked her in Alexandria, beating her, attempting to shove her into a car and vowing to kill her for her "apostasy."

Police intervened. They arrested the victim herself. When they found her Christian identity papers, local police transferred her to a state security investigation office where the officials forcibly disrobed and photographed her naked in front of all the policemen at the station.

She was repeatedly subjected to interrogation and severe torture, including electrocution. She was released by the Egyptian police into the custody of her family despite their threats to kill her. "This is not legal treatment, but it is happening all the time," said Rasha Noor, an Egyptian human rights activist. "The Christians from Muslim backgrounds can't change their identities, so they are forced by the authorities to return back to Islam, or else." God bless this young woman.

#### STRENGTHENING THE SUCCESSFUL SCHIP PROGRAM

(Mr. PAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE. Madam Speaker, as the House prepares to vote on the Child Health and Medicare Protection Act, known as the CHAMP Act, later today, I think it is important to refute some of the misleading talking points that Republicans are seizing on as they oppose this health insurance for millions of American children.

First, Republicans claim that by strengthening the State Children's Health Insurance Program, known as SCHIP, we are advancing "government doctors," advancing "government health plans."

This could be no further from the truth. Government does not deliver SCHIP services. Instead, it is private doctors and private health plans through private insurance. This program is operated successfully in my State of New Jersey and around the Nation.

Second, Republicans say that we are trying to expand the program to reach middle-income families. Again, that is false. We are not expanding the program. Today, 5 million children are eligible for SCHIP but are not enrolled. We are strengthening the program so that we can reach almost all of these children, the vast majority of whom come from low-income families.

Madam Speaker, I urge my colleagues to pass this bill.

#### SUPPORT THE WELLNESS AND PREVENTION ACT OF 2007

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute.)

Mr. KNOLLENBERG. Madam Speaker, I rise today to call attention to the

rising cost of health care in this country. While the nature of health care makes reaching consensus difficult, Congress must take action to make health care more affordable.

For this reason, I have introduced H.R. 853, the Wellness and Prevention Act of 2007. This legislation encourages the implementation of wellness and prevention plans in the workplace. The bill allows companies and employees to collect tax credits for wellness programs.

Statistics have proven that every dollar a business spends on a wellness program results in a \$3 return. Furthermore, Americans will take charge of their own health, thereby increasing productivity and reducing absenteeism.

I invite my colleagues to sponsor H.R. 853, because as the old saying goes, an ounce of prevention is worth a pound of cure. Congress must now act to reduce the risk of disease, encourage a healthier America and help curb the rising cost of health care.

#### DEMOCRATS WANT TO ENSURE MILLIONS OF NEW CHILDREN RECEIVE THE HEALTH CARE THEY DESERVE

(Ms. HOOLEY asked and was given permission to address the House for 1 minute.)

Ms. HOOLEY. Madam Speaker, over the last 10 years, the Children's Health Insurance Program has been a success story, significantly reducing the number of children living without health insurance at a time when employer-sponsored insurance continues to erode.

When CHIP was created in 1997, the number of uninsured children under the age of 19 was 23 percent. Over the last decade, that has fallen to 15 percent. That is a great improvement, but still unacceptable.

That is why Democrats will bring the Children's Health and Medicare Protection Act to the House floor today for a vote. The CHAMP Act invests in our children by ensuring that nearly every child eligible for the CHIP program is signed up and is receiving the essential preventative health care they need to live longer and healthier lives. If we do not take care of our children's health now, we will pay a lot more later on.

Madam Speaker, with the passage of the CHAMP Act later today, this House will move us significantly closer to ensuring that every child in America has access to health insurance.

#### TRAMPLING ON FREEDOM OF SPEECH IN AMERICA

(Mr. GARRETT of New Jersey asked and was given permission to address the House for 1 minute.)

Mr. GARRETT of New Jersey. America, your freedom of speech was trampled on yesterday. This new Democratic leadership quashed any semblance of free speech here on this House floor. This is not just a proce-

dural matter, mind you. This is a matter for all Americans.

You see, each Member of Congress represents 600,000 constituents. That is 600,000 American voices that were quashed yesterday. As I say, this is not just a Republican issue, for their voices were quashed, but so were Democrat and Independent voices as well.

But in fact, this is nothing new for the new Democrat leadership. Just a week ago we had to come to this floor to make sure we could fight to keep the radio waves and the media opening dealing with the Fairness Doctrine. Prior to this, we had to fight to make sure that the centuries-old tradition of bipartisanship would not be broken. Prior to that, we had to fight to make sure that there would be transparency in earmarks, and all the Republicans fought on the side of openness and freedom of speech.

The Democrats say they tolerate all diversity, but apparently diversity not of thought and speech.

#### DEMOCRATS WANT TO STRENGTHEN THE CHILDREN'S HEALTH INSURANCE PROGRAM

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, at a time when there are serious problems in our health care system, the Children's Health Insurance Program, otherwise known as CHIP, has a proven track record. Over the last decade, as the number of uninsured Americans has increased, the number of children living without health insurance has actually decreased, and thanks to the CHIP program, we have experienced a 60-percent drop in the number of uninsured children.

This week, the House plans to reauthorize the CHIP program. Congress must act on this legislation now. In the past, CHIP has received strong bipartisan support. However, in an about-face, the President and some Republicans have abandoned their support of CHIP on supposed philosophical grounds.

If Congress refuses to act this week, the nonpartisan Congressional Budget Office estimates that nearly 1 million children will lose their health coverage. Democrats are simply not to get that to happen. We are going to pass the CHIP reauthorization today so that 11 million children have access to the health insurance they need to live healthy lives.

#### MISSION LEAP TOWARDS SOCIALIZED MEDICINE

(Mrs. BACHMANN asked and was given permission to address the House for 1 minute.)

Mrs. BACHMANN. Madam Speaker, today the United States Congress will take up the full march towards socialized medicine here in the United States. This isn't mission creep, Madam Speaker; this is mission leap.

Imagine, under the Democrat plan, someone who is old enough to be able to run for the United States Congress would be considered a child and eligible for taxpayer-subsidized health care.

This is socialized medicine in its truest form. As a matter of fact, in Minnesota today, under the SCHIP proposal, fully 85 percent of all recipients are adults. Under the Democrat proposal in Minnesota, over 20,000 senior citizens in Minnesota will lose their Medicare Advantage.

Madam Speaker, this is mission leap towards embracing full socialized medicine, and I hope this United States Congress rejects this untimely proposal.

ADDRESSING CRITICAL HEALTHCARE NEEDS

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Madam Speaker, I listened with a somewhat incredulous nature here to my colleague from Minnesota repeating the litany from our Republican friends that somehow this is a leap into socialism and represents a dramatic change.

Well, first of all, Madam Speaker, it ought to be clear that there are some States where there have been eligibility limits that have been increased. But why? Because Governors, including many of them Republican Governors, have requested waivers. Who gives the waivers? They have been granted by the Bush administration. If you think it is wrong to expand health care for more children, for some with slightly higher income levels, then stop granting the waivers.

This isn't a problem that somehow Democrats are leaping into socialized medicine. This is an effort at the State and local level to meet these critical problems. That is why the legislation today is going to pass with overwhelmingly partisan support.

□ 1030

DEMOCRATS ATTEMPT TO NATIONALIZE HEALTH CARE

(Mr. TERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TERRY. Madam Speaker, I think most of us as Republicans want to be able to provide health care access to low-income uninsured children, but that is not the issue or the bill that comes to the floor today. As we have heard from many of the speakers, it is to cover all children despite income levels and despite whether or not they are currently enrolled in a health insurance plan.

In fact, one of the Republican amendments that was denied in the Rules Committee and we cannot bring to the floor today is a measure that would say if you are currently enrolled in health

insurance, you are not eligible to participate in SCHIP. That is denied, and that is just one piece of evidence that we are going to bring out today showing that this is an attack on private health insurance coverage and the attempt to nationalize health care.

IN SUPPORT OF THE CHAMP ACT

(Mr. BACA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACA. Madam Speaker, on behalf of the Congressional Hispanic Caucus, I rise in strong support of SCHIP or the Children's Health and Medicare Protection Act, CHAMP. There are 45 million uninsured, and 6 million are children. These are children that are being impacted.

We talk about having productive children in our school systems, improving the quality of life. You can't do it without a clean bill of health. We have the responsibility for our children. More than 70 percent of uninsured Hispanic children eligible for public coverage are not enrolled. This is unacceptable.

The CHAMP Act takes significant steps in reducing the barriers for all children and seniors of color in our community. Unfortunately, some of the Members are using this legislation as an opportunity to debate unrelated health care, specifically, immigration policies and other issues.

We need to make sure that we support the CHAMP act. A vote for CHAMP will help more citizen children get access to health coverage which can be a difference between life and death.

SCHIP

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Madam Speaker, I rise today to speak against this extremely flawed SCHIP bill. I support the original intent of SCHIP, which is to cover our moderate- to low-income children at 200 percent of the poverty level. Yet the bill before us today goes much further. It does expand the program, and it does move it from a block grant to an entitlement, and it moves patients towards a universal, government-run health care that shifts patients from private care to a massive government entitlement program.

And I know what runaway health care costs in a broken system look like. As a former member of the Tennessee Senate, I watched TennCare, Tennessee's statewide Medicaid-managed care service, which was granted under one of those waivers, I have watched this thing invoke stress, pain and hardship on both health care providers and consumers. It does not work. Someone always has to pay the bill.

Over 10 years, also, this CHAMP bill would make \$193 billion worth of cuts from Medicare services for our seniors. It didn't work. It is not going to work here.

IMPOSING A HIDDEN TAX ON HEALTH INSURANCE POLICIES

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Madam Speaker, here's the bill. Here is the health care bill folks have been talking about. Do you know what's in it? Most Members don't.

Under the guise of children's health, there is a hidden tax on every single private health insurance policy in the Nation. Every one. Why? Because the desire of those on the left to gradually move every American to Washington-controlled bureaucratic health care is so strong they will stop at nothing.

Their desire is to end the ability of patients and their doctors to make independent choices and decisions. As a physician, I know how detrimental the government can be to quality health care.

In addition, this bill will end the choices and freedoms that 8 million seniors currently have on Medicare Advantage, cutting Medicare to 8 million seniors.

Now, the left will pass this bill today because they can under a gag rule. That doesn't make the process or the policy correct. This is not what the American people want nor what they deserve, and they are watching.

MOTION TO ADJOURN

Mr. PRICE of Georgia. Madam Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. PRICE of Georgia. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the motion to adjourn will be followed by a 5-minute vote on agreeing to the Speaker's approval of the Journal.

The vote was taken by electronic device, and there were—yeas 177, nays 231, not voting 24, as follows:

[Roll No. 779]  
YEAS—177

Abercrombie	Barton (TX)	Bono
Aderholt	Biggert	Boustany
Akin	Bilbray	Brady (TX)
Alexander	Bilirakis	Brown (GA)
Bachmann	Bishop (UT)	Brown (SC)
Bachus	Blackburn	Brown-Waite,
Baker	Blunt	Ginny
Barrett (SC)	Boehner	Buchanan
Bartlett (MD)	Bonner	Burgess

Burton (IN)	Hensarling	Petri	McNerney	Ramstad	Space	Doyle	Larson (CT)	Rush
Buyer	Herger	Pickering	McNulty	Rangel	Spratt	Edwards	Lee	Ryan (OH)
Calvert	Hobson	Pitts	Meek (FL)	Reyes	Stark	Ellison	Levin	Salazar
Camp (MI)	Hoekstra	Porter	Meeks (NY)	Rodriguez	Stupak	Ellsworth	Lewis (GA)	Sánchez, Linda
Campbell (CA)	Hulshof	Price (GA)	Melancon	Ross	Sutton	Emanuel	Lipinski	T.
Cannon	Hunter	Putnam	Michaud	Rothman	Tanner	Eshoo	Loeb sack	Sanchez, Loretta
Cantor	Inglis (SC)	Radanovich	Miller (NC)	Roybal-Allard	Tauscher	Etheridge	Lofgren, Zoe	Sarbanes
Capito	Issa	Regula	Mitchell	Rush	Taylor	Farr	Lowe y	Schakowsky
Carter	Johnson (IL)	Rehberg	Mollohan	Ryan (OH)	Thompson (CA)	Fattah	Lynch	Schiff
Chabot	Jordan	Reichert	Moore (KS)	Salazar	Thompson (MS)	Filner	Mahoney (FL)	Schwartz
Cole (OK)	Keller	Renzi	Moore (WI)	Sánchez, Linda	Tiaht	Frank (MA)	Maloney (NY)	Scott (GA)
Conaway	King (IA)	Reynolds	Moran (KS)	T.	Tierney	Giffords	Markey	Scott (VA)
Crenshaw	King (NY)	Rogers (AL)	Moran (VA)	Sanchez, Loretta	Towns	Gillibrand	Marshall	Serrano
Davis (KY)	Kingston	Rogers (MI)	Murphy (CT)	Sarbanes	Udall (NM)	Gonzalez	Matheson	Sestak
Davis, David	Kirk	Rohrabacher	Murphy, Patrick	Saxton	Van Hollen	Green, Al	Matsui	Shea-Porter
Davis, Tom	Kline (MN)	Ros-Lehtinen	Nadler	Schakowsky	Velazquez	Green, Gene	McCarthy (NY)	Sherman
Deal (GA)	Knollenberg	Roskam	Napolitano	Schiff	Visclosky	Grijalva	McCollum (MN)	Shuler
Dent	Kuhl (NY)	Royce	Neal (MA)	Schwartz	Walz (MN)	Gutierrez	McDermott	Sires
Diaz-Balart, L.	LaHood	Ryan (WI)	Oberstar	Scott (GA)	Wasserman	Hall (NY)	McGovern	Skelton
Diaz-Balart, M.	Lamborn	Sali	Obey	Scott (VA)	Schultz	Hare	McIntyre	Slaughter
Doolittle	Latham	Schmidt	Oliver	Serrano	Waters	Harman	McNerney	Smith (WA)
Drake	LaTourette	Sensenbrenner	Ortiz	Sestak	Watson	Hastings (FL)	McNulty	Snyder
Dreier	Lewis (CA)	Sessions	Pallone	Shea-Porter	Watt	Herseth Sandlin	Meek (FL)	Solis
Duncan	Lewis (KY)	Shadegg	Pascarell	Sherman	Weiner	Higgins	Meeks (NY)	Spratt
Ehlers	Linder	Shays	Pastor	Shuler	Welch (VT)	Hinche y	Melancon	Stark
Emerson	Lucas	Shimkus	Payne	Sires	Weller	Hinojosa	Michaud	Stupak
English (PA)	Lungren, Daniel	Shuster	Perlmutt er	Skelton	Wexler	Hirono	Miller (NC)	Sutton
Everett	E.	Simpson	Peterson (MN)	Slaughter	Wilson (OH)	Hodes	Miller, George	Tanner
Fallin	Mack	Smith (NE)	Platts	Smith (NJ)	Woolsey	Holden	Mitchell	Tauscher
Feeney	Manzullo	Smith (TX)	Pomeroy	Smith (WA)	Wu	Holt	Mollohan	Taylor
Flake	Marchant	Souder	Engel	Snyder	Wynn	Hooley	Moore (KS)	Thompson (CA)
Forbes	McCaul (TX)	Stearns	Rahall	Solis	Yarmuth	Hoyer	Moore (WI)	Thompson (MS)
Fortenberry	McCotter	Sullivan				Inslee	Moran (VA)	Thompson (MS)
Fox	McCrery	Terry				Israel	Murphy (CT)	Tierney
Franks (AZ)	McHenry	Thornberry	Bean	Honda	Peterson (PA)	Jackson (IL)	Murphy, Patrick	Towns
Frelinghuysen	McHugh	Tiberi	Clarke	Jefferson	Poe	Jackson-Lee	Nadler	Towns
Galle gly	McKeon	Turner	Cubin	Johnson, Sam	Pryce (OH)	(TX)	Napolitano	Udall (NM)
Garrett (NJ)	McMorris	Upton	Culberson	Maloney (NY)	Rogers (KY)	Johnson (GA)	Neal (MA)	Van Hollen
Gerlach	Rodgers	Walberg	Cummings	Markey	Ruppersberger	Johnson (IL)	Obey	Velazquez
Gilchrest	Mica	Walden (OR)	Davis, Jo Ann	McCarthy (CA)	Tancred o	Johnson, E. B.	Olver	Wasserman
Gillmor	Miller (FL)	Walsh (NY)	Engel	Miller, George	Udall (CO)	Jones (OH)	Ortiz	Schultz
Gingrey	Miller (MI)	Wamp	Hinche y	Murtha	Waxman	Kagen	Pallone	Waters
Gohmert	Miller, Gary	Weldon (FL)				Kanjorski	Pascarell	Watson
Goode	Murphy, Tim	Westmoreland				Kaptur	Pastor	Watt
Goodlatte	Musgrave	Whitfield				Kennedy	Paul	Weiner
Granger	Myrick	Wicker				Kildee	Payne	Welch (VT)
Graves	Neugebauer	Wilson (NM)				Kilpatrick	Perlmutt er	Wexler
Hastert	Nunes	Wilson (SC)				Kind	Pomeroy	Whitfield
Hastings (WA)	Paul	Wolf				Klein (FL)	Price (NC)	Wilson (OH)
Hayes	Pearce	Young (AK)				Kucinich	Rahall	Woolsey
Heller	Pence	Young (FL)				Lampson	Rangel	Wu
						Langevin	Reyes	Wynn
						Lantos	Rodriguez	Yarmuth
						Larsen (WA)	Ross	

## NOT VOTING—24

Mr. LOBIONDO and Mr. LARSON of Connecticut changed their vote from “yea” to “nay.”

Mr. GALLEGLY and Mr. FORBES changed their vote from “nay” to “yea.”

□ 1101

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker's approval of the Journal, on which the yeas and nays were ordered.

The question is on the Speaker's approval of the Journal.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 214, nays 189, not voting 29, as follows:

[Roll No. 780]

YEAS—214

Ackerman  
Allen  
Altmire  
Andrews  
Arcuri  
Baca  
Baird  
Baldwin  
Barrow  
Becerra  
Berkley  
Berman  
Berry  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Boozman  
Boren  
Boswell  
Boucher  
Boyd (FL)  
Boyd (KS)  
Brady (PA)  
Braley (IA)  
Brown, Corrine  
Butterfield  
Capps  
Capuano  
Cardoza  
Carnahan  
Carney  
Carson  
Castle  
Castor  
Chandler  
Clay  
Cleaver  
Clyburn  
Coble  
Cohen  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Cramer

Crowley  
Cuellar  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis, Lincoln  
DeFazio  
DeGette  
DeLahunt  
DeLauro  
Dicks  
Dingell  
Doggett  
Donnelly  
Doyle  
Edwards  
Ellison  
Ellsworth  
Emanuel  
Eshoo  
Etheridge  
Farr  
Fattah  
Ferguson  
Filner  
Fossella  
Frank (MA)  
Giffords  
Gillibrand  
Gonzalez  
Gordon  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hall (NY)  
Hall (TX)  
Hare  
Harman  
Hastings (FL)  
Herseth Sandlin  
Higgins  
Hill  
Hinojosa  
Hirono  
Hodes

Holden  
Holt  
Hooley  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jindal  
Johnson (GA)  
Johnson, E. B.  
Jones (NC)  
Jones (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick  
Kind  
Klein (FL)  
Kucinich  
Lampson  
Langevin  
Lantos  
Larsen (WA)  
Larson (CT)  
Lee  
Levin  
Lewis (GA)  
Lipinski  
LoBiondo  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lynch  
Mahoney (FL)  
Matheson  
Matsui  
McCarthy (NY)  
McCollum (MN)  
McDermott  
McGovern  
McIntyre

Ackerman  
Allen  
Andrews  
Arcuri  
Baca  
Baird  
Baldwin  
Barrow  
Becerra  
Berkley  
Berman  
Berry  
Castle  
Castor  
Chandler  
Clay  
Cleaver  
Clyburn  
Coble  
Cohen  
Conyers

Boyd (KS)  
Brady (PA)  
Braley (IA)  
Brown, Corrine  
Butterfield  
Capps  
Capuano  
Cardoza  
Carnahan  
Carson  
Castle  
Castor  
Chandler  
Clay  
Cleaver  
Clyburn  
Coble  
Cohen  
Conyers

Cooper  
Costa  
Costello  
Courtney  
Cramer  
Crowley  
Cuellar  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis, Lincoln  
Davis, Tom  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dicks  
Dingell  
Doggett

Abercrombie  
Aderholt  
Akin  
Alexander  
Altmire  
Bachmann  
Bachus  
Baker  
Barrett (SC)  
Bartlett (MD)  
Biggert  
Bilbray  
Bilirakis  
Bishop (UT)  
Blackburn  
Bonner  
Bono  
Boozman  
Boustany  
Brady (TX)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp (MI)  
Campbell (CA)  
Cannon  
Cantor  
Capito  
Carney  
Carter  
Chabot  
Cole (OK)  
Conaway  
Crenshaw  
Davis (KY)  
Davis, David  
Deal (GA)

Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Donnelly  
Doolittle  
Drake  
Dreier  
Duncan  
Ehlers  
Emerson  
English (PA)  
Everett  
Fallin  
Feeney  
Ferguson  
Flake  
Forbes  
Fortenberry  
Fossella  
Fox  
Franks (AZ)  
Frelinghuysen  
Galle gly  
Garrett (NJ)  
Gerlach  
Gilchrest  
Gillmor  
Gingrey  
Gohmert  
Goode  
Goodlatte  
Granger  
Graves  
Hall (TX)  
Hastert  
Hastings (WA)  
Hayes  
Heller  
Hensarling  
Herger  
Hill  
Hobson  
Hoekstra

Hulshof  
Hunter  
Inglis (SC)  
Issa  
Jindal  
Jones (NC)  
Jordan  
Keller  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Knollenberg  
Kuhl (NY)  
LaHood  
Lamborn  
Latham  
LaTourette  
Lewis (CA)  
Lewis (KY)  
LoBiondo  
Lucas  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCaul (TX)  
McCotter  
McHenry  
McHugh  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Moran (KS)  
Murphy, Tim  
Musgrave  
Myrick

## NAYS—189

Neugebauer	Rohrabacher	Sullivan	Fortenberry	Lungren, Daniel	Rohrabacher	Ross	Sherman	Van Hollen
Nunes	Ros-Lehtinen	Terry	Franks (AZ)	E.	Ros-Lehtinen	Roybal-Allard	Shuler	Velázquez
Pearce	Roskam	Thornberry	Frelinghuysen	Mack	Roskam	Ruppersberger	Sires	Visclosky
Pence	Royce	Tiahrt	Gallegly	Mahoney (FL)	Royce	Rush	Skelton	Walberg
Peterson (MN)	Ryan (WI)	Tiberti	Garrett (NJ)	Manullo	Sali	Ryan (OH)	Slaughter	Walz (MN)
Petri	Sali	Turner	Gingrey	Marchant	Schmidt	Salazar	Smith (NJ)	Wasserman
Pickering	Saxton	Upton	Gohmert	McCaul (TX)	Sensenbrenner	Sánchez, Linda	Snyder	Schultz
Pitts	Schmidt	Walberg	Goode	McCrery	Sessions	T.	Solis	Waters
Platts	Sensenbrenner	Walden (OR)	Goodlatte	McHenry	Shadegg	Sanchez, Loretta	Space	Watson
Porter	Sessions	Walsh (NY)	Granger	McHugh	Shimkus	Sarbanes	Spratt	Watt
Price (GA)	Shadegg	Walz (MN)	Graves	McKeon	Shuster	Saxton	Stark	Weiner
Putnam	Shays	Wamp	Hastings (WA)	McMorris	Smith (NE)	Schakowsky	Stupak	Welch (VT)
Radanovich	Shimkus	Weldon (FL)	Hayes	Rodgers	Smith (TX)	Schiff	Sutton	Wexler
Ramstad	Shuster	Weller	Heller	Mica	Souder	Schwartz	Tanner	Wilson (OH)
Regula	Simpson	Westmoreland	Hensarling	Miller (FL)	Stearns	Scott (GA)	Tauscher	Woolsey
Rehberg	Smith (NE)	Wicker	Herger	Miller (MI)	Sullivan	Scott (VA)	Thompson (CA)	Wu
Reichert	Smith (NJ)	Wilson (NM)	Hobson	Miller, Gary	Taylor	Serrano	Thompson (MS)	Wynn
Renzi	Smith (TX)	Wilson (SC)	Hoekstra	Murphy, Tim	Terry	Shays	Towns	Young (FL)
Reynolds	Souder	Wolf	Inglis (SC)	Musgrave	Thornberry	Shea-Porter	Udall (NM)	
Rogers (AL)	Space	Young (AK)	Issa	Neugebauer	Tiahrt			
Rogers (MI)	Stearns	Young (FL)	Johnson (IL)	Nunes	Tiberti			

NOT VOTING—29

Barton (TX)	Gordon	Poe
Bean	Honda	Pryce (OH)
Blunt	Jefferson	Rogers (KY)
Boehner	Johnson, Sam	Rothman
Clarke	Linder	Roybal-Allard
Cubin	McCarthy (CA)	Ruppersberger
Culberson	McCrery	Tancredo
Cummings	Murtha	Udall (CO)
Davis, Jo Ann	Oberstar	Waxman
Engel	Peterson (PA)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
 The SPEAKER pro tempore. (During the vote). Members are advised there are 2 minutes remaining on this vote.

□ 1111

Messrs. BRADY of Texas, SULLIVAN, GINGREY, WESTMORELAND, MILLER of Florida, GARRETT of New Jersey, MCHENRY, LATHAM, TERRY and PITTS changed their vote from “yea” to “nay.”

Messrs. BAIRD, GEORGE MILLER of California, MAHONEY of Florida and KLEIN of Florida changed their vote from “nay” to “yea.”

So the Journal was approved.

The result of the vote was announced as above recorded.

MOTION TO ADJOURN

Mr. ABERCROMBIE. Madam Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ABERCROMBIE. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 154, noes 236, not voting 42, as follows:

[Roll No. 781]

AYES—154

Aderholt	Brady (TX)	Davis (KY)
Akin	Broun (GA)	Davis, David
Alexander	Brown (SC)	Davis, Tom
Bachmann	Brown-Waite,	Deal (GA)
Bachus	Ginny	Dent
Barrett (SC)	Buchanan	Diaz-Balart, L.
Bartlett (MD)	Burton (IN)	Diaz-Balart, M.
Barton (TX)	Buyer	Doolittle
Biggert	Calvert	Drake
Bilbray	Camp (MI)	Dreier
Bilirakis	Campbell (CA)	Duncan
Bishop (UT)	Cannon	Ehlers
Blunt	Capito	English (PA)
Boehner	Chabot	Everett
Bonner	Cole (OK)	Fallin
Bono	Conaway	Flake
Boustany	Crenshaw	Forbes

NOES—236

Abercrombie	Dingell	Kuhl (NY)
Ackerman	Doggett	Lampson
Allen	Donnelly	Langevin
Altmore	Doyle	Lantos
Andrews	Edwards	Larsen (WA)
Arcuri	Ellison	Larson (CT)
Baca	Ellsworth	Lee
Baird	Emanuel	Levin
Baker	Emerson	Lewis (GA)
Baldwin	Eshoo	Lipinski
Barrow	Etheridge	LoBiondo
Becerra	Farr	Loebsack
Berkley	Fattah	Lofgren, Zoe
Berman	Ferguson	Lowey
Berry	Filner	Lynch
Bishop (GA)	Fossella	Maloney (NY)
Bishop (NY)	Fox	Markey
Blackburn	Frank (MA)	Marshall
Blumenauer	Gerlach	Matheson
Boozman	Giffords	Matsui
Boren	Gilchrest	McCarthy (NY)
Boswell	Gillmor	McCotter
Boucher	Gonzalez	McGovern
Boyd (FL)	Green, Al	McIntyre
Boya (KS)	Grijalva	McNerney
Brady (PA)	Gutierrez	McNulty
Bralley (IA)	Hall (NY)	Meek (FL)
Brown, Corrine	Hall (TX)	Meeks (NY)
Burgess	Hare	Melancon
Butterfield	Harman	Michaud
Capps	Hastings (FL)	Miller (NC)
Cardoza	Herseth Sandlin	Miller, George
Carnahan	Higgins	Mitchell
Carson	Hill	Mollohan
Carter	Hinche	Moore (KS)
Castle	Hinojosa	Moore (WI)
Castor	Hiron	Moran (KS)
Chandler	Hodes	Murphy (CT)
Clay	Holden	Murphy, Patrick
Cleaver	Holt	Murtha
Clyburn	Hooley	Nadler
Coble	Hoyer	Napolitano
Cohen	Inslee	Neal (MA)
Conyers	Israel	Oberstar
Cooper	Jackson (IL)	Obey
Costa	Jackson-Lee	Olver
Costello	(TX)	Ortiz
Courtney	Jindal	Pallone
Cramer	Johnson (GA)	Pascarell
Crowley	Johnson, E. B.	Pastor
Cuellar	Jones (NC)	Perlmutter
Cummings	Jones (OH)	Peterson (MN)
Davis (AL)	Kagen	Peterson (PA)
Davis (CA)	Kanjorski	Pomeroy
Davis (IL)	Kaptur	Porter
Davis, Lincoln	Kennedy	Rahall
DeFazio	Kildee	Ramstad
DeGette	Kilpatrick	Rangel
DeLahunt	Kind	Reyes
DeLauro	Klein (FL)	Reynolds
Dicks	Kucinich	Rodriguez

NOT VOTING—42

Bean	Honda	Pryce (OH)
Cantor	Hulshof	Radanovich
Capuano	Hunter	Rogers (KY)
Carney	Jefferson	Rothman
Clarke	Johnson, Sam	Ryan (WI)
Cubin	Linder	Sestak
Culberson	McCarthy (CA)	Simpson
Davis, Jo Ann	McCollum (MN)	Smith (WA)
Engel	McDermott	Tancredo
Feeney	Moran (VA)	Tierney
Gillibrand	Myrick	Udall (CO)
Gordon	Payne	Waxman
Green, Gene	Platts	Weller
Hastert	Price (NC)	Yarmuth

□ 1129

Mr. BOREN changed his vote from “aye” to “no.”

Messrs. FRANKS of Arizona, POE, WESTMORELAND, SESSIONS, and BROUN of Georgia changed their vote from “no” to “aye.”

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mrs. MYRICK. Madam Speaker, I was unable to participate in the following vote. If I had been present, I would have voted as follows: Rollcall vote No. 781, on motion to adjourn, I would have voted “aye.”

Stated against:

Mr. WELLER of Illinois. Mr. Speaker, on rollcall No. 781, I was stuck in an elevator with several other Members. Had I been present, I would have voted “no.”

Mr. SESTAK. Madam Speaker, on rollcall No. 781, had I been present, I would have voted “no.”

PROVIDING FOR CONSIDERATION OF H.R. 3162, CHILDREN'S HEALTH AND MEDICARE PROTECTION ACT OF 2007

Ms. CASTOR. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 594 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 594

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3162) to amend titles XVIII, XIX, and XXI of the Social Security Act to extend and improve the children's health insurance program, to improve beneficiary protections under the Medicare, Medicaid, and the CHIP program, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The amendment in the nature of a substitute recommended by the Committee on Ways and

Means now printed in the bill, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions of the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) two hours of debate, with one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit with or without instructions.

SEC. 2. During consideration of H.R. 3162 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

□ 1130

UNFUNDED MANDATE POINT OF ORDER

Mr. SESSIONS. Madam Speaker, I make a point of order against consideration of H. Res. 594 because the first section of the rule waives all points of order against H.R. 3162 and its consideration, except clauses 9 and 10 of rule XXI. This waiver includes points of order under the Unfunded Mandates Reform Act.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

In accordance with section 426(b)(2) of the Act, the gentleman from Texas has met the threshold burden to identify the specific language in the resolution on which the point of order is predicated.

Under section 426(b)(4) of the Act, the gentleman from Texas and the gentleman from Florida each will control 10 minutes of debate on the question of consideration.

Pursuant to section 426(b)(3) of the Act, after the debate the Chair will put the question of consideration, to wit: "Will the House now consider the resolution?"

The Chair recognizes the gentleman from Texas.

Mr. SESSIONS. Madam Speaker, while the CBO estimate in the report from the Committee on Ways and Means does not identify any unfunded mandates, it's important to note that there are and that there is no such estimate for the amendment self-executed by the closed rule reported in the dead of night by the majority's Rules Committee. We have no way of knowing whether these new provisions, which we did not see before midnight last night, will impose strict new intergovernmental mandates on our State and local governments.

Furthermore, this new language appears to be littered with earmarks for hospital-specific projects. We do not have a list of the Members requesting those projects, and we do not know if the proper certifications have been filed with the authorizing committees.

Therefore, Madam Speaker, it is essential that we stop, take a breather and put off consideration of this hastily drafted legislation, which was totally rewritten in the dead of night, behind closed doors.

I urge my colleagues to vote "no" on the question of consideration.

I yield to the gentleman from California.

Mr. DREIER. Madam Speaker, I wish to be heard on the gentleman's point of order.

I would just like to buttress the arguments that have been provided by my friend from Dallas. It was about 1 o'clock this morning that the Rules Committee convened, after having had this package for a half an hour. And I know my very dear friends on the Rules Committee, who probably haven't gotten a heck of a lot of sleep last night, remember very well that into the evening I had been handed by members of my staff a list of some of these hospitals that were specifically raised, that the concern that was raised by my friend from Dallas. And I've got to tell you that as I look at the hospitals in the Nashville, Davidson, Murfreesboro area in Cumberland County, Tennessee, and Marionette, Wisconsin and Michigan and Chicago and Massachusetts and New York, Clinton County, New York, we, Madam Speaker, don't understand what these are.

As my friend has just said, there are no names attached to this whatsoever. And we were promised this great new sense of openness and transparency and disclosure and accountability, and none of that has happened here.

And so I join my friend in saying that what we should probably do, if we are going to proceed here, is take a breather. I think that would be the right thing for us to do.

Mr. SESSIONS. Madam Speaker, I reserve the balance of my time.

Ms. CASTOR. Madam Speaker, I yield myself such time as I may consume.

This point of order is about whether or not to consider this rule and, ultimately, the Children's Health and Medicare Protection Act. We will stand up for our children and the hard-working families in America and fight through these delaying tactics trying to put off having our parents be able to take their kids to the doctor's office. They deserve no less.

We're going to fight through all these procedural delays today, as we did yesterday, because these parents and children's health in America simply will not wait. We must consider this rule, and we will consider and vote and pass the CHAMP Act today.

I have the right to close, but, in the end, I will urge my colleagues to vote "yes" to consider the rule.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, the new Democrat majority promised the American people and those Republicans

who are now in the minority that this would be an open and transparent new way of doing business by Democrats. We were told back in January and February, oh, the only reason we're doing closed rules is because we've got to do them to get our agenda through quickly, because we're not going to allow anybody to stop that. Six in '06 has to be done.

Well, Madam Speaker, there were no hearings even done on this with the text of the bill that the committee could look at. Last night, 30 minutes before we went into Rules Committee, we had an opportunity to see the language.

On top of the \$200 billion Medicare cuts, the Democrats have now slipped in extra hospital funding for powerful Democrat districts. That means where Democrats are they've slipped in these brand new earmarks, right there for them.

We have not had an opportunity to look at the bill, we don't know whether the proper notification has been done, and so what we're saying now today is that what we should do is take a few minutes and sit back and look.

I yield to the gentleman from California.

Mr. LEWIS of California. Madam Speaker, I very much appreciate the gentleman from the Rules Committee raising these very, very important questions.

Our membership should know, and I think the American public will want to know, that one of the reasons to have a meeting in the dead of the night to make changes in this package is because this package, in the name of helping children, is designed to do much more than that. As a matter of fact, the SCHIP program, in its original form, was an excellent program, working very well to help children who are uninsured, on the margin of poverty.

The design of this bill is to expand that program into eventually all children and pushing them off of private health care, et cetera. The real plan here is to set the stage for a movement of the next gigantic step in the direction of what should be called "Hillary Care," national socialized medicine. Literally, that's what they're about.

The program has been working very well. It does need some additional funding. These States do not need the opportunity to expand these programs not just to illegals but to children who presently, in high percentages, are already in private health care systems. Their design is obviously a design that goes way beyond the stated purpose for this bill.

I appreciate my colleague yielding.

Mr. SESSIONS. Madam Speaker, last night in the Rules Committee we had an opportunity to see firsthand what this new Democrat majority is all about. And not one time, not one time, was the word let's make health care better for America, not one time was it about trying to make things better for

doctors and hospitals and patients. It was a slam dunk, hit 'em out of bounds, the doctors, who they claim make all this money, who it's all about the doctors making money.

And I had an opportunity to engage those people who represented the Ways and Means Committee and the Commerce Committee, and I said, hey, during your hearings, that you talk about you having all these hearings, did anyone ever bring up that specialty hospitals are those many times joint ventures with hospitals where they're trying to take care of patients who come for elective surgeries to get them out of hospitals that are full, emergency rooms that are backed up, and then we've got a problem with health because of bacteria in the hospitals. And these hospitals are safer and offer elective surgery to get people in and out that is much cheaper and safer and better.

They acted like it was a foreign concept. They acted like they had never heard about the marketplace before.

I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding and appreciate his very thoughtful remarks on this.

I was talking earlier about these earmarks that have been included in this measure that have no names attached to them whatsoever. They cover the States of Tennessee and Michigan and New York and other spots, and we don't have any comprehension of them, and I guess that's allowed.

Now, it wouldn't have been allowed in the last Congress, because when we passed earmark reform; Madam Speaker, let me just explain to my colleagues who may be a little confused on this, that when we passed earmark reform in September of last year we said that there should be full disclosure, a full listing, full transparency on all appropriations bills and on all tax bills and other authorizing legislation.

Now, Madam Speaker, unfortunately, when we came forward, and of course we were maligned for having passed that earmark reform in the last Congress, but when we finally came forward and rectified the structure that allowed people to only send a letter to the chairman of the Appropriations Committee if they wanted to raise concern, but they had no ability whatsoever to raise concern or raise a point of order on the House floor about an earmark, we saw that, finally agreed to it.

But guess what, Madam Speaker?

Unfortunately, the authorizing legislation including tax bills was completely omitted, completely omitted from this transparency plan that we had in the 109th Congress. And so that's, I guess, why it's allowed to include all of these hospitals in this measure without having any names attached to them, without any opportunity whatsoever to raise questions about them; and so I continue to support the effort of my friend here.

Mr. SESSIONS. Madam Speaker, we believe that the earmarks which have

been presented, which the way this bill has come to the floor, is not properly done. It did not follow regular order. It is without the transparency that the new Democrat majority has touted and talks about every single day. It is without the smell test of ethics to know, straight up, what somebody is going to spend money on, the people's money. And because of that, we are opposing and asking that this bill go back and be properly done to where everyone can understand.

I reserve the balance of my time.

□ 1145

Ms. CASTOR. Madam Speaker, I understand that I have the right to close, so I will reserve the balance of my time until the gentleman from Texas has yield back his time.

Mr. SESSIONS. Madam Speaker, I would like to inquire how much time remains.

The SPEAKER pro tempore. The gentleman has 30 seconds remaining.

Mr. SESSIONS. Madam Speaker, I believe that the case that we are making here today is a smell test, and that is that if the new Democrat majority wants to have closed rules, not have openness with regular order, not present bills before they would be voted on to allow people enough time to see what is in them and to be transparent about what is in the bills and who is getting the money and who is spending the money, you have not passed the smell test. And thus we are asking that you not do what you are doing.

We oppose the Democrat majority.

Madam Speaker, I yield back the balance of my time.

Ms. CASTOR. Madam Speaker, I urge my colleagues to reject these dilatory tactics. Health care for America's children cannot be delayed or denied. I urge a "yes" vote on the question of consideration.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is: Will the House now consider the resolution?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SESSIONS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 222, nays 197, not voting 13, as follows:

[Roll No. 782]

YEAS—222

Abercrombie	Bishop (GA)	Carney
Ackerman	Bishop (NY)	Carson
Allen	Blumenauer	Castor
Altmire	Boren	Chandler
Andrews	Boswell	Clay
Arcuri	Boyd (FL)	Cleaver
Baca	Boyd (KS)	Clyburn
Baird	Brady (PA)	Cohen
Baldwin	Brown, Corrine	Conyers
Barrow	Butterfield	Cooper
Becerra	Capps	Costa
Berkley	Capuano	Costello
Berman	Cardoza	Courtney
Berry	Carnahan	Cramer

Crowley	Kaptur	Rangel
Cuellar	Kennedy	Reyes
Cummings	Kildee	Rodriguez
Davis (AL)	Kilpatrick	Ross
Davis (CA)	Kind	Roybal-Allard
Davis (IL)	Klein (FL)	Ruppersberger
Davis, Lincoln	Kucinich	Rush
DeFazio	Lampson	Ryan (OH)
DeGette	Langevin	Salazar
Delahunt	Lantos	Sánchez, Linda
DeLauro	Larsen (WA)	T.
Dicks	Larson (CT)	Sanchez, Loretta
Dingell	Lee	Sarbanes
Doggett	Levin	Schakowsky
Donnelly	Lewis (GA)	Schiff
Doyle	Lipinski	Schwartz
Edwards	Loeb sack	Scott (GA)
Ellison	Lofgren, Zoe	Scott (VA)
Emanuel	Lowe y	Serrano
Engel	Lynch	Sestak
Eshoo	Mahoney (FL)	Shea-Porter
Etheridge	Maloney (NY)	Sherman
Farr	Markey	Shuler
Fattah	Matheson	Sires
Filner	Matsui	Skelton
Frank (MA)	McCarthy (NY)	Slaughter
Giffords	McCollum (MN)	Smith (WA)
Gillibrand	McDermott	Snyder
Gonzalez	McGovern	Solis
Gordon	McIntyre	Space
Green, Al	McNerney	Spratt
Green, Gene	McNulty	Stark
Grijalva	Meek (FL)	Stupak
Gutierrez	Meeks (NY)	Sutton
Hall (NY)	Melancon	Tanner
Hare	Michaud	Tauscher
Harman	Miller (NC)	Taylor
Hastings (FL)	Miller, George	Thompson (CA)
Herseth Sandlin	Mollohan	Thompson (MS)
Higgins	Moore (KS)	Tierney
Hill	Moore (WI)	Towns
Hinche y	Moran (VA)	Udall (CO)
Hinojosa	Murphy (CT)	Udall (NM)
Hirono	Murphy, Patrick	Van Hollen
Hodes	Murtha	Velázquez
Holden	Nadler	Visclosky
Holt	Napolitano	Walz (MN)
Honda	Neal (MA)	Wasserman
Hooley	Oberstar	Schultz
Hoyer	Obey	Waters
Inslee	Oliver	Watson
Israel	Ortiz	Watt
Jackson (IL)	Pallone	Waxman
Jackson-Lee	Pascrell	Weiner
(TX)	Pastor	Welch (VT)
Jefferson	Payne	Wexler
Johnson (GA)	Perlmutter	Wilson (OH)
Johnson, E. B.	Peterson (MN)	Woolsey
Jones (OH)	Pomeroy	Wu
Kagen	Price (NC)	Wynn
Kanjorski	Rahall	Yarmuth

NAYS—197

Aderholt	Castle	Gilchrest
Akin	Chabot	Gillmor
Alexander	Coble	Gingrey
Bachmann	Cole (OK)	Gohmert
Bachus	Conaway	Goode
Baker	Crenshaw	Goodlatte
Barrett (SC)	Cubin	Granger
Bartlett (MD)	Davis (KY)	Graves
Barton (TX)	Davis, David	Hall (TX)
Biggert	Davis, Tom	Hastert
Bilbray	Deal (GA)	Hastings (WA)
Bilirakis	Dent	Hayes
Bishop (UT)	Diaz-Balart, L.	Heller
Blackburn	Diaz-Balart, M.	Hensarling
Blunt	Doolittle	Heger
Boehner	Drake	Hobson
Bonner	Dreier	Hoekstra
Bono	Duncan	Hulshof
Boozman	Ehlers	Hunter
Boustany	Ellsworth	Inglis (SC)
Brady (TX)	Emerson	Issa
Broun (GA)	English (PA)	Jindal
Brown (SC)	Everett	Johnson (IL)
Brown-Waite,	Fallin	Jones (NC)
Ginny	Feeney	Jordan
Buchanan	Ferguson	Keller
Burgess	Flake	King (IA)
Burton (IN)	Forbes	King (NY)
Buyer	Fortenberry	Kingston
Calvert	Fossella	Kirk
Camp (MI)	Foxo	Kline (MN)
Campbell (CA)	Franks (AZ)	Knollenberg
Cannon	Frelinghuysen	Kuhl (NY)
Cantor	Gallegly	LaHood
Capito	Garrett (NJ)	Lamborn
Carter	Gerlach	Latham

LaTourette	Pence	Shays
Lewis (CA)	Peterson (PA)	Shimkus
Lewis (KY)	Petri	Shuster
Linder	Pickering	Simpson
LoBiondo	Pitts	Smith (NE)
Lucas	Platts	Smith (NJ)
Lungren, Daniel E.	Poe	Smith (TX)
Manzullo	Porter	Souder
Marchant	Price (GA)	Stearns
McCaul (TX)	Pryce (OH)	Sullivan
McCotter	Putnam	Terry
McCrery	Radanovich	Thornberry
McHenry	Ramstad	Tiahrt
McHugh	Regula	Tiberi
McKeon	Rehberg	Turner
McMorris	Reichert	Upton
Rodgers	Renzi	Walberg
Mica	Reynolds	Walden (OR)
Miller (FL)	Rogers (AL)	Walsh (NY)
Miller (MI)	Rogers (MI)	Wamp
Miller, Gary	Rohrabacher	Weldon (FL)
Mitchell	Ros-Lehtinen	Weller
Moran (KS)	Roskam	Westmoreland
Murphy, Tim	Royce	Whitfield
Musgrave	Ryan (WI)	Wicker
Myrick	Sali	Wilson (NM)
Neugebauer	Saxton	Wilson (SC)
Nunes	Schmidt	Wolf
Paul	Sensenbrenner	Young (AK)
Pearce	Sessions	Young (FL)
	Shadegg	

## NOT VOTING—13

Bean	Davis, Jo Ann	Rogers (KY)
Boucher	Johnson, Sam	Rothman
Bralley (IA)	Mack	Tancredo
Clarke	Marshall	
Culberson	McCarthy (CA)	

□ 1210

Mr. EHLERS changed his vote from "yea" to "nay."

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BRALEY of Iowa. Madam Speaker, on rollcall No. 782, I was questioning former Secretary of Defense Donald Rumsfeld during a hearing investigating the circumstances surrounding the death of Corporal Pat Tillman, in the Committee on Government Oversight and Reform, and was unavoidably detained. Had I been present, I would have voted "yea."

The SPEAKER pro tempore. The gentlewoman from Florida is recognized for 1 hour.

Ms. CASTOR. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only.

I yield myself such time as I may consume.

## GENERAL LEAVE

Ms. CASTOR. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 594.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Ms. CASTOR. Madam Speaker, House Resolution 594 provides for consideration of H.R. 3162, the Children's Health and Medicare Protection Act of 2007.

The rule provides 2 hours of general debate in the House, with 1 hour controlled by the Committee on Ways and

Means and 1 hour controlled by the Committee on Energy and Commerce.

The rule waives all points of order against consideration of the bill, except for clauses 9 and 10 of rule XXI.

The rule makes in order the Ways and Means Committee substitute, modified by an amendment printed in the Rules Committee report. That amendment reflects a compromise between the committees of jurisdiction. The rule provides one motion to recommend, with or without instructions.

Madam Speaker, in our great country today, the wealthiest country in the world, parents still struggle to ensure that their children lead healthy lives.

Is there anything more important, after the birth of your child, than visits to the pediatrician and the care of devoted nurses? And as your baby grows, is there anything more fundamental than regular checkups and physicals?

Many dedicated doctors and nurses are on call at all hours when, God forbid, something goes wrong or your child is sick. Fortunately, in America today, many hardworking families have regular and affordable health care through the State Children's Health Insurance Program, what we called SCHIP; and today the Congress will vote to extend and improve children's health insurance for another 5 years.

Regular, accessible and affordable health care puts children on a path to success in life. A healthy child is a healthy student. A healthy child means more productive parents who do not miss work. Healthy students become productive adults. They succeed in life and eventually make America stronger.

Every parent and grandparent in America today understands the importance of our debate and our fight to ensure that children can see a doctor or a nurse and have access to affordable health care.

Despite all that we understand about the importance of healthy kids and early preventative care, health insurance and those all-important visits to the doctor are all too expensive and out of reach for over 11 million children in America.

□ 1215

Uninsured children are five times less likely than insured kids to have a primary care doctor or to have visited a doctor or a dentist in the past 2 years. This lack of access in medical attention harms that child, the family, the community back home and ultimately this great country.

Madam Speaker, I urge my colleagues today to stand up and fight for these families and America's children by passing this rule and supporting the House Children's Health Insurance Reauthorization bill, the Children's Health and Medicare Protection Act, or the CHAMP Act.

I am proud to say that the precursor to SCHIP originated in the 1990s as a novel plan by State leaders in my home

State of Florida. These innovators understood the link between healthy kids and success in school. They helped parents with direct information on access to affordable health care for their kids.

President Clinton and the Congress were so impressed by what the State of Florida was doing for children's health care that they took the Florida KidCare blueprint and fashioned a national program. It has enjoyed national success and bipartisan support ever since. Indeed, the overwhelming majority of Governors in this country support the reauthorization of SCHIP.

Madam Speaker, I include for the RECORD a letter of support from Republican Governor of Florida, Charlie Crist.

STATE OF FLORIDA,  
OFFICE OF THE GOVERNOR,  
Tallahassee, FL, August 1, 2007.

Hon. KATHERINE CASTOR,  
Washington, DC.

DEAR CONGRESSWOMAN CASTOR: Thank you for your continued leadership on the reauthorization of the State Children's Health Insurance Program (SCHIP). As you know, renewing this program is critical to the approximately two million children and families currently eligible for SCHIP in our State.

As Governor, I too want to ensure that low-income children have access to quality health insurance, and commend the Florida Delegation for working so hard over the past several months to ensure that this important program is reauthorized before it expires on September 30, 2007.

The proposals of the Senate Finance and House Energy & Commerce Committees have positive components that I believe will make this program stronger. However, as Congress progresses toward a final product, I wanted to bring your attention to the core principles that I believe are essential to ensuring SCHIP remains dedicated to its original intent.

Children Should Be the Cornerstone of SCHIP Funding; States Need the Flexibility to Dispense SCHIP Funding Over Multiple Years; Federal SCHIP Funding Should Be Based on Projected Spending and Allow for Population Growth; States Need the Flexibility and Funding to Conduct Additional Outreach Activities.

Thank you again for your commitment to the KidCare program and to Florida's children and families. I look forward to working together to ensure that the thousands of eligible children in our state receive the highest quality benefits through this important healthcare program.

Sincerely,

CHARLIE CRIST,  
Governor.

Despite the great success across the country, 11 million children in the United States remain uninsured. Almost 7 million of them are eligible but not enrolled in the State-Federal children's health care program. Two-thirds come from working families in which one or both parents are working but were not offered employer-based health insurance or were unable to afford it. Most of these families are taking home under \$40,000 per year. In my home State of Florida alone, over 700,000 children remain uninsured.

A few months ago, I ran into a high school friend of mine, Mia Dorton, and she explained how important the Children's Health Insurance Program had

become to her and her family. You see, Mia's husband lost his job and the family was uninsured for 2 months. Mia said, "It's awful to have to choose between whether or not to put food on the table or take your child to a doctor." Mia said that she and her husband lived in constant fear that one of their children would get sick or injured.

When he got a new job, the health insurance for the family was over \$700 a month, so Mia told me that they just couldn't swing it. But when her KidCare application was approved, she said that this revolutionized her life.

So for the many working families in my district that struggle for access to affordable health care and all of these great families across America, this low-cost insurance is the only way to make ends meet.

Access to health care for working families throughout America through this innovative partnership of Federal, State and local communities is a winning proposition. Indeed, for every 29 cents the State provides, Federal SCHIP provides 71 cents. It's the best matching rate in children's health care. This bill will make it easier for parents and kids to get to the doctor's office. It will eliminate that costly, bureaucratic red tape.

Madam Speaker, we will fight through these procedural delays today that have been brought by the other side of the aisle. We will stand on the side of America's children and hard-working parents. The new direction we chart today for healthier children fulfills the promise of America.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I rise today in strong opposition to yet another closed rule and to the ill-conceived underlying legislation.

While I do not support this bill nor the way it has been brought to the floor without a single legislative markup, I would like to thank the Democratic leadership for one thing: By cramming this bill through the House, they are giving every single Member of this body the opportunity to go on record regarding which vision for the future our Nation's health care system should take.

Madam Speaker, for that, I truly appreciate and respect what the Democrat leadership has done.

The first vision for our future, for them, is to slowly shift as many Americans as possible into a one-size-fits-all government program. You know what it has been called in the past: Socialized medicine.

I congratulate the Democrat leadership, because that vision is ably embodied in the bill today, H.R. 3162. Rather than using this bill as an opportunity to cover children who cannot obtain coverage through Medicaid or the private market, this bill uses children as pawns in their cynical attempt to make millions of Americans completely reliant upon the government

for their health care needs. And you know what they say, Madam Speaker: If you think health care is expensive now, wait until it's free.

Democrat advocates of bureaucrat-run, Washington-run health care fails to disclose how they would achieve this vision. Republicans who actually care about covering children created SCHIP so that children who had no insurance coverage through Medicaid or the insurance market could get it without bankrupting the Federal Government or dislocating a healthy marketplace.

H.R. 3162 turns this innovative vision on its head by increasing government spending exponentially, leaving taxpayers holding the bag for these increased costs. This bill has no income limits for eligibility, no annual authorization limit, and allows States to determine who qualifies, despite the fact that the Federal Government is on the hook 100 percent of the time. This is on top of a current system which we know that some States already abuse. Minnesota spends 61 percent of its children's health care insurance on adults, while Wisconsin spends 75 percent of its children's health care money on adults, taking scarce resources away from the intended target, children.

But the real losers under this big government vision are patients. For 100 children who are enrolled in the new SCHIP proposal, 25 to 50 children will leave private insurance, according to the Congressional Budget Office; 77 percent of children at between 200 and 300 percent of the Federal poverty level already had insurance in 2005.

As we all know, being a part of the government-run health care program does not mean better quality. Since most SCHIP programs reimburse at Medicaid rates, many of these new SCHIP enrollees will encounter significant difficulties accessing care. American Medicaid patients, for example, are currently waiting as long to see a specialist or to have surgery as patients in Canada.

If Democrats were serious about ensuring that every American has access to inexpensive and high-quality health care, we would be taking a different vision and a different direction for our health care; one that tackles the system's real underlying problems and revolutionizes and gives incentives to our health care system to provide better results.

All families should have access to tax exemptions up to \$15,000 a year for health care, not just those who work for large employers. Congress should spend its time passing a law to give Americans the ability to purchase health insurance across State lines, because health insurance options should not be limited by your zip code.

Congress should be working to ensure that those who can't get insurance on the market have access to coverage through high-risk pools and low-income tax credits.

Madam Speaker, I am not here to oppose the idea of SCHIP. It was a Repub-

lican-controlled Congress that created SCHIP. I do support its true mission. But H.R. 3162 is a camouflaged attempt at slowly siphoning Americans away from insurance plans into a big, Washington, D.C. government-run system.

To pay for this flawed, big government vision, this legislation robs seniors by forcing many of them out of their existing Medicare coverage at a time when our Nation is looking for better ways to sustain Medicare's future. Medicare part C is an innovative plan that is working well by bringing choices into Medicare. After these seniors are harmed in the long run, it is the taxpayers who will be stuck with the rest of the bill for this incredible expansion of government and intrusion into our lives in taking away our choices.

Republicans have already proven this would be a positive, innovative vision that can work. Two years ago, Members from both sides of the aisle came together to pass the Dylan Lee James Family Opportunity Act, or FOA. We learned that many children with disabilities fell into a catch-22 circumstance in which their families made too much to qualify for Medicaid but could not afford or access private coverage, so these children often went without coverage. FOA was a common-sense solution which filled a void and provided coverage for these children up to 300 percent of the poverty level.

Madam Speaker, we have two serious issues facing our Nation that we are dealing with right now: Medicare's future, and making our Nation's health insurance system more affordable and accessible for all Americans. By focusing the wrong vision for our future, the bill does nothing to address either problem.

It ignores the fact that our Nation produced the greatest health care advocates in the world, many of which come as a result of a competitive insurance market. The American survival rate for leukemia is 50 percent. The European rate is just right at 35 percent. For prostate cancer, the American survival rate is 81.2 percent. In France, it is 61.7 percent, and in England, it is 44.3 percent.

Rather than trying to emulate the European socialized, outdated approach, we should be working on a vision to give every single American an opportunity to take part in our competitive insurance market.

Madam Speaker, I encourage my colleagues to oppose this closed rule and the underlying legislation to drag America into a one-size-fits-all model of defeatism. Returning the balance of power, once again, to Washington, D.C. to run our health care plan is what the new Democrat majority is all about.

Madam Speaker, I oppose that.

Madam Speaker, I reserve the balance of my time.

Ms. CASTOR. Madam Speaker, the record of the House reflects that the Energy and Commerce Subcommittee

on Health did have at least seven hearings, full-blown hearings, on the matter at hand today, and the Ways and Means Subcommittee on Health had over 15 hearings, including four to six seminars for all of the Members involved. So to hear from the other side that there was no hearing whatsoever is not, in fact, the case.

At this time, I would like to yield 6 minutes to the gentlewoman from New York (Ms. SLAUGHTER), the distinguished chairwoman of the Committee on Rules and a leading advocate for children and seniors in this country, from a State that is renowned for its progressive health care institutions.

Ms. SLAUGHTER. Madam Speaker, I thank the gentlelady for yielding me the time.

Madam Speaker, I want to say that I am enormously proud of the accomplishments that we can credit to the Democratic-led Congress. From education to health care, from national security to increasing the minimum wage, great strides have been taken to make our country stronger, healthier, and better prepared for the future. And there is more to come.

But it is with special pride that I rise today, because I feel that what motivated me, and so many of my colleagues, to come to Washington in the first place was the thought that on any day a vote could be held that would improve the lives of millions of people throughout our beloved country.

□ 1230

And that is exactly the chance that we have been given today, the chance to vote for a bill that will improve medical care in the country, improve the health of our citizens, and offer new hope for literally millions of children who would otherwise be left with neither.

Madam Speaker, I think that every-one listening today recognizes the reality of the situation we face. Addressing the state of health care in our country is one of the most important issues to the American people for one simple reason: Our health care system is failing far too many Americans. Tens of millions of our citizens have no insurance and tens of million more are underinsured. For them, all of the medical wonders in the world that our doctors produce might as well not exist. When they fall ill or, worse, when their children are hurt or have a fever or need care, where do they turn? Far too often the answer is: Nowhere.

We need a comprehensive solution to this problem, and the citizens of the country expect and deserve no less. That is a challenge that we must confront together, and it will take time. But today, here and now, we have the chance to make a real dent in one of the most galling and shameful inadequacies of our health care system, and that is the lack of health care for America's children.

Congress created SCHIP in 1997 with broad bipartisan support. As a result, 6

million children currently have health care coverage that they otherwise would not have. In my home State of New York, nearly 400,000 children are enrolled, which is the second-highest number in the Nation.

There is a reason why President Bush pledged that he would fully fund SCHIP while he was on the campaign trail in 2004: It was because this program is enormously effective and enormously popular with the public.

And, yet, there is so much more to be done. Nine million American children still remain without health insurance. It is a situation that remains quite unconscionable.

The bill allows us to take an enormous step forward. It will cover 5 million more children, which will make 11 in total. That would be a truly historic change. Such a vast improvement is reason enough to support the legislation, but the bill does even more to strengthen the health of Americans.

It strengthens Medicare by expanding preventive benefits, as well as mental health services, a matter of grave importance to many of our citizens.

It reduces the costs for seniors and people with disabilities, who also often have low incomes; and it extends the policies that protect access to health care in rural communities, of vital importance to all of us.

What is more, the bill would prevent a proposed 10 percent cut in the Medicare reimbursement to physicians, replacing it with an increase for 2 years. We cannot afford to have more physicians say they can no longer afford to have Medicare patients. This is especially important for districts throughout the country, districts like mine where we are having trouble holding on to good doctors because of financial concerns that until now have not been addressed.

Finally, this bill will raise the tax on the price of cigarettes by 45 cents a pack, a significant preventative health care initiative in its own right. This act alone is projected to save tens of thousands of lives and billions in future health care costs by preventing more than a million children from taking up smoking.

Madam Speaker, in spite of these undeniable benefits and in spite of the overwhelming popularity and accomplishments of this program, SCHIP is under attack.

Sadly, the President proposed to greatly underfund SCHIP, a decision which would severely limit its effectiveness; and Republicans on the other side of the aisle agree with this approach.

But not content to merely limit the reach of SCHIP, we will today witness an attempt on the Republican side to sink this bill entirely, as, indeed, we have seen already several times this morning. In the face of all of the positive results coming from this program and all that it is set to achieve, the harshest rhetoric is going to be cast against it.

Madam Speaker, we all know that my Republican colleagues cannot really believe what they are arguing. Instead, their objective is a different one: to deny the Democrats a chance to talk about yet another legislative accomplishment. They are willing to do it at the expense of the health of the Nation's children, but we will not allow it. And those who argue against passing this bill are arguing in favor of the status quo, the same situation we faced more than 10 years when bold attempts to fundamentally reform our Nation's health care system were subjected to withering attacks.

What was the result? Reforms were blocked, and the national situation grew worse and worse with every passing year of Republican control.

I urge a "yes" vote on this rule and a "yes" on this bill, not only just for America's children but for their parents as well.

Mr. SESSIONS. Madam Speaker, I yield 4 minutes to the distinguished gentleman from San Dimas, California (Mr. DREIER), the ranking member of the Rules Committee.

Mr. DREIER. "Madam Speaker, this rule is an affront to the democratic process. The underlying bill will harm every single one of the 40 million Americans served by Medicare. At 1 a.m. this morning, with absolutely no meaningful opportunity to review the almost 700-page legislation, the Committee on Rules met to consider the resolution now before us. By now I should be used to it, but we cannot tolerate these continual attacks on democracy.

"When you refuse to allow half this House to speak and to give their amendments, you are cutting out half of the population of the United States from any participation in the legislation that goes on here. It defies reason and it defies common sense that political expediency and newspaper headlines could force this monumental legislation, probably the most monumental that any of us will do in our tenure in the Congress of the United States, to force it through the Chamber with little more than cursory consideration."

Madam Speaker, as eloquent as that statement was, it wasn't mine. That statement that I just read was in fact the statement delivered right here on the floor on June 26, 2003, by the now distinguished Chair of the Committee on Rules, my very good friend from Rochester, New York (Ms. SLAUGHTER).

It was offered during the debate on the Medicare prescription drug bill and the modernization act which passed and has provided access to affordable prescription drugs for seniors for the past several years.

Madam Speaker, if these words that I just offered from the distinguished Chair of the Rules Committee from back in 2003 were true then, they certainly are true now.

As Mr. SESSIONS said, last night, the Rules Committee met for 2½ hours in

the dark of night to try to figure out the intricacies of this bill, just shortly after we as Republicans, the minority, received the final text. What became clear last night is even the authors aren't clear about the effects of this legislation.

We had an in-depth discussion about specialty hospitals and whether this bill would deprive 150,000 constituents, our friend from Pasco, Washington (Mr. HASTINGS), a hardworking member of the Rules Committee, 150,000 of his constituents, whether or not it would prevent them from having access to hospital care.

First, our witnesses said, no, it wouldn't. Then they said, yes, it would. Then they said the hospital deserved to be closed because the physicians who own the hospital and serve that community were trying to "get away with something."

Now that is the round-and-about discussion we had on what is taking place in eastern Washington. That is just one isolated issue. You can just imagine how many more there are in this monstrosity of a bill. And the majority's answer to that question: Deny all amendments. Prevent anyone from having an opportunity to improve the bill.

Yes, Madam Speaker, we have the latest manifestation of the new Democratic philosophy described so eloquently in the Rules Committee last week. It was declared by one of our Rules Committee colleagues: If you have a problem with a bill, then no amendments for you. It is a circular logic at its worst.

I feel compelled to point out that even on the much-maligned Medicare prescription drug legislation that we had, we gave the gentleman from New York (Mr. RANGEL) a substitute. What do we get on this bill, in a word, we got absolutely nothing. No substitute, nothing.

Madam Speaker, there was no need to bring this bill before the Rules Committee at 1 a.m. this morning. The chairwoman of the Rules Committee began the 110th Congress by stressing that we would end the committee's so-called "California hours" that I imposed on them and have our meetings in the daylight. Well, I have to say, Madam Speaker, at 2:30 this morning the sun was not out. I have to say that this measure is one that clearly we support, SCHIP, but not this very undemocratic process and this horrible measure.

Ms. CASTOR. Madam Speaker, I am pleased to yield 1¼ minutes to the gentleman from Wisconsin, a true health care reformer, Dr. KAGEN.

Mr. KAGEN. Madam Speaker, this is a great day for our Nation's children. This is a great day for our seniors and their doctors. For, today, we will begin the necessary process of guaranteeing access to affordable care for the people who need it most, our children and elders.

And this is a great day for the House of Representatives as well, for we are

beginning to solve our Nation's most important domestic crisis, access to affordable health care for every citizen. The CHAMP Act begins to allow for the practice of medicine that really believes in prevention. We will finally provide dental and mental coverage for our kids. With this bill, we are being fiscally responsible and socially progressive, just like America; and I am proud to serve in a Congress that finally pays for its bills.

Today, we are shifting money away from overpaid insurance companies to benefit children and seniors. We are bringing down costs for the 80 percent of all Medicare patients who are now paying too much for their premiums. In my home State of Wisconsin, an additional 81,000 children will acquire coverage.

I was honored to work with the committee chairmen, Chairman RANGEL and Chairman DINGELL, to ensure that there will be an express lane to enroll kids who are already in similar programs and eliminate the late fee for those who signed up late who are in need.

People in America can see, the Democratic majority will leave "No Patient Left Behind."

Mr. SESSIONS. Madam Speaker, these debates are great. It gives everybody on both sides, including the Democrats who ran on an agenda of having socialized medicine, Washington, D.C.-run health care, they can come down to the floor of the House and talk about this is their model of a great bill.

We disagree.

Madam Speaker, I yield 5½ minutes to the gentleman from Pasco, Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Madam Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me this time to speak against this closed rule that bars every single Member of this House from offering an amendment to change this Democrat bill, a bill, Madam Speaker, which I am compelled to oppose.

This nearly 500-page bill is being rammed through the House with the Rules Committee meeting on this bill at 1 a.m. this morning and with no Members even being allowed to propose fixes or alternatives because we are told it is absolutely imperative that Congress act to provide government-run health care coverage to more Americans.

So I am compelled to ask: If the purpose of this bill is to provide more health care coverage for Americans, then why are the Medicare plans of over 8 million seniors in our country being put at risk by this legislation?

Why are over 150,000 Washingtonian State seniors going to have their Medicare Advantage health coverage put at risk by cuts in this bill?

Why are one in 12 seniors on Medicare in my congressional district facing a potential loss of their current coverage? How do you expand health

care to more Americans if you are forcing the elimination of Medicare plans that seniors have chosen?

Madam Speaker, even more troubling to me is a provision in this bill that would force the closure of the Wenatchee Valley Medical Center in my district in Wenatchee, Washington. After reading the bill, this health center wrote a letter to me that states: "Should section 651," of this bill, "be enacted into law as written, we foresee the likely closure of the Wenatchee Valley Medical Center and our outlying facilities in the next few years."

JULY 26, 2007.

Hon. MARIA CANTWELL,  
U.S. Senate,  
Washington, DC.

Hon. DOC HASTINGS,  
House of Representatives,  
Washington, DC.

DEAR SENATOR CANTWELL AND REPRESENTATIVE HASTINGS: Late yesterday, Representatives Dingell, Rangel, Stark and Pallone released legislation entitled the Children's Health and Medicare Protection Act of 2007 (CHAMP). Upon review of this bill, we discovered a provision, Section 651 that would be devastating to Wenatchee Valley Medical Center. It appears that this legislation is on a fast-track towards enactment by the House and possibly by the entire Congress.

We seek your immediate assistance in attempting: to either modify this provision or have it removed from the bill entirely.

Should Section 651 be enacted into law as written, we foresee the likely closure of WVMC and our outlying facilities in the next few years.

The Wenatchee Valley Medical Center was founded in 1940 in a rural and remote area of Washington State. The three founding physicians desired to establish something akin to the Mayo Clinic model in a medically underserved area. Through committed work, personal investment, risk taking, and collaboration over a geographic region that spans more than 12,000 square miles, the Medical Center has adhered to and largely achieved that model and vision.

The Wenatchee Valley Medical Center is organized as a hospital system. The system is located in eight different communities in the north-central area of Washington State. Those communities are Wenatchee, East Wenatchee, Moses Lake, Cashmere, Royal City, Omak, Tonasket, and Oroville. The Medical Center is one of the largest employers in its region with 1500 employees. Its physicians provide the majority of the admissions, medical support, and physician staffing for these community hospitals: Central Washington Hospital (Wenatchee); Wenatchee Valley Hospital (Wenatchee); Samaritan Hospital (Moses Lake); Mid-Valley Hospital (Omak); and North Valley Hospital (Tonasket).

The Wenatchee Valley Medical Center is a 100% physician-owned and directed hospital system. Each of the 150+ physicians who are "owners" of the WVMC own less than 1% of the Center. The proposed legislation would require us to stop being what we are and attempt to morph into something different. We have concluded that selling 60% of our hospital (to whom?) as required by Section 651, and preventing WVMC from growing beyond it's current bed size, as also required by Section 651 is non-sustainable, a death-knell.

We could attempt to cope initially by closing money-losing sites like Royal City, Tonasket, and Oroville. The closure of the latter two sites will have the corollary impact of depriving North Valley Hospital of seventy five percent of its medical staff, and

would likely result in its closure. We would have to drop money-losing services like the Medical Hospitalist program (\$550,000 loss per year) and Trauma Surgeon on-call program (\$850,000 loss per year) at Central Washington Hospital. We have supported those programs because they save lives, are cost-effective (for society at large), and are likely a pre-requisite to induce many physicians in the physician recruiting climate to any practice setting.

A broad and comprehensive delivery system in a rural region is an inter-connected and fragile organism. The proposed legislation fixes a problem that doesn't exist in either North Central Washington or the Wenatchee Valley Medical Center, and will unleash a series of decisions that will be deleterious in the short-run, and likely calamitous over the next five years. The proposal needs modification, and a significant increase in flexibility to reflect actual on the ground actualities in rural delivery systems.

The multi-specialty physician practice that is part of the Wenatchee Valley Medical Center includes more than 30 medical and surgical specialties in addition to a large number of primary care providers. The Medical Center provides the only services available in the region in the following specialties:

1. Medical Oncology
2. Radiation Oncology
3. Pulmonary Medicine
4. Medical Hospitalist
5. Surgical Hospitalist
6. Vascular Surgery
7. Neuro-Surgery
8. Cardiology
9. Rheumatology
10. Endocrinology
11. Nephrology
12. Gastroenterology
13. Neurology
14. Urology
15. Dermatology
16. Psychiatry

This year, the Wenatchee Valley Medical Center will serve more than 150,000 unique patients. Ninety four percent of those people reside in the four rural counties (Chelan, Douglas, Grant, Okanogan) where the Medical Center is located. The majority of these patients have long-standing relationships with the Wenatchee Valley Medical Center, some of those continuous relationships reach all the way back to the organization's founding. The four counties in North Central Washington have a combined population of 240,000. A comparison of the patients served by the Medical Center to the region's population indicates that the Medical Center is a key, and likely indispensable, component of the region's healthcare infrastructure.

The Wenatchee Valley Medical Center is a collaborator. It offers training opportunities to medical students and residents of the University of Washington and other medical schools; and has many training affiliations with area community colleges in the allied health professions. Wenatchee Valley Medical Center specialists outreach more than 1200 times annually to hospitals and clinics in outlying communities. Medical Center staff provides 24/7 coverage for the Emergency Room at North Valley Hospital in Tonasket. Medical Center staff provide 24/7 medical and surgical hospitalist coverage for the Trauma Center at Central Washington Hospital. The Medical Center is making its Computerized Medical Record available to all practitioners in the region, and its Patient Profile is being advanced by the Community Choice PHCO as a potential continuity of care record for the region.

The Wenatchee Valley Medical Center has a long-standing tradition of serving all comers, regardless of their ability to pay.

The Medical Center has a needs based Compassionate Care program that is well publicized and which will provide more than \$3 million in charitable care this year.

The Wenatchee Valley Medical Center is a cost-effective health care delivery system and is conservative in its ordering and treatment patterns. The Medical Center has ongoing focus and initiatives in areas like prescriptions, medical imaging, hospital and nursing home lengths of stay, and cardiovascular interventions.

The Medical Center is a Medicaid safety net provider, and accepts referrals from throughout the state. The Medical Center ranks among the top 5 Medicaid providers in Washington State. The region has a high and growing Medicare aged demographic. The Medical Center provides a variety of services needed by Medicare patients. The combination of Medicaid and Medicare represents sixty percent of the Wenatchee Valley Medical Center's volumes. Most healthcare financial analysts would maintain that those percentages are uneconomic and non-sustainable; that the cost-shift is too great.

As stated earlier, the Wenatchee Valley Medical Center is a hospital system. It was organized in that fashion in order to survive as a vital, dynamic contributor to healthcare and its delivery in North Central Washington. Having the opportunity to bill as a hospital provides the economic life ring that enables the Medical Center to compete in national markets for the physician recruits that our undermanned and health shortage regional delivery system is desperate for. Any "profits" earned by the Medical Center are plowed back into the delivery system; either to subsidize new services (like the recent opening of the Royal City Clinic in a community that was without healthcare for the last 2 years) or to invest in new services such as Image Guided Radiation Therapy and a Chemo-therapy Infusion Center in Moses Lake. The Medical Center is currently in the process of recruiting 29 new and replacement physicians to place throughout our region. A number of these recruits have been requested by the hospitals we co-labor with. There is significant working capital investment required to establish these practices, and frequently a tremendous facility investment needed to house these practices. Both of these investments are currently ongoing; and will be a death-trap if the proposed hospital self-referral legislation is enacted as currently drafted.

If you or your staff have questions or need additional information, please do not hesitate to contact our Administrator, Shaun Koos, Jay Johnson, our Associate Administrator or Bill Finerfrock our Washington DC Representative.

Your immediate consideration of this matter is critical to the continued availability of healthcare in North-Central Washington State. We look forward to working with you.

Sincerely,

DAVID WEBER,  
CEO/Chairman, Board of Directors,  
Wenatchee Valley Medical Center.

Madam Speaker, the Wenatchee Valley Medical Center was founded in 1940 by three physicians. In the last 67 years, it has grown and now employs 1,500, serves a population of a quarter of a million people in an area the size of Maryland, and treats 150,000 patients a year.

This bill would force its closure because it prohibits any hospital from being more than 40 percent owned by doctors if they are to continue to receive Medicare payments for providing care for seniors. The Wenatchee Valley

Medical Center is 100 percent opened by 150 doctors, and I fail to see why this should be made illegal in the United States of America.

At just after 2 a.m. this morning in the Rules Committee, I raised this concern with the two gentlemen representing the Ways and Means Committee and the Energy and Commerce Committee.

□ 1245

When I first asked why the medical center treating 150,000 patients should be forced to close, the initial reaction of Mr. PALLONE of New Jersey and Mr. McDERMOTT from Seattle, Washington, was that the medical center and I must be mistaken; we were wrong. They then stated that other hospitals had called them asking about this section as well.

Madam Speaker, something is terribly wrong in the House of Representatives if hospitals across this country are calling committees in a panic to find out if health care legislation is forcing them to shut down.

Subsequently, after some lengthy discussion in the early morning hours, the two Democrat committee representatives eventually acknowledged that I just might be right about what's going to happen in Wenatchee, and they said that's just what they intend to happen under this bill. Let me restate this. This is not an unintended consequence. It is an intentional consequence. My colleague from Seattle said that some people might squeal about what this bill does, but he stated that's what was needed to be done to save money. This bill saves money by putting the medical center out of business?

I sought to fix this provision by offering an amendment to the Rules Committee with Mrs. McMORRIS RODGERS from Washington whose constituents would also be affected by this bill. Our amendment simply would have removed one requirement of the bill that would force certain hospitals to close if more than 40 percent were owned by physicians. I'm dismayed, Madam Speaker, that on straight party-line vote that amendment was not allowed to be debated on the floor today.

Madam Speaker, I voted to create the SCHIP program, and I believe it must be renewed, but when we are faced with a bill that puts Medicare plans of over 150,000 seniors in Washington at risk and threatens the closure of the Wenatchee Valley Medical Center and all the patients it serves, I can't support this legislation.

I must ask, what else does this bill do that's not being explained? What other undiscovered ways will it reduce citizens' access to health care?

It doesn't have to be this way, Madam Speaker. This House can defeat this closed rule and we can have an opportunity to open the process. And with that, I urge my colleagues to vote against the rule and the underlying bill.

Ms. CASTOR. Madam Speaker, I'm pleased to yield 1 minute to the gentleman from Texas (Mr. EDWARDS), who

has been tireless in his efforts in standing up for healthier children in Texas and across America.

Mr. EDWARDS. Madam Speaker, the Children's Health Insurance Program is pro-family and pro-work.

It is pro-family because few things are more important to our families than the health of our children.

It is pro-work because it says to those on welfare, if you will get a job and go to work, you won't lose health care coverage for your children.

This bill is about helping those who are working hard to help themselves and their families, and that is a good thing to do. By passing this bill, we can ensure that 5 million American children will receive better health care. That is a cause worth fighting for, even if we have to step on the toes of some special interests to get it done.

All too often in years past under different leadership, Congress has fought hard for powerful special interests. Today is a new day. We have a chance to stand up for the interests of America's children, and we should do it for the sake of our children and for the future of our country.

Vote "yes" on this rule. Vote "yes" on this bill.

Mr. SESSIONS. Madam Speaker, I yield 2 minutes to the ranking member on Energy and Commerce, the gentleman from Ennis, Texas (Mr. BARTON).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. BARTON of Texas. Well, progress is being made. Last night, if you mentioned the word "SCHIP" on the House floor, a point of order was made that you couldn't talk about it. At least today we can talk about it.

I rise in the strongest possible opposition to this self-executing, closed rule. I want to just recapitulate the history of the SCHIP bill as it's come through the House and the Energy and Commerce Committee.

Last Tuesday night at 11:36 p.m., after the House had had its last vote, the minority on the Energy and Commerce Committee staff got the 465 SCHIP bill that was scheduled to be marked up the next morning, the following Wednesday, at 10 a.m. So that happened at 11:36 p.m. last Tuesday.

As we all know, last night the Rules Committee got the Ways and Means version of the SCHIP bill, I'm told, at 12:30 a.m. this morning, met at 1 a.m. this morning, reported out a closed, self-executing rule, with no amendments. What does that mean? A self-executing rule means if you pass the rule, everything that's in it automatically happens. There's no debate; there's no policy argument or anything. It just happens.

Now, this is from my friends on the majority side that when they became the majority said there was going to be openness; there was going to be transparency; Rules Committee wasn't

going to meet at midnight; we were going to include the minority in discussions. Such hypocrisy.

11:36 p.m. last Tuesday night we get a bill from over the transom that's 465 pages. Midnight last night, or this morning, Rules Committee meets at 1 o'clock, reports out a self-executing closed rule. That is a joke.

Vote "no" on this rule.

Ms. CASTOR. Madam Speaker, we will stay up day and night to bring better health care to America's children.

At this time, I'm pleased to yield 1 minute to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Madam Speaker, I rise today in support of the rule and to express my strong support for the Children's Health and Medicare Protection Act of 2007, which makes great strides in improving our Nation's health care system.

It chills the conscience to think that approximately 9 million American children are currently without health insurance.

There can be no justice until all of our children, our most valuable resource, are granted access to the most technologically advanced medical system in the world.

The CHAMP Act commits \$50 billion to reauthorize and improve SCHIP, our Nation's health care safety net for low-income, uninsured children.

The CHAMP Act would lift enrollment barriers and increase funding so that we can get our children the care that they need.

I'm also very pleased that Chairman DINGELL shares my commitment to improving children's access to dental care by including a guaranteed dental benefit and two other dental-related measures that I have requested in H.R. 3162. Chairman DINGELL also recognizes, as I do, that oral health is an important component for overall health.

With that, I urge the Members to vote for the rule and for the Act.

Mr. SESSIONS. Madam Speaker, if I could inquire upon the time remaining on both sides, please.

The SPEAKER pro tempore. The gentleman from Texas has 10¼ minutes. The gentlewoman from Florida has 13¼ minutes.

Mr. SESSIONS. Madam Speaker, I yield 1½ minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. I thank the gentleman.

Madam Speaker, I am in opposition to the proposed tax increase as a source of funding for the SCHIP program.

Tobacco is lawfully grown, marketed and consumed, and tobacco manufacturers to growers, Madam Speaker, employ thousands of citizens in my State, hundreds in my district. These manufacturers and growers, small and large, provide well-paying jobs and make valuable contributions to their communities.

At one time, Madam Speaker, tobacco was king. Now it is a beleaguered industry; yet it remains a convenient

whipping boy regarding the raising of revenue for this body.

When SCHIP was authorized and debated a decade ago, I did not support it because of its potential to become one more entitlement program that would, in time, cost more than what's projected. It has, Madam Speaker, surpassed my apprehensions in cost and scope.

Today, CBO projects that this expansion would cost nearly \$87 billion over the next 5 years. This has led to the proposal that billions of dollars be cut from Medicare providers such as hospitals and health care services, coupled with the increase in the tobacco tax, to finance this expansion.

I cannot condone such an abuse of taxpayers for a program that would take from one group of vulnerable citizens to expand services to citizens, in many instances, who are less vulnerable.

Ms. CASTOR. Madam Speaker, I'm pleased to yield 3 minutes to the gentlewoman from Ohio (Ms. SUTTON), a voice of clarity and one of the most outspoken advocates for the children of Ohio and all of America's children.

Ms. SUTTON. Madam Speaker, I thank the gentlewoman for yielding me the time and for her leadership on this very, very important issue.

Madam Speaker, today we act to ensure that 11 million children in this Nation will have access to the health care that they need.

With this legislation, we add 5 million more of our most vulnerable citizens to the Children's Health Insurance Program. With this legislation, we will finally ensure coverage for 95 percent of all children in need in this great country.

Our bill, the Children's Health and Medicare Protection, or CHAMP, Act reauthorizes and improves CHIP, while also making important improvements to the Medicare program and changes that will help reduce tobacco use in this Nation.

Children in the State of Ohio stand to benefit tremendously under this bill. The coverage of 218,500 currently enrolled in CHIP will be secured, and funding for the CHAMP Act will allow Ohio to reach another 164,000 children who have remained uninsured until this time.

Expanding and improving health care for our children is one of the most important things we can do to ensure a brighter future for our families and our communities and this country.

If our children do not have access to the health care they need, it affects their schooling, their home life and can have a severe impact on their ability to grow into a strong, well-rounded adult.

Madam Speaker, we hear a lot of purported excuses and lamenting from across the aisle about why we should not act to ensure that the children get the insurance they need here today.

Well, I want those Members to go explain to the families and the children in Ohio's 13th Congressional District,

who will now have access to the health care they so vitally need, why they oppose this legislation. These Members need to explain why it's okay that we can provide tax breaks to millionaires but can't afford the less than \$3.50 a day it takes to cover a child through CHIP.

If we do not pass this bill, children in my district will lose health coverage and families may have to face the consequences of medical debt, and we've seen it all too often lead to bankruptcy and foreclosure. That's unacceptable to me and my constituents.

On Medicare, Madam Speaker, the CHAMP Act also makes significant improvements toward improving benefits and limiting premium increases for beneficiaries. More than 202,000 Medicare beneficiaries in Ohio will be assured that their out-of-pocket costs for prescription drugs will not rise, and almost half a million beneficiaries in my home State with incomes under 150 percent of the poverty level will receive assistance with copayments and deductibles, as well as prescription drug costs.

Madam Speaker, I do have some concerns regarding changes in the Medicare policy on the purchase of power wheelchairs and the effect that this will have on Medicare beneficiaries with long-term debilitating conditions. But while I certainly support the overall bill, I hope that we can address this issue in conference or in some other matter in the near future to ensure people are not hurt.

I strongly support the rule and the underlying legislation.

Mr. SESSIONS. Madam Speaker, at this time, I ask unanimous consent that, as a result of the large number of Members who are coming down to speak, as a courtesy to these Members, that we would add 10 minutes to each side for debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Ms. CASTOR. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. SESSIONS. Do not want to talk further on this bill from the new Democrat majority.

Madam Speaker, at this time I yield 1½ minutes to the gentleman from Brighton, Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Madam Speaker, I think the thing that surprises me the most on this is the lack of honesty on this bill, and I think to the credit of many of my friends on the other side of the aisle, I don't think you've been told what's in this bill.

This isn't about poor, uninsured children. My dad used to say, if a salesman comes to you and talks about the needs of his kids before he talks about the quality of his product, beware; you're getting sold a bill of goods.

That's exactly what has happened today and in the previous days and why they don't want to talk about the bill, why they don't want amendments.

Why? It's the single largest cut in Medicare's program history. You are cutting Medicare to millions of seniors. I wouldn't want to talk about it either.

And what else are you doing? You're cutting stroke victims when they're in in-patient rehab. Stroke victims, our seniors, are going to cut that. Doctors, you're cutting doctors. You're cutting oxygen equipment and wheelchair services to seniors. You're cutting seniors' home health care. You're cutting hospital payments. You're cutting skilled nursing care for the sickest seniors in nursing homes. You're cutting dialysis services for kidney cancer patients. You're cutting imaging services for cancer and cardiac patients.

You're telling businesses we're going to make it more expensive for you to give health care to the working poor.

□ 1300

You are doing that in this bill. I bet many of you don't even know that. You are also telling seniors, by the way, once we slash the largest in history amount of money out of Medicare, your part B premiums are going up. We're going to make it more expensive for you. Less doctors taking Medicare patients, higher small business costs, higher Medicare premiums, not one dollar for the 700,000 under 200 percent of poverty who need our help.

Shame on you.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded, when their time is expired, they should cease.

Ms. CASTOR. Madam Speaker, I include for the RECORD the endorsement letter of our actions today by the AARP.

AARP,

Washington, DC, July 31, 2007.

Hon. NANCY PELOSI,  
Speaker, House of Representatives,  
Washington, DC.

DEAR MADAM SPEAKER: AARP strongly supports the Children's Health and Medicare Protection (CHAMP) Act (H.R. 3162). This well-balanced, fiscally responsible legislation addresses several priority issues for AARP's nearly 39 million members and their families. The legislation provides needed assistance to low-income Medicare beneficiaries; helps to ensure that beneficiaries maintain access to physicians; protects beneficiaries from significant additional increases in the Part B premium; covers millions of children in working families that cannot afford health insurance on their own; and includes additional changes that will improve the quality and efficiency of our nation's health care system.

HELPING LOW-INCOME MEDICARE BENEFICIARIES

The CHAMP Act will help more low-income Medicare beneficiaries with Part D drug costs and cost sharing in traditional Medicare by raising asset limits and streamlining requirements for the Part D Low Income Subsidy (LIS), and improving the Medicare Savings Programs (MSP) that assist lower income Medicare beneficiaries with premiums and cost-sharing in traditional Medicare.

Raising Part D asset limits to \$17,000 for individuals and \$34,000 for couples closes the coverage gap ("doughnut hole") and helps pay premiums and copays for more low-in-

come beneficiaries who did the right thing by saving a small nest egg for retirement. We should encourage people to save for retirement, not penalize those low-income savers with an asset test. Further raising the limits in subsequent years will ensure that more lower income beneficiaries have access to this needed subsidy.

Streamlining the LIS application by removing difficult and invasive questions—such as the cash value of life insurance and in-kind support—and aligning MSP rules with the LIS criteria, further reduces unnecessary barriers to valuable assistance for those who need it most.

HELPING TO MAINTAIN PHYSICIAN ACCESS AND KEEP MEDICARE AFFORDABLE FOR ALL BENEFICIARIES

The CHAMP Act helps ensure that beneficiaries maintain access to physicians. It also protects all Medicare beneficiaries from additional premium hikes associated with physician payment changes by reducing other Part B spending, including excess payments to private Medicare Advantage plans. Part B premiums have more than doubled since 2000, and this legislation strikes a balance between maintaining affordability for beneficiaries and ensuring that they are able to obtain physician services.

ENSURING MEDICARE TRUST FUND DOLLARS ARE SPENT WISELY

The CHAMP Act seeks to restore the balance between the traditional Medicare and Medicare Advantage program. AARP supports a genuine choice of Medicare coverage options for beneficiaries. But the Medicare Payment Advisory Commission has reported that Medicare Advantage plans are paid, on average, 12 percent more than traditional Medicare. This payment disparity is unfair to all taxpayers, as well as the vast majority of beneficiaries in traditional Medicare who pay higher premiums, who subsidize these excess payments. According to actuaries at the Centers for Medicare and Medicaid Services, these excess payments shorten the life of the Medicare Part A Trust Fund by two years.

AARP supports a level playing field between traditional Medicare and Medicare Advantage plans. Excess payments to MA plans should be phased out while protecting beneficiaries from disruptions during the transition period. Well-run managed care plans can continue to use provider networks, care coordination, and evidence-based practices to control costs while improving quality. The CHAMP Act helps to improve quality in Medicare Advantage by providing new beneficiary protections and requiring all types of plans—including private fee for service plans—to be subject to the same rules.

STRENGTHENING MEDICARE FOR THE FUTURE

The CHAMP Act helps to strengthen Medicare for both current and future beneficiaries by:

Expanding Medicare coverage and eliminating cost sharing for evidence-based prevention services to promote more cost-effective efforts to keep people healthy, rather than high-cost treatments once people suffer from preventable conditions.

Bringing parity to Medicare cost sharing requirements for mental health outpatient services.

Expanding demonstration projects to provide Medicare beneficiaries with a "medical home" in physician offices that can help coordinate their care to improve quality and efficiency while encouraging participation by reducing cost sharing responsibilities.

PROVIDING HEALTH COVERAGE TO MORE LOW-INCOME CHILDREN

The CHAMP Act strengthens the State Children's Health Insurance Program

(SCHIP). SCHIP is vitally important to many grandparents raising grandchildren. SCHIP also is a wise use of tax dollars, given the substantial long-term benefits that relatively low-cost children's coverage can provide. After all, productive working years and healthy aging both require an early start.

The legislation would allow states to cover more than 5 million uninsured low-income children who are currently eligible but not enrolled in the program, as well as make changes to help improve the quality of children's health care. Those benefiting most are children in families with working parents who do not earn enough to afford health care coverage without assistance, and who represent more than half of the estimated 9 million uninsured children in the country.

Increasing the federal tobacco tax to help offset SCHIP reauthorization is both fiscally responsible and smart health policy because it helps to reduce smoking rates, which yields health benefits of its own.

#### IMPROVING QUALITY AND EFFICIENCY

Finally, the CHAMP Act includes several additional provisions that will help to increase the quality and efficiency of our entire health care system. These include provisions to:

Fund a broadly representative non-profit organization, such as the National Quality Forum, to develop and promote use of consensus-based quality measures and advance the use of electronic health records.

Establish a Comparative Effectiveness commission to promote objective research comparing various drugs and other treatments for specific conditions to determine which are the most effective. This will help improve quality of care while reducing inappropriate, inefficient, and ineffective care.

Promote better understanding of racial and ethnic disparities in health care so the issues can be addressed.

In short, this package of health care changes will help both children and older Americans, as well as make positive improvements to our health care system. We appreciate your leadership and look forward to working with you to enact the bill into law this year.

Our members have expressed strong interest in knowing how their elected officials vote on key issues that affect older Americans and their families. As part of our ongoing effort to let our members know of action taken on key issues, we will be informing them how their Representatives vote when H.R. 3162, the Children's Health and Medicare Protection Act, comes to the House floor.

Sincerely,

WILLIAM D. NOVELLI,  
Chief Executive Officer.

Madam Speaker, I yield 1¼ minutes to my colleague from Florida (Mr. KLEIN), who has been fighting in the trenches for Florida's children and Florida's seniors and all of them across America.

Mr. KLEIN of Florida. Madam Speaker, I rise in support of this rule for the Children's Health and Medicare Protection Act of 2007, CHAMP.

I have been a strong supporter of the State Children's Health Insurance Program for many years, as many of our Members have. In Florida, we call it Healthy Kids; and it provides much-needed health care to hundreds of thousands of children who would otherwise not receive it. Democrats, Republicans, business and community leaders support this program because it empowers

families to provide health insurance for their children.

The CHAMP Act also addresses another important problem with our health care system by providing a critical payment update for the doctors. In south Florida, we are currently facing a severe shortage of qualified physicians, in part because of the way physician payments under Medicare are calculated.

I applaud Chairman DINGELL and the other drafters of the CHAMP Act for their immediate action to stave off the unreasonable cuts to physician payments.

I am concerned, however, with the way the CHAMP Act addresses the overpayments to Medicare Advantage plans. By scaling some payments back to traditional Medicare fee-for-service rates over the course of 4 years, seniors in my district may be at risk for losing some benefits. There may be some risk of losing some benefits, so I believe a more prudent proposal is to soften the impact of these changes to Medicare Advantage, and I look forward to working with the conferees to ensure that our elderly and vulnerable populations are supported by any changes to Medicare.

I ask my colleagues to support this rule and bill.

Mr. SESSIONS. Madam Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, most of my colleagues are aware of the tragic fact that since 1973, approximately 49 million innocent unborn babies have been brutally dismembered or chemically poisoned to death in what is euphemistically called choice.

Abortion methods are extraordinarily cruel. They are painful and violent. Indeed, abortion is an act of violence against children. Unborn children in America today have less protection than most animals, including fighting dogs and eagles.

It is dismaying and disappointing to me that H.R. 3162, a bill that purports to assist sick and disabled children, explicitly fails to acknowledge an entire class of children, unborn children. The aggressive demands of the abortion culture distorts reality even here. The impulse to deny unborn children any value or worth or dignity is so extreme that the bill doesn't include and wouldn't even make in order Mr. PRTTS' amendment to include acknowledgment that these young and vulnerable patients often need intervention, including microsurgery and blood transfusion, just like any other patient.

Why the bias against the innocent unborn? The Bush administration's policy promulgated in 2002 is put at risk. That was and is a progressive policy—a policy of inclusion. I am very disappointed in my colleagues on the other side of the aisle for failing to include all kids under this administration.

By way of background the administration promulgated the Unborn Child Rule to give

states the option to explicitly include unborn children as unique patients in their SCHIP programs. Eleven states, including California, Rhode Island, Massachusetts, Texas, Wisconsin, and Michigan now include explicit coverage for unborn babies in their programs. H.R. 3162 puts that enlightened and progressive policy at risk.

It's worth noting that the Bush 2002 Unborn Child Rule was savaged by the pro-abortion lobby. Planned Parenthood included it in their list of actions they regard as a war on women. Which of course is absurd. I guess when your organization kills 265,000 unborn children in Planned Parenthood clinics each year, you find it hard to think or say anything good about an unborn baby.

But, the underlying prejudice and bias that makes this vulnerable class of humans expendable and persona non grata should not be endorsed by this bill.

Vote "no" on the rule—give the Pitts amendment a chance to be voted on.

Ms. CASTOR. Madam Speaker, I ask unanimous consent to submit for the RECORD a letter received just yesterday from the Catholic Health Association, which states, in part, we believe the most important pro-life thing that Congress can do right now is to ensure that the State Children's Health Insurance Program is reauthorized. Children's lives and the lives of unborn babies depend on a strong SCHIP reauthorization. So we are standing up for these children and for pregnant women.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. PRICE of Georgia. Madam Speaker, reserving the right to object, I wonder if my friend is aware of the fact that the letter she is submitting to the RECORD or asking the House to allow for submission into the RECORD has significant conflicts.

Madam Speaker, I am not certain that she recognizes that, in fact, AARP, which is the letter that she provided earlier for the record, in fact, AARP is in competition for health insurance policies with Medicare Advantage. That's the dirty little secret that nobody wants you to appreciate.

So when these letters are put in the RECORD, it may seem that there are wonderful endorsements out there for this program. However, in fact, that isn't the case. It isn't the case with the AARP letter that was provided, and it likely isn't the case with the letter that has been provided right here.

So I think it's incumbent upon all Members of this Chamber to appreciate where people stand, and where we stand is to make certain that Medicare recipients receive the Medicare policies that they currently have. Under Medicare Advantage, we believe that those individuals ought to be able to continue to receive those policies.

In fact, what the other side is trying to do is to cut Medicare. That's exactly what they are doing, is cutting Medicare. They are doing it under the guise of covering children. That's not we believe is appropriate. We believe that individuals ought to have the flexibility

and choices in their health care policies, in their Medicare policies.

Mr. STARK. Madam Speaker, I object to the letter being introduced.

The SPEAKER pro tempore. Objection is heard.

Ms. CASTOR. Madam Speaker, we are not going to divide this country over health care. We are going to bring them together and fight for better health care for our children and our seniors and everyone.

Madam Speaker, I yield 1½ minutes to the gentleman from Texas, the distinguished member of the Health Subcommittee on the Committee on Ways and Means, Mr. DOGGETT.

Mr. DOGGETT. Madam Speaker, of course, that letter is one of many endorsements of groups coming together because they know that today they are improving health care for our oldest Americans and our youngest Americans.

Unfortunately, my home State of Texas has the distinction of being number one in children with no health insurance, largely due to the indifference of then Governor George Bush who responded too late and too little. His indifference to the health crisis now is hardly surprising given his indifference then.

The Republican prescription drug plan, the largest entitlement increase in recent history, is a study in how to let Medicare “wither on the vine” at the time they inject waste, fraud and abuse into the system.

Now Republicans are using every available obstructionist tactic to block our reforms, to curb their own excesses, such as their lavishing billions on big insurance companies. Despite their professed interest in controlling entitlement spending, only two of their 21 committee amendments would have reduced spending and the vast majority would have increased spending on borrowed money.

Their sermons about Medicare insolvency are betrayed by their insistence on undermining it, and their silly claims of “socialized medicine” are belied by the bill’s endorsement by the American Medical Association and the AARP.

Approve this rule and afford seniors and children the health care that Republican obstructionism would deny them.

Mr. SESSIONS. Madam Speaker, I yield 1¾ minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Madam Speaker, I ask unanimous consent that 10 minutes be added to debate equally divided between both the majority and the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Ms. CASTOR. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. SESSIONS. Will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Texas.

Mr. SESSIONS. Welcome to the new Democrat-run House of Representatives: No debate added time. No regular order hearings. Closed rules. Welcome.

Mr. BUYER. It is disappointing that the objection was so loud and clear.

I do remember coming here in the minority, and at the time it was referred to as the Imperial Congress. It has not taken you very long to get back to where you were. That is disappointing. When I look at what is happening, you have the votes, you have the majority.

When I think about what just happened to the Commerce Committee, I have such great respect for JOHN DINGELL.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman is reminded to address his remarks to the Chair.

Mr. BUYER. Madam Speaker, I have great respect for JOHN DINGELL and how awkward he must feel that the leadership of this Congress took jurisdiction from his committee. Now, this is the same man that has respected the rules of process and procedure that has taught many of us in this House.

I think about the intolerance right now that the majority has of other people’s views and opinions. That is very, very disheartening; and the American people should know and recognize what is happening here is wrong.

I just appeal to you once again, you have the votes. Do not turn Congress into an undemocratic institution. Think about when you were in the minority. There were times yet you didn’t like what happened, but you had your opportunity to be heard. Yes, you may have lost an amendment or been voted down here or there. It is part of the democratic process.

Do not shut down the democratic process. That’s what you have done on this bill. We should be reauthorizing the SCHIP program for children. Republicans created this bill. Let’s do a clean bill. That’s what we should be doing here on the floor.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are once again reminded to address their remarks to the Chair.

Ms. CASTOR. Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I yield 1½ minutes to the gentleman from New York (Mr. FOSSELLA).

(Mr. FOSSELLA asked and was given permission to revise and extend his remarks.)

Mr. FOSSELLA. Let me thank the gentleman for yielding as we continue the debate on ensuring children’s health care.

Madam Speaker, let me bring up another point, and that is something that has been debated. Despite all the things we talk about here, there is nothing more important than protecting this country. Regrettably, I lost more people in Staten Island in Brooklyn than any other district in this country on 9/11. We should be

doing everything possible to ensure that our intelligence community is preventing terrorist attacks. Right now, Congress, I believe, is abdicating its responsibility. That’s why I urge my colleagues to defeat the rule and urge my colleagues to defeat the previous question on the rule.

If the previous question is defeated, we will immediately bring legislation to the floor to solve an intelligence gap. Very simply this, the American people need to know, if there is a foreigner on foreign soil, if there is an area in Afghanistan where the intelligence community knows for a fact that there are terrorists plotting attacks to kill Americans, right now, without a court order, we can’t listen to those conversations. That’s irresponsible.

If we want to help and protect the American people to the best of our ability, we will allow our intelligence community to listen to foreigners on foreign soils whose sole objective is to kill more Americans and our allies without a court order or obtaining a warrant.

If we have another attack, God forbid, I would like to see Members in this body rush to the floor and explain why they wouldn’t allow our intelligence community to listen to foreigners on foreign soil who want to only do one thing, kill us.

Ms. CASTOR. Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, it’s my understanding the gentlewoman from Florida is indicating she has no additional speakers and that she would choose to close?

Ms. CASTOR. That is correct, Madam Speaker. I will reserve until Mr. SESSIONS closes.

#### MOTION TO ADJOURN

Mr. SESSIONS. Madam Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SESSIONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair advises the House that the Chair intends to adhere to strict timelines when closing the first vote in subsequent vote series. The cooperation of all Members is appreciated.

The vote was taken by electronic device, and there were—yeas 172, nays 246, not voting 14, as follows:

[Roll No. 783]

YEAS—172

Aderholt	Barton (TX)	Bonner
Akin	Biggert	Bono
Alexander	Bilbray	Boozman
Bachmann	Bilirakis	Boustany
Bachus	Bishop (UT)	Brady (TX)
Baker	Blackburn	Brown (GA)
Barrett (SC)	Blunt	Brown (SC)
Bartlett (MD)	Boehner	Buchanan

Burton (IN)	Hayes	Petri
Buyer	Heller	Pickering
Calvert	Hensarling	Pitts
Camp (MI)	Herger	Poe
Campbell (CA)	Hobson	Price (GA)
Cannon	Hoekstra	Pryce (OH)
Cantor	Hulshof	Putnam
Capito	Hunter	Radanovich
Carter	Inglis (SC)	Regula
Castle	Issa	Rehberg
Chabot	Johnson (IL)	Reichert
Coble	Jordan	Renzi
Cole (OK)	Keller	Reynolds
Conaway	King (IA)	Rogers (AL)
Crenshaw	Kline (MN)	Rogers (MI)
Cubin	Knollenberg	Ros-Lehtinen
Culberson	Lamborn	Roskam
Davis (KY)	Latham	Royce
Davis, David	LaTourrette	Ryan (WI)
Davis, Tom	Lewis (CA)	Sali
Deal (GA)	Lewis (KY)	Schmidt
Dent	Linder	Sensenbrenner
Diaz-Balart, L.	Lucas	Sessions
Diaz-Balart, M.	Lungren, Daniel	Shadegg
Doolittle	E.	Shays
Drake	Mack	Shimkus
Dreier	Manzullo	Shuster
Duncan	Marchant	Simpson
Ehlers	McCarthy (CA)	Smith (NE)
Emerson	McCaul (TX)	Smith (TX)
English (PA)	McCotter	Souder
Everett	McCrery	Stearns
Fallin	McHenry	Sullivan
Feeney	McHugh	Terry
Flake	McKeon	Thornberry
Fortenberry	McMorris	Tiahrt
Foxx	Rodgers	Tiberi
Franks (AZ)	Mica	Turner
Frelinghuysen	Miller (FL)	Upton
Gallely	Miller (MI)	Walden (OR)
Garrett (NJ)	Miller, Gary	Wamp
Gerlach	Murphy, Tim	Weldon (FL)
Gilchrest	Musgrave	Westmoreland
Gingrey	Myrick	Whitfield
Gohmert	Neugebauer	Wicker
Goodlatte	Nunes	Wilson (NM)
Granger	Paul	Wilson (SC)
Graves	Pearce	Wolf
Hastert	Pence	Young (AK)
Hastings (WA)	Peterson (PA)	Young (FL)

NAYS—246

Abercrombie	Crowley	Hinojosa
Ackerman	Cuellar	Hirono
Allen	Cummings	Hodes
Altmire	Davis (AL)	Holden
Andrews	Davis (CA)	Holt
Arcuri	Davis (IL)	Hooley
Baca	Davis, Lincoln	Hoyer
Baird	DeFazio	Inslee
Baldwin	DeGette	Israel
Barrow	Delahunt	Jackson (IL)
Bean	DeLauro	Jackson-Lee
Berkley	Dicks	(TX)
Berman	Dingell	Jefferson
Berry	Doggett	Jindal
Bishop (GA)	Donnelly	Johnson (GA)
Bishop (NY)	Doyle	Johnson, E. B.
Blumenauer	Edwards	Jones (NC)
Boren	Ellison	Jones (OH)
Boswell	Ellsworth	Kagen
Boucher	Emanuel	Kanjorski
Boyd (FL)	Engel	Kaptur
Boyd (KS)	Eshoo	Kennedy
Brady (PA)	Etheridge	Kildee
Braley (IA)	Farr	Kilpatrick
Brown, Corrine	Fattah	Kind
Brown-Waite,	Ferguson	King (NY)
Ginny	Filner	Kingston
Burgess	Forbes	Kirk
Butterfield	Fossella	Klein (FL)
Capps	Frank (MA)	Kucinich
Capuano	Giffords	Kuhl (NY)
Cardoza	Gillibrand	LaHood
Carnahan	Gillmor	Lampson
Carney	Gonzalez	Langevin
Carson	Gordon	Lantos
Castor	Green, Al	Larsen (WA)
Chandler	Green, Gene	Larson (CT)
Clay	Grijalva	Lee
Cleaver	Hall (NY)	Levin
Clyburn	Hall (TX)	Lewis (GA)
Cohen	Hare	Lipinski
Conyers	Harman	LoBiondo
Cooper	Hastings (FL)	Loebsack
Costa	Herseth Sandlin	Lofgren, Zoe
Costello	Higgins	Lowe
Courtney	Hill	Lynch
Cramer	Hinchee	Mahoney (FL)

Maloney (NY)	Peterson (MN)	Snyder
Markey	Platts	Solis
Marshall	Pomeroy	Space
Matheson	Porter	Stark
Matsui	Price (NC)	Stupak
McCarthy (NY)	Rahall	Sutton
McCollum (MN)	Ramstad	Tanner
McDermott	Rangel	Tauscher
McGovern	Reyes	Taylor
McIntyre	Rodriguez	Thompson (CA)
McNerney	Rohrabacher	Thompson (MS)
McNulty	Ross	Tierney
Meek (FL)	Rothman	Towns
Meeks (NY)	Roybal-Allard	Udall (CO)
Melancon	Ruppersberger	Udall (NM)
Michaud	Rush	Van Hollen
Miller (NC)	Ryan (OH)	Velázquez
Mitchell	Salazar	Visclosky
Mollohan	Sánchez, Linda	Walberg
Moore (KS)	T.	Walsh (NY)
Moore (WI)	Sanchez, Loretta	Walz (MN)
Moran (KS)	Sarbanes	Walt (MN)
Moran (VA)	Saxton	Wasserman
Murphy (CT)	Schakowsky	Schultz
Murphy, Patrick	Schiff	Waters
Murtha	Schwartz	Watson
Nadler	Scott (GA)	Watt
Napolitano	Scott (VA)	Weiner
Neal (MA)	Serrano	Welch (VT)
Oberstar	Sestak	Weller
Obey	Shea-Porter	Wexler
Oliver	Sherman	Wilson (OH)
Ortiz	Shuler	Woolsey
Pallone	Sires	Wu
Pastor	Skelton	Wynn
Payne	Smith (NJ)	Yarmuth
Perlmutter	Smith (WA)	

NOT VOTING—14

Becerra	Honda	Slaughter
Clarke	Johnson, Sam	Spratt
Davis, Jo Ann	Miller, George	Tancredo
Goode	Pascrell	Waxman
Gutierrez	Rogers (KY)	

□ 1335

Mr. JOHNSON of Georgia changed his vote from “yea” to “nay.”

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 3162, CHILDREN'S HEALTH AND MEDICARE PROTECTION ACT OF 2007

Mr. SESSIONS. Madam Speaker, I ask unanimous consent that the text of the amendment, which I will offer to the rule if the previous question is defeated, and extraneous material be printed just prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SESSIONS. Madam Speaker, I yield the balance of my time to the ranking member of the Select Committee on Intelligence, the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Madam Speaker, I think we all know the context of the world that we live in today. America is under heightened threat.

We also know that, if we go back to May 21, the Director of National Intelligence has said our intelligence agencies must obtain a court order to monitor the communications of foreigners suspected of terrorist activity who are physically located in foreign countries. Foreign intelligence, foreign terrorists in foreign countries, and we need to get a court order.

The end result is we have significant gaps in gathering the information that we need to keep America safe. That is why we need to vote against this previous question, and why we need to do an update of the Foreign Intelligence Surveillance Act today.

But in light of these threats and this context, what has been the response? What's been the response of this Congress and the other side?

Only a couple of weeks ago, we decided that we would give al Qaeda more information about our Intelligence Community. We decided that Congress would mandate that we declassify the top line. In the intelligence authorization bill that we did earlier this year, we said we want a national intelligence estimate, not on al Qaeda, not on Iran, not on Syria, not on North Korea, but we want it on global climate change. We gutted some of our key funding for intelligence operations, and we have done absolutely nothing on updating FISA, even though we are under heightened threat and we are talking about foreign targets, foreign intelligence from individuals who are located overseas.

We need to update FISA, and we need to do it before we go home. Weakening our national security and weakening our intelligence effort in these times is the wrong thing to do.

We used to talk about our inability to connect the dots. What we now have is a majority that is unwilling and unable to give our Intelligence Community even the capabilities to go out and connect the dots that keep us safe.

Make no doubt about it. We are weakening our intelligence. We are making this country more vulnerable, and we need to act, and we need to act before we go on recess.

Mr. NADLER. Will the gentleman yield?

Mr. HOEKSTRA. No, I will not yield. And I know that this colleague has been very sympathetic to making us and fixing this problem, and I appreciate his efforts in this area.

But if we go back to knowing that we have had this information for more than 6 months, we have not dealt with this information. Go back to the “opened” that the Director of National Intelligence wrote in May. And this bill that we are dealing with today concerns children. But, as the DNI has said, this surveillance saves lives, the lives of our children and grandchildren. That is what we are talking about.

What do we do to keep the homeland safe? What do we do to keep our troops safe? Because we are talking about gathering intelligence from foreign targets in places like Pakistan, Afghanistan and Iraq.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. SESSIONS. Madam Speaker, I would ask unanimous consent for 2 additional minutes for the gentleman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Ms. CASTOR. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. HOEKSTRA. I encourage my colleagues to vote "no" on this previous question. Deal with the issue of FISA and deal with it now.

The SPEAKER pro tempore. The gentleman's time has expired.

Ms. CASTOR. Madam Speaker, for today we are here on the Children's Health and Medicare Act, the CHAMP Act.

And, Madam Speaker, I hope the American people know there are many champions for America's kids standing up for our hardworking families in the Nation's Capitol today; and we are joining with Republican and Democratic Governors from across the country fighting for a new direction, for a healthier and economically sound America.

It was only 8 months ago when Speaker NANCY PELOSI accepted the gavel as the first female Speaker of the House of Representatives. She accepted that gavel on behalf of America's children, and we're going to keep our promise to America's kids today.

There's another champion in the Chair of the Rules Committee, Ms. LOUISE SLAUGHTER, who has helped us fight through these delaying tactics to bring this bill to the floor, and we will vote on it today.

In the Energy and Commerce Committee, Chairman JOHN DINGELL continues to be a voice of clarity and advocacy for America's children; and he is joined by the voices, the loud voices, of Congressman FRANK PALLONE and Congresswoman DIANA DEGETTE and the members of that committee.

In the Ways and Means Committee, where PAYGO means something now in this new Congress, Chairman CHARLIE RANGEL has led our effort to pay for this Act.

And I salute the subcommittee Chair, Mr. PETE STARK, and the members of that committee and many, many more on the floor of this House, who are not just Members of Congress, but we are also parents and we are grandparents.

The real champions, however, are the parents across America working to make ends meet and provide their children with a healthy and successful life. We are on their side today and every day, even in the face of resistance from the White House, where the President suggests that the health care for America's kids can be found in the emergency rooms of local hospitals. That is wrong.

Instead, through the SCHIP program and children's health care and this innovative partnership between communities, States and Federal Government, we will make important investments in our kids and their health today that will pay dividends down the road for our economy. It will reduce the strain on our emergency rooms, our crowded local emergency rooms, and it will reduce the strain on moms and dads.

This is, indeed, a historic day, a day for a new direction, a day full of hope

for the health of our children and a better America.

I urge a "yes" vote on the previous question and on the rule.

The material previously referred to by Mr. SESSIONS is as follows:

AMENDMENT TO H. RES. 594 OFFERED BY MR. SESSIONS OF TEXAS

At the end of the resolution, add the following:

Sec. 3. That immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider the bill (H.R. 3138) to amend the Foreign Intelligence Surveillance Act of 1978 to update the definition of electronic surveillance. All points of order against the bill are waived. The bill shall be considered as read. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence; and (2) one motion to recommit.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's American Congressional Dictionary: "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Ms. CASTOR. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SESSIONS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 228, nays 190, not voting 14, as follows:

[Roll No. 784]

YEAS—228

Abercrombie	Cramer	Hinojosa
Ackerman	Crowley	Hirono
Allen	Cuellar	Hodes
Altmire	Cummings	Holden
Andrews	Davis (AL)	Holt
Arcuri	Davis (CA)	Honda
Baca	Davis (IL)	Hooley
Baird	Davis, Lincoln	Hoyer
Baldwin	DeFazio	Inslee
Barrow	DeGette	Israel
Bean	Delahunt	Jackson (IL)
Becerra	DeLauro	Jackson-Lee
Berkley	Dicks	(TX)
Berman	Dingell	Jefferson
Berry	Doggett	Johnson (GA)
Bishop (GA)	Donnelly	Johnson, E. B.
Bishop (NY)	Doyle	Jones (OH)
Blumenauer	Edwards	Kagen
Boren	Ellison	Kanjorski
Boswell	Ellsworth	Kaptur
Boucher	Emanuel	Kennedy
Boyd (FL)	Engel	Kildee
Boyd (KS)	Eshoo	Kilpatrick
Brady (PA)	Etheridge	Kind
Bralley (IA)	Farr	Klein (FL)
Brown, Corrine	Fattah	Kucinich
Butterfield	Filner	Lampson
Capps	Frank (MA)	Langevin
Capuano	Giffords	Lantos
Cardoza	Gillibrand	Larsen (WA)
Carnahan	Gonzalez	Larson (CT)
Carney	Gordon	Lee
Carson	Green, Al	Levin
Castor	Green, Gene	Lewis (GA)
Chandler	Grijalva	Lipinski
Clay	Gutierrez	Loebsock
Cleaver	Hall (NY)	Lofgren, Zoe
Clyburn	Hare	Lowey
Cohen	Harman	Lynch
Conyers	Hastings (FL)	Mahoney (FL)
Cooper	Herseth Sandlin	Maloney (NY)
Costa	Higgins	Markey
Costello	Hill	Marshall
Courtney	Hinchev	Matheson

Matsui Peterson (MN)  
 McCarthy (NY) Pomeroy  
 McCollum (MN) Price (NC)  
 McDermott Rahall  
 McGovern Rangel  
 McIntyre Reyes  
 McNerney Rodriguez  
 McNulty Ross  
 Meek (FL) Rothman  
 Meeks (NY) Roybal-Allard  
 Melancon Ruppertsberger  
 Michaud Rush  
 Miller (NC) Ryan (OH)  
 Miller, George Salazar  
 Mollohan Sanchez, Linda  
 Moore (KS) T.  
 Moore (WI) Sanchez, Loretta  
 Moran (VA) Sarbanes  
 Murphy (CT) Schakowsky  
 Murphy, Patrick Schiff  
 Murtha Schwartz  
 Nadler Scott (GA)  
 Napolitano Scott (VA)  
 Neal (MA) Serrano  
 Oberstar Sestak  
 Obey Shea-Porter  
 Oliver Sherman  
 Ortiz Shuler  
 Pallone Sires  
 Pascarell Skelton  
 Pastor Slaughter  
 Payne Smith (WA)  
 Perlmutter Snyder

NAYS—190

Aderholt Foxx  
 Alexander Franks (AZ)  
 Bachmann Frelinghuysen  
 Bachus Gallegly  
 Baker Garrett (NJ)  
 Barrett (SC) Gerlach  
 Barton (TX) Gilchrest  
 Biggert Gillmor  
 Bilbray Gingrey  
 Bilirakis Gohmert  
 Bishop (UT) Goodell  
 Blackburn Goodlatte  
 Blunt Granger  
 Boehner Graves  
 Bonner Hastert  
 Bono Hastings (WA)  
 Boozman Hayes  
 Boustany Heller  
 Brady (TX) Herger  
 Brown (GA) Hobson  
 Brown (SC) Hoekstra  
 Brown-Waite, Hulshof  
 Ginny Hunter  
 Buchanan Inglis (SC)  
 Burgess Issa  
 Burton (IN) Jindal  
 Buyer Johnson (IL)  
 Calvert Jones (NC)  
 Camp (MI) Keller  
 Campbell (CA) King (IA)  
 Cannon King (NY)  
 Cantor Kingston  
 Capito Kirk  
 Carter Kline (MN)  
 Castle Knollenberg  
 Chabot Kuhl (NY)  
 Coble LaHood  
 Cole (OK) Lamborn  
 Conaway Shadegg  
 Crenshaw LaTourette  
 Cubin Lewis (CA)  
 Culberson Lewis (KY)  
 Davis (KY) Linder  
 Davis, David LoBiondo  
 Davis, Tom Lucas  
 Deal (GA) Lungren, Daniel  
 Dent E.  
 Diaz-Balart, L. Mack  
 Diaz-Balart, M. Marchant  
 Drake McCarthy (CA)  
 Dreier McCaul (TX)  
 Duncan McCotter  
 Ehlers McCreery  
 Emerson McHenry  
 English (PA) McHugh  
 Everett McKeon  
 Fallin McMorris  
 Feeney Rodgers  
 Ferguson Mica  
 Flake Miller (FL)  
 Forbes Miller (MI)  
 Fortenberry Miller, Gary  
 Fossella Mitchell

Wicker Wilson (SC)  
 Wilson (NM) Wolf  
 Young (AK) Young (FL)  
 Young (FL) Young (FL)

NOT VOTING—14

Akin Hall (TX)  
 Bartlett (MD) Hensarling  
 Clarke Johnson, Sam  
 Davis, Jo Ann Jordan  
 Doolittle Manzullo

□ 1402

Mr. BARTON of Texas changed his vote from “yea” to “nay.”

Mr. ACKERMAN and Mrs. JONES of Ohio changed their vote from “nay” to “yea.”

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. CASTOR. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 197, not voting 11, as follows:

[Roll No. 785]

AYES—224

Abercrombie Dicks  
 Ackerman Dingell  
 Allen Doggett  
 Altmire Donnelly  
 Andrews Doyle  
 Arcuri Edwards  
 Baca Ellison  
 Baird Emanuel  
 Baldwin Engel  
 Barrow Eshoo  
 Bean Etheridge  
 Becerra Farr  
 Berkley Fattah  
 Berman Filner  
 Berry Frank (MA)  
 Bishop (GA) Giffords  
 Bishop (NY) Gillibrand  
 Blumenauer Gonzalez  
 Boren Gordon  
 Boswell Green, Al  
 Boucher Green, Gene  
 Boyd (FL) Grijalva  
 Boyda (KS) Guterrez  
 Brady (PA) Hall (NY)  
 Braley (IA) Hare  
 Brown, Corrine Harman  
 Butterfield Hastings (FL)  
 Capps Hersted Sandlin  
 Capuano Higgins  
 Cardoza Hinchey  
 Carnahan Hinojosa  
 Carney Hiron  
 Carson Hodes  
 Castor Holden  
 Chandler Holt  
 Clay Honda  
 Cleaver Hooley  
 Clyburn Hoyer  
 Cohen Inslee  
 Conyers Israel  
 Cooper Jackson (IL)  
 Costa Jackson-Lee  
 Costello (TX)  
 Courtney Jefferson  
 Cramer Johnson (GA)  
 Crowley Johnson, E. B.  
 Cuellar Jones (OH)  
 Cummings Kagen  
 Davis (AL) Kanjorski  
 Davis (CA) Kaptur  
 Davis (IL) Kennedy  
 Davis, Lincoln Kildee  
 DeFazio Kilpatrick  
 DeGette Kind  
 Delahunt Klein (FL)  
 DeLauro Kucinich

Rodriguez Sherman  
 Ross Shuler  
 Rothman Sires  
 Roybal-Allard Skelton  
 Ruppertsberger Slaughter  
 Rush Smith (WA)  
 Ryan (OH) Snyder  
 Salazar Solis  
 Sanchez, Linda Space  
 T. Spratt  
 Sanchez, Loretta Stark  
 Sarbanes Stupak  
 Schakowsky Sutton  
 Schiff Tanner  
 Schwartz Tauscher  
 Scott (GA) Thompson (CA)  
 Scott (VA) Thompson (MS)  
 Serrano Tierney  
 Sestak Towns  
 Shea-Porter Udall (CO)

NOES—197

Aderholt Foxx  
 Akin Franks (AZ)  
 Alexander Frelinghuysen  
 Bachmann Gallegly  
 Bachus Garrett (NJ)  
 Baker Gerlach  
 Barrett (SC) Gilchrest  
 Bartlett (MD) Gillmor  
 Barton (TX) Gingrey  
 Biggert Gohmert  
 Bilbray Goode  
 Bilirakis Goodlatte  
 Bishop (UT) Granger  
 Blackburn Graves  
 Blunt Hall (TX)  
 Boehner Hastert  
 Bonner Hastings (WA)  
 Bono Hayes  
 Boozman Heller  
 Boustany Hensarling  
 Brady (TX) Hill  
 Brown (GA) Hobson  
 Brown (SC) Hoekstra  
 Brown-Waite, Hulshof  
 Ginny Inglis (SC)  
 Buchanan Issa  
 Burgess Jindal  
 Burton (IN) Johnson (IL)  
 Buyer Jordan  
 Calvert Keller  
 Camp (MI) King (IA)  
 Cannon King (NY)  
 Cantor Kingston  
 Capito Kirk  
 Carter Kline (MN)  
 Castle Knollenberg  
 Chabot Kuhl (NY)  
 Coble LaHood  
 Cole (OK) Lamborn  
 Conaway Latham  
 Crenshaw LaTourette  
 Cubin Lewis (CA)  
 Culberson Lewis (KY)  
 Davis (KY) Linder  
 Davis, David LoBiondo  
 Davis, Tom Lucas  
 Deal (GA) Lungren, Daniel  
 Dent E.  
 Diaz-Balart, L. Mack  
 Diaz-Balart, M. Marchant  
 Doolittle McCarthy (CA)  
 Drake McCaul (TX)  
 Dreier McCotter  
 Duncan McCreery  
 Ehlers McHenry  
 Ellsworth McHugh  
 Emerson McKeon  
 English (PA) McMorris  
 Everett Rodgers  
 Fallin Mica  
 Feeney Miller (FL)  
 Ferguson Miller (MI)  
 Pascrell Miller, Gary  
 Pastor Mitchell  
 Payne Moran (KS)  
 Perlmutter Young (AK)  
 Peterson (MN) Young (FL)  
 Pomeroy Price (NC)  
 Rahall  
 Rangel  
 Reyes

NOT VOTING—11

Clarke Johnson, Sam  
 Davis, Jo Ann Manzullo  
 Herger Moore (WI)  
 Hunter Pickering

Udall (NM) Van Hollen  
 Velázquez Velázquez  
 Vislosky Vislosky  
 Walz (MN) Walz (MN)  
 Wasserman Wasserman  
 Schultz Schultz  
 Solis Solis  
 Watson Watson  
 Watt Watt  
 Waxman Waxman  
 Weiner Weiner  
 Welch (VT) Welch (VT)  
 Wexler Wexler  
 Wilson (OH) Wilson (OH)  
 Woolsey Woolsey  
 Wu Wu  
 Wynn Wynn  
 Yarmuth Yarmuth

Musgrave  
 Myrick  
 Neugebauer  
 Nunes  
 Paul  
 Pearce  
 Pence  
 Peterson (PA)  
 Petri  
 Pitts  
 Platts  
 Platts  
 Poe  
 Porter  
 Price (GA)  
 Price (OH)  
 Putnam  
 Radanovich  
 Ramstad  
 Regula  
 Rehberg  
 Reichert  
 Renzi  
 Reynolds  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Ros-Lehtinen  
 Roskam  
 Royce  
 Ryan (WI)  
 Sali  
 Saxton  
 Schmidt  
 Sensenbrenner  
 Sessions  
 Shadegg  
 Shays  
 Shimkus  
 Shuster  
 Simpson  
 Smith (NE)  
 Smith (NJ)  
 Souder  
 Stearns  
 Taylor  
 Terry  
 Thornberry  
 Tiahrt  
 Tiberi  
 Turner  
 Upton  
 Walberg  
 Walden (OR)  
 Walsh (NY)  
 Wamp  
 Weldon (FL)  
 Weller  
 Westmoreland  
 Whitfield  
 Wicker  
 Wilson (NM)  
 Wilson (SC)  
 Wolf  
 Young (AK)  
 Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1409

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. MOORE of Wisconsin: Madam Speaker, on rollcall No. 785, had I been present, I would have voted "aye."

Stated against:

Mr. JORDAN of Ohio: Madam Speaker, I was absent from the House Floor during today's rollcall vote on ordering the previous question on House Resolution 594.

Had I been present, I would have voted "no."

#### FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2638. An act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2638) "An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. INOUE, Mr. LEAHY, Ms. MIKULSKI, Mr. KOHL, Mrs. MURRAY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. NELSON (NE), Mr. COCHRAN, Mr. GREGG, Mr. STEVENS, Mr. SPECTER, Mr. DOMENICI, Mr. SHELBY, Mr. CRAIG, and Mr. ALEXANDER, to be the conferees on the part of the Senate.

#### CHILDREN'S HEALTH AND MEDICARE PROTECTION ACT OF 2007

Mr. DINGELL. Mr. Speaker, pursuant to House Resolution 594, I call up the bill (H.R. 3162) to amend titles XVIII, XIX, and XXI of the Social Security Act to extend and improve the children's health insurance program, to improve beneficiary protections under the Medicare, Medicaid, and the CHIP program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3162

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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Children's Health and Medicare Protection Act of 2007".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—CHILDREN'S HEALTH INSURANCE PROGRAM

Sec. 100. Purpose.

##### Subtitle A—Funding

Sec. 101. Establishment of new base CHIP allotments.

Sec. 102. 2-year initial availability of CHIP allotments.

Sec. 103. Redistribution of unused allotments to address State funding shortfalls.

Sec. 104. Extension of option for qualifying States.

##### Subtitle B—Improving Enrollment and Retention of Eligible Children

Sec. 111. CHIP performance bonus payment to offset additional enrollment costs resulting from enrollment and retention efforts.

Sec. 112. State option to rely on findings from an express lane agency to conduct simplified eligibility determinations.

Sec. 113. Application of medicaid outreach procedures to all children and pregnant women.

Sec. 114. Encouraging culturally appropriate enrollment and retention practices.

##### Subtitle C—Coverage

Sec. 121. Ensuring child-centered coverage.

Sec. 122. Improving benchmark coverage options.

Sec. 123. Premium grace period.

##### Subtitle D—Populations

Sec. 131. Optional coverage of older children under Medicaid and CHIP.

Sec. 132. Optional coverage of legal immigrants under the Medicaid program and CHIP.

Sec. 133. State option to expand or add coverage of certain pregnant women under CHIP.

Sec. 134. Limitation on waiver authority to cover adults.

##### Subtitle E—Access

Sec. 141. Children's Access, Payment, and Equality Commission.

Sec. 142. Model of Interstate coordinated enrollment and coverage process.

Sec. 143. Medicaid citizenship documentation requirements.

Sec. 144. Access to dental care for children.

Sec. 145. Prohibiting initiation of new health opportunity account demonstration programs.

##### Subtitle F—Quality and Program Integrity

Sec. 151. Pediatric health quality measurement program.

Sec. 152. Application of certain managed care quality safeguards to CHIP.

Sec. 153. Updated Federal evaluation of CHIP.

Sec. 154. Access to records for IG and GAO audits and evaluations.

Sec. 155. References to title XXI.

Sec. 156. Reliance on law; exception for State legislation.

#### TITLE II—MEDICARE BENEFICIARY IMPROVEMENTS

##### Subtitle A—Improvements in Benefits

Sec. 201. Coverage and waiver of cost-sharing for preventive services.

Sec. 202. Waiver of deductible for colorectal cancer screening tests regardless of coding, subsequent diagnosis, or ancillary tissue removal.

Sec. 203. Parity for mental health coinsurance.

Subtitle B—Improving, Clarifying, and Simplifying Financial Assistance for Low Income Medicare Beneficiaries

Sec. 211. Improving assets tests for Medicare Savings Program and low-income subsidy program.

Sec. 212. Making QI program permanent and expanding eligibility.

Sec. 213. Eliminating barriers to enrollment.

Sec. 214. Eliminating application of estate recovery.

Sec. 215. Elimination of part D cost-sharing for certain non-institutionalized full-benefit dual eligible individuals.

Sec. 216. Exemptions from income and resources for determination of eligibility for low-income subsidy.

Sec. 217. Cost-sharing protections for low-income subsidy-eligible individuals.

Sec. 218. Intelligent assignment in enrollment.

##### Subtitle C—Part D Beneficiary Improvements

Sec. 221. Including costs incurred by AIDS drug assistance programs and Indian Health Service in providing prescription drugs toward the annual out of pocket threshold under Part D.

Sec. 222. Permitting mid-year changes in enrollment for formulary changes adversely impact an enrollee.

Sec. 223. Removal of exclusion of benzodiazepines from required coverage under the Medicare prescription drug program.

Sec. 224. Permitting updating drug compendia under part D using part B update process.

Sec. 225. Codification of special protections for six protected drug classifications.

Sec. 226. Elimination of Medicare part D late enrollment penalties paid by low-income subsidy-eligible individuals.

Sec. 227. Special enrollment period for subsidy eligible individuals.

##### Subtitle D—Reducing Health Disparities

Sec. 231. Medicare data on race, ethnicity, and primary language.

Sec. 232. Ensuring effective communication in Medicare.

Sec. 233. Demonstration to promote access for Medicare beneficiaries with limited English proficiency by providing reimbursement for culturally and linguistically appropriate services.

Sec. 234. Demonstration to improve care to previously uninsured.

Sec. 235. Office of the Inspector General report on compliance with and enforcement of national standards on culturally and linguistically appropriate services (CLAS) in Medicare.

Sec. 236. IOM report on impact of language access services.

Sec. 237. Definitions.

#### TITLE III—PHYSICIANS' SERVICE PAYMENT REFORM

Sec. 301. Establishment of separate target growth rates for service categories.

Sec. 302. Improving accuracy of relative values under the Medicare physician fee schedule.

Sec. 303. Physician feedback mechanism on practice patterns.

Sec. 304. Payments for efficient physicians.

Sec. 305. Recommendations on refining the physician fee schedule.

Sec. 306. Improved and expanded medical home demonstration project.  
 Sec. 307. Repeal of Physician Assistance and Quality Initiative Fund.  
 Sec. 308. Adjustment to Medicare payment localities.  
 Sec. 309. Payment for imaging services.  
 Sec. 310. Repeal of Physicians Advisory Council.

#### TITLE IV—MEDICARE ADVANTAGE REFORMS

##### Subtitle A—Payment Reform

Sec. 401. Equalizing payments between Medicare Advantage plans and fee-for-service Medicare.

##### Subtitle B—Beneficiary Protections

Sec. 411. NAIC development of marketing, advertising, and related protections.  
 Sec. 412. Limitation on out-of-pocket costs for individual health services.  
 Sec. 413. MA plan enrollment modifications.  
 Sec. 414. Information for beneficiaries on MA plan administrative costs.

##### Subtitle C—Quality and Other Provisions

Sec. 421. Requiring all MA plans to meet equal standards.  
 Sec. 422. Development of new quality reporting measures on racial disparities.  
 Sec. 423. Strengthening audit authority.  
 Sec. 424. Improving risk adjustment for MA payments.  
 Sec. 425. Eliminating special treatment of private fee-for-service plans.  
 Sec. 426. Renaming of Medicare Advantage program.

##### Subtitle D—Extension of Authorities

Sec. 431. Extension and revision of authority for special needs plans (SNPs).  
 Sec. 432. Extension and revision of authority for Medicare reasonable cost contracts.

#### TITLE V—PROVISIONS RELATING TO MEDICARE PART A

Sec. 501. Inpatient hospital payment updates.  
 Sec. 502. Payment for inpatient rehabilitation facility (IRF) services.  
 Sec. 503. Long-term care hospitals.  
 Sec. 504. Increasing the DSH adjustment cap.  
 Sec. 505. PPS-exempt cancer hospitals.  
 Sec. 506. Skilled nursing facility payment update.  
 Sec. 507. Revocation of unique deeming authority of the Joint Commission for the Accreditation of Healthcare Organizations.

#### TITLE VI—OTHER PROVISIONS RELATING TO MEDICARE PART B

##### Subtitle A—Payment and Coverage Improvements

Sec. 601. Payment for therapy services.  
 Sec. 602. Medicare separate definition of outpatient speech-language pathology services.  
 Sec. 603. Increased reimbursement rate for certified nurse-midwives.  
 Sec. 604. Adjustment in outpatient hospital fee schedule increase factor.  
 Sec. 605. Exception to 60-day limit on Medicare substitute billing arrangements in case of physicians ordered to active duty in the Armed Forces.  
 Sec. 606. Excluding clinical social worker services from coverage under the Medicare skilled nursing facility prospective payment system and consolidated payment.  
 Sec. 607. Coverage of marriage and family therapist services and mental health counselor services.

Sec. 608. Rental and purchase of power-driven wheelchairs.  
 Sec. 609. Rental and purchase of oxygen equipment.  
 Sec. 610. Adjustment for Medicare mental health services.  
 Sec. 611. Extension of brachytherapy special rule.  
 Sec. 612. Payment for part B drugs.

##### Subtitle B—Extension of Medicare Rural Access Protections

Sec. 621. 2-year extension of floor on Medicare work geographic adjustment.  
 Sec. 622. 2-year extension of special treatment of certain physician pathology services under Medicare.  
 Sec. 623. 2-year extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.  
 Sec. 624. 2-year extension of Medicare incentive payment program for physician scarcity areas.  
 Sec. 625. 2-year extension of Medicare increase payments for ground ambulance services in rural areas.  
 Sec. 626. Extending hold harmless for small rural hospitals under the HOPD prospective payment system.

##### Subtitle C—End Stage Renal Disease Program

Sec. 631. Chronic kidney disease demonstration projects.  
 Sec. 632. Medicare coverage of kidney disease patient education services.  
 Sec. 633. Required training for patient care dialysis technicians.  
 Sec. 634. MedPAC report on treatment modalities for patients with kidney failure.  
 Sec. 635. Adjustment for erythropoietin stimulating agents (ESAs).  
 Sec. 636. Site neutral composite rate.  
 Sec. 637. Development of ESRD bundling system and quality incentive payments.  
 Sec. 638. MedPAC report on ESRD bundling system.  
 Sec. 639. OIG study and report on erythropoietin.  
 Subtitle D—Miscellaneous  
 Sec. 651. Limitation on exception to the prohibition on certain physician referrals for hospitals.

#### TITLE VII—PROVISIONS RELATING TO MEDICARE PARTS A AND B

Sec. 701. Home health payment update for 2008.  
 Sec. 702. 2-year extension of temporary Medicare payment increase for home health services furnished in a rural area.  
 Sec. 703. Extension of Medicare secondary payer for beneficiaries with end stage renal disease for large group plans.  
 Sec. 704. Plan for Medicare payment adjustments for never events.  
 Sec. 705. Treatment of Medicare hospital reclassifications.

#### TITLE VIII—MEDICAID

##### Subtitle A—Protecting Existing Coverage

Sec. 801. Modernizing transitional Medicaid.  
 Sec. 802. Family planning services.  
 Sec. 803. Authority to continue providing adult day health services approved under a State Medicaid plan.  
 Sec. 804. State option to protect community spouses of individuals with disabilities.  
 Sec. 805. County Medicaid health insuring organizations.

##### Subtitle B—Payments

Sec. 811. Payments for Puerto Rico and territories.  
 Sec. 812. Medicaid drug rebate.  
 Sec. 813. Adjustment in computation of Medicaid FMAP to disregard an extraordinary employer pension contribution.  
 Sec. 814. Moratorium on certain payment restrictions.  
 Sec. 815. Tennessee DSH.  
 Sec. 816. Clarification treatment of regional medical center.

##### Subtitle C—Miscellaneous

Sec. 821. Demonstration project for employer buy-in.  
 Sec. 822. Diabetes grants.  
 Sec. 823. Technical correction.

#### TITLE IX—MISCELLANEOUS

Sec. 901. Medicare Payment Advisory Commission status.  
 Sec. 902. Repeal of trigger provision.  
 Sec. 903. Repeal of comparative cost adjustment (CCA) program.  
 Sec. 904. Comparative effectiveness research.  
 Sec. 905. Implementation of Health information technology (IT) under Medicare.  
 Sec. 906. Development, reporting, and use of health care measures.  
 Sec. 907. Improvements to the Medigap program.

#### TITLE X—REVENUES

Sec. 1001. Increase in rate of excise taxes on tobacco products and cigarette papers and tubes.  
 Sec. 1002. Exemption for emergency medical services transportation.

#### TITLE I—CHILDREN'S HEALTH INSURANCE PROGRAM

##### SEC. 100. PURPOSE.

It is the purpose of this title to provide dependable and stable funding for children's health insurance under titles XXI and XIX of the Social Security Act in order to enroll all six million uninsured children who are eligible, but not enrolled, for coverage today through such titles.

##### Subtitle A—Funding

##### SEC. 101. ESTABLISHMENT OF NEW BASE CHIP ALLOTMENTS.

Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(1) in subsection (a)—  
 (A) in paragraph (9), by striking “and” at the end;

(B) in paragraph (10), by striking the period at the end and inserting “; and”; and  
 (C) by adding at the end the following new paragraph:

“(1) for fiscal year 2008 and each succeeding fiscal year, the sum of the State allotments provided under subsection (i) for such fiscal year.”; and

(2) in subsections (b)(1) and (c)(1), by striking “subsection (d)” and inserting “subsections (d) and (i)”; and

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

“(i) ALLOTMENTS FOR STATES AND TERRITORIES BEGINNING WITH FISCAL YEAR 2008.—

“(1) GENERAL ALLOTMENT COMPUTATION.—Subject to the succeeding provisions of this subsection, the Secretary shall compute a State allotment for each State for each fiscal year as follows:

“(A) FOR FISCAL YEAR 2008.—For fiscal year 2008, the allotment of a State is equal to the greater of—

“(i) the State projection (in its submission on forms CMS-21B and CMS-37 for May 2007) of Federal payments to the State under this title for such fiscal year, except that, in the case of a State that has enacted legislation

to modify its State child health plan during 2007, the State may substitute its projection in its submission on forms CMS-21B and CMS-37 for August 2007, instead of such forms for May 2007; or

“(i) the allotment of the State under this section for fiscal year 2007 multiplied by the allotment increase factor under paragraph (2) for fiscal year 2008.

“(B) INFLATION UPDATE FOR FISCAL YEAR 2009 AND EACH SECOND SUCCEEDING FISCAL YEAR.—For fiscal year 2009 and each second succeeding fiscal year, the allotment of a State is equal to the amount of the State allotment under this paragraph for the previous fiscal year multiplied by the allotment increase factor under paragraph (2) for the fiscal year involved.

“(C) REBASING IN FISCAL YEAR 2010 AND EACH SECOND SUCCEEDING FISCAL YEAR.—For fiscal year 2010 and each second succeeding fiscal year, the allotment of a State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State (including allotments made available under paragraph (3) as well as amounts redistributed to the State) in the previous fiscal year multiplied by the allotment increase factor under paragraph (2) for the fiscal year involved.

“(D) SPECIAL RULES FOR TERRITORIES.—Notwithstanding the previous subparagraphs, the allotment for a State that is not one of the 50 States or the District of Columbia for fiscal year 2008 and for a succeeding fiscal year is equal to the Federal payments provided to the State under this title for the previous fiscal year multiplied by the allotment increase factor under paragraph (2) for the fiscal year involved (but determined by applying under paragraph (2)(B) as if the reference to ‘in the State’ were a reference to ‘in the United States’).

“(2) ALLOTMENT INCREASE FACTOR.—The allotment increase factor under this paragraph for a fiscal year is equal to the product of the following:

“(A) PER CAPITA HEALTH CARE GROWTH FACTOR.—1 plus the percentage increase in the projected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary before the beginning of the fiscal year.

“(B) CHILD POPULATION GROWTH FACTOR.—1 plus the percentage increase (if any) in the population of children under 19 years of age in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by the Secretary based on the most recent published estimates of the Bureau of the Census before the beginning of the fiscal year involved, plus 1 percentage point.

“(3) PERFORMANCE-BASED SHORTFALL ADJUSTMENT.—

“(A) IN GENERAL.—If a State’s expenditures under this title in a fiscal year (beginning with fiscal year 2008) exceed the total amount of allotments available under this section to the State in the fiscal year (determined without regard to any redistribution it receives under subsection (f) that is available for expenditure during such fiscal year, but including any carryover from a previous fiscal year) and if the average monthly unduplicated number of children enrolled under the State plan under this title (including children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during such fiscal year exceeds its target average number of such enrollees (as determined under subparagraph (B)) for that fiscal year, the allotment under this section for the State for the sub-

sequent fiscal year (or, pursuant to subparagraph (F), for the fiscal year involved) shall be increased by the product of—

“(i) the amount by which such average monthly caseload exceeds such target number of enrollees; and

“(ii) the projected per capita expenditures under the State child health plan (as determined under subparagraph (C) for the original fiscal year involved), multiplied by the enhanced FMAP (as defined in section 2105(b)) for the State and fiscal year involved

“(B) TARGET AVERAGE NUMBER OF CHILD ENROLLEES.—In this subsection, the target average number of child enrollees for a State—

“(i) for fiscal year 2008 is equal to the monthly average unduplicated number of children enrolled in the State child health plan under this title (including such children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during fiscal year 2007 increased by the population growth for children in that State for the year ending on June 30, 2006 (as estimated by the Bureau of the Census) plus 1 percentage point; or

“(ii) for a subsequent fiscal year is equal to the target average number of child enrollees for the State for the previous fiscal year increased by the population growth for children in that State for the year ending on June 30 before the beginning of the fiscal year (as estimated by the Bureau of the Census) plus 1 percentage point.

“(C) PROJECTED PER CAPITA EXPENDITURES.—For purposes of subparagraph (A)(i), the projected per capita expenditures under a State child health plan—

“(i) for fiscal year 2008 is equal to the average per capita expenditures (including both State and Federal financial participation) under such plan for the targeted low-income children counted in the average monthly caseload for purposes of this paragraph during fiscal year 2007, increased by the annual percentage increase in the per capita amount of National Health Expenditures (as estimated by the Secretary) for 2008; or

“(ii) for a subsequent fiscal year is equal to the projected per capita expenditures under such plan for the previous fiscal year (as determined under clause (i) or this clause) increased by the annual percentage increase in the per capita amount of National Health Expenditures (as estimated by the Secretary) for the year in which such subsequent fiscal year ends.

“(D) AVAILABILITY.—Notwithstanding subsection (e), an increase in allotment under this paragraph shall only be available for expenditure during the fiscal year in which it is provided.

“(E) NO REDISTRIBUTION OF PERFORMANCE-BASED SHORTFALL ADJUSTMENT.—In no case shall any increase in allotment under this paragraph for a State be subject to redistribution to other States.

“(F) INTERIM ALLOTMENT ADJUSTMENT.—The Secretary shall develop a process to administer the performance-based shortfall adjustment in a manner so it is applied to (and before the end of) the fiscal year (rather than the subsequent fiscal year) involved for a State that the Secretary estimates will be in shortfall and will exceed its enrollment target for that fiscal year.

“(G) PERIODIC AUDITING.—The Comptroller General of the United States shall periodically audit the accuracy of data used in the computation of allotment adjustments under this paragraph. Based on such audits, the Comptroller General shall make such recommendations to the Congress and the Secretary as the Comptroller General deems appropriate.

“(4) CONTINUED REPORTING.—For purposes of paragraph (3) and subsection (f), the State shall submit to the Secretary the State’s

projected Federal expenditures, even if the amount of such expenditures exceeds the total amount of allotments available to the State in such fiscal year.”.

#### SEC. 102. 2-YEAR INITIAL AVAILABILITY OF CHIP ALLOTMENTS.

Section 2104(e) of the Social Security Act (42 U.S.C. 1397dd(e)) is amended to read as follows:

“(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (i)(3)(D), amounts allotted to a State pursuant to this section—

“(A) for each of fiscal years 1998 through 2007, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

“(B) for fiscal year 2008 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

“(2) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed, except that funds so redistributed to a State that are not expended by the end of such fiscal year shall remain available after the end of such fiscal year and shall be available in the following fiscal year for subsequent redistribution under such subsection.”.

#### SEC. 103. REDISTRIBUTION OF UNUSED ALLOTMENTS TO ADDRESS STATE FUNDING SHORTFALLS.

Section 2104(f) of the Social Security Act (42 U.S.C. 1397dd(f)) is amended—

(1) by striking “The Secretary” and inserting the following:

“(1) IN GENERAL.—The Secretary”;

(2) by striking “States that have fully expended the amount of their allotments under this section.” and inserting “States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal year, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C)). The amount of allotments not expended or redistributed under the previous sentence shall remain available for redistribution in the succeeding fiscal year.”; and

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

“(2) SHORTFALL STATES DESCRIBED.—

“(A) IN GENERAL.—For purposes of paragraph (1), with respect to a fiscal year, a shortfall State described in this subparagraph 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, that the projected expenditures under such plan for the State for the fiscal year will exceed the sum of—

“(i) the amount of the State’s allotments for any preceding fiscal years that remains available for expenditure and that will not be expended by the end of the immediately preceding fiscal year;

“(ii) the amount (if any) of the performance based adjustment under subsection (i)(3)(A); and

“(iii) the amount of the State’s allotment for the fiscal year.

“(B) PRORATION RULE.—If the amounts available for redistribution under paragraph (1) for a fiscal year are less than the total amounts of the estimated shortfalls determined for the year under subparagraph (A), the amount to be redistributed under such

paragraph for each shortfall State shall be reduced proportionally.

“(C) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made under paragraph (1) and this paragraph with respect to a fiscal year as necessary on the basis of the amounts reported by States not later than November 30 of the succeeding fiscal year, as approved by the Secretary.”

**SEC. 104. EXTENSION OF OPTION FOR QUALIFYING STATES.**

Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by inserting after “or 2007” the following: “or 30 percent of any allotment under section 2104 for any subsequent fiscal year”.

**Subtitle B—Improving Enrollment and Retention of Eligible Children**

**SEC. 111. CHIP PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.**

Section 2105(a) of the Social Security Act (42 U.S.C. 1397ee(a)) is amended by adding at the end the following new paragraphs:

“(3) PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL MEDICAID AND CHIP CHILD ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.—

“(A) IN GENERAL.—In addition to the payments made under paragraph (1), for each fiscal year (beginning with fiscal year 2008) the Secretary shall pay to each State that meets the condition under paragraph (4) for the fiscal year, an amount equal to the amount described in subparagraph (B) for the State and fiscal year. The payment under this paragraph shall be made, to a State for a fiscal year, as a single payment not later than the last day of the first calendar quarter of the following fiscal year.

“(B) AMOUNT.—The amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

“(i) FOR ABOVE BASELINE MEDICAID CHILD ENROLLMENT COSTS.—

“(I) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as determined under subparagraph (C)(i)) under title XIX for the State and fiscal year multiplied by 35 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)(i)) for the State and fiscal year under title XIX.

“(II) SECOND TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees (as determined under subparagraph (C)(ii)) under title XIX for the State and fiscal year multiplied by 90 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)(i)) for the State and fiscal year under title XIX.

“(ii) FOR ABOVE BASELINE CHIP ENROLLMENT COSTS.—

“(I) FIRST TIER ABOVE BASELINE CHIP ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees under this title (as determined under subparagraph (C)(i)) for the State and fiscal year multiplied by 5 percent of the projected per capita State CHIP expenditures (as determined under subparagraph (D)(ii)) for the State and fiscal year under this title.

“(II) SECOND TIER ABOVE BASELINE CHIP ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees under this title (as determined under subparagraph (C)(ii)) for the State and fiscal year multiplied by 75 percent of the projected per capita State CHIP expenditures (as determined under subparagraph (D)(ii)) for the State and fiscal year under this title.

“(C) NUMBER OF FIRST AND SECOND TIER ABOVE BASELINE CHILD ENROLLEES; BASELINE NUMBER OF CHILD ENROLLEES.—For purposes of this paragraph:

“(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under this title or title XIX is equal to the number (if any, as determined by the Secretary) by which—

“(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (E)) enrolled during the fiscal year under the State child health plan under this title or under the State plan under title XIX, respectively; exceeds

“(II) the baseline number of enrollees described in clause (iii) for the State and fiscal year under this title or title XIX, respectively;

but not to exceed 3 percent (in the case of title XIX) or 7.5 percent (in the case of this title) of the baseline number of enrollees described in subclause (II).

“(ii) SECOND TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under this title or title XIX is equal to the number (if any, as determined by the Secretary) by which—

“(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (E)) enrolled during the fiscal year under this title or under title XIX, respectively, as described in clause (i)(I); exceeds

“(II) the sum of the baseline number of child enrollees described in clause (iii) for the State and fiscal year under this title or title XIX, respectively, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under this title or title XIX, respectively, as determined under clause (i).

“(iii) BASELINE NUMBER OF CHILD ENROLLEES.—The baseline number of child enrollees for a State under this title or title XIX—

“(I) for fiscal year 2008 is equal to the monthly average unduplicated number of qualifying children enrolled in the State child health plan under this title or in the State plan under title XIX, respectively, during fiscal year 2007 increased by the population growth for children in that State for the year ending on June 30, 2006 (as estimated by the Bureau of the Census) plus 1 percentage point; or

“(II) for a subsequent fiscal year is equal to the baseline number of child enrollees for the State for the previous fiscal year under this title or title XIX, respectively, increased by the population growth for children in that State for the year ending on June 30 before the beginning of the fiscal year (as estimated by the Bureau of the Census) plus 1 percentage point.

“(D) PROJECTED PER CAPITA STATE EXPENDITURES.—For purposes of subparagraph (B)—

“(i) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—The projected per capita State Medicaid expenditures for a State and fiscal year under title XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such title, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year

ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b)) for the fiscal year involved.

“(ii) PROJECTED PER CAPITA STATE CHIP EXPENDITURES.—The projected per capita State CHIP expenditures for a State and fiscal year under this title is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State child health plan under this title, including under waivers, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the enhanced FMAP (as defined in section 2105(b)) for the fiscal year involved.

“(E) QUALIFYING CHILDREN DEFINED.—For purposes of this subsection, the term ‘qualifying children’ means, with respect to this title or title XIX, children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2007, for enrollment under this title or title XIX, respectively, taking into account criteria applied as of such date under this title or title XIX, respectively, pursuant to a waiver under section 1115.

“(4) ENROLLMENT AND RETENTION PROVISIONS FOR CHILDREN.—For purposes of paragraph (3)(A), a State meets the condition of this paragraph for a fiscal year if it is implementing at least 4 of the following enrollment and retention provisions (treating each subparagraph as a separate enrollment and retention provision) throughout the entire fiscal year:

“(A) CONTINUOUS ELIGIBILITY.—The State has elected the option of continuous eligibility for a full 12 months for all children described in section 1902(e)(12) under title XIX under 19 years of age, as well as applying such policy under its State child health plan under this title.

“(B) LIBERALIZATION OF ASSET REQUIREMENTS.—The State meets the requirement specified in either of the following clauses:

“(i) ELIMINATION OF ASSET TEST.—The State does not apply any asset or resource test for eligibility for children under title XIX or this title.

“(ii) ADMINISTRATIVE VERIFICATION OF ASSETS.—The State—

“(I) permits a parent or caretaker relative who is applying on behalf of a child for medical assistance under title XIX or child health assistance under this title to declare and certify by signature under penalty of perjury information relating to family assets for purposes of determining and redetermining financial eligibility; and

“(II) takes steps to verify assets through means other than by requiring documentation from parents and applicants except in individual cases of discrepancies or where otherwise justified.

“(C) ELIMINATION OF IN-PERSON INTERVIEW REQUIREMENT.—The State does not require an application of a child for medical assistance under title XIX (or for child health assistance under this title), including an application for renewal of such assistance, to be made in person nor does the State require a face-to-face interview, unless there are discrepancies or individual circumstances justifying an in-person application or face-to-face interview.

“(D) USE OF JOINT APPLICATION FOR MEDICAID AND CHIP.—The application form and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children for medical assistance under title XIX and child health assistance under this title.

“(E) AUTOMATIC RENEWAL (USE OF ADMINISTRATIVE RENEWAL).—

“(i) IN GENERAL.—The State provides, in the case of renewal of a child’s eligibility for medical assistance under title XIX or child health assistance under this title, a pre-printed form completed by the State based on the information available to the State and notice to the parent or caretaker relative of the child that eligibility of the child will be renewed and continued based on such information unless the State is provided other information. Nothing in this clause shall be construed as preventing a State from verifying, through electronic and other means, the information so provided.

“(ii) SATISFACTION THROUGH DEMONSTRATED USE OF EX PARTE PROCESS.—A State shall be treated as satisfying the requirement of clause (i) if renewal of eligibility of children under title XIX or this title is determined without any requirement for an in-person interview, unless sufficient information is not in the State’s possession and cannot be acquired from other sources (including other State agencies) without the participation of the applicant or the applicant’s parent or caretaker relative.

“(F) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State is implementing section 1920A under title XIX as well as, pursuant to section 2107(e)(1), under this title.

“(G) EXPRESS LANE.—The State is implementing the option described in section 1902(e)(13) under title XIX as well as, pursuant to section 2107(e)(1), under this title.”

**SEC. 112. STATE OPTION TO RELY ON FINDINGS FROM AN EXPRESS LANE AGENCY TO CONDUCT SIMPLIFIED ELIGIBILITY DETERMINATIONS.**

(a) MEDICAID.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

“(13) EXPRESS LANE OPTION.—

“(A) IN GENERAL.—

“(i) OPTION TO USE A FINDING FROM AN EXPRESS LANE AGENCY.—At the option of the State, the State plan may provide that in determining eligibility under this title for a child (as defined in subparagraph (F)), the State may rely on a finding made within a reasonable period (as determined by the State) from an Express Lane agency (as defined in subparagraph (E)) when it determines whether a child satisfies one or more components of eligibility for medical assistance under this title. The State may rely on a finding from an Express Lane agency notwithstanding sections 1902(a)(46)(B), 1903(x), and 1137(d) and any differences in budget unit, disregard, deeming or other methodology, if the following requirements are met:

“(I) PROHIBITION ON DETERMINING CHILDREN INELIGIBLE FOR COVERAGE.—If a finding from an Express Lane agency would result in a determination that a child does not satisfy an eligibility requirement for medical assistance under this title and for child health assistance under title XXI, the State shall determine eligibility for assistance using its regular procedures.

“(II) NOTICE REQUIREMENT.—For any child who is found eligible for medical assistance under the State plan under this title or child health assistance under title XXI and who is subject to premiums based on an Express Lane agency’s finding of such child’s income level, the State shall provide notice that the child may qualify for lower premium payments if evaluated by the State using its

regular policies and of the procedures for re-questing such an evaluation.

“(III) COMPLIANCE WITH SCREEN AND ENROLL REQUIREMENT.—The State shall satisfy the requirements under (A) and (B) of section 2102(b)(3) (relating to screen and enroll) before enrolling a child in child health assistance under title XXI. At its option, the State may fulfill such requirements in accordance with either option provided under subparagraph (C) of this paragraph.

“(i) OPTION TO APPLY TO RENEWALS AND RE-DETERMINATIONS.—The State may apply the provisions of this paragraph when conducting initial determinations of eligibility, redeterminations of eligibility, or both, as described in the State plan.

“(B) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed—

“(i) to limit or prohibit a State from taking any actions otherwise permitted under this title or title XXI in determining eligibility for or enrolling children into medical assistance under this title or child health assistance under title XXI; or

“(ii) to modify the limitations in section 1902(a)(5) concerning the agencies that may make a determination of eligibility for medical assistance under this title.

“(C) OPTIONS FOR SATISFYING THE SCREEN AND ENROLL REQUIREMENT.—

“(i) IN GENERAL.—With respect to a child whose eligibility for medical assistance under this title or for child health assistance under title XXI has been evaluated by a State agency using an income finding from an Express Lane agency, a State may carry out its duties under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) in accordance with either clause (ii) or clause (iii).

“(ii) ESTABLISHING A SCREENING THRESHOLD.—

“(I) IN GENERAL.—Under this clause, the State establishes a screening threshold set as a percentage of the Federal poverty level that exceeds the highest income threshold applicable under this title to the child by a minimum of 30 percentage points or, at State option, a higher number of percentage points that reflects the value (as determined by the State and described in the State plan) of any differences between income methodologies used by the program administered by the Express Lane agency and the methodologies used by the State in determining eligibility for medical assistance under this title.

“(II) CHILDREN WITH INCOME NOT ABOVE THRESHOLD.—If the income of a child does not exceed the screening threshold, the child is deemed to satisfy the income eligibility criteria for medical assistance under this title regardless of whether such child would otherwise satisfy such criteria.

“(III) CHILDREN WITH INCOME ABOVE THRESHOLD.—If the income of a child exceeds the screening threshold, the child shall be considered to have an income above the Medicaid applicable income level described in section 2110(b)(4) and to satisfy the requirement under section 2110(b)(1)(C) (relating to the requirement that CHIP matching funds be used only for children not eligible for Medicaid). If such a child is enrolled in child health assistance under title XXI, the State shall provide the parent, guardian, or custodial relative with the following:

“(aa) Notice that the child may be eligible to receive medical assistance under the State plan under this title if evaluated for such assistance under the State’s regular procedures and notice of the process through which a parent, guardian, or custodial relative can request that the State evaluate the child’s eligibility for medical assistance under this title using such regular procedures.

“(bb) A description of differences between the medical assistance provided under this title and child health assistance under title XXI, including differences in cost-sharing requirements and covered benefits.

“(iii) TEMPORARY ENROLLMENT IN CHIP PENDING SCREEN AND ENROLL.—

“(I) IN GENERAL.—Under this clause, a State enrolls a child in child health assistance under title XXI for a temporary period if the child appears eligible for such assistance based on an income finding by an Express Lane agency.

“(II) DETERMINATION OF ELIGIBILITY.—During such temporary enrollment period, the State shall determine the child’s eligibility for child health assistance under title XXI or for medical assistance under this title in accordance with this clause.

“(III) PROMPT FOLLOW UP.—In making such a determination, the State shall take prompt action to determine whether the child should be enrolled in medical assistance under this title or child health assistance under title XXI pursuant to subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll).

“(IV) REQUIREMENT FOR SIMPLIFIED DETERMINATION.—In making such a determination, the State shall use procedures that, to the maximum feasible extent, reduce the burden imposed on the individual of such determination. Such procedures may not require the child’s parent, guardian, or custodial relative to provide or verify information that already has been provided to the State agency by an Express Lane agency or another source of information unless the State agency has reason to believe the information is erroneous.

“(V) AVAILABILITY OF CHIP MATCHING FUNDS DURING TEMPORARY ENROLLMENT PERIOD.—Medical assistance for items and services that are provided to a child enrolled in title XXI during a temporary enrollment period under this clause shall be treated as child health assistance under such title.

“(D) OPTION FOR AUTOMATIC ENROLLMENT.—

“(i) IN GENERAL.—At its option, a State may initiate an evaluation of an individual’s eligibility for medical assistance under this title without an application and determine the individual’s eligibility for such assistance using findings from one or more Express Lane agencies and information from sources other than a child, if the requirements of clauses (ii) and (iii) are met.

“(ii) INDIVIDUAL CHOICE REQUIREMENT.—The requirement of this clause is that the child is enrolled in medical assistance under this title or child health assistance under title XXI only if the child (or a parent, caretaker relative, or guardian on the behalf of the child) has affirmatively assented to such enrollment.

“(iii) INFORMATION REQUIREMENT.—The requirement of this clause is that the State informs the parent, guardian, or custodial relative of the child of the services that will be covered, appropriate methods for using such services, premium or other cost sharing charges (if any) that apply, medical support obligations (under section 1912(a)) created by enrollment (if applicable), and the actions the parent, guardian, or relative must take to maintain enrollment and renew coverage.

“(E) EXPRESS LANE AGENCY DEFINED.—In this paragraph, the term ‘express lane agency’ means an agency that meets the following requirements:

“(i) The agency determines eligibility for assistance under the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, the Child Nutrition Act of 1966, or the Child Care and Development Block Grant Act of 1990.

“(ii) The agency notifies the child (or a parent, caretaker relative, or guardian on the behalf of the child)—

“(I) of the information which shall be disclosed;

“(II) that the information will be used by the State solely for purposes of determining eligibility for and for providing medical assistance under this title or child health assistance under title XXI; and

“(III) that the child, or parent, caretaker relative, or guardian, may elect to not have the information disclosed for such purposes.

“(iii) The agency and the State agency are subject to an interagency agreement limiting the disclosure and use of such information to such purposes.

“(iv) The agency is determined by the State agency to be capable of making the determinations described in this paragraph and is identified in the State plan under this title or title XXI.

For purposes of this subparagraph, the term ‘State agency’ refers to the agency determining eligibility for medical assistance under this title or child health assistance under title XXI.

“(F) CHILD DEFINED.—For purposes of this paragraph, the term ‘child’ means an individual under 19 years of age, or, at the option of a State, such higher age, not to exceed 21 years of age, as the State may elect.”

(b) CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended by redesignating subparagraph (B) and succeeding subparagraphs as subparagraph (C) and succeeding subparagraphs and by inserting after subparagraph (A) the following new subparagraph:

“(B) Section 1902(e)(13) (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child’s eligibility for medical assistance).”

(c) ELECTRONIC TRANSMISSION OF INFORMATION.—Section 1902 of such Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

“(dd) ELECTRONIC TRANSMISSION OF INFORMATION.—If the State agency determining eligibility for medical assistance under this title or child health assistance under title XXI verifies an element of eligibility based on information from an Express Lane Agency (as defined in subsection (e)(13)(F)), or from another public agency, then the applicant’s signature under penalty of perjury shall not be required as to such element. Any signature requirement for an application for medical assistance may be satisfied through an electronic signature, as defined in section 1710(1) of the Government Paperwork Elimination Act (44 U.S.C. 3504 note). The requirements of subparagraphs (A) and (B) of section 1137(d)(2) may be met through evidence in digital or electronic form.”

(d) AUTHORIZATION OF INFORMATION DISCLOSURE.—

(1) IN GENERAL.—Title XIX of the Social Security Act is amended—

(A) by redesignating section 1939 as section 1940; and

(B) by inserting after section 1938 the following new section:

“SEC. 1939. AUTHORIZATION TO RECEIVE PERTINENT INFORMATION.

“(a) IN GENERAL.—Notwithstanding any other provision of law, a Federal or State agency or private entity in possession of the sources of data potentially pertinent to eligibility determinations under this title (including eligibility files maintained by Express Lane agencies described in section 1902(e)(13)(F)), information described in paragraph (2) or (3) of section 1137(a), vital records information about births in any State, and information described in sections 453(i) and 1902(a)(25)(I) is authorized to con-

vey such data or information to the State agency administering the State plan under this title, to the extent such conveyance meets the requirements of subsection (b).

“(b) REQUIREMENTS FOR CONVEYANCE.—Data or information may be conveyed pursuant to subsection (a) only if the following requirements are met:

“(1) The individual whose circumstances are described in the data or information (or such individual’s parent, guardian, caretaker relative, or authorized representative) has either provided advance consent to disclosure or has not objected to disclosure after receiving advance notice of disclosure and a reasonable opportunity to object.

“(2) Such data or information are used solely for the purposes of—

“(A) identifying individuals who are eligible or potentially eligible for medical assistance under this title and enrolling or attempting to enroll such individuals in the State plan; and

“(B) verifying the eligibility of individuals for medical assistance under the State plan.

“(3) An interagency or other agreement, consistent with standards developed by the Secretary—

“(A) prevents the unauthorized use, disclosure, or modification of such data and otherwise meets applicable Federal requirements safeguarding privacy and data security; and

“(B) requires the State agency administering the State plan to use the data and information obtained under this section to seek to enroll individuals in the plan.

“(c) CRIMINAL PENALTY.—A private entity described in the subsection (a) that publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both, for each such unauthorized publication or disclosure.

“(d) RULE OF CONSTRUCTION.—The limitations and requirements that apply to disclosure pursuant to this section shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under Federal law (without regard to this section).”

(2) CONFORMING AMENDMENT TO TITLE XXI.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by subsection (b), is amended by adding at the end the following new subparagraph:

“(F) Section 1939 (relating to authorization to receive data potentially pertinent to eligibility determinations).”

(3) CONFORMING AMENDMENT TO PROVIDE ACCESS TO DATA ABOUT ENROLLMENT IN INSURANCE FOR PURPOSES OF EVALUATING APPLICATIONS AND FOR CHIP.—Section 1902(a)(25)(I)(i) of such Act (42 U.S.C. 1396a(a)(25)(I)(i)) is amended—

(A) by inserting “(and, at State option, individuals who are potentially eligible or who apply)” after “with respect to individuals who are eligible”; and

(B) by inserting “under this title (and, at State option, child health assistance under title XXI)” after “the State plan”.

(e) EFFECTIVE DATE.—The amendments made by this section are effective on January 1, 2008.

SEC. 113. APPLICATION OF MEDICAID OUTREACH PROCEDURES TO ALL CHILDREN AND PREGNANT WOMEN.

(a) IN GENERAL.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended—

(1) in the matter before subparagraph (A), by striking “individuals for medical assistance under subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX)” and inserting “children and pregnant women for medical assistance under any provision of this title”; and

(2) in subparagraph (B), by inserting before the semicolon at the end the following: “, which need not be the same application form for all such individuals”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on January 1, 2008.

SEC. 114. ENCOURAGING CULTURALLY APPROPRIATE ENROLLMENT AND RETENTION PRACTICES.

(a) USE OF MEDICAID FUNDS.—Section 1903(a)(2) of the Social Security Act (42 U.S.C. 1396b(a)(2)) is amended by adding at the end the following new subparagraph:

“(E) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to translation or interpretation services in connection with the enrollment and retention under this title of children of families for whom English is not the primary language; plus”.

(b) USE OF COMMUNITY HEALTH WORKERS FOR OUTREACH ACTIVITIES.—

(1) IN GENERAL.—Section 2102(c)(1) of such Act (42 U.S.C. 1397b(c)(1)) is amended by inserting “(through community health workers and others)” after “Outreach”.

(2) IN FEDERAL EVALUATION.—Section 2108(c)(3)(B) of such Act (42 U.S.C. 1397h(c)(3)(B)) is amended by inserting “(such as through community health workers and others)” after “including practices”.

#### Subtitle C—Coverage

SEC. 121. ENSURING CHILD-CENTERED COVERAGE.

(a) ADDITIONAL REQUIRED SERVICES.—

(1) CHILD-CENTERED COVERAGE.—Section 2103 of the Social Security Act (42 U.S.C. 1397cc) is amended—

(A) in subsection (a)—

(i) in the matter before paragraph (1), by striking “subsection (c)(5)” and inserting “paragraphs (5) and (6) of subsection (c)”; and

(ii) in paragraph (1), by inserting “at least” after “that is”; and

(B) in subsection (c)—

(i) by redesignating paragraph (5) as paragraph (6); and

(ii) by inserting after paragraph (4), the following:

“(5) DENTAL, FQHC, AND RHC SERVICES.—The child health assistance provided to a targeted low-income child (whether through benchmark coverage or benchmark-equivalent coverage or otherwise) shall include coverage of the following:

“(A) Dental services necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions.

“(B) Federally-qualified health center services (as defined in section 1905(l)(2)) and rural health clinic services (as defined in section 1905(l)(1)).

Nothing in this section shall be construed as preventing a State child health plan from providing such services as part of benchmark coverage or in addition to the benefits provided through benchmark coverage.”

(2) REQUIRED PAYMENT FOR FQHC AND RHC SERVICES.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by sections 112(b) and 112(d)(2), is amended by inserting after subparagraph (B) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

“(C) Section 1902(bb) (relating to payment for services provided by Federally-qualified health centers and rural health clinics).”

(3) MENTAL HEALTH PARITY.—Section 2103(a)(2)(C) of such Act (42 U.S.C. 1397aa(a)(2)(C)) is amended by inserting “(or 100 percent in the case of the category of

services described in subparagraph (B) of such subsection)" after "75 percent".

(4) **EFFECTIVE DATE.**—The amendments made by this subsection and subsection (d) shall apply to health benefits coverage provided on or after October 1, 2008.

(b) **CLARIFICATION OF REQUIREMENT TO PROVIDE EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK BENEFIT PACKAGES UNDER MEDICAID.**—

(1) **IN GENERAL.**—Section 1937(a)(1) of the Social Security Act (42 U.S.C. 1396u-7(a)(1)) is amended—

(A) in subparagraph (A)—

(i) in the matter before clause (i), by striking "Notwithstanding any other provision of this title" and inserting "Subject to subparagraph (E)"; and

(ii) by striking "enrollment in coverage that provides" and all that follows and inserting "benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2).";

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

"(C) **STATE OPTION TO PROVIDE ADDITIONAL BENEFITS.**—A State, at its option, may provide such additional benefits to benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2) as the State may specify."; and

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

"(E) **REQUIRING COVERAGE OF EPSDT SERVICES.**—Nothing in this paragraph shall be construed as affecting a child's entitlement to care and services described in subsections (a)(4)(B) and (r) of section 1905 and provided in accordance with section 1902(a)(43) whether provided through benchmark coverage, benchmark equivalent coverage, or otherwise."

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall take effect as if included in the amendment made by section 6044(a) of the Deficit Reduction Act of 2005.

(c) **CLARIFICATION OF COVERAGE OF SERVICES IN SCHOOL-BASED HEALTH CENTERS INCLUDED AS CHILD HEALTH ASSISTANCE.**—

(1) **IN GENERAL.**—Section 2110(a)(5) of such Act (42 U.S.C. 1397jj(a)(5)) is amended by inserting after "health center services" the following: "and school-based health center services" and "services for which coverage is otherwise provided under this title when furnished by a school-based health center that is authorized to furnish such services under State law".

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to child health assistance furnished on or after the date of the enactment of this Act.

(d) **ASSURING ACCESS TO CARE.**—

(1) **STATE CHILD HEALTH PLAN REQUIREMENT.**—Section 2102(a)(7)(B) of such Act (42 U.S.C. 1397bb(c)(2)) is amended by inserting "and services described in section 2103(c)(5)" after "emergency services".

(2) **REFERENCE TO EFFECTIVE DATE.**—For the effective date for the amendments made by this subsection, see subsection (a)(5).

#### **SEC. 122. IMPROVING BENCHMARK COVERAGE OPTIONS.**

(a) **LIMITATION ON SECRETARY-APPROVED COVERAGE.**—

(1) **UNDER CHIP.**—Section 2103(a)(4) of the Social Security Act (42 U.S.C. 1397cc(a)(4)) is amended by inserting before the period at the end the following: "if the health benefits coverage is at least equivalent to the benefits coverage in a benchmark benefit package described in subsection (b)".

(2) **UNDER MEDICAID.**—Section 1937(b)(1)(D) of the Social Security Act (42 U.S.C. 1396u-7(b)(1)(D)) is amended by inserting before the period at the end the following: "if the health benefits coverage is at least equivalent to the benefits coverage in benchmark

coverage described in subparagraph (A), (B), or (C)".

(b) **REQUIREMENT FOR MOST POPULAR FAMILY COVERAGE FOR STATE EMPLOYEE COVERAGE BENCHMARK.**—

(1) **CHIP.**—Section 2103(b)(2) of such Act (42 U.S.C. 1397(b)(2)) is amended by inserting "and that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years" before the period at the end.

(2) **MEDICAID.**—Section 1937(b)(1)(B) of such Act is amended by inserting "and that has been selected most frequently, by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years" before the period at the end.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to health benefits coverage provided on or after October 1, 2008.

#### **SEC. 123. PREMIUM GRACE PERIOD.**

(a) **IN GENERAL.**—Section 2103(e)(3) of the Social Security Act (42 U.S.C. 1397cc(e)(3)) is amended by adding at the end the following new subparagraph:

"(C) **PREMIUM GRACE PERIOD.**—The State child health plan—

(i) shall afford individuals enrolled under the plan a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before the individual's coverage under the plan may be terminated; and

(ii) shall provide to such an individual, not later than 7 days after the first day of such grace period, notice—

(I) that failure to make a premium payment within the grace period will result in termination of coverage under the State child health plan; and

(II) of the individual's right to challenge the proposed termination pursuant to the applicable Federal regulations.

For purposes of clause (i), the term "new coverage period" means the month immediately following the last month for which the premium has been paid."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to new coverage periods beginning on or after January 1, 2009.

#### **Subtitle D—Populations**

#### **SEC. 131. OPTIONAL COVERAGE OF OLDER CHILDREN UNDER MEDICAID AND CHIP.**

(a) **MEDICAID.**—

(1) **IN GENERAL.**—Section 1902(l)(1)(D) of the Social Security Act (42 U.S.C. 1396a(l)(1)(D)) is amended by striking "but have not attained 19 years of age" and inserting "but is under 19 years of age (or, at the option of a State and subject to section 131(d) of the Children's Health and Medicare Protection Act of 2007, under such higher age, not to exceed 25 years of age, as the State may elect)".

(2) **CONFORMING AMENDMENTS.**—

(A) Section 1902(e)(3)(A) of such Act (42 U.S.C. 1396a(e)(3)(A)) is amended by striking "18 years of age or younger" and inserting "under 19 years of age (or under such higher age as the State has elected under subsection (1)(D))" after "18 years of age".

(B) Section 1902(e)(12) of such Act (42 U.S.C. 1396a(e)(12)) is amended by inserting "or such higher age as the State has elected under subsection (1)(D)" after "19 years of age".

(C) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in clause (i), by inserting "or under such higher age as the State has elected under subsection (1)(D)" after "as the State may choose".

(D) Section 1920A(b)(1) of such Act (42 U.S.C. 1396r-1a(b)(1)) is amended by inserting

"or under such higher age as the State has elected under section 1902(1)(1)(D)" after "19 years of age".

(E) Section 1928(h)(1) of such Act (42 U.S.C. 1396s(h)(1)) is amended by striking "18 years of age or younger" and inserting "under 19 years of age or under such higher age as the State has elected under section 1902(1)(1)(D)".

(F) Section 1932(a)(2)(A) of such Act (42 U.S.C. 1396u-2(a)(2)(A)) is amended by inserting "(or under such higher age as the State has elected under section 1902(1)(1)(D))" after "19 years of age".

(b) **TITLE XXI.**—Section 2110(c)(1) of such Act (42 U.S.C. 1397jj(c)(1)) is amended by inserting "(or, at the option of the State and subject to section 131(d) of the Children's Health and Medicare Protection Act of 2007, under such higher age as the State has elected under section 1902(1)(1)(D))" after "19 years of age".

(c) **EFFECTIVE DATE.**—Subject to subsection (d), the amendments made by this section take effect on January 1, 2010.

(d) **TRANSITION.**—In carrying out the amendments made by subsections (a) and (b)—

(1) for 2010, a State election under section 1902(1)(1)(D) shall only apply with respect to title XXI of such Act and the age elected may not exceed 21 years of age;

(2) for 2011, a State election under section 1902(1)(1)(D) may apply under titles XIX and XXI of such Act and the age elected may not exceed 23 years of age;

(3) for 2012, a State election under section 1902(1)(1)(D) may apply under titles XIX and XXI of such Act and the age elected may not exceed 24 years of age; and

(4) for 2013 and each subsequent year, a State election under section 1902(1)(1)(D) may apply under titles XIX and XXI of such Act and the age elected may not exceed 25 years of age.

#### **SEC. 132. OPTIONAL COVERAGE OF LEGAL IMMIGRANTS UNDER THE MEDICAID PROGRAM AND CHIP.**

(a) **MEDICAID PROGRAM.**—Section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (4)"; and

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

"(4)(A) A State may elect (in a plan amendment under this title) to provide medical assistance under this title, notwithstanding sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, for aliens who are lawfully residing in the United States (including battered aliens described in section 431(c) of such Act) and who are otherwise eligible for such assistance, within either or both of the following eligibility categories:

(i) **PREGNANT WOMEN.**—Women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy).

(ii) **CHILDREN.**—Individuals under age 19 (or such higher age as the State has elected under section 1902(1)(1)(D)), including optional targeted low-income children described in section 1905(u)(2)(B).

(B) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of medical assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost."

(b) **CHIP.**—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by section 112(b), 112(d)(2), and 121(a)(2), is amended by redesignating subparagraphs (E) through (G)

as subparagraphs (G) through (I), respectively, and by inserting after subparagraph (D) the following new subparagraphs:

“(E) Section 1903(v)(4)(A) (relating to optional coverage of certain categories of lawfully residing immigrants), insofar as it relates to the category of pregnant women described in clause (i) of such section, but only if the State has elected to apply such section with respect to such women under title XIX and the State has elected the option under section 2111 to provide assistance for pregnant women under this title.

“(F) Section 1903(v)(4)(A) (relating to optional coverage of categories of lawfully residing immigrants), insofar as it relates to the category of children described in clause (ii) of such section, but only if the State has elected to apply such section with respect to such children under title XIX.”

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

**SEC. 133. STATE OPTION TO EXPAND OR ADD COVERAGE OF CERTAIN PREGNANT WOMEN UNDER CHIP.**

(a) CHIP.—

(1) COVERAGE.—Title XXI (42 U.S.C. 1397aa et seq.) of the Social Security Act is amended by adding at the end the following new section:

**“SEC. 2111. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN.**

“(a) OPTIONAL COVERAGE.—Notwithstanding any other provision of this title, a State may provide for coverage, through an amendment to its State child health plan under section 2102, of assistance for pregnant women for targeted low-income pregnant women in accordance with this section, but only if—

“(1) the State has established an income eligibility level—

“(A) for pregnant women, under any of clauses (i)(III), (i)(IV), or (ii)(IX) of section 1902(a)(10)(A), that is at least 185 percent (or such higher percent as the State has in effect for pregnant women under this title) of the poverty line applicable to a family of the size involved, but in no case a percent lower than the percent in effect under any such clause as of July 1, 2007; and

“(B) for children under 19 years of age under this title (or title XIX) that is at least 200 percent of the poverty line applicable to a family of the size involved; and

“(2) the State does not impose, with respect to the enrollment under the State child health plan of targeted low-income children during the quarter, any enrollment cap or other numerical limitation on enrollment, any waiting list, any procedures designed to delay the consideration of applications for enrollment, or similar limitation with respect to enrollment.

“(b) DEFINITIONS.—For purposes of this title:

“(1) ASSISTANCE FOR PREGNANT WOMEN.—The term ‘assistance for pregnant women’ has the meaning given the term child health assistance in section 2110(a) as if any reference to targeted low-income children were a reference to targeted low-income pregnant women.

“(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term ‘targeted low-income pregnant woman’ means a woman—

“(A) during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends;

“(B) whose family income exceeds 185 percent (or, if higher, the percent applied under subsection (a)(1)(A)) of the poverty level applicable to a family of the size involved, but does not exceed the income eligibility level established under the State child health plan

under this title for a targeted low-income child; and

“(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b), applied as if any reference to a child was a reference to a pregnant woman.

“(c) REFERENCES TO TERMS AND SPECIAL RULES.—In the case of, and with respect to, a State providing for coverage of assistance for pregnant women to targeted low-income pregnant women under subsection (a), the following special rules apply:

“(1) Any reference in this title (other than in subsection (b)) to a targeted low-income child is deemed to include a reference to a targeted low-income pregnant woman.

“(2) Any reference in this title to child health assistance (other than with respect to the provision of early and periodic screening, diagnostic, and treatment services) with respect to such women is deemed a reference to assistance for pregnant women.

“(3) Any such reference (other than in section 2105(d)) to a child is deemed a reference to a woman during pregnancy and the period described in subsection (b)(2)(A).

“(4) In applying section 2102(b)(3)(B), any reference to children found through screening to be eligible for medical assistance under the State medicaid plan under title XIX is deemed a reference to pregnant women.

“(5) There shall be no exclusion of benefits for services described in subsection (b)(1) based on any preexisting condition and no waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) shall apply.

“(6) In applying section 2103(e)(3)(B) in the case of a pregnant woman provided coverage under this section, the limitation on total annual aggregate cost-sharing shall be applied to such pregnant woman.

“(7) In applying section 2104(i)—

“(A) in the case of a State which did not provide for coverage for pregnant women under this title (under a waiver or otherwise) during fiscal year 2007, the allotment amount otherwise computed for the first fiscal year in which the State elects to provide coverage under this section shall be increased by an amount (determined by the Secretary) equal to the enhanced FMAP of the expenditures under this title for such coverage, based upon projected enrollment and per capita costs of such enrollment; and

“(B) in the case of a State which provided for coverage of pregnant women under this title for the previous fiscal year—

“(i) in applying paragraph (2)(B) of such section, there shall also be taken into account (in an appropriate proportion) the percentage increase in births in the State for the relevant period; and

“(ii) in applying paragraph (3), pregnant women (and per capita expenditures for such women) shall be accounted for separately from children, but shall be included in the total amount of any allotment adjustment under such paragraph.

“(d) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING ASSISTANCE FOR PREGNANT WOMEN.—If a child is born to a targeted low-income pregnant woman who was receiving assistance for pregnant women under this section on the date of the child’s birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title on the date of such birth, based on the mother’s reported income as of the time of her enrollment under this section and applicable income eligibility levels under this title and title XIX, and to remain eligible for such as-

sistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the assistance for pregnant women or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).”

(2) ADDITIONAL AMENDMENT.—Section 2107(e)(1)(H) of such Act (42 U.S.C. 1397gg(e)(1)(H)), as redesignated by section 133(b), is amended to read as follows:

“(H) Sections 1920 and 1920A (relating to presumptive eligibility for pregnant women and children).”

(b) AMENDMENTS TO MEDICAID.—

(1) ELIGIBILITY OF A NEWBORN.—Section 1902(e)(4) of the Social Security Act (42 U.S.C. 1396a(e)(4)) is amended in the first sentence by striking “so long as the child is a member of the woman’s household and the woman remains (or would remain if pregnant) eligible for such assistance”.

(2) APPLICATION OF QUALIFIED ENTITIES TO PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN UNDER MEDICAID.—Section 1920(b) of the Social Security Act (42 U.S.C. 1396r-1(b)) is amended by adding after paragraph (2) the following flush sentence:

“The term ‘qualified provider’ also includes a qualified entity, as defined in section 1920A(b)(3).”

**SEC. 134. LIMITATION ON WAIVER AUTHORITY TO COVER ADULTS.**

Section 2102 of the Social Security Act (42 U.S.C. 1397bb) is amended by adding at the end the following new subsection:

“(d) LIMITATION ON COVERAGE OF ADULTS.—Notwithstanding any other provision of this title, the Secretary may not, through the exercise of any waiver authority on or after January 1, 2008, provide for Federal financial participation to a State under this title for health care services for individuals who are not targeted low-income children or pregnant women unless the Secretary determines that no eligible targeted low-income child in the State would be denied coverage under this title for health care services because of such eligibility. In making such determination, the Secretary must receive assurances that—

“(1) there is no waiting list under this title in the State for targeted low-income children to receive child health assistance under this title; and

“(2) the State has in place an outreach program to reach all targeted low-income children in families with incomes less than 200 percent of the poverty line.”

**Subtitle E—Access**

**SEC. 141. CHILDREN’S ACCESS, PAYMENT, AND EQUALITY COMMISSION.**

Title XIX of the Social Security Act is amended by inserting before section 1901 the following new section:

“CHILDREN’S ACCESS, PAYMENT, AND EQUALITY COMMISSION

“SEC. 1900. (a) ESTABLISHMENT.—There is hereby established as an agency of Congress the Children’s Access, Payment, and Equality Commission (in this section referred to as the ‘Commission’).

“(b) DUTIES.—

“(1) REVIEW OF PAYMENT POLICIES AND ANNUAL REPORTS.—The Commission shall—

“(A) review Federal and State payment policies of the Medicaid program established under this title (in this section referred to as ‘Medicaid’) and the State Children’s Health Insurance Program established under title XXI (in this section referred to as ‘CHIP’), including topics described in paragraph (2);

“(B) review access to, and affordability of, coverage and services for enrollees under Medicaid and CHIP;

“(C) make recommendations to Congress concerning such policies;

“(D) by not later than March 1 of each year, submit to Congress a report containing the results of such reviews and its recommendations concerning such policies; and

“(E) by not later than June 1 of each year, submit to Congress a report containing an examination of issues affecting Medicaid and CHIP, including the implications of changes in health care delivery in the United States and in the market for health care services on such programs.

“(2) SPECIFIC TOPICS TO BE REVIEWED.—Specifically, the Commission shall review the following:

“(A) The factors affecting expenditures for services in different sectors (such as physician, hospital and other sectors), payment methodologies, and their relationship to access and quality of care for Medicaid and CHIP beneficiaries.

“(B) The impact of Federal and State Medicaid and CHIP payment policies on access to services (including dental services) for children (including children with disabilities) and other Medicaid and CHIP populations.

“(C) The impact of Federal and State Medicaid and CHIP policies on reducing health disparities, including geographic disparities and disparities among minority populations.

“(D) The overall financial stability of the health care safety net, including Federally-qualified health centers, rural health centers, school-based clinics, disproportionate share hospitals, public hospitals, providers and grantees under section 2612(a)(5) of the Public Health Service Act (popularly known as the Ryan White CARE Act), and other providers that have a patient base which includes a disproportionate number of uninsured or low-income individuals and the impact of CHIP and Medicaid policies on such stability.

“(E) The relation (if any) between payment rates for providers and improvement in care for children as measured under the children's health quality measurement program established under section 151 of the Children's Health and Medicare Protection Act of 2007.

“(F) The affordability, cost effectiveness, and accessibility of services needed by special populations under Medicaid and CHIP as compared with private-sector coverage.

“(G) The extent to which the operation of Medicaid and CHIP ensures access, comparable to access under employer-sponsored or other private health insurance coverage (or in the case of federally-qualified health center services (as defined in section 1905(1)(2)) and rural health clinic services (as defined in section 1905(1)(1)), access comparable to the access to such services under title XIX), for targeted low-income children.

“(H) The effect of demonstrations under section 1115, benchmark coverage under section 1937, and other coverage under section 1938, on access to care, affordability of coverage, provider ability to achieve children's health quality performance measures, and access to safety net services.

“(3) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to payment policies under Medicaid or CHIP, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

“(4) AGENDA AND ADDITIONAL REVIEWS.—The Commission shall consult periodically with the Chairmen and Ranking Minority Members of the appropriate committees of Congress regarding the Commission's agenda and progress towards achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title or title XXI as may be requested by such Chairmen and Members and as the Commission deems appropriate.

“(5) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

“(6) APPROPRIATE COMMITTEE OF CONGRESS.—For purposes of this section, the term ‘appropriate committees of Congress’ means the Committees on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate.

“(7) VOTING AND REPORTING REQUIREMENTS.—With respect to each recommendation contained in a report submitted under paragraph (1), each member of the Commission shall vote on the recommendation, and the Commission shall include, by member, the results of that vote in the report containing the recommendation.

“(8) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, the Commission shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.

“(c) APPLICATION OF PROVISIONS.—The following provisions of section 1805 shall apply to the Commission in the same manner as they apply to the Medicare Payment Advisory Commission:

“(1) Subsection (c) (relating to membership), except that the membership of the Commission shall also include representatives of children, pregnant women, individuals with disabilities, seniors, low-income families, and other groups of CHIP and Medicaid beneficiaries.

“(2) Subsection (d) (relating to staff and consultants).

“(3) Subsection (e) (relating to powers).

“(d) AUTHORIZATION OF APPROPRIATIONS.—

“(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

“(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.”

#### SEC. 142. MODEL OF INTERSTATE COORDINATED ENROLLMENT AND COVERAGE PROCESS.

(a) IN GENERAL.—In order to assure continuity of coverage of low-income children under the Medicaid program and the State Children's Health Insurance Program (CHIP), not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States, in consultation with State Medicaid and CHIP directors and organizations representing program beneficiaries, shall develop a model process for the coordination of the enrollment, retention, and coverage under such programs of children who, because of migration of families, emergency evacuations, educational needs, or otherwise, frequently change their State of residency or otherwise are temporarily located outside of the State of their residency.

(b) REPORT TO CONGRESS.—After development of such model process, the Comptroller

General shall submit to Congress a report describing additional steps or authority needed to make further improvements to coordinate the enrollment, retention, and coverage under CHIP and Medicaid of children described in subsection (a).

#### SEC. 143. MEDICAID CITIZENSHIP DOCUMENTATION REQUIREMENTS.

(a) STATE OPTION TO REQUIRE CHILDREN TO PRESENT SATISFACTORY DOCUMENTARY EVIDENCE OF PROOF OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID; REQUIREMENT FOR AUDITING.—

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

(A) in subsection (a)(46)—

(i) by inserting “(A)” after “(46)”; and

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

“(B) at the option of the State, require that, with respect to a child under 21 years of age (other than an individual described in section 1903(x)(2)) who declares to be a citizen or national of the United States for purposes of establishing initial eligibility for medical assistance under this title (or, at State option, for purposes of renewing or re-determining such eligibility to the extent that such satisfactory documentary evidence of citizenship or nationality has not yet been presented), there is presented satisfactory documentary evidence of citizenship or nationality of the individual (using criteria determined by the State, which shall be no more restrictive than the documentation specified in section 1903(x)(3)); and

“(C) comply with the auditing requirements of section 1903(x)(4);” and

(C) in subsection (b)(3), by inserting “or any citizenship documentation requirement for a child under 21 years of age that is more restrictive than what a State may provide under section 1903(x)” before the period at the end.

(2) AUDITING REQUIREMENT.—Section 1903(x) of such Act (as amended by section 405(c)(1)(A) of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109-432)) is amended by adding at the end the following new paragraph:

“(4)(A) Regardless of whether a State has chosen to take the option specified in section 1902(a)(46)(B), each State shall audit a statistically-based sample of cases of children under 21 years of age in order to demonstrate to the satisfaction of the Secretary that the percentage of Federal Medicaid funds being spent for non-emergency benefits for aliens described in subsection (v)(1) who are under 21 years of age does not exceed 3 percent of total expenditures for medical assistance under the plan for items and services for individuals under 21 years of age for the period for which the sample is taken. In conducting such audits, a State may rely on case reviews regularly conducted pursuant to their Medicaid Quality Control or Payment Error Rate Measurement (PERM) eligibility reviews under subsection (u).

“(B) In conducting audits under subparagraph (A), payments for non-emergency benefits shall be treated as erroneous if the audit could not confirm the citizenship of the individual based either on documentation in the case file or on documentation obtained independently during the audit.

“(C) If the erroneous error rate described in subparagraph (A)—

“(i) exceeds 3 percent, the State shall—

“(I) remit to the Secretary the Federal share of improper expenditures in excess of the 3 percent level described in such subparagraph;

“(II) shall develop a corrective action plan; and

“(III) shall conduct another audit the following fiscal year, after the corrective action plan is implemented; or

“(ii) does not exceed 3 percent, the State is not required to conduct another audit under subparagraph (A) until the third fiscal year succeeding the fiscal year for which the audit was conducted.”;

(3) **ELIMINATION OF DENIAL OF PAYMENTS FOR CHILDREN.**—Section 1903(i)(22) of such Act (42 U.S.C. 1396b(i)(22)) is amended by inserting “(other than a child under the age of 21)” after “for an individual”.

(b) **CLARIFICATION OF RULES FOR CHILDREN BORN IN THE UNITED STATES TO MOTHERS ELIGIBLE FOR MEDICAID.**—Section 1903(x)(2) of such Act (42 U.S.C. 1396b(x)(2)) is amended—

(1) in subparagraph (C), by striking “or” at the end;

(2) by redesignating subparagraph (D) as subparagraph (E); and

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

“(D) pursuant to the application of section 1902(e)(4) (and, in the case of an individual who is eligible for medical assistance on such basis, the individual shall be deemed to have provided satisfactory documentary evidence of citizenship or nationality and shall not be required to provide further documentary evidence on any date that occurs during or after the period in which the individual is eligible for medical assistance on such basis; or”.

(c) **DOCUMENTATION FOR NATIVE AMERICANS.**—Section 1903(x)(3)(B) of such Act is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by inserting after clause (iv) the following new clause:

“(v) For an individual who is a member of, or enrolled in or affiliated with, a federally-recognized Indian tribe, a document issued by such tribe evidencing such membership, enrollment, or affiliation with the tribe (such as a tribal enrollment card or certificate of degree of Indian blood), and, only with respect to those federally-recognized Indian tribes located within States having an international border whose membership includes individuals who are not citizens of the United States, such other forms of documentation (including tribal documentation, if appropriate) as the Secretary, after consulting with such tribes, determines to be satisfactory documentary evidence of citizenship or nationality for purposes of satisfying the requirement of this subparagraph.”.

(d) **REASONABLE OPPORTUNITY.**—Section 1903(x) of such Act, as amended by subsection (a)(2), is further amended by adding at the end the following new paragraph:

“(5) In the case of an individual declaring to be a citizen or national of the United States with respect to whom a State requires the presentation of satisfactory documentary evidence of citizenship or nationality under section 1902(a)(46)(B), the individual shall be provided at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality under this subsection as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status and shall not be denied medical assistance on the basis of failure to provide such documentation until the individual has had such an opportunity.”.

(e) **EFFECTIVE DATE.**—

(1) **RETROACTIVE APPLICATION.**—The amendments made by this section shall take effect as if included in the enactment of the Deficit Reduction Act of 2005 (Public Law 109-171; 120 Stat. 4).

(2) **RESTORATION OF ELIGIBILITY.**—In the case of an individual who, during the period that began on July 1, 2006, and ends on the date of the enactment of this Act, was deter-

mined to be ineligible for medical assistance under a State Medicaid program solely as a result of the application of subsections (i)(22) and (x) of section 1903 of the Social Security Act (as in effect during such period), but who would have been determined eligible for such assistance if such subsections, as amended by this section, had applied to the individual, a State may deem the individual to be eligible for such assistance as of the date that the individual was determined to be ineligible for such medical assistance on such basis.

**SEC. 144. ACCESS TO DENTAL CARE FOR CHILDREN.**

(a) **DENTAL EDUCATION FOR PARENTS OF NEWBORNS.**—The Secretary of Health and Human Services shall develop and implement, through entities that fund or provide perinatal care services to targeted low-income children under a State child health plan under title XXI of the Social Security Act, a program to deliver oral health educational materials that inform new parents about risks for, and prevention of, early childhood caries and the need for a dental visit within their newborn’s first year of life.

(b) **PROVISION OF DENTAL SERVICES THROUGH FQHCs.**—

(1) **MEDICAID.**—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking “and” at the end of paragraph (69);

(B) by striking the period at the end of paragraph (70) and inserting “; and”; and

(C) by inserting after paragraph (70) the following new paragraph:

“(71) provide that the State will not prevent a Federally-qualified health center from entering into contractual relationships with private practice dental providers in the provision of Federally-qualified health center services.”.

(2) **CHIP.**—Section 2107(e)(1) of such Act is amended—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E); and

(B) by inserting after subparagraph (A) the following new subparagraph:

“(B) Section 1902(a)(71) (relating to limiting FQHC contracting for provision of dental services).”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on January 1, 2008.

(c) **REPORTING INFORMATION ON DENTAL HEALTH.**—

(1) **MEDICAID.**—Section 1902(a)(43)(D)(iii) of such Act (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by inserting “and other information relating to the provision of dental services to such children described in section 2108(e)” after “receiving dental services.”.

(2) **CHIP.**—Section 2108 of such Act (42 U.S.C. 1397hh) is amended by adding at the end the following new subsection:

“(e) **INFORMATION ON DENTAL CARE FOR CHILDREN.**—

“(1) **IN GENERAL.**—Each annual report under subsection (a) shall include the following information with respect to care and services described in section 1905(r)(3) provided to targeted low-income children enrolled in the State child health plan under this title at any time during the year involved:

“(A) The number of enrolled children by age grouping used for reporting purposes under section 1902(a)(43).

“(B) For children within each such age grouping, information of the type contained in questions 12(a)–(c) of CMS Form 416 (that consists of the number of enrolled targeted low income children who receive any, preventive, or restorative dental care under the State plan).

“(C) For the age grouping that includes children 8 years of age, the number of such children who have received a protective sealant on at least one permanent molar tooth.

“(2) **INCLUSION OF INFORMATION ON ENROLLEES IN MANAGED CARE PLANS.**—The information under paragraph (1) shall include information on children who are enrolled in managed care plans and other private health plans and contracts with such plans under this title shall provide for the reporting of such information by such plans to the State.”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall be effective for annual reports submitted for years beginning after date of enactment.

(d) **GAO STUDY AND REPORT.**—

(1) **STUDY.**—The Comptroller General of the United States shall provide for a study that examines—

(A) access to dental services by children in underserved areas; and

(B) the feasibility and appropriateness of using qualified mid-level dental health providers, in coordination with dentists, to improve access for children to oral health services and public health overall.

(2) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1).

**SEC. 145. PROHIBITING INITIATION OF NEW HEALTH OPPORTUNITY ACCOUNT DEMONSTRATION PROGRAMS.**

After the date of the enactment of this Act, the Secretary of Health and Human Services may not approve any new demonstration programs under section 1938 of the Social Security Act (42 U.S.C. 1396u-8).

**Subtitle F—Quality and Program Integrity**

**SEC. 151. PEDIATRIC HEALTH QUALITY MEASUREMENT PROGRAM.**

(a) **QUALITY MEASUREMENT OF CHILDREN’S HEALTH.**—

(1) **ESTABLISHMENT OF PROGRAM TO DEVELOP QUALITY MEASURES FOR CHILDREN’S HEALTH.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish a child health care quality measurement program (in this subsection referred to as the “children’s health quality measurement program”) to develop and implement—

(A) pediatric quality measures on children’s health care that may be used by public and private health care purchasers (and a system for reporting such measures); and

(B) measures of overall program performance that may be used by public and private health care purchasers.

The Secretary shall publish, not later than September 30, 2009, the recommended measures under the program for application under the amendments made by subsection (b) for years beginning with 2010.

(2) **MEASURES.**—

(A) **SCOPE.**—The measures developed under the children’s health quality measurement program shall—

(i) provide comprehensive information with respect to the provision and outcomes of health care for young children, school age children, and older children.

(ii) be designed to identify disparities by pediatric characteristics (including, at a minimum, those specified in subparagraph (C)) in child health and the provision of health care;

(iii) be designed to ensure that the data required for such measures is collected and reported in a standard format that permits comparison at a State, plan, and provider level, and between insured and uninsured children;

(iv) take into account existing measures of child health quality and be periodically updated;

(v) include measures of clinical health care quality which meet the requirements for pediatric quality measures in paragraph (1);

(vi) improve and augment existing measures of clinical health care quality for children's health care and develop new and emerging measures; and

(vii) increase the portfolio of evidence-based pediatric quality measures available to public and private purchasers, providers, and consumers.

(B) **SPECIFIC MEASURES.**—Such measures shall include measures relating to at least the following aspects of health care for children:

(i) The proportion of insured (and uninsured) children who receive age-appropriate preventive health and dental care (including age appropriate immunizations) at each stage of child health development.

(ii) The proportion of insured (and uninsured) children who receive dental care for restoration of teeth, relief of pain and infection, and maintenance of dental health.

(iii) The effectiveness of early health care interventions for children whose assessments indicate the presence or risk of physical or mental conditions that could adversely affect growth and development.

(iv) The effectiveness of treatment to ameliorate the effects of diagnosed physical and mental health conditions, including chronic conditions.

(v) The proportion of children under age 21 who are continuously insured for a period of 12 months or longer.

(vi) The effectiveness of health care for children with disabilities.

In carrying out clause (vi), the Secretary shall develop quality measures and best practices relating to cystic fibrosis.

(C) **REPORTING METHODOLOGY FOR ANALYSIS BY PEDIATRIC CHARACTERISTICS.**—The children's health quality measurement program shall describe with specificity such measures and the process by which such measures will be reported in a manner that permits analysis based on each of the following pediatric characteristics:

- (i) Age.
- (ii) Gender.
- (iii) Race.
- (iv) Ethnicity.
- (v) Primary language of the child's parents (or caretaker relative).

(vi) Disability or chronic condition (including cystic fibrosis).

(vii) Geographic location.

(viii) Coverage status under public and private health insurance programs.

(D) **PEDIATRIC QUALITY MEASURE.**—In this subsection, the term "pediatric quality measure" means a measurement of clinical care that assesses one or more aspects of pediatric health care quality (in various settings) including the structure of the clinical care system, the process and outcome of care, or patient experience in such care.

(3) **CONSULTATION IN DEVELOPING QUALITY MEASURES FOR CHILDREN'S HEALTH SERVICES.**—In developing and implementing the children's health quality measurement program, the Secretary shall consult with—

- (A) States;
- (B) pediatric hospitals, pediatricians, and other primary and specialized pediatric health care professionals (including members of the allied health professions) who specialize in the care and treatment of children, particularly children with special physical, mental, and developmental health care needs;

(C) dental professionals;

(D) health care providers that furnish primary health care to children and families

who live in urban and rural medically underserved communities or who are members of distinct population sub-groups at heightened risk for poor health outcomes;

(E) national organizations representing children, including children with disabilities and children with chronic conditions;

(F) national organizations and individuals with expertise in pediatric health quality performance measurement; and

(G) voluntary consensus standards setting organizations and other organizations involved in the advancement of evidence based measures of health care.

(4) **USE OF GRANTS AND CONTRACTS.**—In carrying out the children's health quality measurement program, the Secretary may award grants and contracts to develop, test, validate, update, and disseminate quality measures under the program.

(5) **TECHNICAL ASSISTANCE.**—The Secretary shall provide technical assistance to States to establish for the reporting of quality measures under titles XIX and XXI of the Social Security Act in accordance with the children's health quality measurement program.

(b) **DISSEMINATION OF INFORMATION ON THE QUALITY OF PROGRAM PERFORMANCE.**—Not later than January 1, 2009, and annually thereafter, the Secretary shall collect, analyze, and make publicly available on a public website of the Department of Health and Human Services in an online format—

(1) a complete list of all measures in use by States as of such date and used to measure the quality of medical and dental health services furnished to children enrolled under title XIX of XXI of the Social Security Act by participating providers, managed care entities, and plan issuers; and

(2) information on health care quality for children contained in external quality review reports required under section 1932(c)(2) of such Act (42 U.S.C. 1396u-2) or produced by States that administer separate plans under title XXI of such Act.

(c) **REPORTS TO CONGRESS ON PROGRAM PERFORMANCE.**—Not later than January 1, 2010, and every 2 years thereafter, the Secretary shall report to Congress on—

(1) the quality of health care for children enrolled under title XIX and XXI of the Social Security Act under the children's health quality measurement program; and

(2) patterns of health care utilization with respect to the measures specified in subsection (a)(2)(B) among children by the pediatric characteristics listed in subsection (a)(2)(C).

**SEC. 152. APPLICATION OF CERTAIN MANAGED CARE QUALITY SAFEGUARDS TO CHIP.**

(a) **IN GENERAL.**—Section 2103(f) of Social Security Act (42 U.S.C. 1397bb(f)) is amended by adding at the end the following new paragraph:

"(3) **COMPLIANCE WITH MANAGED CARE REQUIREMENTS.**—The State child health plan shall provide for the application of subsections (a)(4), (a)(5), (b), (c), (d), and (e) of section 1932 (relating to requirements for managed care) to coverage, State agencies, enrollment brokers, managed care entities, and managed care organizations under this title in the same manner as such subsections apply to coverage and such entities and organizations under title XIX."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to contract years for health plans beginning on or after July 1, 2008.

**SEC. 153. UPDATED FEDERAL EVALUATION OF CHIP.**

Section 2108(c) of the Social Security Act (42 U.S.C. 1397hh(c)) is amended by striking paragraph (5) and inserting the following:

"(5) **SUBSEQUENT EVALUATION USING UPDATED INFORMATION.**—

"(A) **IN GENERAL.**—The Secretary, directly or through contracts or interagency agreements, shall conduct an independent subsequent evaluation of 10 States with approved child health plans.

"(B) **SELECTION OF STATES AND MATTERS INCLUDED.**—Paragraphs (2) and (3) shall apply to such subsequent evaluation in the same manner as such provisions apply to the evaluation conducted under paragraph (1).

"(C) **SUBMISSION TO CONGRESS.**—Not later than December 31, 2010, the Secretary shall submit to Congress the results of the evaluation conducted under this paragraph.

"(D) **FUNDING.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$10,000,000 for fiscal year 2009 for the purpose of conducting the evaluation authorized under this paragraph. Amounts appropriated under this subparagraph shall remain available for expenditure through fiscal year 2011."

**SEC. 154. ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.**

Section 2108(d) of the Social Security Act (42 U.S.C. 1397hh(d)) is amended to read as follows:

"(d) **ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.**—For the purpose of evaluating and auditing the program established under this title, the Secretary, the Office of Inspector General, and the Comptroller General shall have access to any books, accounts, records, correspondence, and other documents that are related to the expenditure of Federal funds under this title and that are in the possession, custody, or control of States receiving Federal funds under this title or political subdivisions thereof, or any grantee or contractor of such States or political subdivisions."

**SEC. 155. REFERENCES TO TITLE XXI.**

Section 704 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A-321), as enacted into law by section 1000(a)(6) of Public Law 106-113) is repealed.

**SEC. 156. RELIANCE ON LAW; EXCEPTION FOR STATE LEGISLATION.**

(a) **RELIANCE ON LAW.**—With respect to amendments made by this title or title VIII that become effective as of a date—

(1) such amendments are effective as of such date whether or not regulations implementing such amendments have been issued; and

(2) Federal financial participation for medical assistance or child health assistance furnished under title XIX or XXI, respectively, of the Social Security Act on or after such date by a State in good faith reliance on such amendments before the date of promulgation of final regulations, if any, to carry out such amendments (or before the date of guidance, if any, regarding the implementation of such amendments) shall not be denied on the basis of the State's failure to comply with such regulations or guidance.

(b) **EXCEPTION FOR STATE LEGISLATION.**—In the case of a State plan under title XIX or State child health plan under XXI of the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for respective plan to meet one or more additional requirements imposed by amendments made by this title or title VIII, the respective 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 such an additional requirement 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.

## TITLE II—MEDICARE BENEFICIARY IMPROVEMENTS

### Subtitle A—Improvements in Benefits

#### SEC. 201. COVERAGE AND WAIVER OF COST-SHARING FOR PREVENTIVE SERVICES.

(a) PREVENTIVE SERVICES DEFINED; COVERAGE OF ADDITIONAL PREVENTIVE SERVICES.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) in subparagraph (Z), by striking “and” after the semicolon at the end;

(B) in subparagraph (AA), by adding “and” after the semicolon at the end; and

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

“(BB) additional preventive services (described in subsection (ccc)(1)(M));” and

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

#### “Preventive Services

“(ccc)(1) The term ‘preventive services’ means the following:

“(A) Prostate cancer screening tests (as defined in subsection (oo)).

“(B) Colorectal cancer screening tests (as defined in subsection (pp)).

“(C) Diabetes outpatient self-management training services (as defined in subsection (qq)).

“(D) Screening for glaucoma for certain individuals (as described in subsection (s)(2)(U)).

“(E) Medical nutrition therapy services for certain individuals (as described in subsection (s)(2)(V)).

“(F) An initial preventive physical examination (as defined in subsection (ww)).

“(G) Cardiovascular screening blood tests (as defined in subsection (xx)(1)).

“(H) Diabetes screening tests (as defined in subsection (s)(2)(Y)).

“(I) Ultrasound screening for abdominal aortic aneurysm for certain individuals (as described in subsection (s)(2)(AA)).

“(J) Pneumococcal and influenza vaccine and their administration (as described in subsection (s)(10)(A)).

“(K) Hepatitis B vaccine and its administration for certain individuals (as described in subsection (s)(10)(B)).

“(L) Screening mammography (as defined in subsection (jj)).

“(M) Screening pap smear and screening pelvic exam (as described in subsection (s)(14)).

“(N) Bone mass measurement (as defined in subsection (rr)).

“(O) Additional preventive services (as determined under paragraph (2)).

“(2)(A) The term ‘additional preventive services’ means items and services, including mental health services, not described in subparagraphs (A) through (N) of paragraph (1) that the Secretary determines to be reasonable and necessary for the prevention or early detection of an illness or disability.

“(B) In making determinations under subparagraph (1), the Secretary shall—

“(C) take into account evidence-based recommendations by the United States Preventive Services Task Force and other appropriate organizations; and

“(D) use the process for making national coverage determinations (as defined in section 1869(f)(1)(B)) under this title.”.

(b) PAYMENT AND ELIMINATION OF COST-SHARING.—

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

(A) in clause (T), by striking “80 percent” and inserting “100 percent”; and

(B) by striking “and” before “(V)”; and

(C) by inserting before the semicolon at the end the following: “, and (W) with respect to additional preventive services (as defined in section 1861(ccc)(2)) and other preventive services for which a payment rate is not otherwise established under this section, the amount paid shall be 100 percent of the lesser of the actual charge for the services or the amount determined under a fee schedule established by the Secretary for purposes of this clause”.

(2) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—

(A) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by striking “screening mammography (as defined in section 1861(jj)) and diagnostic mammography” and inserting “diagnostic mammography and preventive services (as defined in section 1861(ccc)(1))”.

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

(i) in subparagraph (F), by striking “and” after the semicolon at the end;

(ii) in subparagraph (G)(ii), by adding “and” at the end; and

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

“(H) with respect to additional preventive services (as defined in section 1861(ccc)(2)) furnished by an outpatient department of a hospital, the amount determined under paragraph (1)(W);”.

(3) WAIVER OF APPLICATION OF DEDUCTIBLE FOR ALL PREVENTIVE SERVICES.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(A) in clause (1), by striking “items and services described in section 1861(s)(10)(A)” and inserting “preventive services (as defined in section 1861(ccc)(1))”; and

(B) by inserting “and” before “(4)”; and

(C) by striking clauses (5) through (8).

(c) INCLUSION AS PART OF INITIAL PREVENTIVE PHYSICAL EXAMINATION.—Section 1861(ww)(2) of the Social Security Act (42 U.S.C. 1395x(ww)(2)) is amended by adding at the end the following new subparagraph:

“(M) Additional preventive services (as defined in subsection (ccc)(2)).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2008.

#### SEC. 202. WAIVER OF DEDUCTIBLE FOR COLORECTAL CANCER SCREENING TESTS REGARDLESS OF CODING, SUBSEQUENT DIAGNOSIS, OR ANCILLARY TISSUE REMOVAL.

(a) IN GENERAL.—Section 1833(b)(8) of the Social Security Act (42 U.S.C. 1395l(b)(8)) is amended by inserting “, regardless of the code applied, of the establishment of a diagnosis as a result of the test, or of the removal of tissue or other matter or other procedure that is performed in connection with and as a result of the screening test” after “1861(pp)(1)”.  
(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 2008.

#### SEC. 203. PARITY FOR MENTAL HEALTH COINSURANCE.

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

(1) in the first sentence, by striking “62-1/2 percent” and inserting “the incurred expense percentage (as specified in the last sentence)”; and

(2) by adding at the end the following: “For purposes of this subsection, the ‘incurred expense percentage’ is equal to 62-1/2 percent increased, for each year beginning with 2008,

by 6-1/4 percentage points, but not to exceed 100 percent.”.

#### Subtitle B—Improving, Clarifying, and Simplifying Financial Assistance for Low Income Medicare Beneficiaries

#### SEC. 211. IMPROVING ASSETS TESTS FOR MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM.

(a) APPLICATION OF HIGHEST LEVEL PERMITTED UNDER LIS.—

(1) TO FULL-PREMIUM SUBSIDY ELIGIBLE INDIVIDUALS.—Section 1860D-14(a) of the Social Security Act (42 U.S.C. 1395w-114(a)) is amended—

(A) in paragraph (1), in the matter before subparagraph (A), by inserting “(or, beginning with 2009, paragraph (3)(E))” after “paragraph (3)(D)”; and

(B) in paragraph (3)(A)(iii), by striking “(D) or”.

(2) ANNUAL INCREASE IN LIS RESOURCE TEST.—Section 1860D-14(a)(3)(E)(i) of such Act (42 U.S.C. 1395w-114(a)(3)(E)(i)) is amended—

(A) by striking “and” at the end of subclause (I);

(B) in subclause (II), by inserting “(before 2009)” after “subsequent year”; and

(C) by striking the period at the end of subclause (II) and inserting a semicolon; and

(D) by inserting after subclause (II) the following new subclauses:

“(III) for 2009, \$17,000 (or \$34,000 in the case of the combined value of the individual’s assets or resources and the assets or resources of the individual’s spouse); and

“(IV) for a subsequent year, the dollar amounts specified in this subclause (or subclause (III)) for the previous year increased by \$1,000 (or \$2,000 in the case of the combined value referred to in subclause (III)).”.

(3) APPLICATION OF LIS TEST UNDER MEDICARE SAVINGS PROGRAM.—Section 1905(p)(1)(C) of such Act (42 U.S.C. 1396d(p)(1)(C)) is amended by inserting before the period at the end the following: “or, effective beginning with January 1, 2009, whose resources (as so determined) do not exceed the maximum resource level applied for the year under section 1860D-14(a)(3)(E) applicable to an individual or to the individual and the individual’s spouse (as the case may be)”.  
(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to eligibility determinations for income-related subsidies and medicare cost-sharing furnished for periods beginning on or after January 1, 2009.

#### SEC. 212. MAKING QI PROGRAM PERMANENT AND EXPANDING ELIGIBILITY.

(a) MAKING PROGRAM PERMANENT.—

(1) IN GENERAL.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396b(a)(10)(E)(iv)) is amended—

(A) by striking “sections 1933 and” and by inserting “section”; and

(B) by striking “(but only with” and all that follows through “September 2007”).

(2) ELIMINATION OF FUNDING LIMITATION.—

(A) IN GENERAL.—Section 1933 of such Act (42 U.S.C. 1396u-3) is amended—

(i) in subsection (a), by striking “who are selected to receive such assistance under subsection (b)”

(ii) by striking subsections (b), (c), (e), and (g);

(iii) in subsection (d), by striking “furnished in a State” and all that follows and inserting “the Federal medical assistance percentage shall be equal to 100 percent.”; and

(iv) by redesignating subsections (d) and (f) as subsections (b) and (c), respectively.

(B) CONFORMING AMENDMENT.—Section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by striking “1933(d)” and inserting “1933(b)”.

(C) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect on October 1, 2007.

(b) INCREASE IN ELIGIBILITY TO 150 PERCENT OF THE FEDERAL POVERTY LEVEL.—Section 1902(a)(10)(E)(iv) of such Act is further amended by inserting “(or, effective January 1, 2008, 150 percent)” after “135 percent”.

**SEC. 213. ELIMINATING BARRIERS TO ENROLLMENT.**

(a) ADMINISTRATIVE VERIFICATION OF INCOME AND RESOURCES UNDER THE LOW-INCOME SUBSIDY PROGRAM.—Section 1860D-14(a)(3) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)) is amended by adding at the end the following new subparagraph:

“(G) SELF-CERTIFICATION OF INCOME AND RESOURCES.—For purposes of applying this section, an individual shall be permitted to qualify on the basis of self-certification of income and resources without the need to provide additional documentation.”.

(b) AUTOMATIC REENROLLMENT WITHOUT NEED TO REAPPLY UNDER LOW-INCOME SUBSIDY PROGRAM.—Section 1860D-14(a)(3) of such Act (42 U.S.C. 1395w-114(a)(3)), as amended by subsection (a), is further amended by adding at the end the following new subparagraph:

“(H) AUTOMATIC REENROLLMENT.—For purposes of applying this section, in the case of an individual who has been determined to be a subsidy eligible individual (and within a particular class of such individuals, such as a full-subsidy eligible individual or a partial subsidy eligible individual), the individual shall be deemed to continue to be so determined without the need for any annual or periodic application unless and until the individual notifies a Federal or State official responsible for such determinations that the individual’s eligibility conditions have changed so that the individual is no longer a subsidy eligible individual (or is no longer within such class of such individuals).”.

(c) ENCOURAGING APPLICATION OF PROCEDURES UNDER MEDICARE SAVINGS PROGRAM.—Section 1905(p) of such Act (42 U.S.C. 1396d(p)) is amended by adding at the end the following new paragraph:

“(7) The Secretary shall take all reasonable steps to encourage States to provide for administrative verification of income and automatic reenrollment (as provided under clauses (iii) and (iv) of section 1860D-14(a)(3)(C) in the case of the low-income subsidy program).”.

(d) SSA ASSISTANCE WITH MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM APPLICATIONS.—Section 1144 of such Act (42 U.S.C. 1320b-14) is amended by adding at the end the following new subsection:

“(c) ASSISTANCE WITH MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM APPLICATIONS.—

“(1) DISTRIBUTION OF APPLICATIONS TO APPLICANTS FOR MEDICARE.—In the case of each individual applying for hospital insurance benefits under section 226 or 226A, the Commissioner shall provide the following:

“(A) Information describing the low-income subsidy program under section 1860D-14 and the medicare savings program under title XIX.

“(B) An application for enrollment under such low-income subsidy program as well as an application form (developed under section 1905(p)(5)) for medical assistance for medicare cost-sharing under title XIX.

“(C) Information on how the individual may obtain assistance in completing such applications, including information on how the individual may contact the State health insurance assistance program (SHIP) for the State in which the individual is located. The Commissioner shall make such application forms available at local offices of the Social Security Administration.

“(2) TRAINING PERSONNEL IN ASSISTING IN COMPLETING APPLICATIONS.—The Commissioner shall provide training to those employees of the Social Security Administration who are involved in receiving applications for benefits described in paragraph (1) in assisting applicants in completing a medicare savings program application described in paragraph (1). Such employees who are so trained shall provide such assistance upon request.

“(3) TRANSMITTAL OF COMPLETED APPLICATION.—If such an employee assists in completing such an application, the employee, with the consent of the applicant, shall transmit the completed application to the appropriate State medicare agency for processing.

“(4) COORDINATION WITH OUTREACH.—The Commissioner shall coordinate outreach activities under this subsection with outreach activities conducted by States in connection with the low-income subsidy program and the medicare savings program.”.

(e) MEDICARE AGENCY CONSIDERATION OF APPLICATIONS.—Section 1935(a) of such Act (42 U.S.C. 1396u-5(a)) is amended by adding at the end the following new paragraph:

“(4) CONSIDERATION OF MSP APPLICATIONS.—The State shall accept medicare savings program applications transmitted under section 1144(c)(3) and act on such applications in the same manner and deadlines as if they had been submitted directly by the applicant.”.

(f) TRANSLATION OF MODEL FORM.—Section 1905(p)(5)(A) of the Social Security Act (42 U.S.C. 1396d(p)(5)(A)) is amended by adding at the end the following: “The Secretary shall provide for the translation of such application form into at least the 10 languages (other than English) that are most often used by individuals applying for hospital insurance benefits under section 226 or 226A and shall make the translated forms available to the States and to the Commissioner of Social Security.”.

(g) DISCLOSURE OF TAX RETURN INFORMATION FOR PURPOSES OF PROVIDING LOW-INCOME SUBSIDIES UNDER MEDICARE.—

(1) IN GENERAL.—Subsection (1) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(21) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF PROVIDING LOW-INCOME SUBSIDIES UNDER MEDICARE.—

“(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—The Secretary, upon written request from the Commissioner of Social Security, shall disclose to the officers and employees of the Social Security Administration with respect to any individual identified by the Commissioner as potentially eligible (based on information other than return information) for low-income subsidies under section 1860D-14 of the Social Security Act—

“(i) whether the adjusted gross income for the applicable year is less than 135 percent of the poverty line (as specified by the Commissioner in such request),

“(ii) whether such adjusted gross income is between 135 percent and 150 percent of the poverty line (as so specified),

“(iii) whether any designated distributions (as defined in section 3405(e)(1)) were reported with respect to such individual under section 6047(d) for the applicable year, and the amount (if any) of the distributions so reported,

“(iv) whether the return was a joint return for the applicable year, and

“(v) the applicable year.

“(B) APPLICABLE YEAR.—

“(i) IN GENERAL.—For the purposes of this paragraph, the term ‘applicable year’ means the most recent taxable year for which information is available in the Internal Revenue

Service’s taxpayer data information systems, or, if there is no return filed for the individual for such year, the prior taxable year.

“(ii) NO RETURN.—If no return is filed for such individual for both taxable years referred to in clause (i), the Secretary shall disclose the fact that there is no return filed for such individual for the applicable year in lieu of the information described in subparagraph (A).

“(C) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under this paragraph may be used only for the purpose of improving the efforts of the Social Security Administration to contact and assist eligible individuals for, and administering, low-income subsidies under section 1860D-14 of the Social Security Act.

“(D) TERMINATION.—No disclosure shall be made under this paragraph after the 2-year period beginning on the date of the enactment of this paragraph.”.

(2) PROCEDURES AND RECORDKEEPING RELATED TO DISCLOSURES.—Paragraph (4) of section 6103(p) of such Code is amended by striking “or (17)” each place it appears and inserting “(17), or (21)”.

(3) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury, after consultation with the Commissioner of Social Security, shall submit a written report to Congress regarding the use of disclosures made under section 6103(l)(21) of the Internal Revenue Code of 1986, as added by this subsection, in identifying individuals eligible for the low-income subsidies under section 1860D-14 of the Social Security Act.

(4) EFFECTIVE DATE.—The amendment made by this subsection shall apply to disclosures made after the date of the enactment of this Act.

(h) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on January 1, 2009.

**SEC. 214. ELIMINATING APPLICATION OF ESTATE RECOVERY.**

(a) IN GENERAL.—Section 1917(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(B)(ii)) is amended by inserting “(but not including medical assistance for medicare cost-sharing or for benefits described in section 1902(a)(10)(E))” before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of January 1, 2008.

**SEC. 215. ELIMINATION OF PART D COST-SHARING FOR CERTAIN NON-INSTITUTIONALIZED FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.**

(a) IN GENERAL.—Section 1860D-14(a)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395w-114(a)(1)(D)(i)) is amended—

(1) in the heading, by striking “INSTITUTIONALIZED INDIVIDUALS.—In” and inserting “ELIMINATION OF COST-SHARING FOR CERTAIN FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

“(I) INSTITUTIONALIZED INDIVIDUALS.—In”;

and

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

“(II) CERTAIN OTHER INDIVIDUALS.—In the case of an individual who is a full-benefit dual eligible individual and with respect to whom there has been a determination that but for the provision of home and community based care (whether under section 1915 or under a waiver under section 1115) the individual would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the State plan under title XIX, the elimination of any beneficiary coinsurance described in section 1860D-2(b)(2) (for all

amounts through the total amount of expenditures at which benefits are available under section 1860D-2(b)(4).”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs dispensed on or after January 1, 2009.

**SEC. 216. EXEMPTIONS FROM INCOME AND RESOURCES FOR DETERMINATION OF ELIGIBILITY FOR LOW-INCOME SUBSIDY.**

(a) IN GENERAL.—Section 1860D-14(a)(3) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)), as amended by subsections (a) and (b) of section 213, is further amended—

(1) in subparagraph (C)(i), by inserting “and except that support and maintenance furnished in kind shall not be counted as income” after “section 1902(r)(2)”;

(2) in subparagraph (D), in the matter before clause (i), by inserting “subject to the additional exclusions provided under subparagraph (G)” before “);”;

(3) in subparagraph (E)(i), in the matter before subclause (I), by inserting “subject to the additional exclusions provided under subparagraph (G)” before “);” and

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

“(I) ADDITIONAL EXCLUSIONS.—In determining the resources of an individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraphs (D) and (E) the following additional exclusions shall apply:

“(i) LIFE INSURANCE POLICY.—No part of the value of any life insurance policy shall be taken into account.

“(ii) PENSION OR RETIREMENT PLAN.—No balance in any pension or retirement plan shall be taken into account.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2009, and shall apply to determinations of eligibility for months beginning with January 2009.

**SEC. 217. COST-SHARING PROTECTIONS FOR LOW-INCOME SUBSIDY-ELIGIBLE INDIVIDUALS.**

(a) IN GENERAL.—Section 1860D-14(a) of the Social Security Act (42 U.S.C. 1395w-114(a)) is amended—

(1) in paragraph (1)(D), by adding at the end the following new clause:

“(iv) OVERALL LIMITATION ON COST-SHARING.—In the case of all such individuals, a limitation on aggregate cost-sharing under this part for a year not to exceed 2.5 percent of income.”; and

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

“(F) OVERALL LIMITATION ON COST-SHARING.—A limitation on aggregate cost-sharing under this part for a year not to exceed 2.5 percent of income.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as of January 1, 2009.

**SEC. 218. INTELLIGENT ASSIGNMENT IN ENROLLMENT.**

(a) IN GENERAL.—Section 1860D-1(b)(1) of the Social Security Act (42 U.S.C. 1395w-101(b)(1)) is amended—

(1) in the second sentence of subparagraph (C), by inserting “, subject to subparagraph (D),” before “on a random basis”; and

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

“(D) INTELLIGENT ASSIGNMENT.—In the case of any auto-enrollment under subparagraph (C), no part D eligible individual described in such subparagraph shall be enrolled in a prescription drug plan which does not meet the following requirements:

“(i) FORMULARY.—The plan has a formulary that covers at least—

“(I) 95 percent of the 100 most commonly prescribed non-duplicative generic covered part D drugs for the population of individ-

uals entitled to benefits under part A or enrolled under part B; and

“(II) 95 percent of the 100 most commonly prescribed non-duplicative brand name covered part D drugs for such population.

“(ii) PHARMACY NETWORK.—The plan has a network of pharmacies that substantially exceeds the minimum requirements for prescription drug plans in the State and that provides access in areas where lower income individuals reside.

“(iii) QUALITY.—

“(I) IN GENERAL.—Subject to subclause (I), the plan has an above average score on quality ratings of the Secretary of prescription drug plans under this part.

“(II) EXCEPTION.—Subclause (I) shall not apply to a plan that is a new plan (as defined by the Secretary), with respect to the plan year involved.

“(iv) LOW COST.—The total cost under this title of providing prescription drug coverage under the plan consistent with the previous clauses of this subparagraph is among the lowest 25th percentile of prescription drug plans under this part in the State.

In the case that no plan meets the requirements under clauses (i) through (iv), the Secretary shall implement this subparagraph to the greatest extent possible with the goal of protecting beneficiary access to drugs without increasing the cost relative to the enrollment process under subparagraph (C) as in existence before the date of the enactment of this subparagraph.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect for enrollments effected on or after November 15, 2009.

**Subtitle C—Part D Beneficiary Improvements**

**SEC. 221. INCLUDING COSTS INCURRED BY AIDS DRUG ASSISTANCE PROGRAMS AND INDIAN HEALTH SERVICE IN PROVIDING PRESCRIPTION DRUGS TOWARD THE ANNUAL OUT OF POCKET THRESHOLD UNDER PART D.**

(a) IN GENERAL.—Section 1860D-2(b)(4)(C) of the Social Security Act (42 U.S.C. 1395w-102(b)(4)(C)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii)—

(A) by striking “such costs shall be treated as incurred only if” and inserting “subject to clause (iii), such costs shall be treated as incurred only if”;

(B) by striking “, under section 1860D-14, or under a State Pharmaceutical Assistance Program”; and

(C) by striking the period at the end and inserting “; and”; and

(3) by inserting after clause (ii) the following new clause:

“(iii) such costs shall be treated as incurred and shall not be considered to be reimbursed under clause (ii) if such costs are borne or paid—

“(I) under section 1860D-14;

“(II) under a State Pharmaceutical Assistance Program;

“(III) by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act); or

“(IV) under an AIDS Drug Assistance Program under part B of title XXVI of the Public Health Service Act.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to costs incurred on or after January 1, 2009.

**SEC. 222. PERMITTING MID-YEAR CHANGES IN ENROLLMENT FOR FORMULARY CHANGES ADVERSELY IMPACT AN ENROLLEE.**

(a) IN GENERAL.—Section 1860D-1(b)(3) of the Social Security Act (42 U.S.C. 1395w-

101(b)(3)) is amended by adding at the end the following new subparagraph:

“(F) CHANGE IN FORMULARY RESULTING IN INCREASE IN COST-SHARING.—

“(i) IN GENERAL.—Except as provided in clause (ii), in the case of an individual enrolled in a prescription drug plan (or MA-PD plan) who has been prescribed a covered part D drug while so enrolled, if the formulary of the plan is materially changed (other than at the end of a contract year) so to reduce the coverage (or increase the cost-sharing) of the drug under the plan.

“(ii) EXCEPTION.—Clause (i) shall not apply in the case that a drug is removed from the formulary of a plan because of a recall or withdrawal of the drug issued by the Food and Drug Administration.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contract years beginning on or after January 1, 2009.

**SEC. 223. REMOVAL OF EXCLUSION OF BENZODIAZEPINES FROM REQUIRED COVERAGE UNDER THE MEDICARE PRESCRIPTION DRUG PROGRAM.**

(a) IN GENERAL.—Section 1860D-2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w-102(e)(2)(A)) is amended—

(1) by striking “subparagraph (E)” and inserting “subparagraphs (E) and (J)”;

(2) by inserting “and benzodiazepines, respectively” after “smoking cessation agents”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to prescriptions dispensed on or after January 1, 2009.

**SEC. 224. PERMITTING UPDATING DRUG COMPENDIA UNDER PART D USING PART B UPDATE PROCESS.**

Section 1860D-4(b)(3)(C) of the Social Security Act (42 U.S.C. 1395w-104(b)(3)(C)) is amended by adding at the end the following new clause:

“(iv) UPDATING DRUG COMPENDIA USING PART B PROCESS.—The Secretary may apply under this subparagraph the same process for updating drug compendia that is used for purposes of section 1861(t)(2)(B)(ii).”.

**SEC. 225. CODIFICATION OF SPECIAL PROTECTIONS FOR SIX PROTECTED DRUG CLASSIFICATIONS.**

(a) IN GENERAL.—Section 1860D-4(b)(3) of the Social Security Act (42 U.S.C. 1395w-104(b)(3)) is amended—

(1) in subparagraph (C)(i), by inserting “, except as provided in subparagraph (G),” after “although”; and

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

“(G) REQUIRED INCLUSION OF DRUGS IN CERTAIN THERAPEUTIC CLASSES.—

“(i) IN GENERAL.—The formulary must include all or substantially all covered part D drugs in each of the following therapeutic classes of covered part D drugs:

“(I) Anticonvulsants.

“(II) Antineoplastics.

“(III) Antiretrovirals.

“(IV) Antidepressants.

“(V) Antipsychotics.

“(VI) Immunosuppressants.

“(ii) USE OF UTILIZATION MANAGEMENT TOOLS.—A PDP sponsor of a prescription drug plan may use prior authorization or step therapy for the initiation of medications within one of the classifications specified in clause (i) but only when approved by the Secretary, except that such prior authorization or step therapy may not be used in the case of antiretrovirals and in the case of individuals who already are stabilized on a drug treatment regimen.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for plan years beginning on or after January 1, 2009.

**SEC. 226. ELIMINATION OF MEDICARE PART D LATE ENROLLMENT PENALTIES PAID BY LOW-INCOME SUBSIDY-ELIGIBLE INDIVIDUALS.**

(a) INDIVIDUALS WITH INCOME BELOW 135 PERCENT OF POVERTY LINE.—Paragraph (1)(A)(ii) of section 1860D-14(a) of the Social Security Act (42 U.S.C. 1395w-114(a)) is amended to read as follows:

“(ii) 100 percent of any late enrollment penalties imposed under section 1860D-13(b) for such individual.”

(b) INDIVIDUALS WITH INCOME BETWEEN 135 AND 150 PERCENT OF POVERTY LINE.—Paragraph (2)(A) of such section is amended—

(1) by inserting “equal to (i) an amount” after “premium subsidy”;

(2) by striking “paragraph (1)(A)” and inserting “clause (i) of paragraph (1)(A)”;

(3) by adding at the end before the period the following: “, plus (ii) 100 percent of the amount described in clause (ii) of such paragraph for such individual”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to subsidies for months beginning with January 2008.

**SEC. 227. SPECIAL ENROLLMENT PERIOD FOR SUBSIDY ELIGIBLE INDIVIDUALS.**

(a) IN GENERAL.—Section 1860D-1(b)(3) of the Social Security Act (42 U.S.C. 1395w-101(b)(3)), as amended by section 222(a), is further amended by adding at the end the following new subparagraph:

“(G) ELIGIBILITY FOR LOW-INCOME SUBSIDY.—

“(i) IN GENERAL.—In the case of an applicable subsidy eligible individual (as defined in clause (ii)), the special enrollment period described in clause (iii).

“(ii) APPLICABLE SUBSIDY ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this subparagraph, the term ‘applicable subsidy eligible individual’ means a part D eligible individual who is determined under subparagraph (B) of section 1860D-14(a)(3) to be a subsidy eligible individual (as defined in subparagraph (A) of such section), and includes such an individual who was enrolled in a prescription drug plan or an MA-PD plan on the date of such determination.

“(iii) SPECIAL ENROLLMENT PERIOD DESCRIBED.—The special enrollment period described in this clause, with respect to an applicable subsidy eligible individual, is the 90-day period beginning on the date the individual receives notification that such individual has been determined under section 1860D-14(a)(3)(B) to be a subsidy eligible individual (as so defined).”

(b) AUTOMATIC ENROLLMENT PROCESS FOR CERTAIN SUBSIDY ELIGIBLE INDIVIDUALS.—Section 1860D-1(b)(1) of the Social Security Act (42 U.S.C. 1395w-101(b)(1)), as amended by section 218(a)(2), is further amended by adding at the end the following new subparagraph:

“(E) SPECIAL RULE FOR SUBSIDY ELIGIBLE INDIVIDUALS.—The process established under subparagraph (A) shall include, in the case of an applicable subsidy eligible individual (as defined in clause (ii) of paragraph (3)(F)) who fails to enroll in a prescription drug plan or an MA-PD plan during the special enrollment period described in clause (iii) of such paragraph applicable to such individual, a process for the facilitated enrollment of the individual in the prescription drug plan or MA-PD plan that is most appropriate for such individual (as determined by the Secretary). Nothing in the previous sentence shall prevent an individual described in such sentence from declining enrollment in a plan determined appropriate by the Secretary (or in the program under this part) or from changing such enrollment.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to subsidy determinations made for months beginning with January 2008.

**Subtitle D—Reducing Health Disparities**

**SEC. 231. MEDICARE DATA ON RACE, ETHNICITY, AND PRIMARY LANGUAGE.**

(a) REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this subtitle referred to as the “Secretary”) shall—

(A) collect data on the race, ethnicity, and primary language of each applicant for and recipient of benefits under title XVIII of the Social Security Act—

(i) using, at a minimum, the categories for race and ethnicity described in the 1997 Office of Management and Budget Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity;

(ii) using the standards developed under subsection (e) for the collection of language data;

(iii) where practicable, collecting data for additional population groups if such groups can be aggregated into the minimum race and ethnicity categories; and

(iv) where practicable, through self-reporting;

(B) with respect to the collection of the data described in subparagraph (A) for applicants and recipients who are minors or otherwise legally incapacitated, require that—

(i) such data be collected from the parent or legal guardian of such an applicant or recipient; and

(ii) the preferred language of the parent or legal guardian of such an applicant or recipient be collected;

(C) systematically analyze at least annually such data using the smallest appropriate units of analysis feasible to detect racial and ethnic disparities in health and health care and when appropriate, for men and women separately;

(D) report the results of analysis annually to the Director of the Office for Civil Rights, the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives; and

(E) ensure that the provision of assistance to an applicant or recipient of assistance is not denied or otherwise adversely affected because of the failure of the applicant or recipient to provide race, ethnicity, and primary language data.

(2) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed—

(A) to permit the use of information collected under this subsection in a manner that would adversely affect any individual providing any such information; and

(B) to require health care providers to collect data.

(b) PROTECTION OF DATA.—The Secretary shall ensure (through the promulgation of regulations or otherwise) that all data collected pursuant to subsection (a) is protected—

(1) under the same privacy protections as the Secretary applies to other health data under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033) relating to the privacy of individually identifiable health information and other protections; and

(2) from all inappropriate internal use by any entity that collects, stores, or receives the data, including use of such data in determinations of eligibility (or continued eligibility) in health plans, and from other inappropriate uses, as defined by the Secretary.

(c) COLLECTION PLAN.—In carrying out the duties specified in subsection (a), the Secretary shall develop and implement a plan to improve the collection, analysis, and reporting of racial, ethnic, and primary language

data within the programs administered under title XVIII of the Social Security Act, and, in consultation with the National Committee on Vital Health Statistics, the Office of Minority Health, and other appropriate public and private entities, shall make recommendations on how to—

(1) implement subsection (a) while minimizing the cost and administrative burdens of data collection and reporting;

(2) expand awareness that data collection, analysis, and reporting by race, ethnicity, and primary language is legal and necessary to assure equity and non-discrimination in the quality of health care services;

(3) ensure that future patient record systems have data code sets for racial, ethnic, and primary language identifiers and that such identifiers can be retrieved from clinical records, including records transmitted electronically;

(4) improve health and health care data collection and analysis for more population groups if such groups can be aggregated into the minimum race and ethnicity categories;

(5) provide researchers with greater access to racial, ethnic, and primary language data, subject to privacy and confidentiality regulations; and

(6) safeguard and prevent the misuse of data collected under subsection (a).

(d) COMPLIANCE WITH STANDARDS.—Data collected under subsection (a) shall be obtained, maintained, and presented (including for reporting purposes and at a minimum) in accordance with the 1997 Office of Management and Budget Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity.

(e) LANGUAGE COLLECTION STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Minority Health, in consultation with the Office for Civil Rights of the Department of Health and Human Services, shall develop and disseminate Standards for the Classification of Federal Data on Preferred Written and Spoken Language.

(f) TECHNICAL ASSISTANCE FOR THE COLLECTION AND REPORTING OF DATA.—

(1) IN GENERAL.—The Secretary may, either directly or through grant or contract, provide technical assistance to enable a health care provider or plan operating under the Medicare program to comply with the requirements of this section.

(2) TYPES OF ASSISTANCE.—Assistance provided under this subsection may include assistance to—

(A) enhance or upgrade computer technology that will facilitate racial, ethnic, and primary language data collection and analysis;

(B) improve methods for health data collection and analysis including additional population groups beyond the Office of Management and Budget categories if such groups can be aggregated into the minimum race and ethnicity categories;

(C) develop mechanisms for submitting collected data subject to existing privacy and confidentiality regulations; and

(D) develop educational programs to raise awareness that data collection and reporting by race, ethnicity, and preferred language are legal and essential for eliminating health and health care disparities.

(g) ANALYSIS OF RACIAL AND ETHNIC DATA.—The Secretary, acting through the Director of the Agency for Health Care Research and Quality and in coordination with the Administrator of the Centers for Medicare & Medicaid Services, shall—

(1) identify appropriate quality assurance mechanisms to monitor for health disparities under the Medicare program;

(2) specify the clinical, diagnostic, or therapeutic measures which should be monitored;

(3) develop new quality measures relating to racial and ethnic disparities in health and health care;

(4) identify the level at which data analysis should be conducted; and

(5) share data with external organizations for research and quality improvement purposes, in compliance with applicable Federal privacy laws.

(h) REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall submit to the appropriate committees of Congress a report on the effectiveness of data collection, analysis, and reporting on race, ethnicity, and primary language under the programs administered through title XVIII of the Social Security Act. The report shall evaluate the progress made with respect to the plan under subsection (c) or subsequent revisions thereto.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2008 through 2012.

#### SEC. 232. ENSURING EFFECTIVE COMMUNICATION IN MEDICARE.

(a) ENSURING EFFECTIVE COMMUNICATION BY THE CENTERS FOR MEDICARE & MEDICAID SERVICES.—

(1) STUDY ON MEDICARE PAYMENTS FOR LANGUAGE SERVICES.—The Secretary of Health and Human Services shall conduct a study that examines ways that Medicare should develop payment systems for language services using the results of the demonstration program conducted under section 233.

(2) ANALYSES.—The study shall include an analysis of each of the following:

(A) How to develop and structure appropriate payment systems for language services for all Medicare service providers.

(B) The feasibility of adopting a payment methodology for on-site interpreters, including interpreters who work as independent contractors and interpreters who work for agencies that provide on-site interpretation, pursuant to which such interpreters could directly bill Medicare for services provided in support of physician office services for an LEP Medicare patient.

(C) The feasibility of Medicare contracting directly with agencies that provide off-site interpretation including telephonic and video interpretation pursuant to which such contractors could directly bill Medicare for the services provided in support of physician office services for an LEP Medicare patient.

(D) The feasibility of modifying the existing Medicare resource-based relative value scale (RBRVS) by using adjustments (such as multipliers or add-ons) when a patient is LEP.

(E) How each of options described in a previous paragraph would be funded and how such funding would affect physician payments, a physician's practice, and beneficiary cost-sharing.

(3) VARIATION IN PAYMENT SYSTEM DESCRIBED.—The payment systems described in subsection (b) may allow variations based upon types of service providers, available delivery methods, and costs for providing language services including such factors as—

(A) the type of language services provided (such as provision of health care or health care related services directly in a non-English language by a bilingual provider or use of an interpreter);

(B) type of interpretation services provided (such as in-person, telephonic, video interpretation);

(C) the methods and costs of providing language services (including the costs of providing language services with internal staff or through contract with external independent contractors and/or agencies);

(D) providing services for languages not frequently encountered in the United States; and

(E) providing services in rural areas.

(4) REPORT.—The Secretary shall submit a report on the study conducted under subsection (a) to appropriate committees of Congress not later than 1 year after the expiration of the demonstration program conducted under section 3.

(b) HEALTH PLANS.—Section 1857(g)(1) of the Social Security Act (42 U.S.C. 1395w-27(g)(1)) is amended—

(1) by striking “or” at the end of subparagraph (F);

(2) by adding “and” at the end of subparagraph (G); and

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

“(H) fails substantially to provide language services to limited English proficient beneficiaries enrolled in the plan that are required under law;”.

#### SEC. 233. DEMONSTRATION TO PROMOTE ACCESS FOR MEDICARE BENEFICIARIES WITH LIMITED ENGLISH PROFICIENCY BY PROVIDING REIMBURSEMENT FOR CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES.

(a) IN GENERAL.—Within one year after the date of the enactment of this Act the Secretary, acting through the Centers for Medicare & Medicaid Services, shall award 24 3-year demonstration grants to eligible Medicare service providers to improve effective communication between such providers and Medicare beneficiaries who are limited English proficient. The Secretary shall not authorize a grant larger than \$500,000 over three years for any grantee.

(b) ELIGIBILITY; PRIORITY.—

(1) ELIGIBILITY.—To be eligible to receive a grant under subsection (1) an entity shall—

(A) be—

(i) a provider of services under part A of title XVIII of the Social Security Act;

(ii) a service provider under part B of such title;

(iii) a part C organization offering a Medicare part C plan under part C of such title; or

(iv) a PDP sponsor of a prescription drug plan under part D of such title; and

(B) prepare and submit to the Secretary an application, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

(2) PRIORITY.—

(A) DISTRIBUTION.—To the extent feasible, in awarding grants under this section, the Secretary shall award—

(i) 6 grants to providers of services described in paragraph (1)(A)(i);

(ii) 6 grants to service providers described in paragraph (1)(A)(ii);

(iii) 6 grants to organizations described in paragraph (1)(A)(iii); and

(iv) 6 grants to sponsors described in paragraph (1)(A)(iv).

(B) FOR COMMUNITY ORGANIZATIONS.—The Secretary shall give priority to applicants that have developed partnerships with community organizations or with agencies with experience in language access.

(C) VARIATION IN GRANTEEES.—The Secretary shall also ensure that the grantees under this section represent, among other factors, variations in—

(i) different types of service providers and organizations under parts A through D of title XVIII of the Social Security Act;

(ii) languages needed and their frequency of use;

(iii) urban and rural settings;

(iv) at least two geographic regions; and

(v) at least two large metropolitan statistical areas with diverse populations.

(c) USE OF FUNDS.—

(1) IN GENERAL.—A grantee shall use grant funds received under this section to pay for the provision of competent language services to Medicare beneficiaries who are limited English proficient. Competent interpreter services may be provided through on-site interpretation, telephonic interpretation, or video interpretation or direct provision of health care or health care related services by a bilingual health care provider. A grantee may use bilingual providers, staff, or contract interpreters. A grantee may use grant funds to pay for competent translation services. A grantee may use up to 10 percent of the grant funds to pay for administrative costs associated with the provision of competent language services and for reporting required under subsection (E).

(2) ORGANIZATIONS.—Grantees that are part C organizations or PDP sponsors must ensure that their network providers receive at least 50 percent of the grant funds to pay for the provision of competent language services to Medicare beneficiaries who are limited English proficient, including physicians and pharmacies.

(3) DETERMINATION OF PAYMENTS FOR LANGUAGE SERVICES.—Payments to grantees shall be calculated based on the estimated numbers of LEP Medicare beneficiaries in a grantee's service area utilizing—

(A) data on the numbers of limited English proficient individuals who speak English less than “very well” from the most recently available data from the Bureau of the Census or other State-based study the Secretary determines likely to yield accurate data regarding the number of LEP individuals served by the grantee; or

(B) the grantee's own data if the grantee routinely collects data on Medicare beneficiaries' primary language in a manner determined by the Secretary to yield accurate data and such data shows greater numbers of LEP individuals than the data listed in subparagraph (A).

(4) LIMITATIONS.—

(A) REPORTING.—Payments shall only be provided under this section to grantees that report their costs of providing language services as required under subsection (e). If a grantee fails to provide the reports under such section for the first year of a grant, the Secretary may terminate the grant and solicit applications from new grantees to participate in the subsequent two years of the demonstration program.

(B) TYPE OF SERVICES.—

(i) IN GENERAL.—Subject to clause (ii), payments shall be provided under this section only to grantees that utilize competent bilingual staff or competent interpreter or translation services which—

(I) if the grantee operates in a State that has statewide health care interpreter standards, meet the State standards currently in effect; or

(II) if the grantee operates in a State that does not have statewide health care interpreter standards, utilizes competent interpreters who follow the National Council on Interpreting in Health Care's Code of Ethics and Standards of Practice.

(ii) EXEMPTIONS.—The requirements of clause (i) shall not apply—

(I) in the case of a Medicare beneficiary who is limited English proficient (who has been informed in the beneficiary's primary language of the availability of free interpreter and translation services) and who requests the use of family, friends, or other persons untrained in interpretation or translation and the grantee documents the request in the beneficiary's record; and

(II) in the case of a medical emergency where the delay directly associated with obtaining a competent interpreter or translation services would jeopardize the health of the patient.

Nothing in clause (ii)(II) shall be construed to exempt an emergency room or similar entities that regularly provide health care services in medical emergencies from having in place systems to provide competent interpreter and translation services without undue delay.

(d) ASSURANCES.—Grantees under this section shall—

(1) ensure that appropriate clinical and support staff receive ongoing education and training in linguistically appropriate service delivery; ensure the linguistic competence of bilingual providers;

(2) offer and provide appropriate language services at no additional charge to each patient with limited English proficiency at all points of contact, in a timely manner during all hours of operation;

(3) notify Medicare beneficiaries of their right to receive language services in their primary language;

(4) post signage in the languages of the commonly encountered group or groups present in the service area of the organization; and

(5) ensure that—

(A) primary language data are collected for recipients of language services; and

(B) consistent with the privacy protections provided under the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note), if the recipient of language services is a minor or is incapacitated, the primary language of the parent or legal guardian is collected and utilized.

(e) REPORTING REQUIREMENTS.—Grantees under this section shall provide the Secretary with reports at the conclusion of the each year of a grant under this section. Each report shall include at least the following information:

(1) The number of Medicare beneficiaries to whom language services are provided.

(2) The languages of those Medicare beneficiaries.

(3) The types of language services provided (such as provision of services directly in non-English language by a bilingual health care provider or use of an interpreter).

(4) Type of interpretation (such as in-person, telephonic, or video interpretation).

(5) The methods of providing language services (such as staff or contract with external independent contractors or agencies).

(6) The length of time for each interpretation encounter.

(7) The costs of providing language services (which may be actual or estimated, as determined by the Secretary).

(f) NO COST SHARING.—LEP Beneficiaries shall not have to pay cost-sharing or co-pays for language services provided through this demonstration program.

(g) EVALUATION AND REPORT.—The Secretary shall conduct an evaluation of the demonstration program under this section and shall submit to the appropriate committees of Congress a report not later than 1 year after the completion of the program. The report shall include the following:

(1) An analysis of the patient outcomes and costs of furnishing care to the LEP Medicare beneficiaries participating in the project as compared to such outcomes and costs for limited English proficient Medicare beneficiaries not participating.

(2) The effect of delivering culturally and linguistically appropriate services on beneficiary access to care, utilization of services,

efficiency and cost-effectiveness of health care delivery, patient satisfaction, and select health outcomes.

(3) Recommendations regarding the extension of such project to the entire Medicare program.

(h) GENERAL PROVISIONS.—Nothing in this section shall be construed to limit otherwise existing obligations of recipients of Federal financial assistance under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d) et seq.) or any other statute.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$10,000,000 for each fiscal year of the demonstration.

**SEC. 234. DEMONSTRATION TO IMPROVE CARE TO PREVIOUSLY UNINSURED.**

(a) ESTABLISHMENT.—Within one year after the date of enactment of this Act, the Secretary shall establish a demonstration project to determine the greatest needs and most effective methods of outreach to Medicare beneficiaries who were previously uninsured.

(b) SCOPE.—The demonstration shall be in no fewer than 10 sites, and shall include state health insurance assistance programs, community health centers, community-based organizations, community health workers, and other service providers under parts A, B, and C of title XVIII of the Social Security Act. Grantees that are plans operating under part C shall document that enrollees who were previously uninsured receive the “Welcome to Medicare” physical exam.

(c) DURATION.—The Secretary shall conduct the demonstration project for a period of 2 years.

(d) REPORT AND EVALUATION.—The Secretary shall conduct an evaluation of the demonstration and not later than 1 year after the completion of the project shall submit to Congress a report including the following:

(1) An analysis of the effectiveness of outreach activities targeting beneficiaries who were previously uninsured, such as revising outreach and enrollment materials (including the potential for use of video information), providing one-on-one counseling, working with community health workers, and amending the Medicare and You handbook.

(2) The effect of such outreach on beneficiary access to care, utilization of services, efficiency and cost-effectiveness of health care delivery, patient satisfaction, and select health outcomes.

**SEC. 235. OFFICE OF THE INSPECTOR GENERAL REPORT ON COMPLIANCE WITH AND ENFORCEMENT OF NATIONAL STANDARDS ON CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES (CLAS) IN MEDICARE.**

(a) REPORT.—Not later than two years after the date of the enactment of this Act, the Inspector General of the Department of Health and Human Services shall prepare and publish a report on—

(1) the extent to which Medicare providers and plans are complying with the Office for Civil Rights’ Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons and the Office of Minority Health’s Culturally and Linguistically Appropriate Services Standards in health care; and

(2) a description of the costs associated with or savings related to the provision of language services.

Such report shall include recommendations on improving compliance with CLAS Standards and recommendations on improving enforcement of CLAS Standards.

(b) IMPLEMENTATION.—Not later than one year after the date of publication of the report under subsection (a), the Department of Health and Human Services shall implement changes responsive to any deficiencies identified in the report.

**SEC. 236. IOM REPORT ON IMPACT OF LANGUAGE ACCESS SERVICES.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall seek to enter into an arrangement with the Institute of under which the Institute will prepare and publish, not later than 3 years after the date of the enactment of this Act, a report on the impact of language access services on the health and health care of limited English proficient populations.

(b) CONTENTS.—Such report shall include—

(1) recommendations on the development and implementation of policies and practices by health care organizations and providers for limited English proficient patient populations;

(2) a description of the effect of providing language access services on quality of health care and access to care and reduced medical error; and

(3) a description of the costs associated with or savings related to provision of language access services.

**SEC. 237. DEFINITIONS.**

In this subtitle:

(1) BILINGUAL.—The term “bilingual” with respect to an individual means a person who has sufficient degree of proficiency in two languages and can ensure effective communication can occur in both languages.

(2) COMPETENT INTERPRETER SERVICES.—The term “competent interpreter services” means a trans-language rendition of a spoken message in which the interpreter comprehends the source language and can speak comprehensively in the target language to convey the meaning intended in the source language. The interpreter knows health and health-related terminology and provides accurate interpretations by choosing equivalent expressions that convey the best matching and meaning to the source language and captures, to the greatest possible extent, all nuances intended in the source message.

(3) COMPETENT TRANSLATION SERVICES.—The term “competent translation services” means a trans-language rendition of a written document in which the translator comprehends the source language and can write comprehensively in the target language to convey the meaning intended in the source language. The translator knows health and health-related terminology and provides accurate translations by choosing equivalent expressions that convey the best matching and meaning to the source language and captures, to the greatest possible extent, all nuances intended in the source document.

(4) EFFECTIVE COMMUNICATION.—The term “effective communication” means an exchange of information between the provider of health care or health care-related services and the limited English proficient recipient of such services that enables limited English proficient individuals to access, understand, and benefit from health care or health care-related services.

(5) INTERPRETING/INTERPRETATION.—The terms “interpreting” and “interpretation” mean the transmission of a spoken message from one language into another, faithfully, accurately, and objectively.

(6) HEALTH CARE SERVICES.—The term “health care services” means services that address physical as well as mental health conditions in all care settings.

(7) HEALTH CARE-RELATED SERVICES.—The term “health care-related services” means human or social services programs or activities that provide access, referrals or links to health care.

(8) LANGUAGE ACCESS.—The term “language access” means the provision of language services to an LEP individual designed to enhance that individual’s access to, understanding of or benefit from health care or health care-related services.

(9) LANGUAGE SERVICES.—The term “language services” means provision of health care services directly in a non-English language, interpretation, translation, and non-English signage.

(10) LIMITED ENGLISH PROFICIENT.—The term “limited English proficient” or “LEP” with respect to an individual means an individual who speaks a primary language other than English and who cannot speak, read, write or understand the English language at a level that permits the individual to effectively communicate with clinical or nonclinical staff at an entity providing health care or health care related services.

(11) MEDICARE PROGRAM.—The term “Medicare program” means the programs under parts A through D of title XVIII of the Social Security Act.

(12) SERVICE PROVIDER.—The term “service provider” includes all suppliers, providers of services, or entities under contract to provide coverage, items or services under any part of title XVIII of the Social Security Act.

### TITLE III—PHYSICIANS’ SERVICE PAYMENT REFORM

#### SEC. 301. ESTABLISHMENT OF SEPARATE TARGET GROWTH RATES FOR SERVICE CATEGORIES.

(a) ESTABLISHMENT OF SERVICE CATEGORIES.—Subsection (j) of section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended by adding at the end the following new paragraph:

“(5) SERVICE CATEGORIES.—For services furnished on or after January 1, 2008, each of the following categories of physicians’ services shall be treated as a separate ‘service category’:

“(A) Evaluation and management services for primary care (including new and established patient office visits delivered by physicians who the Secretary determines provide accessible, continuous, coordinated, and comprehensive care for Medicare beneficiaries, emergency department visits, and home visits), and for preventive services (including screening mammography, colorectal cancer screening, and other services as defined by the Secretary, limited to the recommendations of the United States Preventive Services Task Force).

“(B) Evaluation and management services not described in subparagraph (A).

“(C) Imaging services (as defined in subsection (b)(4)(B)) and diagnostic tests (other than clinical diagnostic laboratory tests) not described in subparagraph (A).

“(D) Procedures that are subject (under regulations promulgated to carry out this section) to a 10-day or 90-day global period (in this paragraph referred to as ‘major procedures’), except that the Secretary may reclassify as minor procedures under subparagraph (F) any procedures that would otherwise be included in this category if the Secretary determines that such procedures are not major procedures.

“(E) Anesthesia services that are paid on the basis of the separate conversion factor for anesthesia services determined under subsection (d)(1)(D).

“(F) Minor procedures and any other physicians’ services that are not described in a preceding subparagraph.”

(b) ESTABLISHMENT OF SEPARATE CONVERSION FACTORS FOR EACH SERVICE CATEGORY.—Subsection (d)(1) of section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended—

(1) in subparagraph (A)—

(A) by designating the sentence beginning “The conversion factor” as clause (i) with the heading “APPLICATION OF SINGLE CONVERSION FACTOR” and with appropriate indentation;

(B) by striking “The conversion factor” and inserting “Subject to clause (ii), the conversion factor”;

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

“(ii) APPLICATION OF MULTIPLE CONVERSION FACTORS BEGINNING WITH 2008.—

“(I) IN GENERAL.—In applying clause (i) for years beginning with 2008, separate conversion factors shall be established for each service category of physicians’ services (as defined in subsection (j)(5)) and any reference in this section to a conversion factor for such years shall be deemed to be a reference to the conversion factor for each of such categories.

“(II) INITIAL CONVERSION FACTORS; SPECIAL RULE FOR ANESTHESIA SERVICES.—Such factors for 2008 shall be based upon the single conversion factor for 2007 multiplied by the update established under paragraph (8) for such category for 2008. In the case of the service category described in subsection (j)(5)(F) (relating to anesthesia services), the conversion factor for 2008 shall be based on the separate conversion factor specified in subparagraph (D) for 2007 multiplied by the update established under paragraph (8) for such category for 2008.

“(III) UPDATING OF CONVERSION FACTORS.—Such factor for a service category for a subsequent year shall be based upon the conversion factor for such category for the previous year and adjusted by the update established for such category under paragraph (8) for the year involved.”;

(2) in subparagraph (D), by inserting “(before 2008)” after “for a year”.

(c) ESTABLISHING UPDATES FOR CONVERSION FACTORS FOR SERVICE CATEGORIES.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w-4(d)) is amended—

(1) in paragraph (4)(B), by striking “and (6)” and inserting “, (6), and (8)”;

(2) in paragraph (4)(C)(iii), by striking “The allowed” and inserting “Subject to paragraph (8)(B), the allowed”;

(3) in paragraph (4)(D), by striking “The update” and inserting “Subject to paragraph (8)(E), the update”;

(4) by adding at the end the following new paragraphs:

“(8) UPDATES FOR SERVICE CATEGORIES BEGINNING WITH 2008.—

“(A) IN GENERAL.—In applying paragraph (4) for a year beginning with 2008, the following rules apply:

“(i) APPLICATION OF SEPARATE UPDATE ADJUSTMENTS FOR EACH SERVICE CATEGORY.—Pursuant to paragraph (1)(A)(ii)(I), the update shall be made to the conversion factor for each service category (as defined in subsection (j)(5)) based upon an update adjustment factor for the respective category and year and the update adjustment factor shall be computed, for a year, separately for each service category.

“(ii) COMPUTATION OF ALLOWED AND ACTUAL EXPENDITURES BASED ON SERVICE CATEGORIES.—In computing the prior year adjustment component and the cumulative adjustment component under clauses (i) and (ii) of paragraph (4)(B), the following rules apply:

“(I) APPLICATION BASED ON SERVICE CATEGORIES.—The allowed expenditures and actual expenditures shall be the allowed and actual expenditures for the service category, as determined under subparagraph (B).

“(II) LIMITATION TO PHYSICIAN FEE-SCHEDULE SERVICES.—Actual expenditures shall only take into account expenditures for serv-

ices furnished under the physician fee schedule.

“(III) APPLICATION OF CATEGORY SPECIFIC TARGET GROWTH RATE.—The growth rate applied under clause (ii)(II) of such paragraph shall be the target growth rate for the service category involved under subsection (f)(5).

“(IV) ALLOCATION OF CUMULATIVE OVERHANG.—There shall be substituted for the difference described in subparagraph (B)(ii)(I) of such paragraph the amount described in subparagraph (C)(i) for the service category involved.

“(B) DETERMINATION OF ALLOWED EXPENDITURES.—In applying paragraph (4) for a year beginning with 2008, notwithstanding subparagraph (C)(iii) of such paragraph, the allowed expenditures for a service category for a year is an amount computed by the Secretary as follows:

“(i) FOR 2008.—For 2008:

“(I) TOTAL 2007 ALLOWED EXPENDITURES.—Compute the total allowed expenditures for services furnished under the physician fee schedule under such paragraph for 2007.

“(II) INCREASE BY GROWTH RATE.—Increase the total under subclause (I) by the target growth rate for such category under subsection (f) for 2008.

“(III) ALLOCATION TO SERVICE CATEGORY.—Multiply the increased total under subclause (II) by the overhang allocation factor for the service category (as defined in subparagraph (C)(iii)).

“(ii) FOR SUBSEQUENT YEARS.—For a subsequent year, take the amount of allowed expenditures for such category for the preceding year (under clause (i) or this clause) and increase it by the target growth rate determined under subsection (f) for such category and year.

“(C) COMPUTATION AND APPLICATION OF CUMULATIVE OVERHANG AMONG CATEGORIES.—

“(i) IN GENERAL.—For purposes of applying paragraph (4)(B)(ii)(II) under clause (ii)(IV), the amount described in this clause for a year (beginning with 2008) is the sum of the following:

“(I) PRE-2008 CUMULATIVE OVERHANG.—The amount of the pre-2008 cumulative excess spending (as defined in clause (ii)) multiplied by the overhang allocation factor for the service category (under clause (iii)).

“(II) POST-2007 CUMULATIVE AMOUNTS.—For a year beginning with 2009, the difference (which may be positive or negative) between the amount of the allowed expenditures for physicians’ services (as determined under paragraph (4)(C)) in the service category from January 1, 2008, through the end of the prior year and the amount of the actual expenditures for such services in such category during that period.

“(ii) PRE-2008 CUMULATIVE EXCESS SPENDING DEFINED.—For purposes of clause (i)(I), the term ‘pre-2008 cumulative excess spending’ means the difference described in paragraph (4)(B)(ii)(I) as determined for the year 2008, taking into account expenditures through December 31, 2007. Such difference takes into account expenditures included in subsection (f)(4)(A).

“(iii) OVERHANG ALLOCATION FACTOR.—For purposes of this paragraph, the term ‘overhang allocation factor’ means, for a service category, the proportion, as determined by the Secretary of total actual expenditures under this part for items and services in such category during 2007 to the total of such actual expenditures for all the service categories. In calculating such proportion, the Secretary shall only take into account services furnished under the physician fee schedule.

“(D) FLOOR FOR UPDATES FOR 2008 AND 2009.—The update to the conversion factors for each service category for each of 2008 and 2009 shall be not less than 0.5 percent.

“(E) CHANGE IN RESTRICTION ON UPDATE ADJUSTMENT FACTOR FOR 2010 AND 2011.—The update adjustment factor determined under subparagraph (4)(B), as modified by this paragraph, for a service category for a year (beginning with 2010 and ending with 2011) may be less than -0.07, but may not be less than -0.14.”

(d) APPLICATION OF SEPARATE TARGET GROWTH RATES FOR EACH CATEGORY.—

(1) IN GENERAL.—Section 1848(f) of the Social Security Act (42 U.S.C. 1395w-4(f)) is amended by adding at the end the following new paragraph:

“(5) APPLICATION OF SEPARATE TARGET GROWTH RATES FOR EACH SERVICE CATEGORY BEGINNING WITH 2008.—The target growth rate for a year beginning with 2008 shall be computed and applied separately under this subsection for each service category (as defined in subsection (j)(5)) and shall be computed using the same method for computing the sustainable growth rate except for the following:

“(A) The reference in paragraphs (2)(A) and (2)(D) to ‘all physicians’ services’ is deemed a reference to the physicians’ services included in such category but shall not take into account items and services included in physicians’ services through the operation of paragraph (4)(A).

“(B) The factor described in paragraph (2)(C) for the service category described in subsection (j)(5)(A) shall be increased by 0.03.

“(C) A national coverage determination (as defined in section 1869(f)(1)(B)) shall be treated as a change in regulation described in paragraph (2)(D).”

(2) USE OF TARGET GROWTH RATES.—Section 1848 of such Act is further amended—

(A) in subsection (d)—

(i) in paragraph (1)(E)(ii), by inserting “or target” after “sustainable”; and

(ii) in paragraph (4)(B)(ii)(II), by inserting “or target” after “sustainable”; and

(B) in subsection (f)—

(i) in the heading by inserting “; TARGET GROWTH RATE” after “SUSTAINABLE GROWTH RATE”

(ii) in paragraph (1)—

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

(II) in subparagraph (B), by inserting “before 2008” after “each succeeding year” and by striking the period at the end and inserting “; and”; and

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

“(C) November 1 of each succeeding year the target growth rate for such succeeding year and each of the 2 preceding years.”; and

(iii) in paragraph (2), in the matter before subparagraph (A), by inserting after “beginning with 2000” the following: “and ending with 2007”.

(e) REPORTS ON EXPENDITURES FOR PART B DRUGS AND CLINICAL DIAGNOSTIC LABORATORY TESTS.—

(1) REPORTING REQUIREMENT.—The Secretary of Health and Human Services shall include information in the annual physician fee schedule proposed rule on the change in the annual rate of growth of actual expenditures for clinical diagnostic laboratory tests or drugs, biologicals, and radiopharmaceuticals for which payment is made under part B of title XVIII of the Social Security Act.

(2) RECOMMENDATIONS.—The report submitted under paragraph (1) shall include an analysis of the reasons for such excess expenditures and recommendations for addressing them in the future.

**SEC. 302. IMPROVING ACCURACY OF RELATIVE VALUES UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.**

(a) USE OF EXPERT PANEL TO IDENTIFY MISVALUED PHYSICIANS’ SERVICES.—Section

1848(c) of the Social Security Act (42 U.S.C. 1395w(c)) is amended by adding at the end the following new paragraph:

“(7) USE OF EXPERT PANEL TO IDENTIFY MISVALUED PHYSICIANS’ SERVICES.—

“(A) IN GENERAL.—The Secretary shall establish an expert panel (in this paragraph referred to as the ‘expert panel’)—

“(i) to identify, through data analysis, physicians’ services for which the relative value under this subsection is potentially misvalued, particularly those services for which such relative value may be overvalued;

“(ii) to assess whether those misvalued services warrant review using existing processes (referred to in paragraph (2)(J)(ii)) for the consideration of coding changes; and

“(iii) to advise the Secretary concerning the exercise of authority under clauses (ii)(III) and (vi) of paragraph (2)(B).

“(B) COMPOSITION OF PANEL.—The expert panel shall be appointed by the Secretary and composed of—

“(i) members with expertise in medical economics and technology diffusion;

“(ii) members with clinical expertise;

“(iii) physicians, particularly physicians (such as a physician employed by the Veterans Administration or a physician who has a full time faculty appointment at a medical school) who are not directly affected by changes in the physician fee schedule under this section;

“(iv) carrier medical directors; and

“(v) representatives of private payor health plans.

“(C) APPOINTMENT CONSIDERATIONS.—In appointing members to the expert panel, the Secretary shall assure racial and ethnic diversity on the panel and may consider appointing a liaison from organizations with experience in the consideration of coding changes to the panel.”

(b) EXAMINATION OF SERVICES WITH SUBSTANTIAL CHANGES.—Such section is further amended by adding at the end the following new paragraph:

“(8) EXAMINATION OF SERVICES WITH SUBSTANTIAL CHANGES.—The Secretary, in consultation with the expert panel under paragraph (7), shall—

“(A) conduct a five-year review of physicians’ services in conjunction with the RUC 5-year review, particularly for services that have experienced substantial changes in length of stay, site of service, volume, practice expense, or other factors that may indicate changes in physician work;

“(B) identify new services to determine if they are likely to experience a reduction in relative value over time and forward a list of the services so identified for such five-year review; and

“(C) for physicians’ services that are otherwise unreviewed under the process the Secretary has established, periodically review a sample of relative value units within different types of services to assess the accuracy of the relative values contained in the Medicare physician fee schedule.”

(c) AUTHORITY TO REDUCE WORK COMPONENT FOR SERVICES WITH ACCELERATED VOLUME GROWTH.—

(1) IN GENERAL.—Paragraph (2)(B) of such section is amended—

(A) in clause (v), by adding at the end the following new subclause:

“(III) REDUCTIONS IN WORK VALUE UNITS FOR SERVICES WITH ACCELERATED VOLUME GROWTH.—Effective January 1, 2009, reduced expenditures attributable to clause (vi).”; and

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

“(vi) AUTHORIZING REDUCTION IN WORK VALUE UNITS FOR SERVICES WITH ACCELERATED VOLUME GROWTH.—The Secretary may pro-

vide (without using existing processes the Secretary has established for review of relative value) for a reduction in the work value units for a particular physician’s service if the annual rate of growth in the expenditures for such service for which payment is made under this part for individuals for 2006 or a subsequent year exceeds the average annual rate of growth in expenditures of all physicians’ services for which payment is made under this part by more than 10 percentage points for such year.

“(vii) CONSULTATION WITH EXPERT PANEL AND BASED ON CLINICAL EVIDENCE.—The Secretary shall exercise authority under clauses (ii)(III) and (vi) in consultation with the expert panel established under paragraph (7) and shall take into account clinical evidence supporting or refuting the merits of such accelerated growth”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to payment for services furnished on or after January 1, 2009.

(d) ADJUSTMENT AUTHORITY FOR EFFICIENCY GAINS FOR NEW PROCEDURES.—Paragraph (2)(B)(ii) of such section is amended by adding at the end the following new subclause:

“(III) ADJUSTMENT AUTHORITY FOR EFFICIENCY GAINS FOR NEW PROCEDURES.—In carrying out subclauses (I) and (II), the Secretary may apply a methodology, based on supporting evidence, under which there is imposed a reduction over a period of years in specified relative value units in the case of a new (or newer) procedure to take into account inherent efficiencies that are typically or likely to be gained during the period of initial increased application of the procedure.”

**SEC. 303. PHYSICIAN FEEDBACK MECHANISM ON PRACTICE PATTERNS.**

By not later than July 1, 2008, the Secretary of Health and Human Services shall develop and implement a mechanism to measure resource use on a per capita and an episode basis in order to provide confidential feedback to physicians in the Medicare program on how their practice patterns compare to physicians generally, both in the same locality as well as nationally. Such feedback shall not be subject to disclosure under section 552 of title 5, United States Code.

**SEC. 304. PAYMENTS FOR EFFICIENT PHYSICIANS.**

Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

“(v) INCENTIVE PAYMENTS FOR EFFICIENT PHYSICIANS.—

“(1) IN GENERAL.—In the case of physicians’ services furnished on or after January 1, 2009, and before January 1, 2011, by a participating physician in an efficient area (as identified under paragraph (2)), in addition to the amount of payment that would otherwise be made for such services under this part, there also shall be paid an amount equal to 5 percent of the payment amount for the services under this part.

“(2) IDENTIFICATION OF EFFICIENT AREAS.—

“(A) IN GENERAL.—Based upon available data, the Secretary shall identify those counties or equivalent areas in the United States in the lowest fifth percentile of utilization based on per capita spending for services provided in 2007 under this part and part A.

“(B) IDENTIFICATION OF COUNTIES WHERE SERVICE IS FURNISHED.—For purposes of paying the additional amount specified in paragraph (1), if the Secretary uses the 5-digit postal ZIP Code where the service is furnished, the dominant county of the postal ZIP Code (as determined by the United States Postal Service, or otherwise) shall be used to determine whether the postal ZIP

Code is in a county described in subparagraph (A).

“(C) JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise, respecting—

“(i) the identification of a county or other area under subparagraph (A); or

“(ii) the assignment of a postal ZIP Code to a county or other area under subparagraph (B).

“(D) PUBLICATION OF LIST OF COUNTIES; POSTING ON WEBSITE.—With respect to a year for which a county or area is identified under this paragraph, the Secretary shall identify such counties or areas as part of the proposed and final rule to implement the physician fee schedule under section 1848 for the applicable year. The Secretary shall post the list of counties identified under this paragraph on the Internet website of the Centers for Medicare & Medicaid Services.”

**SEC. 305. RECOMMENDATIONS ON REFINING THE PHYSICIAN FEE SCHEDULE.**

(a) RECOMMENDATIONS ON CONSOLIDATED CODING FOR SERVICES COMMONLY PERFORMED TOGETHER.—Not later than December 31, 2008, the Comptroller General of the United States shall—

(1) complete an analysis of codes paid under the Medicare physician fee schedule to determine whether the codes for procedures that are commonly furnished together should be combined; and

(2) submit to Congress a report on such analysis and include in the report recommendations on whether an adjustment should be made to the relative value units for such combined code.

(b) RECOMMENDATIONS ON INCREASED USE OF BUNDLED PAYMENTS.—Not later than December 31, 2008, the Comptroller General of the United States shall—

(1) complete an analysis of those procedures under the Medicare physician fee schedule for which no global payment methodology is applied but for which a “bundled” payment methodology would be appropriate; and

(2) submit to Congress a report on such analysis and include in the report recommendations on increasing the use of “bundled” payment methodology under such schedule.

(c) MEDICARE PHYSICIAN FEE SCHEDULE.—In this section, the term “Medicare physician fee schedule” means the fee schedule established under section 1848 of the Social Security Act (42 U.S.C. 1395w-4).

**SEC. 306. IMPROVED AND EXPANDED MEDICAL HOME DEMONSTRATION PROJECT.**

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish under title XVIII of the Social Security Act an expanded medical home demonstration project (in this section referred to as the “expanded project”) under this section. The expanded project supersedes the project that was initiated under section 204 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432). The purpose of the expanded project is—

(1) to guide the redesign of the health care delivery system to provide accessible, continuous, comprehensive, and coordinated, care to Medicare beneficiaries; and

(2) to provide care management fees to personal physicians delivering continuous and comprehensive care in qualified medical homes.

(b) NATURE AND SCOPE OF PROJECT.—

(1) DURATION; SCOPE.—The expanded project shall operate during a period of three years, beginning not later than October 1, 2009, and shall include a nationally representative sample of physicians serving urban, rural, and underserved areas throughout the United States.

(2) ENCOURAGING PARTICIPATION OF SMALL PHYSICIAN PRACTICES.—

(A) IN GENERAL.—The expanded project shall be designed to include the participation of physicians in practices with fewer than four full-time equivalent physicians, as well as physicians in larger practices particularly in rural and underserved areas.

(B) TECHNICAL ASSISTANCE.—In order to facilitate the participation under the expanded project of physicians in such practices, the Secretary shall make available additional technical assistance to such practices during the first year of the expanded project.

(3) SELECTION OF HOMES TO PARTICIPATE.—The Secretary shall select up to 500 medical homes to participate in the expanded project and shall give priority to—

(A) the selection of up to 100 HIT-enhanced medical homes; and

(B) the selection of other medical homes that serve communities whose populations are at higher risk for health disparities.

(4) BENEFICIARY PARTICIPATION.—The Secretary shall establish a process for any Medicare beneficiary who is served by a medical home participating in the expanded project to elect to participate in the project. Each beneficiary who elects to so participate shall be eligible—

(A) for enhanced medical home services under the project with no cost sharing for the additional services; and

(B) for a reduction of up to 50 percent in the coinsurance for services furnished under the physician fee schedule under section 1848 of the Social Security Act by the medical home.

The Secretary shall develop standard recruitment materials and election processes for Medicare beneficiaries who are electing to participate in the expanded project.

(c) STANDARDS FOR MEDICAL HOMES, HIT-ENHANCED MEDICAL HOMES.—

(1) STANDARD SETTING AND CERTIFICATION PROCESS.—The Secretary shall establish a process for selection of a qualified standard setting and certification organization—

(A) to establish standards, consistent with this section, for medical practices to qualify as medical homes or as HIT-enhanced medical homes; and

(B) to provide for the review and certification of medical practices as meeting such standards.

(2) BASIC STANDARDS FOR MEDICAL HOMES.—For purposes of this subsection, the term “medical home” means a physician-directed practice that has been certified, under paragraph (1), as meeting the following standards:

(A) ACCESS AND COMMUNICATION WITH PATIENTS.—The practice applies standards for access to care and communication with participating beneficiaries.

(B) MANAGING PATIENT INFORMATION AND USING INFORMATION IN MANAGEMENT TO SUPPORT PATIENT CARE.—The practice has readily accessible, clinically useful information on participating beneficiaries that enables the practice to treat such beneficiaries comprehensively and systematically.

(C) MANAGING AND COORDINATING CARE ACCORDING TO INDIVIDUAL NEEDS.—The practice maintains continuous relationships with participating beneficiaries by implementing evidence-based guidelines and applying them to the identified needs of individual beneficiaries over time and with the intensity needed by such beneficiaries.

(D) PROVIDING ONGOING ASSISTANCE AND ENCOURAGEMENT IN PATIENT SELF-MANAGEMENT.—The practice—

(i) collaborates with participating beneficiaries to pursue their goals for optimal achievable health; and

(ii) assesses patient-specific barriers to communication and conducts activities to support patient self-management.

(E) RESOURCES TO MANAGE CARE.—The practice has in place the resources and processes necessary to achieve improvements in the management and coordination of care for participating beneficiaries.

(F) MONITORING PERFORMANCE.—The practice monitors its clinical process and performance (including outcome measures) in meeting the applicable standards under this subsection and provides information in a form and manner specified by the Secretary with respect to such process and performance.

(3) ADDITIONAL STANDARDS FOR HIT-ENHANCED MEDICAL HOME.—For purposes of this subsection, the term “HIT-enhanced medical home” means a medical home that has been certified, under paragraph (1), as using a health information technology system that includes at least the following elements:

(A) ELECTRONIC HEALTH RECORD (EHR).—The system uses, for participating beneficiaries, an electronic health record that meets the following standards:

(i) IN GENERAL.—The record—

(I) has the capability of interoperability with secure data acquisition from health information technology systems of other health care providers in the area served by the home; or

(II) the capability to securely acquire clinical data delivered by such other health care providers to a secure common data source.

(ii) The record protects the privacy and security of health information.

(iii) The record has the capability to acquire, manage, and display all the types of clinical information commonly relevant to services furnished by the home, such as complete medical records, radiographic image retrieval, and clinical laboratory information.

(iv) The record is integrated with decision support capacities that facilitate the use of evidence-based medicine and clinical decision support tools to guide decision-making at the point-of-care based on patient-specific factors.

(B) E-PRESCRIBING.—The system supports e-prescribing and computerized physician order entry.

(C) OUTCOME MEASUREMENT.—The system supports the secure, confidential provision of clinical process and outcome measures approved by the National Quality Forum to the Secretary for use in confidential manner for provider feedback and peer review and for outcomes and clinical effectiveness research.

(D) PATIENT EDUCATION CAPABILITY.—The system actively facilitates participating beneficiaries engaging in the management of their own health through education and support systems and tools for shared decision-making.

(E) SUPPORT OF BASIC STANDARDS.—The elements of such system, such as the electronic health record, email communications, patient registries, and clinical-decision support tools, are integrated in a manner to better achieve the basic standards specified in paragraph (2) for a medical home.

(4) USE OF DATA.—The Secretary shall use the data submitted under paragraph (1)(F) in a confidential manner for feedback and peer review for medical homes and for outcomes and clinical effectiveness research. After the first two years of the expanded project, these data may be used for adjustment in the monthly medical home care management fee under subsection (d)(2)(E).

(d) MONTHLY MEDICAL HOME CARE MANAGEMENT FEE.—

(1) IN GENERAL.—Under the expanded project, the Secretary shall provide for payment to the personal physician of each participating beneficiary of a monthly medical home care management fee.

(2) AMOUNT OF PAYMENT.— In determining the amount of such fee, the Secretary shall consider the following:

(A) OPERATING EXPENSES.—The additional practice expenses for the delivery of services through a medical home, taking into account the additional expenses for an HIT-enhanced medical home. Such expenses include costs associated with—

- (i) structural expenses, such as equipment, maintenance, and training costs;
- (ii) enhanced access and communication functions;
- (iii) population management and registry functions;
- (iv) patient medical data and referral tracking functions;
- (v) provision of evidence-based care;
- (vi) implementation and maintenance of health information technology;
- (vii) reporting on performance and improvement conditions; and
- (viii) patient education and patient decision support, including print and electronic patient education materials.

(B) ADDED VALUE SERVICES.—The value of additional physician work, such as augmented care plan oversight, expanded e-mail and telephonic consultations, extended patient medical data review (including data stored and transmitted electronically), and physician supervision of enhanced self management education, and expanded follow-up accomplished by non-physician personnel, in a medical home that is not adequately taken into account in the establishment of the physician fee schedule under section 1848 of the Social Security Act.

(C) RISK ADJUSTMENT.—The development of an appropriate risk adjustment mechanism to account for the varying costs of medical homes based upon characteristics of participating beneficiaries.

(D) HIT ADJUSTMENT.—Variation of the fee based on the extensiveness of use of the health information technology in the medical home.

(E) PERFORMANCE-BASED.—After the first two years of the expanded project, an adjustment of the fee based on performance of the home in achieving quality or outcomes standards.

(3) PERSONAL PHYSICIAN DEFINED.—For purposes of this subsection, the term “personal physician” means, with respect to a participating Medicare beneficiary, a physician (as defined in section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)) who provides accessible, continuous, coordinated, and comprehensive care for the beneficiary as part of a medical practice that is a qualified medical home. Such a physician may be a specialist for a beneficiary requiring ongoing care for a chronic condition or multiple chronic conditions (such as severe asthma, complex diabetes, cardiovascular disease, rheumatologic disorder) or for a beneficiary with a prolonged illness.

(e) FUNDING.—

(1) USE OF CURRENT PROJECT FUNDING.—Funds otherwise applied to the demonstration under section 204 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432) shall be available to carry out the expanded project

(2) ADDITIONAL FUNDING FROM SMI TRUST FUND.—

(A) IN GENERAL.—In addition to the funds provided under paragraph (1), there shall be available, from the Federal Supplementary Medical Insurance Trust Fund (under section 1841 of the Social Security Act), the amount of \$500,000,000 to carry out the expanded

project, including payments to of monthly medical home care management fees under subsection (d), reductions in coinsurance for participating beneficiaries under subsection (b)(4)(B), and funds for the design, implementation, and evaluation of the expanded project.

(B) MONITORING EXPENDITURES; EARLY TERMINATION.—The Secretary shall monitor the expenditures under the expanded project and may terminate the project early in order that expenditures not exceed the amount of funding provided for the project under subparagraph (A).

(f) EVALUATIONS AND REPORTS.—

(1) ANNUAL INTERIM EVALUATIONS AND REPORTS.—For each year of the expanded project, the Secretary shall provide for an evaluation of the project and shall submit to Congress, by a date specified by the Secretary, a report on the project and on the evaluation of the project for each such year.

(2) FINAL EVALUATION AND REPORT.—The Secretary shall provide for an evaluation of the expanded project and shall submit to Congress, not later than 18 months after the date of completion of the project, a report on the project and on the evaluation of the project.

#### SEC. 307. REPEAL OF PHYSICIAN ASSISTANCE AND QUALITY INITIATIVE FUND.

Subsection (l) of section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is repealed.

#### SEC. 308. ADJUSTMENT TO MEDICARE PAYMENT LOCALITIES.

Section 1848(e) of the Social Security Act (42 U.S.C. 1395w-4(e)) is amended by adding at the end the following new paragraph:

“(6) FEE SCHEDULE GEOGRAPHIC AREAS.—

“(A) IN GENERAL.—

“(i) REVISION.—Subject to clause (ii), for services furnished on or after January 1, 2009, the Secretary shall revise the fee schedule areas used for payment under this section applicable to the State of California using the county-based geographic adjustment factor as specified in option 3 (table 9) in the proposed rule for the 2008 physician fee schedule published at 72 Fed. Reg. 38,122 (July 12, 2007).

“(ii) TRANSITION.—For services furnished during the period beginning January 1, 2009, and ending December 31, 2010, after calculating the work, practice expense, and malpractice geographic indices described in clauses (i), (ii), and (iii) of paragraph (1)(A) that would otherwise apply, the Secretary shall increase any such geographic index for any county in California that is lower than the geographic index used for payment for services under this section as of December 31, 2008, in such county to such geographic index level.

“(iii) NON-APPLICATION OF PERIODIC REVISION.—If a periodic review of geographic indices, as required under paragraph (1)(B), results in a reduction in a work, practice expense and malpractice geographic index for any county in California that is below the geographic index level established pursuant to clause (ii) during a portion of the period described in such clause, the work, practice expense, or malpractice index established in such clause shall be applied to payment for services furnished in such county during such portion of such period.

“(B) SUBSEQUENT REVISIONS.—

“(i) TIMING.—Not later than January 1, 2014, the Secretary shall review and make revisions to fee schedule areas in all States for which more than one fee schedule area is used for payment of services under this section. The Secretary may revise fee schedule areas in States in which a single fee schedule area is used for payment for services under this section using the same methodology applied in the previous sentence.

“(ii) LINK WITH GEOGRAPHIC INDEX DATA REVISION.—The revision described in clause (i) shall be made effective concurrently with the application of the periodic review of geographic adjustment factors required under paragraph (1)(C) for 2014.”.

#### SEC. 309. PAYMENT FOR IMAGING SERVICES.

(a) PAYMENT UNDER PART B OF THE MEDICARE PROGRAM FOR DIAGNOSTIC IMAGING SERVICES FURNISHED IN FACILITIES CONDITIONED ON ACCREDITATION OF FACILITIES.—

(1) SPECIAL PAYMENT RULE.—

(A) IN GENERAL.—Section 1848(b)(4) of the Social Security Act (42 U.S.C. 1395w-4(b)(4)) is amended—

(i) in the heading, by striking “RULE” and inserting “RULES”;

(ii) in subparagraph (A), by striking “IN GENERAL” and inserting “LIMITATION”;

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

“(C) PAYMENT ONLY FOR SERVICES PROVIDED IN ACCREDITED FACILITIES.—

“(i) IN GENERAL.—In the case of imaging services that are diagnostic imaging services described in clause (ii), the payment amount for the technical component and the professional component of the services established for a year under the fee schedule described in paragraph (1) shall each be zero, unless the services are furnished at a diagnostic imaging services facility that meets the certificate requirement described in section 354(b)(1) of the Public Health Service Act, as applied under subsection (m). The previous sentence shall not apply with respect to the professional component of a diagnostic imaging service that is furnished by a physician or that is an ultrasound furnished by nurse practitioner or or nurse-midwife.

“(ii) DIAGNOSTIC IMAGING SERVICES.—For purposes of clause (i) and subsection (m), the term ‘diagnostic imaging services’ means all imaging modalities, including diagnostic magnetic resonance imaging (‘MRI’), computed tomography (‘CT’), positron emission tomography (‘PET’), nuclear medicine procedures, x-rays, sonograms, ultrasounds, echocardiograms, and such emerging diagnostic imaging technologies as specified by the Secretary. Such term does not include image guided procedures.”.

(B) EFFECTIVE DATE.—

(i) IN GENERAL.—Subject to clause (ii), the amendments made by subparagraph (A) shall apply to diagnostic imaging services furnished on or after January 1, 2010.

(ii) EXTENSION FOR ULTRASOUND SERVICES.—The amendments made by subparagraph (A) shall apply to diagnostic imaging services that are ultrasound services on or after January 1, 2012.

(2) CERTIFICATION OF FACILITIES THAT FURNISH DIAGNOSTIC IMAGING SERVICES.—Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended by adding at the end the following new subsection:

“(m) CERTIFICATION OF FACILITIES THAT FURNISH DIAGNOSTIC IMAGING SERVICES.—

“(1) IN GENERAL.—For purposes of subsection (b)(4)(C)(i), except as provided under paragraphs (2) through (8), the provisions of section 354 of the Public Health Service Act (as in effect as of June 1, 2007), relating to the certification of mammography facilities, shall apply, with respect to the provision of diagnostic imaging services (as defined in subsection (b)(4)(C)(ii)) and to a diagnostic imaging services facility defined in paragraph (8) (and to the process of accrediting such facilities) in the same manner that such provisions apply, with respect to the provision of mammograms and to a facility defined in paragraph (8) (and to the process of accrediting such facilities) in the same manner that such provisions apply, with respect

to the provision of mammograms and to a facility defined in subsection (a)(3) of such section (and to the process of accrediting such mammography facilities).

“(2) TERMINOLOGY AND REFERENCES.—For purposes of applying section 354 of the Public Health Service Act under paragraph (1)—

“(A) any reference to ‘mammography’, or ‘breast imaging’ is deemed a reference to ‘diagnostic imaging services (as defined in section 1848(b)(4)(C)(ii) of the Social Security Act)’;

“(B) any reference to a mammogram or film is deemed a reference to an image, as defined in paragraph (8);

“(C) any reference to ‘mammography facility’ or to a ‘facility’ under such section 354 is deemed a reference to a diagnostic imaging services facility, as defined in paragraph (8);

“(D) any reference to radiological equipment used to image the breast is deemed a reference to medical imaging equipment used to provide diagnostic imaging services;

“(E) any reference to radiological procedures or radiological is deemed a reference to medical imaging services, as defined in paragraph (8) or medical imaging, respectively;

“(F) any reference to an inspection (as defined in subsection (a)(4) of such section) or inspector is deemed a reference to an audit (as defined in paragraph (8)) or auditor, respectively;

“(G) any reference to a medical physicist (as described in subsection (f)(1)(E) of such section) is deemed to include a reference to a magnetic resonance scientist or the appropriate qualified expert as determined by the accrediting body;

“(H) in applying subsection (d)(1)(A)(i) of such section, the reference to ‘type of each x-ray machine, image receptor, and processor’ is deemed a reference to ‘type of imaging equipment’;

“(I) in applying subsection (d)(1)(B) of such section, the reference that ‘the person or agent submits to the Secretary’ is deemed a reference that ‘the person or agent submits to the Secretary, through the appropriate accreditation body’;

“(J) in applying subsection (d)(1)(B)(i) of such section, the reference to standards established by the Secretary is deemed a reference to standards established by an accreditation body and approved by the Secretary;

“(K) in applying subsection (e) of such section, relating to an accreditation body—

“(i) in paragraph (1)(A), the reference to ‘may’ is deemed a reference to ‘shall’;

“(ii) in paragraph (1)(B)(i)(II), the reference to ‘a random sample of clinical images from such facilities’ is deemed a reference to ‘a statistically significant random sample of clinical images from a statistically significant random sample of facilities’;

“(iii) in paragraph (3)(A) of such section—

“(I) the reference to ‘paragraph (1)(B)’ in such subsection is deemed to be a reference to ‘paragraph (1)(B) and subsection (f)’; and

“(II) the reference to the ‘Secretary’ is deemed a reference to ‘an accreditation body, with the approval of the Secretary’; and

“(iv) in paragraph (6)(B), the reference to the Committee on Labor and Human Resources of the Senate is deemed to be the Committee on Finance of the Senate and the reference to the Committee on Energy and Commerce of the House of Representatives is deemed to include a reference to the Committee on Ways and Means of the House of Representatives;

“(L) in applying subsection (f), relating to quality standards—

“(i) each reference to standards established by the Secretary is deemed a reference to standards established by an accreditation

body involved and approved by the Secretary under subsection (d)(1)(B)(i) of such section

“(ii) in paragraph (1)(A), the reference to ‘radiation dose’ is deemed a reference to ‘radiation dose, as appropriate’;

“(iii) in paragraph (1)(B), the reference to ‘radiological standards’ is deemed a reference to ‘medical imaging standards, as appropriate’;

“(iv) in paragraphs (1)(D)(ii) and (1)(E)(iii), the reference to ‘the Secretary’ is deemed a reference to ‘an accreditation body with the approval of the Secretary’;

“(v) in each of subclauses (III) and (IV) of paragraph (1)(G)(ii), each reference to ‘patient’ is deemed a reference to ‘patient, if requested by the patient’; and

“(M) in applying subsection (g), relating to inspections—

“(i) each reference to the ‘Secretary or State or local agency acting on behalf of the Secretary’ is deemed to include a reference to an accreditation body involved;

“(ii) in the first sentence of paragraph (1)(F), the reference to ‘annual inspections required under this paragraph’ is deemed a reference to ‘the audits carried out in facilities at least every three years from the date of initial accreditation under this paragraph’; and

“(iii) in the second sentence of paragraph (1)(F), the reference to ‘inspections carried out under this paragraph’ is deemed a reference to ‘audits conducted under this paragraph during the previous year’.

“(3) DATES AND PERIODS.—For purposes of paragraph (1), in applying section 354 of the Public Health Service Act, the following apply:

“(A) IN GENERAL.—Except as provided in subparagraph (B)—

“(i) any reference to ‘October 1, 1994’ shall be deemed a reference to ‘January 1, 2010’;

“(ii) the reference to ‘the date of the enactment of this section’ in each of subsections (e)(1)(D) and (f)(1)(E)(iii) is deemed to be a reference to ‘the date of the enactment of the Children’s Health and Medicare Protection Act of 2007’;

“(iii) the reference to ‘annually’ in subsection (g)(1)(E) is deemed a reference to ‘every three years’;

“(iv) the reference to ‘October 1, 1996’ in subsection (I) is deemed to be a reference to ‘January 1, 2011’;

“(v) the reference to ‘October 1, 1999’ in subsection (n)(3)(H) is deemed to be a reference to ‘January 1, 2012’; and

“(vi) the reference to ‘October 1, 1993’ in the matter following paragraph (3)(J) of subsection (n) is deemed to be a reference ‘January 1, 2010’.

“(B) ULTRASOUND SERVICES.—With respect to diagnostic imaging services that are ultrasounds—

“(i) any reference to ‘October 1, 1994’ shall be deemed a reference to ‘January 1, 2012’;

“(ii) the reference to ‘the date of the enactment of this section’ in subsection (f)(1)(E)(iii) is deemed to be a reference to ‘7 years after the date of the enactment of the Children’s Health and Medicare Protection Act of 2007’;

“(iii) the reference to ‘October 1, 1996’ in subsection (I) is deemed to be a reference to ‘January 1, 2013’;

“(4) PROVISIONS NOT APPLICABLE.—For purposes of paragraph (1), in applying section 354 of the Public Health Service Act, the following provision shall not apply:

“(A) Subsections (e) and (f) of such section, in so far as the respective subsection imposes any requirement for a physician to be certified, accredited, or otherwise meet requirements, with respect to the provision of any diagnostic imaging services, as a condition of payment under subsection (b)(4)(C)(i),

with respect to the professional or technical component, for such service.

“(B) Subsection (e)(1)(B)(iv) of such section, insofar as it applies to a facility with respect to the provision of ultrasounds.

“(C) Subsection (e)(1)(B)(v).

“(D) Subsection (f)(1)(H) of such section, relating to standards for special techniques for mammograms of patients with breast implants.

“(E) Subsection (g)(6) of such section, relating to an inspection demonstration program.

“(F) Subsection (n)(3)(G) of such section, relating to the national advisory committee.

“(G) Subsection (p) of such section, relating to breast cancer screening surveillance research grants.

“(H) Paragraphs (1)(B) and (2) of subsection (r) of such section, related to funding.

“(5) ACCREDITATION BODIES.—For purposes of paragraph (1), in applying section 354(e)(1) of the Public Health Service, the following shall apply:

“(A) APPROVAL OF TWO ACCREDITATION BODIES FOR EACH TREATMENT MODALITY.—In the case that there is more than one accreditation body for a treatment modality that qualifies for approval under this subsection, the Secretary shall approve at least two accreditation bodies for such treatment modality.

“(B) ADDITIONAL ACCREDITATION BODY STANDARDS.—In addition to the standards described in subparagraph (B) of such section for accreditation bodies, the Secretary shall establish standards that require—

“(i) the timely integration of new technology by accreditation bodies for purposes of accrediting facilities under this subsection; and

“(ii) the accreditation body involved to evaluate the annual medical physicist survey (or annual medical survey of another appropriate qualified expert chosen by the accreditation body) of a facility upon onsite review of such facility.

“(6) ADDITIONAL QUALITY STANDARDS.—For purposes of paragraph (1), in applying subsection (f)(1) of section 354 of the Public Health Service—

“(A) the quality standards under such subsection shall, with respect to a facility include—

“(i) standards for qualifications of medical personnel who are not physicians and who perform diagnostic imaging services at the facility that require such personnel to ensure that individuals, prior to performing medical imaging, demonstrate compliance with the standards established under subsection (a) through successful completion of certification by a nationally recognized professional organization, licensure, completion of an examination, pertinent coursework or degree program, verified pertinent experience, or through other ways determined appropriate by an accreditation body (with the approval of the Secretary, or through some combination thereof);

“(ii) standards requiring the facility to maintain records of the credentials of physicians and other medical personnel described in clause (i);

“(iii) standards for qualifications and responsibilities of medical directors and other personnel with supervising roles at the facility;

“(iv) standards that require the facility has procedures to ensure the safety of patients of the facility; and

“(v) standards for the establishment of a quality control program at the facility to be implemented as described in subparagraph (E) of such subsection;

“(B) the quality standards described in subparagraph (B) of such subsection shall be deemed to include standards that require the

establishment and maintenance of a quality assurance and quality control program at each facility that is adequate and appropriate to ensure the reliability, clarity, and accuracy of the technical quality of diagnostic images produced at such facilities; and

“(C) the quality standard described in subparagraph (C) of such subsection, relating to a requirement for personnel who perform specified services, shall include in such requirement that such personnel must meet continuing medical education standards as specified by an accreditation body (with the approval of the Secretary) and update such standards at least once every three years.

“(7) ADDITIONAL REQUIREMENTS.—Notwithstanding any provision of section 354 of the Public Health Service Act, the following shall apply to the accreditation process under this subsection for purposes of subsection (b)(4)(C)(i):

“(A) Any diagnostic imaging services facility accredited before January 1, 2010 (or January 1, 2012 in the case of ultrasounds), by an accrediting body approved by the Secretary shall be deemed a facility accredited by an approved accreditation body for purposes of such subsection as of such date if the facility submits to the Secretary proof of such accreditation by transmittal of the certificate of accreditation, including by electronic means.

“(B) The Secretary may require the accreditation under this subsection of an emerging technology used in the provision of a diagnostic imaging service as a condition of payment under subsection (b)(4)(C)(i) for such service at such time as the Secretary determines there is sufficient empirical and scientific information to properly carry out the accreditation process for such technology.

“(8) DEFINITIONS.—For purposes of this subsection:

“(A) AUDIT.—The term ‘audit’ means an onsite evaluation, with respect to a diagnostic imaging services facility, by the Secretary, State or local agency on behalf of the Secretary, or accreditation body approved under this subsection that includes the following:

“(i) Equipment verification.  
“(ii) Evaluation of policies and procedures for compliance with accreditation requirements.  
“(iii) Evaluation of personnel qualifications and credentialing.  
“(iv) Evaluation of the technical quality of images.  
“(v) Evaluation of patient reports.  
“(vi) Evaluation of peer-review mechanisms and other quality assurance activities.  
“(vii) Evaluation of quality control procedures, results, and follow-up actions.  
“(viii) Evaluation of medical physicists (or other appropriate professionals chosen by the accreditation body) and magnetic resonance scientist surveys.  
“(ix) Evaluation of consumer complaint mechanisms.  
“(x) Provision of recommendations for improvement based on findings with respect to clauses (i) through (ix).

“(B) DIAGNOSTIC IMAGING SERVICES FACILITY.—The term ‘diagnostic imaging services facility’ has the meaning given the term ‘facility’ in section 354(a)(3) of the Public Health Service Act (42 U.S.C. 263b(a)(3)) subject to the reference changes specified in paragraph (2), but does not include any facility that does not furnish diagnostic imaging services for which payment may be made under this section.

“(C) IMAGE.—The term ‘image’ means the portrayal of internal structures of the human body for the purpose of detecting and determining the presence or extent of dis-

ease or injury and may be produced through various techniques or modalities, including radiant energy or ionizing radiation and ultrasound and magnetic resonance. Such term does not include image guided procedures.

“(D) MEDICAL IMAGING SERVICE.—The term ‘medical imaging service’ means a service that involves the science of an image. Such term does not include image guided procedures.”

(b) ADJUSTMENT IN PRACTICE EXPENSE TO REFLECT HIGHER PRESUMED UTILIZATION.—Section 1848 of the Social Security Act (42 U.S.C. 1395w(b)(4)) is amended—

(1) in subsection (b)(4)—  
(A) in the heading, by striking “RULE” and inserting “RULES”;

(B) in subparagraph (B), by striking “subparagraph (A)” and inserting “this paragraph”; and

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

“(C) ADJUSTMENT IN PRACTICE EXPENSE TO REFLECT HIGHER PRESUMED UTILIZATION.—In computing the number of practice expense relative value units under subsection (c)(2)(C)(ii) with respect to imaging services described in subparagraph (B), the Secretary shall adjust such number of units so it reflects a 75 percent (rather than 50 percent) presumed rate of utilization of imaging equipment.”; and

(2) in subsection (c)(2)(B)(v)(II), by inserting “AND OTHER PROVISIONS” after “OPD PAYMENT CAP”

(c) ADJUSTMENT IN TECHNICAL COMPONENT “DISCOUNT” ON SINGLE-SESSION IMAGING TO CONSECUTIVE BODY PARTS.—Section 1848(b)(4) of such Act is further amended by adding at the end the following new subparagraph:

“(D) ADJUSTMENT IN TECHNICAL COMPONENT DISCOUNT ON SINGLE-SESSION IMAGING INVOLVING CONSECUTIVE BODY PARTS.—The Secretary shall increase the reduction in expenditures attributable to the multiple procedure payment reduction applicable to the technical component for imaging under the final rule published by the Secretary in the Federal Register on November 21, 2005 (42 C.F.R. 405, et al.) from 25 percent to 50 percent.”

(d) ADJUSTMENT IN ASSUMED INTEREST RATE FOR CAPITAL PURCHASES.—Section 1848(b)(4) of such Act is further amended by adding at the end the following new subparagraph:

“(E) ADJUSTMENT IN ASSUMED INTEREST RATE FOR CAPITAL PURCHASES.—In computing the practice expense component for imaging services under this section, the Secretary shall change the interest rate assumption for capital purchases of imaging devices to reflect the prevailing rate in the market, but in no case higher than 11 percent.”

(e) DISALLOWANCE OF GLOBAL BILLING.—Effective for claims filed for imaging services (as defined in subsection (b)(4)(B) of section 1848 of the Social Security Act) furnished on or after the first day of the first month that begins more than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall not accept (or pay) a claim under such section unless the claim is made separately for each component of such services.

(f) EFFECTIVE DATE.—Except as otherwise provided, this section, and the amendments made by this section, shall apply to services furnished on or after January 1, 2008.

#### SEC. 310. REPEAL OF PHYSICIANS ADVISORY COUNCIL.

Section 1868(a) of the Social Security Act (42 U.S.C. 1395ee(a)), relating to the Practicing Physicians Advisory Council, is repealed.

## TITLE IV—MEDICARE ADVANTAGE REFORMS

### Subtitle A—Payment Reform

#### SEC. 401. EQUALIZING PAYMENTS BETWEEN MEDICARE ADVANTAGE PLANS AND FEE-FOR-SERVICE MEDICARE.

(a) PHASE IN OF PAYMENT BASED ON FEE-FOR-SERVICE COSTS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w-23) is amended—

(1) in subsection (j)(1)(A)—  
(A) by striking “beginning with 2007” and inserting “for 2007 and 2008”; and

(B) by inserting after “(k)(1)” the following: “, or, beginning with 2009, 1/2 of the blended benchmark amount determined under subsection (l)(1)”; and

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

“(1) DETERMINATION OF BLENDED BENCHMARK AMOUNT.—

“(1) IN GENERAL.—For purposes of subsection (j), subject to paragraphs (2) and (3), the term ‘blended benchmark amount’ means for an area—

“(A) for 2009 the sum of—  
“(i) 2/3 of the applicable amount (as defined in subsection (k)(1)) for the area and year; and

“(ii) 1/3 of the amount specified in subsection (c)(1)(D)(i) for the area and year;

“(B) for 2010 the sum of—  
“(i) 1/3 of the applicable amount for the area and year; and

“(ii) 2/3 of the amount specified in subsection (c)(1)(D)(i) for the area and year; and  
“(C) for a subsequent year the amount specified in subsection (c)(1)(D)(i) for the area and year.

“(2) FEE-FOR-SERVICE PAYMENT FLOOR.—In no case shall the blended benchmark amount for an area and year be less than the amount specified in subsection (c)(1)(D)(i) for the area and year.

“(3) EXCEPTION FOR PACE PLANS.—This subsection shall not apply to payments to a PACE program under section 1894.”

(b) PHASE IN OF PAYMENT BASED ON IME COSTS.—

(1) IN GENERAL.—Section 1853(c)(1)(D)(i) of such Act (42 U.S.C. 1395w-23(c)(1)(D)(i)) is amended by inserting “and costs attributable to payments under section 1886(d)(5)(B)” after “1886(h)”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the capitation rate for years beginning with 2009.

(c) LIMITATION ON PLAN ENROLLMENT IN CASES OF EXCESS BIDS FOR 2009 AND 2010.—

(1) IN GENERAL.—In the case of a Medicare Part C organization that offers a Medicare Part C plan in the 50 States or the District of Columbia for which—

(A) bid amount described in paragraph (2) for a Medicare Part C plan for 2009 or 2010, exceeds

(B) the percent specified in paragraph (4) of the fee-for-service amount described in paragraph (3),

the Medicare Part C plan may not enroll any new enrollees in the plan during the annual, coordinated election period (under section 1851(e)(3)(B) of such Act (42 U.S.C. 1395w-21(e)(3)(B))) for the year or during the year (if the enrollment becomes effective during the year).

(2) BID AMOUNT FOR PART A AND B SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the bid amount described in this paragraph is the unadjusted Medicare Part C statutory non-drug monthly bid amount (as defined in section 1854(b)(2)(E) of the Social Security Act (42 U.S.C. 1395w-24(b)(2)(E))).

(B) TREATMENT OF MSA PLANS.—In the case of an MSA plan (as defined in section

1859(b)(3) of the Social Security Act, 42 U.S.C. 1395w-28(b)(3)), the bid amount described in this paragraph is the amount described in section 1854(a)(3)(A) of such Act (42 U.S.C. 1395w-24(a)(3)(A)).

(3) FEE-FOR-SERVICE AMOUNT DESCRIBED.—

(A) IN GENERAL.—Subject to subparagraph (B), the fee-for-service amount described in this paragraph for a Medicare Part C local area is the amount described in section 1853(c)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395w-23) for such area.

(B) TREATMENT OF MULTI-COUNTY PLANS.—In the case of an MA plan the service area for which covers more than one Medicare Part C local area, the fee-for-service amount described in this paragraph is the amount described in section 1853(c)(1)(D)(i) of the Social Security Act for each such area served, weighted for each such area by the proportion of the enrollment of the plan that resides in the county (as determined based on amounts posted by the Administrator of the Centers for Medicare & Medicaid Services in the April bid notice for the year involved).

(4) PERCENTAGE PHASE DOWN.—For purposes of paragraph (1), the percentage specified in this paragraph—

(A) for 2009 is 106 percent; and

(B) for 2010 is 103 percent.

(5) EXEMPTION OF AGE-INS.—For purposes of paragraph (1), the term “new enrollee” with respect to a Medicare Part C plan offered by a Medicare Part C organization, does not include an individual who was enrolled in a plan offered by the organization in the month immediately before the month in which the individual was eligible to enroll in such a Medicare Part C plan offered by the organization.

(d) ANNUAL REBASING OF FEE-FOR-SERVICE RATES.—Section 1853(c)(1)(D)(ii) of the Social Security Act (42 U.S.C. 1395w-23(c)(1)(D)(ii)) is amended—

(1) by inserting “(before 2009)” after “for subsequent years”; and

(2) by inserting before the period at the end the following: “and for each year beginning with 2009”.

(e) REPEAL OF PPO STABILIZATION FUND.—Section 1858 of the Social Security Act (42 U.S.C. 1395) is amended—

(1) by striking subsection (e); and

(2) in subsection (f)(1), by striking “subject to subsection (e),”.

**Subtitle B—Beneficiary Protections**

**SEC. 411. NAIC DEVELOPMENT OF MARKETING, ADVERTISING, AND RELATED PROTECTIONS.**

(a) IN GENERAL.—Section 1852 of the Social Security Act (42 U.S.C. 1395w-22) is amended by adding at the end the following new subsection:

“(m) APPLICATION OF MODEL MARKETING AND ENROLLMENT STANDARDS.—

“(1) IN GENERAL.—The National Association of Insurance Commissioners (in this subsection referred to as the ‘NAIC’) is requested to develop, and to submit to the Secretary of Health and Human Services not later than 12 months after the date of the enactment of this Act, model regulations (in this section referred to as ‘model regulations’) regarding Medicare plan marketing, enrollment, broker and agent training and certification, agent and broker commissions, and market conduct by plans, agents and brokers for implementation (under paragraph (7)) under this part and part D, including for enforcement by States under section 1856(b)(3).

“(2) MARKETING GUIDELINES.—

“(A) IN GENERAL.—The model regulations shall address the sales and advertising techniques used by Medicare private plans, agents and brokers in selling plans, including defining and prohibiting cold calls, unso-

licited door-to-door sales, cross-selling, and co-branding.

“(B) SPECIAL CONSIDERATIONS.—The model regulations shall specifically address the marketing—

“(i) of plans to full benefit dual-eligible individuals and qualified medicare beneficiaries;

“(ii) of plans to populations with limited English proficiency;

“(iii) of plans to beneficiaries in senior living facilities; and

“(iv) of plans at educational events.

“(3) ENROLLMENT GUIDELINES.—

“(A) IN GENERAL.—The model regulations shall address the disclosures Medicare private plans, agents, and brokers must make when enrolling beneficiaries, and a process—

“(i) for affirmative beneficiary sign off before enrollment in a plan; and

“(ii) in the case of Medicare Part C plans, for plans to conduct a beneficiary call-back to confirm beneficiary sign off and enrollment.

“(B) SPECIFIC CONSIDERATIONS.—The model regulations shall specially address beneficiary understanding of the Medicare plan through required disclosure (or beneficiary verification) of each of the following:

“(i) The type of Medicare private plan involved.

“(ii) Attributes of the plan, including premiums, cost sharing, formularies (if applicable), benefits, and provider access limitations in the plan.

“(iii) Comparative quality of the plan.

“(iv) The fact that plan attributes may change annually.

“(4) APPOINTMENT, CERTIFICATION AND TRAINING OF AGENTS AND BROKERS.—The model regulations shall establish procedures and requirements for appointment, certification (and periodic recertification), and training of agents and brokers that market or sell Medicare private plans consistent with existing State appointment and certification procedures and with this paragraph.

“(5) AGENT AND BROKER COMMISSIONS.—

“(A) IN GENERAL.—The model regulations shall establish standards for fair and appropriate commissions for agents and brokers consistent with this paragraph.

“(B) LIMITATION ON TYPES OF COMMISSION.—The model regulations shall specifically prohibit the following:

“(i) Differential commissions—

“(I) for Medicare Part C plans based on the type of Medicare private plan; or

“(II) prescription drug plans under part D based on the type of prescription drug plan.

“(ii) Commissions in the first year that are more than 200 percent of subsequent year commissions.

“(iii) The payment of extra bonuses or incentives (such as trips, gifts, and other non-commission cash payments).

“(C) AGENT DISCLOSURE.—In developing the model regulations, the NAIC shall consider requiring agents and brokers to disclose commissions to a beneficiary upon request of the beneficiary before enrollment.

“(D) PREVENTION OF FRAUD.—The model regulations shall consider the opportunity for fraud and abuse and beneficiary steering in setting standards under this paragraph and shall provide for the ability of State commissioners to investigate commission structures.

“(6) MARKET CONDUCT.—

“(A) IN GENERAL.—The model regulations shall establish standards for the market conduct of organizations offering Medicare private plans, and of agents and brokers selling such plans, and for State review of plan market conduct.

“(B) MATTERS TO BE INCLUDED.—Such standards shall include standards for—

“(i) timely payment of claims;

“(ii) beneficiary complaint reporting and disclosure; and

“(iii) State reporting of market conduct violations and sanctions.

“(7) IMPLEMENTATION.—

“(A) PUBLICATION OF NAIC MODEL REGULATIONS.—If the model regulations are submitted on a timely basis under paragraph (1)—

“(i) the Secretary shall publish them in the Federal Register upon receipt and request public comment on the issue of whether such regulations are consistent with the requirements established in this subsection for such regulations;

“(ii) not later than 6 months after the date of such publication, the Secretary shall determine whether such regulations are so consistent with such requirements and shall publish notice of such determination in the Federal Register; and

“(iii) if the Secretary makes the determination under clause (ii) that such regulations are consistent with such requirements, in the notice published under clause (ii) the Secretary shall publish notice of adoption of such model regulations as constituting the marketing and enrollment standards adopted under this subsection to be applied under this title; and

“(iv) if the Secretary makes the determination under such clause that such regulations are not consistent with such requirements, the procedures of clauses (ii) and (iii) of subparagraph (B) shall apply (in relation to the notice published under clause (ii)), in the same manner as such clauses would apply in the case of publication of a notice under subparagraph (B)(i).

“(B) NO MODEL REGULATIONS.—If the model regulations are not submitted on a timely basis under paragraph (1)—

“(i) the Secretary shall publish notice of such fact in the Federal Register;

“(ii) not later than 6 months after the date of publication of such notice, the Secretary shall propose regulations that provide for marketing and enrollment standards that incorporate the requirements of this subsection for the model regulations and request public comments on such proposed regulations; and

“(iii) not later than 6 months after the date of publication of such proposed regulations, the Secretary shall publish final regulations that shall constitute the marketing and enrollment standards adopted under this subsection to be applied under this title.

“(C) REFERENCES TO MARKETING AND ENROLLMENT STANDARDS.—In this title, a reference to marketing and enrollment standards adopted under this subsection is deemed a reference to the regulations constituting such standards adopted under subparagraph (A) or (B), as the case may be.

“(D) EFFECTIVE DATE OF STANDARDS.—In order to provide for the orderly and timely implementation of marketing and enrollment standards adopted under this subsection, the Secretary, in consultation with the NAIC, shall specify (by program instruction or otherwise) effective dates with respect to all components of such standards consistent with the following:

“(i) In the case of components that relate predominantly to operations in relation to Medicare private plans, the effective date shall be for plan years beginning on or after such date (not later than 1 year after the date of promulgation of the standards) as the Secretary specifies.

“(ii) In the case of other components, the effective date shall be such date, not later than 1 year after the date of promulgation of the standards, as the Secretary specifies.

“(E) CONSULTATION.—In promulgating marketing and enrollment standards under this paragraph, the NAIC or Secretary shall

consult with a working group composed of representatives of issuers of Medicare private plans, consumer groups, medicare beneficiaries, State Health Insurance Assistance Programs, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

**“(8) ENFORCEMENT.—**

**“(A) IN GENERAL.—**Any Medicare private plan that violates marketing and enrollment standards is subject to sanctions under section 1857(g).

**“(B) STATE RESPONSIBILITIES.—**Nothing in this subsection or section 1857(g) shall prohibit States from imposing sanctions against Medicare private plans, agents, or brokers for violations of the marketing and enrollment standards adopted under section 1852(m). States shall have the sole authority to regulate agents and brokers.

**“(9) MEDICARE PRIVATE PLAN DEFINED.—**In this subsection, the term ‘Medicare private plan’ means a Medicare Part C plan and a prescription drug plan under part D.”

**(b) EXPANSION OF EXCEPTION TO PREEMPTION OF STATE ROLE.—**

**(1) IN GENERAL.—**Section 1856(b)(3) of the Social Security Act (42 U.S.C. 1395w-26(b)(3)) is amended by striking “(other than State licensing laws or State laws relating to plan solvency)” and inserting “(other than State laws relating to licensing or plan solvency and State laws or regulations adopting the marketing and enrollment standards adopted under section 1852(m)).”

**(2) EFFECTIVE DATE.—**The amendment made by paragraph (1) shall apply to plans offered on or after July 1, 2008.

**(c) APPLICATION TO PRESCRIPTION DRUG PLANS.—**

**(1) IN GENERAL.—**Section 1860D-1 of such Act is amended by adding at the end the following new subsection:

**“(d) APPLICATION OF MARKETING AND ENROLLMENT STANDARDS.—**The marketing and enrollment standards adopted under section 1852(m) shall apply to prescription drug plans (and sponsors of such plans) in the same manner as they apply to Medicare Part C plans and organizations offering such plans.”

**(2) REFERENCE TO CURRENT LAW PROVISIONS.—**The amendment made by subsection (a) and (b) apply, pursuant to section 1860D-1(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1395w-101(b)(1)(B)(ii)), to prescription drug plans under part D of title XVIII of such Act.

**(d) CONTRACT REQUIREMENT TO MEET MARKETING AND ADVERTISING STANDARDS.—**

**(1) IN GENERAL.—**Section 1857(d) of the Social Security Act (42 U.S.C. 1395w-27(d)), as amended by subsection (b)(1), is further amended by adding at the end the following new paragraph:

**“(7) MARKETING AND ADVERTISING STANDARDS.—**The contract shall require the organization to meet all standards adopted under section 1852(m) (including those enforced by the State involved pursuant to section 1856(b)(3)) relating to marketing and advertising conduct”.

**(2) EFFECTIVE DATE.—**The amendment made by paragraph (1) shall apply to contracts for plan years beginning on or after January 1, 2011.

**(e) APPLICATION OF SANCTIONS.—**

**(1) APPLICATION TO VIOLATION OF MARKETING AND ENROLLMENT STANDARDS.—**Section 1857(g) of such Act (42 U.S.C. 1395w-27(g)) is amended—

**(A) by striking “or” at the end of subparagraph (F);**

**(B) by adding “or” at the end of subparagraph (G); and**

**(C) by inserting after subparagraph (G) the following new subparagraph:**

**“(H) violates marketing and enrollment standards adopted under section 1852(m);”.**

**(2) ENHANCED CIVIL MONEY SANCTIONS.—**Such section is further amended—

**(A) in paragraph (2)(A), by striking “\$25,000”, “\$100,000”, and “\$15,000” and inserting “\$50,000”, “\$200,000”, and “\$30,000”, respectively; and**

**(B) in subparagraphs (A), (B), and (D) of paragraph (3), by striking “\$25,000”, “\$10,000”, and “\$100,000”, respectively, and inserting “\$50,000”, “\$20,000”, and “\$200,000”, respectively.**

**(3) EFFECTIVE DATE.—**The amendments made by paragraph (2) shall apply to violations occurring on or after the date of the enactment of this Act.

**(f) DISCLOSURE OF MARKET AND ADVERTISING CONTRACT VIOLATIONS AND IMPOSED SANCTIONS.—**Section 1857 of such Act is amended by adding at the end the following new subsection:

**“(j) DISCLOSURE OF MARKET AND ADVERTISING CONTRACT VIOLATIONS AND IMPOSED SANCTIONS.—**For years beginning with 2009, the Secretary shall post on its public website for the Medicare program an annual report that—

**“(1) lists each MA organization for which the Secretary made during the year a determination under subsection (c)(2) the basis of which is described in paragraph (1)(E); and**

**“(2) that describes any applicable sanctions under subsection (g) applied to such organization pursuant to such determination.”.**

**(g) STANDARD DEFINITIONS OF BENEFITS AND FORMATS FOR USE IN MARKETING MATERIALS.—**Section 1851(h) of such Act (42 U.S.C. 1395w-21(h)) is amended by adding at the end the following new paragraph:

**“(6) STANDARD DEFINITIONS OF BENEFITS AND FORMATS FOR USE IN MARKETING MATERIALS.—**

**“(A) IN GENERAL.—**Not later than January 1, 2010, the Secretary, in consultation with the National Association of Insurance Commissioners and a working group of the type described in section 1852(m)(7)(E), shall develop standard descriptions and definitions for benefits under this title for use in marketing material distributed by Medicare Part C organizations and formats for including such descriptions in such marketing material.

**“(B) REQUIRED USE OF STANDARD DEFINITIONS.—**For plan years beginning on or after January 1, 2011, the Secretary shall disapprove the distribution of marketing material under paragraph (1)(B) if such marketing material does not use, without modification, the applicable descriptions and formats specified under subparagraph (A).”

**(h) SUPPORT FOR STATE HEALTH INSURANCE ASSISTANCE PROGRAMS (SHIPs).—**Section 1857(e)(2) of the Social Security Act (42 U.S.C. 1395w-27(e)(2)) is amended—

**(1) in subparagraph (B), by adding at the end the following: “Of the amounts so collected, no less than \$55,000,000 for fiscal year 2009, \$65,000,000 for fiscal year 2010, \$75,000,000 for fiscal year 2011, and \$85,000,000 for fiscal year 2012 shall be used to support Medicare Part C and Part D counseling and assistance provided by State Health Insurance Assistance Programs.”;**

**(2) in subparagraph (C)—**

**(A) by striking “and” after “\$100,000,000”; and**

**(B) by striking “an amount equal to \$200,000,000” and inserting “and ending with fiscal year 2008 an amount equal to \$200,000,000, for fiscal year 2009 an amount equal to \$255,000,000, for fiscal year 2010 an amount equal to \$265,000,000, for fiscal year 2011 an amount equal to \$275,000,000, and for fiscal year 2012 an amount equal to \$285,000,000”; and**

**(3) in subparagraph (D)(ii)—**

**(A) by striking “and” at the end of subclause (IV);**

**(B) in subclause (V), by striking the period at the end and inserting “before fiscal year 2009; and”; and**

**(C) by adding at the end the following new subclauses:**

**“(VI) for fiscal year 2009 and each succeeding fiscal year the applicable portion (as so defined) of the amount specified in subparagraph (C) for that fiscal year.”.**

**SEC. 412. LIMITATION ON OUT-OF-POCKET COSTS FOR INDIVIDUAL HEALTH SERVICES.**

**(a) IN GENERAL.—**Section 1852(a)(1) of the Social Security Act (42 U.S.C. 1395w-22(a)(1)) is amended—

**(1) in subparagraph (A), by inserting before the period at the end the following: “with cost-sharing that is no greater (and may be less) than the cost-sharing that would otherwise be imposed under such program option”;**

**(2) in subparagraph (B)(i), by striking “or an actuarially equivalent level of cost-sharing as determined in this part”; and**

**(3) by amending clause (ii) of subparagraph (B) to read as follows:**

**“(ii) PERMITTING USE OF FLAT COPAYMENT OR PER DIEM RATE.—**Nothing in clause (i) shall be construed as prohibiting a Medicare part C plan from using a flat copayment or per diem rate, in lieu of the cost-sharing that would be imposed under part A or B, so long as the amount of the cost-sharing imposed does not exceed the amount of the cost-sharing that would be imposed under the respective part if the individual were not enrolled in a plan under this part.”.

**(b) LIMITATION FOR DUAL ELIGIBLES AND QUALIFIED MEDICARE BENEFICIARIES.—**Section 1852(a) of such Act is amended by adding at the end the following new paragraph:

**“(7) LIMITATION ON COST-SHARING FOR DUAL ELIGIBLES AND QUALIFIED MEDICARE BENEFICIARIES.—**In the case of a individual who is a full-benefit dual eligible individual (as defined in section 1935(c)(6)) or a qualified medicare beneficiary (as defined in section 1905(p)(1)) who is enrolled in a Medicare Part C plan, the plan may not impose cost-sharing that exceeds the amount of cost-sharing that would be permitted with respect to the individual under this title and title XIX if the individual were not enrolled with such plan.”.

**(c) EFFECTIVE DATES.—**

**(1) The amendments made by subsection (a) shall apply to plan years beginning on or after January 1, 2009.**

**(2) The amendments made by subsection (b) shall apply to plan years beginning on or after January 1, 2008.**

**SEC. 413. MA PLAN ENROLLMENT MODIFICATIONS.**

**(a) IMPROVED PLAN ENROLLMENT, DISENROLLMENT, AND CHANGE OF ENROLLMENT.—**

**(1) CONTINUOUS OPEN ENROLLMENT FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS AND QUALIFIED MEDICARE BENEFICIARIES (QMB).—**Section 1851(e)(2)(D) of the Social Security Act (42 U.S.C. 1395w-21(e)(2)(D)) is amended—

**(A) in the heading, by inserting “; FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS, AND QUALIFIED MEDICARE BENEFICIARIES” after “INSTITUTIONALIZED INDIVIDUALS”; and**

**(B) in the matter before clause (i), by inserting “; a full-benefit dual eligible individual (as defined in section 1935(c)(6)), or a qualified medicare beneficiary (as defined in section 1905(p)(1))” after “institutionalized (as defined by the Secretary);” and**

**(C) in clause (i), by inserting “or disenroll” after “enroll”.**

**(2) SPECIAL ELECTION PERIODS FOR ADDITIONAL CATEGORIES OF INDIVIDUALS.—**Section

1851(e)(4) of such Act (42 U.S.C. 1395w(e)(4)) is amended—

(A) in subparagraph (C), by striking at the end “or”;

(B) in subparagraph (D), by inserting “, taking into account the health or well-being of the individual” before the period and redesignating such subparagraph as subparagraph (G); and

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

“(D) the individual is described in section 1902(a)(10)(E)(iii) (relating to specified low-income medicare beneficiaries); or

“(E) the individual is enrolled in an MA plan and enrollment in the plan is suspended under paragraph (2)(B) or (3)(C) of section 1857(g) because of a failure of the plan to meet applicable requirements.”.

(3) ELIMINATION OF CONTINUOUS OPEN ENROLLMENT OF ORIGINAL FEE-FOR-SERVICE ENROLLEES IN MEDICARE ADVANTAGE NON-PRESCRIPTION DRUG PLANS.—Subparagraph (E) of section 1851(e)(2) of the Social Security Act, as added by section 206 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109-432), is repealed.

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

(b) ACCESS TO MEDIGAP COVERAGE FOR INDIVIDUALS WHO LEAVE MA PLANS.—

(1) IN GENERAL.—Section 1882(s)(3) of the Social Security Act (42 U.S.C. 1395ss(s)(3)) is amended—

(A) in each of clauses (v)(III) and (vi) subparagraph (B), by striking “12 months” and inserting “24 months”; and

(B) in each of subclauses (I) and (II) of subparagraph (F)(i), by striking “12 months” and inserting “24 months”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to terminations of enrollments in MA plans occurring on or after the date of the enactment of this Act.

(c) IMPROVED ENROLLMENT POLICIES.—  
(1) NO AUTO-ENROLLMENT OF MEDICAID BENEFICIARIES.—

(A) IN GENERAL.—Section 1851(e) of such Act (42 U.S.C. 1395w-21(e)) is amended by adding at the end the following new paragraph:

“(7) NO AUTO-ENROLLMENT OF MEDICAID BENEFICIARIES.—In no case may the Secretary provide for the enrollment in a MA plan of a Medicare Advantage eligible individual who is eligible to receive medical assistance under title XIX as a full-benefit dual eligible individual or a qualified medicare beneficiary, without the affirmative application of such individual (or authorized representative of the individual) to be enrolled in such plan.”.

(B) NO APPLICATION TO PRESCRIPTION DRUG PLANS.—Section 1860D-1(b)(1)(B)(iii) of such Act (42 U.S.C. 1395w-101(b)(1)(B)(iii)) is amended—

(i) by striking “paragraph (2) and” and by inserting “paragraph (2),”; and

(ii) by inserting “, and paragraph (7),” after “paragraph (4)”.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to enrollments that are effective on or after the date of the enactment of this Act.

#### SEC. 414. INFORMATION FOR BENEFICIARIES ON MA PLAN ADMINISTRATIVE COSTS.

(a) DISCLOSURE OF MEDICAL LOSS RATIOS AND OTHER EXPENSE DATA.—Section 1851 of the Social Security Act (42 U.S.C. 1395w-21) is amended by adding at the end the following new subsection:

“(j) PUBLICATION OF MEDICAL LOSS RATIOS AND OTHER COST-RELATED INFORMATION.—

“(1) IN GENERAL.—The Secretary shall publish, not later than October 1 of each year

(beginning with 2009), for each Medicare Part C plan contract, the following:

“(A) The medical loss ratio of the plan in the previous year.

“(B) The per enrollee payment under this part to the plan, as adjusted to reflect a risk score (based on factors described in section 1853(a)(1)(C)(i)) of 1.0.

“(C) The average risk score (as so based).

“(2) SUBMISSION OF DATA.—

“(A) IN GENERAL.—Each Medicare Part C organization shall submit to the Secretary, in a form and manner specified by the Secretary, data necessary for the Secretary to publish the information described in paragraph (1) on a timely basis, including the information described in paragraph (3).

“(B) DATA FOR 2008 AND 2009.—The data submitted under subparagraph (A) for 2008 and for 2009 shall be consistent in content with the data reported as part of the Medicare Part C plan bid in June 2007 for 2008.

“(C) MEDICAL LOSS RATIO DATA.—The data to be submitted under subparagraph (A) relating to medical loss ratio for a year—

“(i) shall be submitted not later than June 1 of the following year; and

“(ii) beginning with 2010, shall be submitted based on the standardized elements and definitions developed under paragraph (4).

“(D) AUDITED DATA.—Data submitted under this paragraph shall be data that has been audited by an independent third party auditor.

“(3) MLR INFORMATION.—The information described in this paragraph with respect to a Medicare Part C plan for a year is as follows:

“(A) The costs for the plan in the previous year for each of the following:

“(i) Total medical expenses, separately indicated for benefits for the original medicare fee-for-service program option and for supplemental benefits.

“(ii) Non-medical expenses, shown separately for each of the following categories of expenses:

“(I) Marketing and sales.

“(II) Direct administration.

“(III) Indirect administration.

“(IV) Net cost of private reinsurance.

“(B) Gain or loss margin.

“(C) Total revenue requirement, computed as the total of medical and nonmedical expenses and gain or loss margin, multiplied by the gain or loss margin.

“(D) Percent of revenue ratio, computed as the total revenue requirement expressed as a percentage of revenue.

“(4) DEVELOPMENT OF DATA REPORTING STANDARDS.—

“(A) IN GENERAL.—The Secretary shall develop and implement standardized data elements and definitions for reporting under this subsection, for contract years beginning with 2010, of data necessary for the calculation of the medical loss ratio for Medicare Part C plans. Not later than December 31, 2008, the Secretary shall publish a report describing the elements and definitions so developed.

“(B) CONSULTATION.—The Secretary shall consult with representatives of Medicare Part C organizations, experts on health plan accounting systems, and representatives of the National Association of Insurance Commissioners, in the development of such data elements and definitions

“(5) MEDICAL LOSS RATIO DEFINED.—For purposes of this part, the term ‘medical loss ratio’ means, with respect to an MA plan for a year, the ratio of—

“(A) the aggregate benefits (excluding non-medical expenses described in paragraph (3)(A)(ii)) paid under the plan for the year, to

“(B) the aggregate amount of premiums (including basic and supplemental beneficiary premiums) and payments made under

sections 1853 and 1860D-15) collected for the plan and year.

Such ratio shall be computed without regard to whether the benefits or premiums are for required or supplemental benefits under the plan.”.

(b) AUDIT OF ADMINISTRATIVE COSTS AND COMPLIANCE WITH THE FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—Section 1857(d)(2)(B) of such Act (42 U.S.C. 1395w-27(d)(2)(B)) is amended—

(A) by striking “or (ii)” and inserting “(i)”; and

(B) by inserting before the period at the end the following: “, or (iii) to compliance with the requirements of subsection (e)(4) and the extent to which administrative costs comply with the applicable requirements for such costs under the Federal Acquisition Regulation”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply for contract years beginning after the date of the enactment of this Act.

(c) MINIMUM MEDICAL LOSS RATIO.—Section 1857(e) of the Social Security Act (42 U.S.C. 1395w-27(e)) is amended by adding at the end the following new paragraph:

“(4) REQUIREMENT FOR MINIMUM MEDICAL LOSS RATIO.—If the Secretary determines for a contract year (beginning with 2010) that an MA plan has failed to have a medical loss ratio (as defined in section 1851(j)(4)) of at least .85—

“(A) for that contract year, the Secretary shall reduce the blended benchmark amount under subsection (1) for the second succeeding contract year by the number of percentage points by which such loss ratio was less than .85 percent;

“(B) for 3 consecutive contract years, the Secretary shall not permit the enrollment of new enrollees under the plan for coverage during the second succeeding contract year; and

“(C) the Secretary shall terminate the plan contract if the plan fails to have such a medical loss ratio for 5 consecutive contract years.”.

(d) INFORMATION ON MEDICARE PART C PLAN ENROLLMENT AND SERVICES.—Section 1851 of such Act, as amended by subsection (a), is further amended by adding at the end the following new subsection:

“(k) PUBLICATION OF ENROLLMENT AND OTHER INFORMATION.—

“(1) MONTHLY PUBLICATION OF PLAN-SPECIFIC ENROLLMENT DATA.—The Secretary shall publish (on the public website of the Centers for Medicare & Medicaid Services or otherwise) not later than 30 days after the end of each month (beginning with January 2008) on the actual enrollment in each Medicare Part C plan by contract and by county.

“(2) AVAILABILITY OF OTHER INFORMATION.—The Secretary shall make publicly available data and other information in a format that may be readily used for analysis of the Medicare Part C program under this part and will contribute to the understanding of the organization and operation of such program.”.

(e) MEDPAC REPORT ON VARYING MINIMUM MEDICAL LOSS RATIOS.—

(1) STUDY.—The Medicare Payment Advisory Commission shall conduct a study of the need and feasibility of providing for different minimum medical loss ratios for different types of Medicare Part C plans, including coordinated care plans, group model plans, coordinated care independent practice association plans, preferred provider organization plans, and private fee-for-services plans.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, submit to Congress a report on the study conducted under paragraph (1).

**Subtitle C—Quality and Other Provisions****SEC. 421. REQUIRING ALL MA PLANS TO MEET EQUAL STANDARDS.**

(a) COLLECTION AND REPORTING OF INFORMATION.—

(1) IN GENERAL.—Section 1852(e)(1) of the Social Security Act (42 U.S.C. 1395w-112(e)(1)) is amended by striking “(other than an MA private fee-for-service plan or an MSA plan)”.

(2) REPORTING FOR PRIVATE FEE-FOR-SERVICES AND MSA PLANS.—Section 1852(e)(3) of such Act is amended by adding at the end the following new subparagraph:

“(C) DATA COLLECTION REQUIREMENTS BY PRIVATE FEE-FOR-SERVICE PLANS AND MSA PLANS.—

“(i) USING MEASURES FOR PPOS FOR CONTRACT YEAR 2009.—For contract year 2009, the Medicare Part C organization offering a private fee-for-service plan or an MSA plan shall submit to the Secretary for such plan the same information on the same performance measures for which such information is required to be submitted for Medicare Part C plans that are preferred provider organization plans for that year.

“(ii) APPLICATION OF SAME MEASURES AS COORDINATED CARE PLANS BEGINNING IN CONTRACT YEAR 2010.—For a contract year beginning with 2010, a Medicare Part C organization offering a private fee-for-service plan or an MSA plan shall submit to the Secretary for such plan the same information on the same performance measures for which such information is required to be submitted for such contract year Medicare Part C plans described in section 1851(a)(2)(A)(i) for contract year such contract year.”.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after January 1, 2009.

(b) EMPLOYER PLANS.—

(1) IN GENERAL.—The first sentence of paragraph (2) of section 1857(i) of such Act (42 U.S.C. 1395w-27(i)) is amended by inserting before the period at the end the following: “, but only if 90 percent of the Medicare part C eligible individuals enrolled under such plan reside in a county in which the Medicare Part C organization offers a Medicare Part C local plan”.

(2) LIMITATION ON APPLICATION OF WAIVER AUTHORITY.—Paragraphs (1) and (2) of such section are each amended by inserting “that were in effect before the date of the enactment of the Children’s Health and Medicare Protection Act of 2007” after “waive or modify requirements”.

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall apply for plan years beginning on or after January 1, 2009, and the amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

**SEC. 422. DEVELOPMENT OF NEW QUALITY REPORTING MEASURES ON RACIAL DISPARITIES.**

(a) NEW QUALITY REPORTING MEASURES.—

(1) IN GENERAL.—Section 1852(e)(3) of the Social Security Act (42 U.S.C. 1395w-22(e)(3)), as amended by section 421(a)(2), is amended—

(A) in subparagraph (B)—

(i) in clause (i), by striking “The Secretary” and inserting “Subject to subparagraph (D), the Secretary”; and

(ii) in clause (ii), by inserting “and subparagraph (C)” after “clause (iii)”; and

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

“(D) ADDITIONAL QUALITY REPORTING MEASURES.—

“(i) IN GENERAL.—The Secretary shall develop by October 1, 2009, quality measures for Medicare Part C plans that measure disparities in the amount and quality of health

services provided to racial and ethnic minorities.

“(ii) DATA TO MEASURE RACIAL AND ETHNIC DISPARITIES IN THE AMOUNT AND QUALITY OF CARE PROVIDED TO ENROLLEES.—The Secretary shall provide for Medicare Part C organizations to submit data under this paragraph, including data similar to those submitted for other quality measures, that permits analysis of disparities among racial and ethnic minorities in health services, quality of care, and health status among Medicare Part C plan enrollees for use in submitting the reports under paragraph (5).”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to reporting of quality measures for plan years beginning on or after January 1, 2010.

(b) BIENNIAL REPORT ON RACIAL AND ETHNIC MINORITIES.—Section 1852(e) of such Act (42 U.S.C. 1395w-22(e)) is amended by adding at the end the following new paragraph:

“(5) REPORT TO CONGRESS.—

“(A) IN GENERAL.—Not later than 2 years after the date of the enactment of this paragraph, and biennially thereafter, the Secretary shall submit to Congress a report regarding how quality assurance programs conducted under this subsection measure and report on disparities in the amount and quality of health care services furnished to racial and ethnic minorities.

“(B) CONTENTS OF REPORT.—Each such report shall include the following:

“(i) A description of the means by which such programs focus on such racial and ethnic minorities.

“(ii) An evaluation of the impact of such programs on eliminating health disparities and on improving health outcomes, continuity and coordination of care, management of chronic conditions, and consumer satisfaction.

“(iii) Recommendations on ways to reduce clinical outcome disparities among racial and ethnic minorities.

“(iv) Data for each MA plan from HEDIS and other source reporting the disparities in the amount and quality of health services furnished to racial and ethnic minorities.”.

**SEC. 423. STRENGTHENING AUDIT AUTHORITY.**

(a) FOR PART C PAYMENTS RISK ADJUSTMENT.—Section 1857(d)(1) of the Social Security Act (42 U.S.C. 1395w-27(d)(1)) is amended by inserting after “section 1858(c)” the following: “, and data submitted with respect to risk adjustment under section 1853(a)(3).”.

(b) ENFORCEMENT OF AUDITS AND DEFICIENCIES.—

(1) IN GENERAL.—Section 1857(e) of such Act is amended by adding at the end the following new paragraph:

“(4) ENFORCEMENT OF AUDITS AND DEFICIENCIES.—

“(A) INFORMATION IN CONTRACT.—The Secretary shall require that each contract with a Medicare Part C organization under this section shall include terms that inform the organization of the provisions in subsection (d).

“(B) ENFORCEMENT AUTHORITY.—The Secretary is authorized, in connection with conducting audits and other activities under subsection (d), to take such actions, including pursuit of financial recoveries, necessary to address deficiencies identified in such audits or other activities.”.

(2) APPLICATION UNDER PART D.—For provision applying the amendment made by paragraph (1) to prescription drug plans under part D, see section 1860D-12(b)(3)(D) of the Social Security Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect the date of the enactment of this Act and shall apply to audits and activities conducted for contract years beginning on or after January 1, 2009.

**SEC. 424. IMPROVING RISK ADJUSTMENT FOR MA PAYMENTS.**

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report that evaluates the adequacy of the Medicare Advantage risk adjustment system under section 1853(a)(1)(C) of the Social Security Act (42 U.S.C. 1395-23(a)(1)(C)).

(b) PARTICULARS.—The report under subsection (a) shall include an evaluation of at least the following:

(1) The need and feasibility of improving the adequacy of the risk adjustment system in predicting costs for beneficiaries with comorbid conditions and associated cognitive impairments.

(2) The need and feasibility of including further gradations of diseases and conditions (such as the degree of severity of congestive heart failure).

(3) The feasibility of measuring difference in coding over time between Medicare part C plans and the medicare traditional fee-for-service program and, to the extent this difference exists, the options for addressing it.

(4) The feasibility and value of including part D and other drug utilization data in the risk adjustment model.

**SEC. 425. ELIMINATING SPECIAL TREATMENT OF PRIVATE FEE-FOR-SERVICE PLANS.**

(a) ELIMINATION OF EXTRA BILLING PROVISION.—Section 1852(k)(2) of the Social Security Act (42 U.S.C. 1395w-22(k)(2)) is amended—

(1) in subparagraph (A)(i), by striking “115 percent” and inserting “100 percent”; and

(2) in subparagraph (C)(i), by striking “(including any liability for balance billing consistent with this subsection)”.

(b) REVIEW OF BID INFORMATION.—Section 1854(a)(6)(B) of such Act (42 U.S.C. 1395w-24(a)(6)(B)) is amended—

(1) in clause (i), by striking “clauses (iii) and (iv)” and inserting “clause (iii)”; and

(2) by striking clause (iv).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contract years beginning with 2009.

**SEC. 426. RENAMING OF MEDICARE ADVANTAGE PROGRAM.**

(a) IN GENERAL.—The program under part C of title XVIII of the Social Security Act is henceforth to be known as the “Medicare Part C program”.

(b) CHANGE IN REFERENCES.—

(1) AMENDING SOCIAL SECURITY ACT.—The Social Security Act is amended by striking “Medicare Advantage”, “MA”, and “Medicare+Choice” and inserting “Medicare Part C” each place it appears, with the appropriate, respective typographic formatting, including typeface and capitalization.

(2) ADDITIONAL REFERENCES.—Notwithstanding section 201(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), any reference to the program under part C of title XVIII of the Social Security Act shall be deemed a reference to the “Medicare Part C” program and, with respect to such part, any reference to “Medicare+Choice”, “Medicare Advantage”, or “MA” is deemed a reference to the program under such part.

**Subtitle D—Extension of Authorities****SEC. 431. EXTENSION AND REVISION OF AUTHORITY FOR SPECIAL NEEDS PLANS (SNPS).**

(a) EXTENDING RESTRICTION ON ENROLLMENT AUTHORITY FOR SNPS FOR 3 YEARS.—Subsection (f) of section 1859 of the Social Security Act (42 U.S.C. 1395w-28) is amended by striking “2009” and inserting “2012”.

(b) STRUCTURE OF AUTHORITY FOR SNPS.—

(1) IN GENERAL.—Such section is further amended—

(A) in subsection (b)(6)(A), by striking all that follows “means” and inserting the following: “an MA plan—

“(i) that serves special needs individuals (as defined in subparagraph (B));

“(ii) as of January 1, 2009, either—

“(I) at least 90 percent of the enrollees in which are described in subparagraph (B)(i), as determined under regulations in effect as of July 1, 2007; or

“(II) at least 90 percent of the enrollees in which are described in subparagraph (B)(ii) and are full-benefit dual eligible individuals (as defined in section 1935(c)(6)) or qualified medicare beneficiaries (as defined in section 1905(p)(1)); and

“(iii) as of January 1, 2009, meets the applicable requirements of paragraph (2) or (3) of subsection (f), as the case may be.”;

(B) in subsection (b)(6)(B)(iii), by inserting “only for contract years beginning before January 1, 2009,” after “(iii)”;

(C) in subsection (f)—

(i) by amending the heading to read as follows: “REQUIREMENTS FOR ENROLLMENT IN PART C PLANS FOR SPECIAL NEEDS BENEFICIARIES”;

(ii) by designating the sentence beginning “In the case of” as paragraph (1) with the heading “REQUIREMENTS FOR ENROLLMENT” and with appropriate indentation; and

(iii) by adding at the end the following new paragraphs:

“(2) ADDITIONAL REQUIREMENTS FOR INSTITUTIONAL SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(A)(ii)(I), the applicable requirements of this subsection are as follows:

“(A) The plan has an agreement with the State that includes provisions regarding cooperation on the coordination of care for such individuals. Such agreement shall include a description of the manner that the State Medicaid program under title XIX will pay for the costs of services for individuals eligible under such title for medical assistance for acute care and long-term care services.

“(B) The plan has a contract with long-term care facilities and other providers in the area sufficient to provide care for enrollees described in subsection (b)(6)(B)(i).

“(C) The plan reports to the Secretary information on additional quality measures specified by the Secretary under section 1852(e)(3)(D)(iv)(I) for such plans.

“(3) ADDITIONAL REQUIREMENTS FOR DUAL SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(A)(ii)(II), the applicable requirements of this subsection are as follows:

“(A) The plan has an agreement with the State Medicaid agency that—

“(i) includes provisions regarding cooperation on the coordination of the financing of care for such individuals;

“(ii) includes a description of the manner that the State Medicaid program under title XIX will pay for the costs of cost-sharing and supplemental services for individuals enrolled in the plan eligible under such title for medical assistance for acute and long-term care services; and

“(iii) effective January 1, 2011, provides for capitation payments to cover costs of supplemental benefits for individuals described in subsection (b)(6)(A)(ii)(II).

“(B) The out-of-pocket costs for services under parts A and B that are charged to enrollees may not exceed the out-of-pocket costs for same services permitted for such individuals under title XIX.

“(C) The plan reports to the Secretary information on additional quality measures specified by the Secretary under section 1852(e)(3)(D)(iv)(II) for such plans.”.

(2) QUALITY STANDARDS AND QUALITY REPORTING.—Section 1852(e)(3) of such Act (42 U.S.C. 1395w-22(e)(3)) is amended—

(A) in subparagraph (A)(i), by adding at the end the following: “In the case of a specialized Medicare Part C plan for special needs individuals described in paragraph (2) or (3) of section 1859(f), the organization shall provide for the reporting on quality measures developed for the plan under subparagraph (D)(iii).”; and

(B) in subparagraph (D), as added by section 422(a)(1), by adding at the end the following new clause:

“(iii) SPECIFICATION OF ADDITIONAL QUALITY MEASUREMENTS FOR SPECIALIZED PART C PLANS.—For implementation for plan years beginning not later than January 1, 2010, the Secretary shall develop new quality measures appropriate to meeting the needs of—

“(I) beneficiaries enrolled in specialized Medicare Part C plans for special needs individuals (described in section 1859(b)(6)(A)(ii)(I)) that serve predominantly individuals who are dual-eligible individuals eligible for medical assistance under title XIX by measuring the special needs for care of individuals who are both Medicare and Medicaid beneficiaries; and

“(II) beneficiaries enrolled in specialized Medicare Part C plans for special needs individuals (described in section 1859(b)(6)(A)(ii)(II)) that serve predominantly institutionalized individuals by measuring the special needs for care of individuals who are a resident in long-term care institution.”.

(3) EFFECTIVE DATE; GRANDFATHER.—The amendments made by paragraph (1) shall take effect for enrollments occurring on or after January 1, 2009, and shall not apply—

(A) to plans with a contract with a State Medicaid agency to operate an integrated Medicaid-Medicare program, that had been approved by Centers for Medicare & Medicaid Services on January 1, 2004; and

(B) to plans that are operational as of the date of the enactment of this Act as approved Medicare demonstration projects and that provide services predominantly to individuals with end-stage renal disease.

(4) TRANSITION FOR NON-QUALIFYING SNPS.—

(A) RESTRICTIONS IN 2008 FOR CHRONIC CARE SNPS.—In the case of a specialized MA plan for special needs individuals (as defined in section 1859(b)(6)(A) of the Social Security Act (42 U.S.C. 1395w-28(b)(6)(A)) that, as of December 31, 2007, is not described in either subclause (I) or subclause (II) of clause (ii) of such section, as amended by paragraph (1), then as of January 1, 2008—

(i) the plan may not be offered unless it was offered before such date;

(ii) no new members may be enrolled with the plan; and

(iii) there may be no expansion of the service area of such plan.

(B) TRANSITION OF ENROLLEES.—The Secretary of Health and Human Services shall provide for an orderly transition of those specialized MA plans for special needs individuals (as defined in section 1859(b)(6)(A) of the Social Security Act (42 U.S.C. 1395w-28(b)(6)(A)), as of the date of the enactment of this Act, and their enrollees, that no longer qualify as such plans under such section, as amended by this subsection.

**SEC. 432. EXTENSION AND REVISION OF AUTHORITY FOR MEDICARE REASONABLE COST CONTRACTS.**

(a) EXTENSION FOR 3 YEARS OF PERIOD REASONABLE COST PLANS CAN REMAIN IN THE MARKET.—Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter preceding subclause (I), by striking “January 1, 2008” and inserting “January 1, 2011”.

(b) APPLICATION OF CERTAIN MEDICARE ADVANTAGE REQUIREMENTS TO COST CONTRACTS EXTENDED OR RENEWED AFTER ENACTMENT.—Section 1876(h) of such Act (42 U.S.C. 1395mm(h)), as amended by subsection (a), is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

“(5)(A) Any reasonable cost reimbursement contract with an eligible organization under this subsection that is extended or renewed on or after the date of enactment of the Children’s Health and Medicare Protection Act of 2007 shall provide that the provisions of the Medicare Part C program described in subparagraph (B) shall apply to such organization and such contract in a substantially similar manner as such provisions apply to Medicare Part C organizations and Medicare Part C plans under part C.

“(B) The provisions described in this subparagraph are as follows:

“(i) Section 1851(h) (relating to the approval of marketing material and application forms).

“(ii) Section 1852(e) (relating to the requirement of having an ongoing quality improvement program and treatment of accreditation in the same manner as such provisions apply to Medicare Part C local plans that are preferred provider organization plans).

“(iii) Section 1852(f) (relating to grievance mechanisms).

“(iv) Section 1852(g) (relating to coverage determinations, reconsiderations, and appeals).

“(v) Section 1852(j)(4) (relating to limitations on physician incentive plans).

“(vi) Section 1854(c) (relating to the requirement of uniform premiums among individuals enrolled in the plan).

“(vii) Section 1854(g) (relating to restrictions on imposition of premium taxes with respect to payments to organizations).

“(viii) Section 1856(b)(3) (relating to relation to State laws).

“(ix) The provisions of part C relating to timelines for contract renewal and beneficiary notification.”.

#### TITLE V—PROVISIONS RELATING TO MEDICARE PART A

##### SEC. 501. INPATIENT HOSPITAL PAYMENT UPDATES.

(a) FOR ACUTE HOSPITALS.—Clause (i) of section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in subclause (XIX), by striking “and”;

(2) by redesignating subclause (XX) as subclause (XXII); and

(3) by inserting after subclause (XIX) the following new subclauses:

“(XX) for fiscal year 2007, subject to clause (viii), the market basket percentage increase for hospitals in all areas,

“(XXI) for fiscal year 2008, subject to clause (viii), the market basket percentage increase minus 0.25 percentage point for hospitals in all areas, and”.

(b) FOR OTHER HOSPITALS.—Clause (ii) of such section is amended—

(1) in subclause (VII) by striking “and”;

(2) by redesignating subclause (VIII) as subclause (X); and

(3) by inserting after subclause (VII) the following new subclauses:

“(VIII) fiscal years 2003 through 2007, is the market basket percentage increase,

“(IX) fiscal year 2008, is the market basket percentage increase minus 0.25 percentage point, and”.

(c) DELAYED EFFECTIVE DATE.—

(1) ACUTE CARE HOSPITALS.—The amendments made by subsection (a) shall not apply to discharges occurring before January 1, 2008.

(2) OTHER HOSPITALS.—The amendments made by subsection (b) shall be applied, only with respect to cost reporting periods beginning during fiscal year 2008 and not with respect to the computation for any succeeding cost reporting period, by substituting “0.1875 percentage point” for “0.25 percentage point”.

**SEC. 502. PAYMENT FOR INPATIENT REHABILITATION FACILITY (IRF) SERVICES.**

(a) PAYMENT UPDATE.—

(1) IN GENERAL.—Section 1886(j)(3)(C) of the Social Security Act (42 U.S.C. 1395ww(j)(3)(C)) is amended by adding at the end the following: “The increase factor to be applied under this subparagraph for fiscal year 2008 shall be 1 percent.”

(2) DELAYED EFFECTIVE DATE.—The amendment made by paragraph (1) shall not apply to payment units occurring before January 1, 2008.

(b) INPATIENT REHABILITATION FACILITY CLASSIFICATION CRITERIA.—

(1) IN GENERAL.—Section 5005 of the Deficit Reduction Act of 2005 (Public Law 109-171) is amended—

(A) in subsection (a), by striking “apply the applicable percent specified in subsection (b)” and inserting “require a compliance rate that is no greater than the 60 percent compliance rate that became effective for cost reporting periods beginning on or after July 1, 2006,”; and

(B) by amending subsection (b) to read as follows:

“(b) CONTINUED USE OF COMORBIDITIES.—For portions of cost reporting periods occurring on or after the date of the enactment of the Children’s Health and Medicare Protection Act of 2007, the Secretary shall include patients with comorbidities as described in section 412.23(b)(2)(i) of title 42, Code of Federal Regulations (as in effect as of January 1, 2007), in the inpatient population that counts towards the percent specified in subsection (a).”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall apply to portions of cost reporting periods beginning on or after the date of the enactment of this Act.

(c) PAYMENT FOR CERTAIN MEDICAL CONDITIONS TREATED IN INPATIENT REHABILITATION FACILITIES.—

(1) IN GENERAL.—Section 1886(j) of the Social Security Act (42 U.S.C. 1395ww(j)) is amended—

(A) by redesignating paragraph (7) as paragraph (8);

(B) by inserting after paragraph (6) the following new paragraph:

“(7) SPECIAL PAYMENT RULE FOR CERTAIN MEDICAL CONDITIONS.—

“(A) IN GENERAL.—Subject to subparagraph (H), in the case of discharges occurring on or after October 1, 2008, in lieu of the standardized payment amount (as determined pursuant to the preceding provisions of this subsection) that would otherwise be applicable under this subsection, the Secretary shall substitute, for payment units with respect to an applicable medical condition (as defined in subparagraph (G)(i)) that is treated in an inpatient rehabilitation facility, the modified standardized payment amount determined under subparagraph (B).

“(B) MODIFIED STANDARDIZED PAYMENT AMOUNT.—The modified standardized payment amount for an applicable medical condition shall be based on the amount determined under subparagraph (C) for such condition, as adjusted under subparagraphs (D), (E), and (F).

“(C) AMOUNT DETERMINED.—

“(i) IN GENERAL.—The amount determined under this subparagraph for an applicable medical condition shall be based on the sum of the following:

“(I) An amount equal to the average per stay skilled nursing facility payment rate for the applicable medical condition (as determined under clause (ii)).

“(II) An amount equal to 25 percent of the difference between the overhead costs (as defined in subparagraph (G)(ii)) component of the average inpatient rehabilitation facility per stay payment amount for the applicable medical condition (as determined under the preceding paragraphs of this subsection) and the overhead costs component of the average per stay skilled nursing facility payment rate for such condition (as determined under clause (ii)).

“(III) An amount equal to 33 percent of the difference between the patient care costs (as defined in subparagraph (G)(iii)) component of the average inpatient rehabilitation facility per stay payment amount for the applicable medical condition (as determined under the preceding paragraphs of this subsection) and the patient care costs component of the average per stay skilled nursing facility payment rate for such condition (as determined under clause (ii)).

“(ii) DETERMINATION OF AVERAGE PER STAY SKILLED NURSING FACILITY PAYMENT RATE.—For purposes of clause (i), the Secretary shall convert skilled nursing facility payment rates for applicable medical conditions, as determined under section 1888(e), to average per stay skilled nursing facility payment rates for each such condition.

“(D) ADJUSTMENTS.—The Secretary shall adjust the amount determined under subparagraph (C) for an applicable medical condition using the adjustments to the prospective payment rates for inpatient rehabilitation facilities described in paragraphs (2), (3), (4), and (6).

“(E) UPDATE FOR INFLATION.—Except in the case of a fiscal year for which the Secretary rebases the amounts determined under subparagraph (C) for applicable medical conditions pursuant to subparagraph (F), the Secretary shall annually update the amounts determined under subparagraph (C) for each applicable medical condition by the increase factor for inpatient rehabilitation facilities (as described in paragraph (3)(C)).

“(F) REBASING.—The Secretary shall periodically (but in no case less than once every 5 years) rebase the amounts determined under subparagraph (C) for applicable medical conditions using the methodology described in such subparagraph and the most recent and complete cost report and claims data available.

“(G) DEFINITIONS.—In this paragraph:

“(i) APPLICABLE MEDICAL CONDITION.—The term ‘applicable medical condition’ means—

“(I) unilateral knee replacement;

“(II) unilateral hip replacement; and

“(III) unilateral hip fracture.

“(ii) OVERHEAD COSTS.—The term ‘overhead costs’ means those Medicare-allowable costs that are contained in the General Service cost centers of the Medicare cost reports for inpatient rehabilitation facilities and for skilled nursing facilities, respectively, as determined by the Secretary.

“(iii) PATIENT CARE COSTS.—The term ‘patient care costs’ means total Medicare-allowable costs minus overhead costs.

“(H) SUNSET.—The provisions of this paragraph shall cease to apply as of the date the Secretary implements an integrated, site-neutral payment methodology under this title for post-acute care.”; and

(C) in paragraph (8), as redesignated by paragraph (1)—

(i) in subparagraph (C), by striking “and” at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting “, and”; and

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

“(E) modified standardized payment amounts under paragraph (7).”

(2) SPECIAL RULE FOR DISCHARGES OCCURRING IN THE SECOND HALF OF FISCAL YEAR 2008.—

(A) IN GENERAL.—In the case of discharges from an inpatient rehabilitation facility occurring during the period beginning on April 1, 2008, and ending on September 30, 2008, for applicable medical conditions (as defined in paragraph (7)(G)(i) of section 1886(j) of the Social Security Act (42 U.S.C. 1395ww(j)), as inserted by paragraph (1)(B), in lieu of the standardized payment amount determined pursuant to such section, the standardized payment amount shall be \$9,507 for unilateral knee replacement, \$10,398 for unilateral hip replacement, and \$10,958 for unilateral hip fracture. Such amounts are the amounts that are estimated would be determined under paragraph (7)(C) of such section 1886(j) for such conditions if such paragraph applied for such period. Such standardized payment amounts shall be multiplied by the relative weights for each case-mix group and tier, as published in the final rule of the Secretary of Health and Human Services for inpatient rehabilitation facility services prospective payment for fiscal year 2008, to obtain the applicable payment amounts for each such condition for each case-mix group and tier.

(B) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement this subsection by program instruction or otherwise. Paragraph (8)(E) of such section 1886(j) of the Social Security Act, as added by paragraph (1)(C), shall apply for purposes of this subsection in the same manner as such paragraph applies for purposes of paragraph (7) of such section 1886(j).

(d) RECOMMENDATIONS FOR CLASSIFYING INPATIENT REHABILITATION HOSPITALS AND UNITS.—

(1) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with physicians (including geriatricians and physiatrists), administrators of inpatient rehabilitation, acute care hospitals, skilled nursing facilities, and other settings providing rehabilitation services, Medicare beneficiaries, trade organizations representing inpatient rehabilitation hospitals and units and skilled nursing facilities, and the Medicare Payment Advisory Commission, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that includes—

(A) an examination of Medicare beneficiaries’ access to medically necessary rehabilitation services;

(B) alternatives or refinements to the 75 percent rule policy for determining exclusion criteria for inpatient rehabilitation hospital and unit designation under the Medicare program, including determining clinical appropriateness of inpatient rehabilitation hospital and unit admissions and alternative criteria which would consider a patient’s functional status, diagnosis, co-morbidities, and other relevant factors; and

(C) an examination that identifies any condition for which individuals are commonly admitted to inpatient rehabilitation hospitals that is not included as a condition described in section 412.23(b)(2)(iii) of title 42, Code of Federal Regulations, to determine the appropriate setting of care, and any variation in patient outcomes and costs, across settings of care, for treatment of such conditions.

For the purposes of this subsection, the term “75 percent rule” means the requirement of section 412.23(b)(2) of title 42, Code of Federal Regulations, that 75 percent of the patients

of a rehabilitation hospital or converted rehabilitation unit are in 1 or more of 13 listed treatment categories.

(2) CONSIDERATIONS.—In developing the report described in paragraph (1), the Secretary shall include the following:

(A) The potential effect of the 75 percent rule on access to rehabilitation care by Medicare beneficiaries for the treatment of a condition, whether or not such condition is described in section 412.23(b)(2)(iii) of title 42, Code of Federal Regulations.

(B) An analysis of the effectiveness of rehabilitation care for the treatment of conditions, whether or not such conditions are described in section 412.23(b)(2)(iii) of title 42, Code of Federal Regulations, available to Medicare beneficiaries in various health care settings, taking into account variation in patient outcomes and costs across different settings of care, and which may include whether the Medicare program and Medicare beneficiaries may incur higher costs of care for the entire episode of illness due to readmissions, extended lengths of stay, and other factors.

#### SEC. 503. LONG-TERM CARE HOSPITALS.

(a) LONG-TERM CARE HOSPITAL PAYMENT UPDATE.—

(1) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

“(m) PROSPECTIVE PAYMENT FOR LONG-TERM CARE HOSPITALS.—

“(1) REFERENCE TO ESTABLISHMENT AND IMPLEMENTATION OF SYSTEM.—For provisions related to the establishment and implementation of a prospective payment system for payments under this title for inpatient hospital services furnished by a long-term care hospital described in subsection (d)(1)(B)(iv), see section 123 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 and section 307(b) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

“(2) UPDATE FOR RATE YEAR 2008.—In implementing the system described in paragraph (1) for discharges occurring during the rate year ending in 2008 for a hospital, the base rate for such discharges for the hospital shall be the same as the base rate for discharges for the hospital occurring during the previous rate year.”

(2) DELAYED EFFECTIVE DATE.—Subsection (m)(2) of section 1886 of the Social Security Act, as added by paragraph (1), shall not apply to discharges occurring on or after July 1, 2007, and before January 1, 2008.

(b) PAYMENT FOR LONG-TERM CARE HOSPITAL SERVICES; PATIENT AND FACILITY CRITERIA.—

(1) DEFINITION OF LONG-TERM CARE HOSPITAL.—

(A) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Long-Term Care Hospital

“(ccc) The term ‘long-term care hospital’ means an institution which—

“(1) is primarily engaged in providing inpatient services, by or under the supervision of a physician, to Medicare beneficiaries whose medically complex conditions require a long hospital stay and programs of care provided by a long-term care hospital;

“(2) has an average inpatient length of stay (as determined by the Secretary) for Medicare beneficiaries of greater than 25 days, or as otherwise defined in section 1886(d)(1)(B)(iv);

“(3) satisfies the requirements of subsection (e);

“(4) meets the following facility criteria:

“(A) the institution has a patient review process, documented in the patient medical

record, that screens patients prior to admission for appropriateness of admission to a long-term care hospital, validates within 48 hours of admission that patients meet admission criteria for long-term care hospitals, regularly evaluates patients throughout their stay for continuation of care in a long-term care hospital, and assesses the available discharge options when patients no longer meet such continued stay criteria;

“(B) the institution has active physician involvement with patients during their treatment through an organized medical staff, physician-directed treatment with physician on-site availability on a daily basis to review patient progress, and consulting physicians on call and capable of being at the patient’s side within a moderate period of time, as determined by the Secretary;

“(C) the institution has interdisciplinary team treatment for patients, requiring interdisciplinary teams of health care professionals, including physicians, to prepare and carry out an individualized treatment plan for each patient; and

“(5) meets patient criteria relating to patient mix and severity appropriate to the medically complex cases that long-term care hospitals are designed to treat, as measured under section 1886(m).”

(B) NEW PATIENT CRITERIA FOR LONG-TERM CARE HOSPITAL PROSPECTIVE PAYMENT.—Section 1886 of such Act (42 U.S.C. 1395ww), as amended by subsection (a), is further amended by adding at the end the following new subsection:

“(n) PATIENT CRITERIA FOR PROSPECTIVE PAYMENT TO LONG-TERM CARE HOSPITALS.—

“(1) IN GENERAL.—To be eligible for prospective payment under this section as a long-term care hospital, a long-term care hospital must admit not less than a majority of patients who have a high level of severity, as defined by the Secretary, and who are assigned to one or more of the following major diagnostic categories:

“(A) Circulatory diagnoses.

“(B) Digestive, endocrine, and metabolic diagnoses.

“(C) Infection disease diagnoses.

“(D) Neurological diagnoses.

“(E) Renal diagnoses.

“(F) Respiratory diagnoses.

“(G) Skin diagnoses.

“(H) Other major diagnostic categories as selected by the Secretary.

“(2) MAJOR DIAGNOSTIC CATEGORY DEFINED.—In paragraph (1), the term ‘major diagnostic category’ means the medical categories formed by dividing all possible principle diagnosis into mutually exclusive diagnosis areas which are referred to in 67 Federal Register 49985 (August 1, 2002).”

(C) ESTABLISHMENT OF REHABILITATION UNITS WITHIN CERTAIN LONG-TERM CARE HOSPITALS.—If the Secretary of Health and Human Services does not include rehabilitation services within a major diagnostic category under section 1886(n)(2) of the Social Security Act, as added by subparagraph (B), the Secretary shall approve for purposes of title XVIII of such Act distinct part inpatient rehabilitation hospital units in long-term care hospitals consistent with the following:

(i) A hospital that, on or before October 1, 2004, was classified by the Secretary as a long-term care hospital, as described in section 1886(d)(1)(B)(iv)(I) of such Act (42 U.S.C. 1395ww(d)(1)(V)(iv)(I)), and was accredited by the Commission on Accreditation of Rehabilitation Facilities, may establish a hospital rehabilitation unit that is a distinct part of the long-term care hospital, if the distinct part meets the requirements (including conditions of participation) that would otherwise apply to a distinct-part re-

habilitation unit if the distinct part were established by a subsection (d) hospital in accordance with the matter following clause (v) of section 1886(d)(1)(B) of such Act, including any regulations adopted by the Secretary in accordance with this section, except that the one-year waiting period described in section 412.30(c) of title 42, Code of Federal Regulations, applicable to the conversion of hospital beds into a distinct-part rehabilitation unit shall not apply to such units.

(ii) Services provided in inpatient rehabilitation units established under clause (i) shall not be reimbursed as long-term care hospital services under section 1886 of such Act and shall be subject to payment policies established by the Secretary to reimburse services provided by inpatient hospital rehabilitation units.

(D) EFFECTIVE DATE.—The amendments made by subparagraphs (A) and (B), and the provisions of subparagraph (C), shall apply to discharges occurring on or after January 1, 2008.

(2) IMPLEMENTATION OF FACILITY AND PATIENT CRITERIA.—

(A) REPORT.—No later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall submit to the appropriate committees of Congress a report containing recommendations regarding the promulgation of the national long-term care hospital facility and patient criteria for application under paragraphs (4) and (5) of section 1861(ccc) and section 1886(n) of the Social Security Act, as added by subparagraphs (A) and (B), respectively, of paragraph (1). In the report, the Secretary shall consider recommendations contained in a report to Congress by the Medicare Payment Advisory Commission in June 2004 for long-term care hospital-specific facility and patient criteria to ensure that patients admitted to long-term care hospitals are medically complex and appropriate to receive long-term care hospital services.

(B) IMPLEMENTATION.—No later than 1 year after the date of submittal of the report under subparagraph (A), the Secretary shall, after rulemaking, implement the national long-term care hospital facility and patient criteria referred to in such subparagraph. Such long-term care hospital facility and patient criteria shall be used to screen patients in determining the medical necessity and appropriateness of a Medicare beneficiary’s admission to, continued stay at, and discharge from, long-term care hospitals under the Medicare program and shall take into account the medical judgment of the patient’s physician, as provided for under sections 1814(a)(3) and 1835(a)(2)(B) of the Social Security Act (42 U.S.C. 1395f(a)(3), 1395n(a)(2)(B)).

(3) EXPANDED REVIEW OF MEDICAL NECESSITY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall provide, under contracts with one or more appropriate fiscal intermediaries or medicare administrative contractors under section 1874A(a)(4)(G) of the Social Security Act (42 U.S.C. 1395kk(a)(4)(G)), for reviews of the medical necessity of admissions to long-term care hospitals (described in section 1886(d)(1)(B)(iv) of such Act) and continued stay at such hospitals, of individuals entitled to, or enrolled for, benefits under part A of title XVIII of such Act on a hospital-specific basis consistent with this paragraph. Such reviews shall be made for discharges occurring on or after October 1, 2007.

(B) REVIEW METHODOLOGY.—The medical necessity reviews under paragraph (A) shall be conducted for each such long-term care hospital on an annual basis in accordance with rules (including a sample methodology)

specified by the Secretary. Such sample methodology shall—

(i) provide for a statistically valid and representative sample of admissions of such individuals sufficient to provide results at a 95 percent confidence interval; and

(ii) guarantee that at least 75 percent of overpayments received by long-term care hospitals for medically unnecessary admissions and continued stays of individuals in long-term care hospitals will be identified and recovered and that related days of care will not be counted toward the length of stay requirement contained in section 1886(d)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(iv)).

(C) CONTINUATION OF REVIEWS.—Under contracts under this paragraph, the Secretary shall establish a denial rate with respect to such reviews that, if exceeded, could require further review of the medical necessity of admissions and continued stay in the hospital involved.

(D) TERMINATION OF REQUIRED REVIEWS.—

(i) IN GENERAL.—Subject to clause (iii), the previous provisions of this subsection shall cease to apply as of the date specified in clause (ii).

(ii) DATE SPECIFIED.—The date specified in this clause is the later of January 1, 2013, or the date of implementation of national long-term care hospital facility and patient criteria under section paragraph (2)(B).

(iii) CONTINUATION.—As of the date specified in clause (ii), the Secretary shall determine whether to continue to guarantee, through continued medical review and sampling under this paragraph, recovery of at least 75 percent of overpayments received by long-term care hospitals due to medically unnecessary admissions and continued stays.

(4) LIMITED, QUALIFIED MORATORIUM OF LONG-TERM CARE HOSPITALS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall impose a temporary moratorium on the certification of new long-term care hospitals (and satellite facilities), and new long-term care hospital and satellite facility beds, for purposes of the Medicare program under title XVIII of the Social Security Act. The moratorium shall terminate at the end of the 4-year period beginning on the date of the enactment of this Act.

(B) EXCEPTIONS.—

(i) IN GENERAL.—The moratorium under subparagraph (A) shall not apply as follows:

(I) To a long-term care hospital, satellite facility, or additional beds under development as of the date of the enactment of this Act.

(II) To a new long-term care hospital in an area in which there is not a long-term care hospital, if the Secretary determines it to be in the best interest to provide access to long-term care hospital services to Medicare beneficiaries residing in such area. There shall be a presumption in favor of the moratorium, which may be rebutted by evidence the Secretary deems sufficient to show the need for long-term care hospital services in that area.

(III) To an existing long-term care hospital that requests to increase its number of long-term care hospital beds, if the Secretary determines there is a need at the long-term care hospital for additional beds to accommodate—

(aa) infectious disease issues for isolation of patients;

(bb) bedside dialysis services;

(cc) single-sex accommodation issues;

(dd) behavioral issues;

(ee) any requirements of State or local law; or

(ff) other clinical issues the Secretary determines warrant additional beds, in the best interest of Medicare beneficiaries.

(IV) To an existing long-term care hospital that requests an increase in beds because of the closure of a long-term care hospital or significant decrease in the number of long-term care hospital beds, in a State where there is only one other long-term care hospital.

There shall be no administrative or judicial review from a decision of the Secretary under this subparagraph.

(ii) “UNDER DEVELOPMENT” DEFINED.—For purposes of clause (i)(I), a long-term care hospital or satellite facility is considered to be “under development” as of a date if any of the following have occurred on or before such date:

(I) The hospital or a related party has a binding written agreement with an outside, unrelated party for the construction, reconstruction, lease, rental, or financing of the long-term care hospital.

(II) Actual construction, renovation or demolition for the long-term care hospital has begun.

(III) A certificate of need has been approved in a State where one is required or other necessary approvals from appropriate State agencies have been received for the operation of the hospital.

(IV) The hospital documents that it is within a 6-month long-term care hospital demonstration period required by section 412.23(e)(1)–(3) of title 42, Code of Federal Regulations, to demonstrate that it has a greater than 25 day average length of stay.

(V) There is other evidence presented that the Secretary determines would indicate that the hospital or satellite is under development.

(5) NO APPLICATION OF 25 PERCENT PATIENT THRESHOLD PAYMENT ADJUSTMENT TO FREESTANDING AND GRANDFATHERED LTCHS.—The Secretary shall not apply, during the 5-year period beginning on the date of the enactment of this Act, section 412.536 of title 42, Code of Federal Regulations, or any similar provision, to freestanding long-term care hospitals and the Secretary shall not apply such section or section 412.534 of title 42, Code of Federal Regulations, or any similar provisions, to a long-term care hospital identified by section 4417(a) of the Balanced Budget Act of 1997 (Public Law 105-33). A long-term care hospital identified by such section 4417(a) shall be deemed to be a freestanding long-term care hospital for the purpose of this section. Section 412.536 of title 42, Code of Federal Regulations, shall be void and of no effect.

(6) PAYMENT FOR HOSPITALS-WITHIN-HOSPITALS.—

(A) IN GENERAL.—Payments to an applicable long-term care hospital or satellite facility which is located in a rural area or which is co-located with an urban single or MSA dominant hospital under paragraphs (d)(1), (e)(1), and (e)(4) of section 412.534 of title 42, Code of Federal Regulations, shall not be subject to any payment adjustment under such section if no more than 75 percent of the hospital’s Medicare discharges (other than discharges described in paragraphs (d)(2) or (e)(3) of such section) are admitted from a co-located hospital.

(B) CO-LOCATED LONG-TERM CARE HOSPITALS AND SATELLITE FACILITIES.—

(i) IN GENERAL.—Payment to an applicable long-term care hospital or satellite facility which is co-located with another hospital shall not be subject to any payment adjustment under section 412.534 of title 42, Code of Federal Regulations, if no more than 50 percent of the hospital’s Medicare discharges (other than discharges described in section 412.534(c)(3) of such title) are admitted from a co-located hospital.

(ii) APPLICABLE LONG-TERM CARE HOSPITAL OR SATELLITE FACILITY DEFINED.—In this

paragraph, the term “applicable long-term care hospital or satellite facility” means a hospital or satellite facility that is subject to the transition rules under section 412.534(g) of title 42, Code of Federal Regulations.

(C) EFFECTIVE DATE.—Subparagraphs (A) and (B) shall apply to discharges occurring on or after October 1, 2007, and before October 1, 2012.

(7) NO APPLICATION OF VERY SHORT-STAY OUTLIER POLICY.—The Secretary shall not apply, during the 5-year period beginning on the date of the enactment of this Act, the amendments finalized on May 11, 2007 (72 Federal Register 26904) made to the short-stay outlier payment provision for long-term care hospitals contained in section 412.529(c)(3)(i) of title 42, Code of Federal Regulations, or any similar provision.

(8) NO APPLICATION OF ONE TIME ADJUSTMENT TO STANDARD AMOUNT.—The Secretary shall not, during the 5-year period beginning on the date of the enactment of this Act, make the one-time prospective adjustment to long-term care hospital prospective payment rates provided for in section 412.523(d)(3) of title 42, Code of Federal Regulations, or any similar provision.

(c) SEPARATE CLASSIFICATION FOR CERTAIN LONG-STAY CANCER HOSPITALS.—

(1) IN GENERAL.—Subsection (d)(1)(B) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(A) in clause (iv)—

(i) in subclause (I), by striking “(iv)(I)” and inserting “(iv)” and by striking “or” at the end; and

(ii) in subclause (II)—

(I) by striking “, or” at the end and inserting a semicolon; and

(II) by redesignating such subclause as clause (vi) and by moving it to immediately follow clause (v); and

(B) in clause (v), by striking the semicolon at the end and inserting “, or”.

(2) CONFORMING PAYMENT REFERENCES.—

Subsection (b) of such section is amended—

(A) in paragraph (2)(E)(ii), by adding at the end the following new subclause:

“(III) Hospitals described in clause (vi) of such subsection.”;

(B) in paragraph (3)(F)(iii), by adding at the end the following new subclause:

“(VI) Hospitals described in clause (vi) of such subsection.”;

(C) in paragraphs (3)(G)(ii), (3)(H)(i), and (3)(H)(ii)(I), by inserting “or (vi)” after “clause (iv)” each place it appears;

(D) in paragraph (3)(H)(iv), by adding at the end the following new subclause:

“(IV) Hospitals described in clause (vi) of such subsection.”;

(E) in paragraph (3)(J), by striking “subsection (d)(1)(B)(iv)” and inserting “clause (iv) or (vi) of subsection (d)(1)(B)”;

(F) in paragraph (7)(B), by adding at the end the following new clause:

“(iv) Hospitals described in clause (vi) of such subsection.”.

(3) ADDITIONAL CONFORMING AMENDMENTS.—The second sentence of subsection (d)(1)(B) of such section is amended—

(A) by inserting “(as in effect as of such date)” after “clause (iv)”;

(B) by inserting “(or, in the case of a hospital classified under clause (iv)(II), as so in effect, shall be classified under clause (vi) on and after the effective date of such clause)” after “so classified”.

(4) TRANSITION RULE.—In the case of a hospital that is classified under clause (iv)(II) of section 1886(d)(1)(B) of the Social Security Act immediately before the date of the enactment of this Act and which is classified under clause (vi) of such section after such date of enactment, payments under section

1886 of such Act for cost reporting periods beginning after the date of the enactment of this Act shall be based upon payment rates in effect for the cost reporting period for such hospital beginning during fiscal year 2001, increased for each succeeding cost reporting period (beginning before the date of the enactment of this Act) by the applicable percentage increase under section 1886(b)(3)(B)(ii) of such Act.

(5) CLARIFICATION OF TREATMENT OF SATELLITE FACILITIES AND REMOTE LOCATIONS.—A long-stay cancer hospital described in section 1886(d)(1)(B)(vi) of the Social Security Act, as designated under paragraph (1), shall include satellites or remote site locations for such hospital established before or after the date of the enactment of this Act if the provider-based requirements under section 413.65 of title 42, Code of Federal Regulations, applicable certification requirements under title XVIII of the Social Security, and such other applicable State licensure and certificate of need requirements are met with respect to such satellites or remote site locations.

**SEC. 504. INCREASING THE DSH ADJUSTMENT CAP.**

Section 1886(d)(5)(F)(xiv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)) is amended—

(1) subclause (II), by striking “12 percent” and inserting “the percent specified in subclause (III)”;

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

“(III) The percent specified in this subclause is, in the case of discharges occurring—

“(a) before October 1, 2007, 12 percent;

“(b) during fiscal year 2008, 16 percent;

“(c) during fiscal year 2009, 18 percent; and

“(d) on or after October 1, 2009, 12 percent.”

**SEC. 505. PPS-EXEMPT CANCER HOSPITALS.**

(a) AUTHORIZING REBASING FOR PPS-EXEMPT CANCER HOSPITALS.—Section 1886(b)(3)(F) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(F)) is amended by adding at the end the following new clause:

“(iv) In the case of a hospital (or unit described in the matter following clause (v) of subsection (d)(1)(B)) that received payment under this subsection for inpatient hospital services furnished during cost reporting periods beginning before October 1, 1999, that is within a class of hospital described in clause (iii) (other than subclause (IV)), relating to long-term care hospitals, and that requests the Secretary (in a form and manner specified by the Secretary) to effect a rebasing under this clause for the hospital, the Secretary may compute the target amount for the hospital’s 12-month cost reporting period beginning during fiscal year 2008 as an amount equal to the average described in clause (ii) but determined as if any reference in such clause to ‘the date of the enactment of this subparagraph’ were a reference to ‘the date of the enactment of this clause.’”

(b) MEDPAC REPORT ON PPS-EXEMPT CANCER HOSPITALS.—Not later than March 1, 2009, the Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act (42 U.S.C. 1395b-6)) shall submit to the Secretary and Congress a report evaluating the following:

(1) Measures of payment adequacy and Medicare margins for PPS-exempt cancer hospitals, as established under section 1886(d)(1)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)).

(2) To the extent a PPS-exempt cancer hospital was previously affiliated with another hospital, the margins of the PPS-exempt hospital and the other hospital as separate entities and the margins of such hospitals

that existed when the hospitals were previously affiliated.

(3) Payment adequacy for cancer discharges under the Medicare inpatient hospital prospective payment system.

**SEC. 506. SKILLED NURSING FACILITY PAYMENT UPDATE.**

(a) IN GENERAL.—Section 1888(e)(4)(E)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(4)(E)(ii)) is amended—

(1) in subclause (III), by striking “and”;

(2) by redesignating subsection (IV) as subclause (VI); and

(3) by inserting after subclause (III) the following new subclauses:

“(IV) for each of fiscal years 2004, 2005, 2006, and 2007, the rate computed for the previous fiscal year increased by the skilled nursing facility market basket percentage change for the fiscal year involved;

“(V) for fiscal year 2008, the rate computed for the previous fiscal year; and”.

(b) DELAYED EFFECTIVE DATE.—Section 1888(e)(4)(E)(ii)(V) of the Social Security Act, as inserted by subsection (a)(3), shall not apply to payment for days before January 1, 2008.

**SEC. 507. REVOCATION OF UNIQUE DEEMING AUTHORITY OF THE JOINT COMMISSION FOR THE ACCREDITATION OF HEALTHCARE ORGANIZATIONS.**

(a) REVOCATION.—Section 1865 of the Social Security Act (42 U.S.C. 1395bb) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.

(b) CONFORMING AMENDMENTS.—(1) Such section is further amended—

(A) in subsection (a)(1), as so redesignated, by striking “In addition, if” and inserting “If”;

(B) in subsection (b), as so redesignated—

(i) by striking “released to him by the Joint Commission on Accreditation of Hospitals,” and inserting “released to the Secretary by”;

(ii) by striking the comma after “Association”;

(C) in subsection (c), as so redesignated, by striking “pursuant to subsection (a) or (b)(1)” and inserting “pursuant to subsection (a)(1)”;

(D) in subsection (d), as so redesignated, by striking “pursuant to subsection (a) or (b)(1)” and inserting “pursuant to subsection (a)(1)”.

(2) Section 1861(e) of such Act (42 U.S.C. 1395x(e)) is amended in the fourth sentence by striking “and (ii) is accredited by the Joint Commission on Accreditation of Hospitals, or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of the Joint Commission on Accreditation of Hospitals” and inserting “and (ii) is accredited by a national accreditation body recognized by the Secretary under section 1865(a), or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of such a national accreditation body.”

(3) Section 1864(c) of such Act (42 U.S.C. 1395aa(c)) is amended by striking “pursuant to subsection (a) or (b)(1) of section 1865” and inserting “pursuant to section 1865(a)(1)”.

(4) Section 1875(b) of such Act (42 U.S.C. 1395l(b)) is amended by striking “the Joint Commission on Accreditation of Hospitals,” and inserting “national accreditation bodies under section 1865(a)”.

(5) Section 1834(a)(20)(B) of such Act (42 U.S.C. 1395m(a)(20)(B)) is amended by strik-

ing “section 1865(b)” and inserting “section 1865(a)”.

(6) Section 1852(e)(4)(C) of such Act (42 U.S.C. 1395w-22(e)(4)(C)) is amended by striking “section 1865(b)(2)” and inserting “section 1865(a)(2)”.

(c) AUTHORITY TO RECOGNIZE JCAHO AS A NATIONAL ACCREDITATION BODY.—The Secretary of Health and Human Services may recognize the Joint Commission on Accreditation of Healthcare Organizations as a national accreditation body under section 1865 of the Social Security Act (42 U.S.C. 1395bb), as amended by this section, upon such terms and conditions, and upon submission of such information, as the Secretary may require.

(d) EFFECTIVE DATE; TRANSITION RULE.—(1) Subject to paragraph (2), the amendments made by this section shall apply with respect to accreditations of hospitals granted on or after the date that is 18 months after the date of the enactment of this Act.

(2) For purposes of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the amendments made by this section shall not effect the accreditation of a hospital by the Joint Commission on Accreditation of Healthcare Organizations, or under accreditation or comparable approval standards found to be essentially equivalent to accreditation or approval standards of the Joint Commission on Accreditation of Healthcare Organizations, for the period of time applicable under such accreditation.

**TITLE VI—OTHER PROVISIONS RELATING TO MEDICARE PART B**

**Subtitle A—Payment and Coverage Improvements**

**SEC. 601. PAYMENT FOR THERAPY SERVICES.**

(a) EXTENSION OF EXCEPTIONS PROCESS FOR MEDICARE THERAPY CAPS.—Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as amended by section 201 of the Medicare Improvements and Extension Act of 2006 (division B of Public Law 109-432), is amended by striking “2007” and inserting “2009”.

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services, in consultation with appropriate stakeholders, shall conduct a study on refined and alternative payment systems to the Medicare payment cap under section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) for physical therapy services and speech-language pathology services, described in paragraph (1) of such section and occupational therapy services described in paragraph (3) of such section. Such study shall consider, with respect to payment amounts under Medicare, the following:

(A) The creation of multiple payment caps for such services to better reflect costs associated with specific health conditions.

(B) The development of a prospective payment system, including an episode-based system of payments, for such services.

(C) The data needed for the development of a system of multiple payment caps (or an alternative payment methodology) for such services and the availability of such data.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to Congress a report on the study conducted under paragraph (1).

**SEC. 602. MEDICARE SEPARATE DEFINITION OF OUTPATIENT SPEECH-LANGUAGE PATHOLOGY SERVICES.**

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

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) The term ‘outpatient speech-language pathology services’ has the meaning given

the term 'outpatient physical therapy services' in subsection (p), except that in applying such subsection—

“(A) ‘speech-language pathology’ shall be substituted for ‘physical therapy’ each place it appears; and

“(B) ‘speech-language pathologist’ shall be substituted for ‘physical therapist’ each place it appears.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1832(a)(2)(C) of the Social Security Act (42 U.S.C. 1395k(a)(2)(C)) is amended—

(A) by striking “and outpatient” and inserting “, outpatient”; and

(B) by inserting before the period at the end the following: “, and outpatient speech-language pathology services (other than services to which the second sentence of section 1861(p) applies through the application of section 1861(l)(2))”.

(2) Subparagraphs (A) and (B) of section 1833(a)(8) of such Act (42 U.S.C. 1395l(a)(8)) are each amended by striking “(which includes outpatient speech-language pathology services)” and inserting “, outpatient speech-language pathology services.”.

(3) Section 1833(g)(1) of such Act (42 U.S.C. 1395l(g)(1)) is amended—

(A) by inserting “and speech-language pathology services of the type described in such section through the application of section 1861(l)(2)” after “1861(p)”; and

(B) by inserting “and speech-language pathology services” after “and physical therapy services”.

(4) The second sentence of section 1835(a) of such Act (42 U.S.C. 1395n(a)) is amended—

(A) by striking “section 1861(g)” and inserting “subsection (g) or (l)(2) of section 1861” each place it appears; and

(B) by inserting “or outpatient speech-language pathology services, respectively” after “occupational therapy services”.

(5) Section 1861(p) of such Act (42 U.S.C. 1395x(p)) is amended by striking the fourth sentence.

(6) Section 1861(s)(2)(D) of such Act (42 U.S.C. 1395x(s)(2)(D)) is amended by inserting “, outpatient speech-language pathology services,” after “physical therapy services”.

(7) Section 1862(a)(20) of such Act (42 U.S.C. 1395y(a)(20)) is amended—

(A) by striking “outpatient occupational therapy services or outpatient physical therapy services” and inserting “outpatient physical therapy services, outpatient speech-language pathology services, or outpatient occupational therapy services”; and

(B) by striking “section 1861(g)” and inserting “subsection (g) or (l)(2) of section 1861”.

(8) Section 1866(e)(1) of such Act (42 U.S.C. 1395cc(e)(1)) is amended—

(A) by striking “section 1861(g)” and inserting “subsection (g) or (l)(2) of section 1861” the first two places it appears;

(B) by striking “defined) or” and inserting “defined.”; and

(C) by inserting before the semicolon at the end the following: “, or (through the operation of section 1861(l)(2)) with respect to the furnishing of outpatient speech-language pathology”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2008.

(d) CONSTRUCTION.—Nothing in this section shall be construed to affect existing regulations and policies of the Centers for Medicare & Medicaid Services that require physician oversight of care as a condition of payment for speech-language pathology services under part B of the medicare program.

#### SEC. 603. INCREASED REIMBURSEMENT RATE FOR CERTIFIED NURSE-MIDWIVES.

(a) IN GENERAL.—Section 1833(a)(1)(K) of the Social Security Act (42

U.S.C.1395l(a)(1)(K)) is amended by striking “(but in no event)” and all that follows through “performed by a physician”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 2008.

#### SEC. 604. ADJUSTMENT IN OUTPATIENT HOSPITAL FEE SCHEDULE INCREASE FACTOR.

The first sentence of section 1833(t)(3)(C)(iv) of the Social Security Act (42 U.S.C. 1395l(t)(3)(C)(iv)) is amended by inserting before the period at the end the following: “and reduced by 0.25 percentage point for such factor for such services furnished in 2008”.

#### SEC. 605. EXCEPTION TO 60-DAY LIMIT ON MEDICARE SUBSTITUTE BILLING ARRANGEMENTS IN CASE OF PHYSICIANS ORDERED TO ACTIVE DUTY IN THE ARMED FORCES.

(a) IN GENERAL.—Section 1842(b)(6)(D)(iii) of the Social Security Act (42 U.S.C. 1395u(b)(6)(D)(iii)) is amended by inserting after “of more than 60 days” the following: “or are provided over a longer continuous period during all of which the first physician has been called or ordered to active duty as a member of a reserve component of the Armed Forces”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this section.

#### SEC. 606. EXCLUDING CLINICAL SOCIAL WORKER SERVICES FROM COVERAGE UNDER THE MEDICARE SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED PAYMENT.

(a) IN GENERAL.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting “clinical social worker services,” after “qualified psychologist services.”.

(b) CONFORMING AMENDMENT.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking “and other than services furnished to an inpatient of a skilled nursing facility which the facility is required to provide as a requirement for participation”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2008.

#### SEC. 607. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES.

(a) COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES.—

(1) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (Z), by striking “and” at the end;

(B) in subparagraph (AA), by adding “and” at the end; and

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

“(BB) marriage and family therapist services (as defined in subsection (ccc))”.

(2) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“(ccc) MARRIAGE AND FAMILY THERAPIST SERVICES.—(1) The term ‘marriage and family therapist services’ means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, provided such services are covered under this title, as would other-

wise be covered if furnished by a physician or as incident to a physician’s professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(2) The term ‘marriage and family therapist’ means an individual who—

“(A) possesses a master’s or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

“(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

“(C) is licensed or certified as a marriage and family therapist in the State in which marriage and family therapist services are performed.”.

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

“(v) marriage and family therapist services;”.

(4) AMOUNT OF PAYMENT.—

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

(i) by striking “and” before “(V)”; and

(ii) by inserting before the semicolon at the end the following: “, and (W) with respect to marriage and family therapist services under section 1861(s)(2)(BB), the amounts paid shall be 80 percent of the lesser of (i) the actual charge for the services or (ii) 75 percent of the amount determined for payment of a psychologist under subparagraph (L)”.

(B) DEVELOPMENT OF CRITERIA WITH RESPECT TO CONSULTATION WITH A PHYSICIAN.—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for marriage and family therapist services for which payment may be made directly to the marriage and family therapist under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) under which such a therapist must agree to consult with a patient’s attending or primary care physician in accordance with such criteria.

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)), is amended by inserting “marriage and family therapist services (as defined in subsection (ccc)(1)),” after “qualified psychologist services.”.

(6) COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or by a clinical social worker (as defined in subsection (hh)(1)),” and inserting “, by a clinical social worker (as defined in subsection (hh)(1)), or by a marriage and family therapist (as defined in subsection (ccc)(2))”.

(7) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clause:

“(vii) A marriage and family therapist (as defined in section 1861(ccc)(2)).”.

(b) COVERAGE OF MENTAL HEALTH COUNSELOR SERVICES.—

(1) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended in subsection (a)(1), is further amended—

(A) in subparagraph (AA), by striking “and” at the end;

(B) in subparagraph (BB), by inserting “and” at the end; and

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

“(CC) mental health counselor services (as defined in subsection (ddd)(2));”.

(2) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by subsection (a)(2), is further amended by adding at the end the following new subsection:

“(ddd) MENTAL HEALTH COUNSELOR; MENTAL HEALTH COUNSELOR SERVICES.—(1) The term ‘mental health counselor’ means an individual who—

“(A) possesses a master’s or doctor’s degree which qualifies the individual for licensure or certification for the practice of mental health counseling in the State in which the services are performed;

“(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

“(C) is licensed or certified as a mental health counselor or professional counselor by the State in which the services are performed.

“(2) The term ‘mental health counselor services’ means services performed by a mental health counselor (as defined in paragraph (1)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, provided such services are covered under this title, as would otherwise be covered if furnished by a physician or as incident to a physician’s professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.”.

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)), as amended by subsection (a)(3), is further amended by adding at the end the following new clause:

“(vi) mental health counselor services;”.

(4) AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by subsection (a)(4), is further amended—

(i) by striking “and” before “(W)”; and

(ii) by inserting before the semicolon at the end the following: “, and (X) with respect to mental health counselor services under section 1861(s)(2)(CC), the amounts paid shall be 80 percent of the lesser of (i) the actual charge for the services or (ii) 75 percent of the amount determined for payment of a psychologist under subparagraph (L)”.

(B) DEVELOPMENT OF CRITERIA WITH RESPECT TO CONSULTATION WITH A PHYSICIAN.—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for mental health counselor services for which payment may be made directly to the mental health counselor under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) under which such a counselor must agree to consult with a patient’s attending or primary care physician in accordance with such criteria.

(5) EXCLUSION OF MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)), as amended by subsection (a)(5), is amended by inserting “mental health counselor services (as defined in section 1861(ddd)(2)),” after “marriage and family therapist services (as defined in subsection (ccc)(1))”.

(6) COVERAGE OF MENTAL HEALTH COUNSELOR SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)), as amended by subsection (a)(6), is amended by striking “or by a marriage and family therapist (as defined in subsection (ccc)(2)),” and inserting “by a marriage and family therapist (as defined in subsection (ccc)(2)), or a mental health counselor (as defined in subsection (ddd)(1))”.

(7) INCLUSION OF MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)), as amended by subsection (a)(7), is amended by adding at the end the following new clause:

“(viii) A mental health counselor (as defined in section 1861(fff)(1)).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2008.

#### SEC. 608. RENTAL AND PURCHASE OF POWER-DRIVEN WHEELCHAIRS.

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

(1) in subparagraph (A)—

(A) clause (i)(I), by striking “Except as provided in clause (iii), payment” and inserting “Payment”;

(B) by striking clause (iii); and

(C) in clause (iv)—

(i) by redesignating such clause as clause (iii); and

(ii) by striking “or in the case of a power-driven wheelchair for which a purchase agreement has been entered into under clause (iii)”;

(2) in subparagraph (C)(ii)(II), by striking “or (A)(iii)”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (1), the amendments made by subsection (a) shall take effect on January 1, 2008, and shall apply to power-driven wheelchairs furnished on or after such date.

(2) APPLICATION TO COMPETITIVE ACQUISITION.—The amendments made by subsection (a) shall not apply to contracts entered into under section 1847 of the Social Security Act (42 U.S.C. 1395w-3) pursuant to a bid submitted under such section before July 21, 2007.

#### SEC. 609. RENTAL AND PURCHASE OF OXYGEN EQUIPMENT.

(a) IN GENERAL.—Section 1834(a)(5)(F) of the Social Security Act (42 U.S.C. 1395m(a)(5)(F)) is amended—

(1) in clause (i)—

(A) by striking “Payment” and inserting “Subject to clause (iii), payment”; and

(B) by striking “36 months” and inserting “13 months”;

(2) in clause (ii)(I), by striking “36th continuous month” and inserting “13th continuous month”; and

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

“(iii) SPECIAL RULE FOR OXYGEN GENERATING PORTABLE EQUIPMENT.—In the case of oxygen generating portable equipment referred to in the final rule published in the Federal Register on November 9, 2006 (71 Fed. Reg. 65897–65899), in applying clauses (i) and (ii)(I) each reference to ‘13 months’ is deemed a reference to ‘36 months’.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (3), the amendments made by subsection (a) shall apply to oxygen equipment furnished on or after January 1, 2008.

(2) TRANSITION.—In the case of an individual receiving oxygen equipment on December 31, 2007, for which payment is made

under section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), the 13-month period described in paragraph (5)(F)(i) of such section, as amended by subsection (a), shall begin on January 1, 2008, but in no case shall the rental period for such equipment exceed 36 months.

(3) APPLICATION TO COMPETITIVE ACQUISITION.—The amendments made by subsection (a) shall not apply to contracts entered into under section 1847 of the Social Security Act (42 U.S.C. 1395w-3) pursuant to a bid submitted under such section before July 21, 2007.

(c) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study to examine the service component and the equipment component of the provision of oxygen to Medicare beneficiaries. The study shall assess—

(A) the type of services provided and variation across suppliers in providing such services;

(B) whether the services are medically necessary or affect patient outcomes;

(C) whether the Medicare program pays appropriately for equipment in connection with the provision of oxygen;

(D) whether such program pays appropriately for necessary services;

(E) whether such payment in connection with the provision of oxygen should be divided between equipment and services, and if so, how; and

(F) how such payment rate compares to a competitively bid rate.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under paragraph (1).

#### SEC. 610. ADJUSTMENT FOR MEDICARE MENTAL HEALTH SERVICES.

(a) IN GENERAL.—For purposes of payment for services furnished under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) during the applicable period, the Secretary of Health and Human Services shall increase the amount otherwise payable for applicable services by 5 percent.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) APPLICABLE PERIOD.—The term “applicable period” means the period beginning on January 1, 2008, and ending on December 31 of the year before the effective date of the first review after January 1, 2008, of work relative value units conducted under section 1848(c)(2)(B)(i) of the Social Security Act.

(2) APPLICABLE SERVICES.—The term “applicable services” means procedure codes for services—

(A) in the categories of psychiatric therapeutic procedures furnished in office or other outpatient facility settings, or inpatient hospital, partial hospital or residential care facility settings; and

(B) which cover insight oriented, behavior modifying, or supportive psychotherapy and interactive psychotherapy services in the Healthcare Common Procedure Coding System established by the Secretary of Health and Human Services under section 1848(c)(5) of such Act.

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement this section by program instruction or otherwise.

#### SEC. 611. EXTENSION OF BRACHYTHERAPY SPECIAL RULE.

Section 1833(t)(16)(C) of the Social Security Act (42 U.S.C. 1395l(t)(16)(C)) is amended by striking “2008” and inserting “2009”.

**SEC. 612. PAYMENT FOR PART B DRUGS.**

(a) APPLICATION OF CONSISTENT VOLUME WEIGHTING IN COMPUTATION OF ASP.—In order to assure that payments for drugs and biologicals under section 1847A of the Social Security Act (42 U.S.C. 1395w-3a) are correct and consistent with law, the Secretary of Health and Human Services shall, for payment for drugs and biologicals furnished on or after July 1, 2008, compute the volume-weighted average sales price using equation #2 (specified in appendix A of the report of the Inspector General of the Department of Health and Human Services on “Calculation of Volume-Weighted Average Sales Price for Medicare Part B Prescription Drugs” (February 2006; OEI-03-05-00310)) used by the Office of Inspector General to calculate a volume-weighted ASP.

(b) IMPROVEMENTS IN THE COMPETITIVE ACQUISITION PROGRAM (CAP).—

(1) CONTINUOUS OPEN ENROLLMENT; AUTOMATIC REENROLLMENT WITHOUT NEED FOR REAPPLICATION.—Subsection (a)(1)(A) of section 1847B of the Social Security Act (42 U.S.C. 1395w-3b) is amended—

(A) in clause (ii), by striking “annually” and inserting “on an ongoing basis”;

(B) in clause (iii), by striking “an annual selection” and inserting “a selection (which may be changed on an annual basis)”;

(C) by adding at the end the following: “An election and selection described in clauses (ii) and (iii) shall continue to be effective without the need for any periodic reelection or reapplication or selection.”

(2) PERMITTING VENDOR TO DELIVER DRUGS TO SITE OF ADMINISTRATION.—Subsection (b)(4)(E) of such section is amended—

(A) by striking “or” at the end of clause (I);

(B) by striking the period at the end of clause (ii) and inserting “; or”;

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

“(iii) prevent a contractor from delivering drugs and biologicals to the site in which the drugs or biologicals will be administered.”

(3) PHYSICIAN OUTREACH AND EDUCATION.—Subsection (a)(1) of such section is amended by adding at the end the following new subparagraph:

“(E) PHYSICIAN OUTREACH AND EDUCATION.—The Secretary shall conduct a program of outreach to education physicians concerning the program and the ongoing opportunity of physicians to elect to obtain drugs and biologicals under the program.”

(4) REBIDDING OF CONTRACTS.—The Secretary of Health and Human Services shall provide for the rebidding of contracts under section 1847B(c) of the Social Security Act (42 U.S.C. 1395w-3b(c)) only for periods on or after the expiration of the contract in effect under such section as of the date of the enactment of this Act.

(c) TREATMENT OF CERTAIN DRUGS.—Section 1847A(b) of the Social Security Act (42 U.S.C. 1395w-3a(b)) is amended—

(1) in paragraph (1), by inserting “paragraph (6) and” after “Subject to”;

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

“(6) SPECIAL RULE.—In applying subsection (c)(6)(C)(ii), beginning with January 1, 2008, the average sales price for drugs or biologicals described in section 1842(o)(1)(G) is the lower of the average sales price calculated including drugs or biologicals to which such subsection applies and the average sales price that would have been calculated if such subsection were not applied.”

(d) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to drugs furnished on or after January 1, 2008.

**Subtitle B—Extension of Medicare Rural Access Protections****SEC. 621. 2-YEAR EXTENSION OF FLOOR ON MEDICARE WORK GEOGRAPHIC ADJUSTMENT.**

Section 1848(e)(1)(E) of such Act (42 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “2008” and inserting “2010”.

**SEC. 622. 2-YEAR EXTENSION OF SPECIAL TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.**

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and section 104 of the Medicare Improvements and Extension Act of 2006 (division B of Public Law 109-432), is amended by striking “and 2007” and inserting “2007, 2008, and 2009”.

**SEC. 623. 2-YEAR EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.**

Section 416(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2282; 42 U.S.C. 1395l-4(b)), as amended by section 105 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432), is amended by striking “3-year” and inserting “5-year”.

**SEC. 624. 2-YEAR EXTENSION OF MEDICARE INCENTIVE PAYMENT PROGRAM FOR PHYSICIAN SCARCITY AREAS.**

(a) IN GENERAL.—Section 1833(u)(1) of the Social Security Act (42 U.S.C. 1395l(u)(1)) is amended by striking “2008” and inserting “2010”.

(b) TRANSITION.—With respect to physicians’ services furnished during 2008 and 2009, for purposes of subsection (a), the Secretary of Health and Human Services shall use the primary care scarcity areas and the specialty care scarcity areas (as identified in section 1833(u)(4)) that the Secretary was using under such subsection with respect to physicians’ services furnished on December 31, 2007.

**SEC. 625. 2-YEAR EXTENSION OF MEDICARE INCREASE PAYMENTS FOR GROUND AMBULANCE SERVICES IN RURAL AREAS.**

Section 1834(1)(13) of the Social Security Act (42 U.S.C. 1395m(1)(13)) is amended—

(1) in subparagraph (A)—  
(A) in the matter before clause (i), by striking “furnished on or after July 1, 2004, and before January 1, 2007,”;

(B) in clause (i), by inserting “for services furnished on or after July 1, 2004, and before January 1, 2007, and on or after January 1, 2008, and before January 1, 2010,” after “in such paragraph,”;

(C) in clause (ii), by inserting “for services furnished on or after July 1, 2004, and before January 1, 2007,” after “in clause (i),”;

(2) in subparagraph (B)—  
(A) in the heading, by striking “AFTER 2006” and inserting “FOR SUBSEQUENT PERIODS”;

(B) by inserting “clauses (i) and (ii) of” before “subparagraph (A)”;

(C) by striking “in such subparagraph” and inserting “in the respective clause”.

**SEC. 626. EXTENDING HOLD HARMLESS FOR SMALL RURAL HOSPITALS UNDER THE HOPD PROSPECTIVE PAYMENT SYSTEM.**

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

(1) by striking “January 1, 2009” and inserting “January 1, 2010”;

(2) by striking “2007, or 2008,”;

(3) by striking “90 percent, and 85 percent, respectively,” and inserting “, and with respect to such services furnished after 2006 the applicable percentage shall be 90 percent.”

**Subtitle C—End Stage Renal Disease Program****SEC. 631. CHRONIC KIDNEY DISEASE DEMONSTRATION PROJECTS.**

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”), acting through the Director of the National Institutes of Health, shall establish demonstration projects to—

(1) increase public and medical community awareness (particularly of those who treat patients with diabetes and hypertension) about the factors that lead to chronic kidney disease, how to prevent it, how to diagnose it, and how to treat it;

(2) increase screening and use of prevention techniques for chronic kidney disease for Medicare beneficiaries and the general public (particularly among patients with diabetes and hypertension, where prevention techniques are well established and early detection makes prevention possible); and

(3) enhance surveillance systems and expand research to better assess the prevalence and incidence of chronic kidney disease, (building on work done by Centers for Disease Control and Prevention).

(b) SCOPE AND DURATION.—

(1) SCOPE.—The Secretary shall select at least 3 States in which to conduct demonstration projects under this section. In selecting the States under this paragraph, the Secretary shall take into account the size of the population of individuals with end-stage renal disease who are enrolled in part B of title XVIII of the Social Security Act and ensure the participation of individuals who reside in rural and urban areas.

(2) DURATION.—The demonstration projects under this section shall be conducted for a period that is not longer than 5 years and shall begin on January 1, 2009.

(c) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of the demonstration projects conducted under this section.

(2) REPORT.—Not later than 12 months after the date on which the demonstration projects under this section are completed, the Secretary shall submit to Congress a report on the evaluation conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

**SEC. 632. MEDICARE COVERAGE OF KIDNEY DISEASE PATIENT EDUCATION SERVICES.**

(a) COVERAGE OF KIDNEY DISEASE EDUCATION SERVICES.—

(1) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (Z), by striking “and” after the semicolon at the end;

(B) in subparagraph (AA), by adding “and” after the semicolon at the end; and

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

“(BB) kidney disease education services (as defined in subsection (ccc));”

(2) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Kidney Disease Education Services  
“(ccc)(1) The term ‘kidney disease education services’ means educational services that are—

“(A) furnished to an individual with stage IV chronic kidney disease who, according to accepted clinical guidelines identified by the Secretary, will require dialysis or a kidney transplant;

“(B) furnished, upon the referral of the physician managing the individual’s kidney condition, by a qualified person (as defined in paragraph (2)); and

“(C) designed—

“(i) to provide comprehensive information (consistent with the standards developed under paragraph (3)) regarding—

“(I) the management of comorbidities, including for purposes of delaying the need for dialysis;

“(II) the prevention of uremic complications; and

“(III) each option for renal replacement therapy (including hemodialysis and peritoneal dialysis at home and in-center as well as vascular access options and transplantation);

“(ii) to ensure that the individual has the opportunity to actively participate in the choice of therapy; and

“(iii) to be tailored to meet the needs of the individual involved.

“(2) The term ‘qualified person’ means a physician, physician assistant, nurse practitioner, or clinical nurse specialist who furnishes services for which payment may be made under the fee schedule established under section 1848. Such term does not include a renal dialysis facility.

“(3) The Secretary shall set standards for the content of such information to be provided under paragraph (1)(C)(i) after consulting with physicians, other health professionals, health educators, professional organizations, accrediting organizations, kidney patient organizations, dialysis facilities, transplant centers, network organizations described in section 1881(c)(2), and other knowledgeable persons. To the extent possible the Secretary shall consult with a person or entity described in the previous sentence, other than a dialysis facility, that has not received industry funding from a drug or biological manufacturer or dialysis facility.

“(4) In promulgating regulations to carry out this subsection, the Secretary shall ensure that each individual who is eligible for benefits for kidney disease education services under this title receives such services in a timely manner to maximize the benefit of those services.

“(5) The Secretary shall monitor the implementation of this subsection to ensure that individuals who are eligible for benefits for kidney disease education services receive such services in the manner described in paragraph (4).

“(6) No individual shall be eligible to be provided more than 6 sessions of kidney disease education services under this title.”

(3) PAYMENT UNDER THE PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(2)(BB),” after “(2)(AA).”

(4) LIMITATION ON NUMBER OF SESSIONS.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(A) in subparagraph (M), by striking “and” at the end;

(B) in subparagraph (N), by striking the semicolon at the end and inserting “, and”; and

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

“(O) in the case of kidney disease education services (as defined in section 1861(ccc)), which are furnished in excess of the number of sessions covered under such section;”

(5) GAO REPORT.—Not later than September 1, 2010, the Comptroller General of the United States shall submit to Congress a report on the following:

(A) The number of Medicare beneficiaries who are eligible to receive benefits for kidney disease education services (as defined in

section 1861(ccc) of the Social Security Act, as added by paragraph (2)) under title XVIII of such Act and who receive such services.

(B) The extent to which there is a sufficient amount of physicians, physician assistants, nurse practitioners, and clinical nurse specialists to furnish kidney disease education services (as so defined) under such title and whether or not renal dialysis facilities (and appropriate employees of such facilities) should be included as an entity eligible under such section to furnish such services.

(C) Recommendations, if appropriate, for renal dialysis facilities (and appropriate employees of such facilities) to structure kidney disease education services (as so defined) in a manner that is objective and unbiased and that provides a range of options and alternative locations for renal replacement therapy and management of co-morbidities that may delay the need for dialysis.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2009.

**SEC. 633. REQUIRED TRAINING FOR PATIENT CARE DIALYSIS TECHNICIANS.**

Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended by adding the following new subsection:

“(h)(1) Except as provided in paragraph (2), a provider of services or a renal dialysis facility may not use, for more than 12 months during 2009, or for any period beginning on January 1, 2010, any individual as a patient care dialysis technician unless the individual—

“(A) has completed a training program in the care and treatment of an individual with chronic kidney failure who is undergoing dialysis treatment; and

“(B) has been certified by a nationally recognized certification entity for dialysis technicians.

“(2)(A) A provider of services or a renal dialysis facility may permit an individual enrolled in a training program described in paragraph (1)(A) to serve as a patient care dialysis technician while they are so enrolled.

“(B) The requirements described in subparagraphs (A), (B), and (C) of paragraph (1) do not apply to an individual who has performed dialysis-related services for at least 5 years.

“(3) For purposes of paragraph (1), if, since the most recent completion by an individual of a training program described in paragraph (1)(A), there has been a period of 24 consecutive months during which the individual has not furnished dialysis-related services for monetary compensation, such individual shall be required to complete a new training program or become recertified as described in paragraph (1)(B).

“(4) A provider of services or a renal dialysis facility shall provide such regular performance review and regular in-service education as assures that individuals serving as patient care dialysis technicians for the provider or facility are competent to perform dialysis-related services.”

**SEC. 634. MEDPAC REPORT ON TREATMENT MODALITIES FOR PATIENTS WITH KIDNEY FAILURE.**

(a) EVALUATION.—

(1) IN GENERAL.—Not later than March 1, 2009, the Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act) shall submit to the Secretary and Congress a report evaluating the barriers that exist to increasing the number of individuals with end-stage renal disease who elect to receive home dialysis services under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) REPORT DETAILS.—The report shall include the following:

(A) A review of Medicare home dialysis demonstration projects initiated before the date of the enactment of this Act, and the results of such demonstration projects and recommendations for future Medicare home dialysis demonstration projects or Medicare program changes that will test models that can improve Medicare beneficiary access to home dialysis.

(B) A comparison of current Medicare home dialysis costs and payments with current in-center and hospital dialysis costs and payments.

(C) An analysis of the adequacy of Medicare reimbursement for patient training for home dialysis (including hemodialysis and peritoneal dialysis) and recommendations for ensuring appropriate payment for such home dialysis training.

(D) A catalogue and evaluation of the incentives and disincentives in the current reimbursement system that influence whether patients receive home dialysis services or other treatment modalities.

(E) An evaluation of patient education services and how such services impact the treatment choices made by patients.

(F) Recommendations for implementing incentives to encourage patients to elect to receive home dialysis services or other treatment modalities under the Medicare program

(3) SCOPE OF REVIEW.—In preparing the report under paragraph (1), the Medicare Payment Advisory Commission shall consider a variety of perspectives, including the perspectives of physicians, other health care professionals, hospitals, dialysis facilities, health plans, purchasers, and patients.

**SEC. 635. ADJUSTMENT FOR ERYTHROPOIETIN STIMULATING AGENTS (ESAS).**

(a) IN GENERAL.—Subsection (b)(13) of section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended—

(1) in subparagraph (A)(iii), by striking “For such drugs” and inserting “Subject to subparagraph (C), for such drugs”; and

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

“(C)(i) The payment amounts under this title for erythropoietin furnished during 2008 or 2009 to an individual with end stage renal disease by a large dialysis facility (as defined in subparagraph (D)) (whether to individuals in the facility or at home), in an amount equal to \$8.75 per thousand units (rounded to the nearest 100 units) or, if less, 102 percent of the average sales price (as determined under section 1847A) for such drug or biological.

“(ii) The payment amounts under this title for darbepoetin alfa furnished during 2008 or 2009 to an individual with end stage renal disease by a large dialysis facility (as defined in clause (iii)) (whether to individuals in the facility or at home), in an amount equal to \$2.92 per microgram or, if less, 102 percent of the average sales price (as determined under section 1847A) for such drug or biological.

“(iii) For purposes of this subparagraph, the term ‘large dialysis facility’ means a provider of services or renal dialysis facility that is owned or managed by a corporate entity that, as of July 24, 2007, owns or manages 300 or more such providers or facilities, and includes a successor to such a corporate entity”.

(b) NO IMPACT ON DRUG ADD-ON PAYMENT.—Nothing in the amendments made by subsection (a) shall be construed to affect the amount of any payment adjustment made under section 1881(b)(12)(B)(ii) of the Social Security Act (42 U.S.C. 1395rr(b)(12)(B)(ii)).

**SEC. 636. SITE NEUTRAL COMPOSITE RATE.**

Subsection (b)(12)(A) of section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended by adding at the end the following

new sentence: "Under such system the payment rate for dialysis services furnished on or after January 1, 2008, by providers of such services for hospital-based facilities shall be the same as the payment rate (computed without regard to this sentence) for such services furnished by renal dialysis facilities that are not hospital-based, except that in applying the geographic index under subparagraph (D) to hospital-based facilities, the labor share shall be based on the labor share otherwise applied for such facilities."

**SEC. 637. DEVELOPMENT OF ESRD BUNDLING SYSTEM AND QUALITY INCENTIVE PAYMENTS.**

(a) DEVELOPMENT OF ESRD BUNDLING SYSTEM.—Subsection (b) of section 1881 of the Social Security Act (42 U.S.C. 1395rr) is further amended—

(1) in paragraph (12)(A), by striking "In lieu of payment" and inserting "Subject to paragraph (14), in lieu of payment";

(2) in the second sentence of paragraph (12)(F)—

(A) by inserting "or paragraph (14)" after "this paragraph"; and

(B) by inserting "or under the system under paragraph (14)" after "subparagraph (B)";

(3) in paragraph (12)(H)—

(A) by inserting "or paragraph (14)" after "under this paragraph" the first place it appears; and

(B) by inserting before the period at the end the following: "or, under paragraph (14), the identification of renal dialysis services included in the bundled payment, the adjustment for outliers, the identification of facilities to which the phase-in may apply, and the determination of payment amounts under subparagraph (A) under such paragraph, and the application of paragraph (13)(C)(iii)";

(4) in paragraph (13)—

(A) in subparagraph (A), by striking "The payment amounts" and inserting "subject to paragraph (14), the payment amounts"; and

(B) in subparagraph (B)—

(i) in clause (i), by striking "(i)" after "(B)" and by inserting ", subject to paragraph (14)" before the period at the end; and

(ii) by striking clause (ii); and

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

"(14)(A) Subject to subparagraph (E), for services furnished on or after January 1, 2010, the Secretary shall implement a payment system under which a single payment is made under this title for renal dialysis services (as defined in subparagraph (B)) in lieu of any other payment (including a payment adjustment under paragraph (12)(B)(ii)) for such services and items furnished pursuant to paragraph (4). In implementing the system the Secretary shall ensure that the estimated total amount of payments under this title for 2010 for renal dialysis services shall equal 96 percent of the estimated amount of payments for such services, including payments under paragraph (12)(B)(ii), that would have been made if such system had not been implemented.

"(B) For purposes of this paragraph, the term 'renal dialysis services' includes—

"(i) items and services included in the composite rate for renal dialysis services as of December 31, 2009;

"(ii) erythropoietin stimulating agents furnished to individuals with end stage renal disease;

"(iii) other drugs and biologicals and diagnostic laboratory tests, that the Secretary identifies as commonly used in the treatment of such patients and for which payment was (before the application of this paragraph) made separately under this title, and any oral equivalent form of such drugs and biologicals or of drugs and biologicals described in clause (ii); and

"(iv) home dialysis training for which payment was (before the application of this paragraph) made separately under this section.

Such term does not include vaccines.

"(C) The system under this paragraph may provide for payment on the basis of services furnished during a week or month or such other appropriate unit of payment as the Secretary specifies.

"(D) Such system—

"(i) shall include a payment adjustment based on case mix that may take into account patient weight, body mass index, comorbidities, length of time on dialysis, age, race, ethnicity, and other appropriate factors;

"(ii) shall include a payment adjustment for high cost outliers due to unusual variations in the type or amount of medically necessary care, including variations in the amount of erythropoietin stimulating agents necessary for anemia management; and

"(iii) may include such other payment adjustments as the Secretary determines appropriate, such as a payment adjustment—

"(I) by a geographic index, such as the index referred to in paragraph (12)(D), as the Secretary determines to be appropriate;

"(II) for pediatric providers of services and renal dialysis facilities;

"(III) for low volume providers of services and renal dialysis facilities;

"(IV) for providers of services or renal dialysis facilities located in rural areas; and

"(V) for providers of services or renal dialysis facilities that are not large dialysis facilities.

"(E) The Secretary may provide for a phase-in of the payment system described in subparagraph (A) for services furnished by a provider of services or renal dialysis facility described in any of subclauses (II) through (V) of subparagraph (D)(iii), but such payment system shall be fully implemented for services furnished in the case of any such provider or facility on or after January 1, 2013.

"(F) The Secretary shall apply the annual increase that would otherwise apply under subparagraph (F) of paragraph (12) to payment amounts established under such paragraph (if this paragraph did not apply) in an appropriate manner under this paragraph."

(6) PROHIBITION OF UNBUNDLING.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (21);

(B) by striking the period at the end of paragraph (22) and inserting "; or"; and

(C) by inserting after paragraph (22) the following new paragraph:

"(23) where such expenses are for renal dialysis services (as defined in subparagraph (B) of section 1881(b)(14)) for which payment is made under such section (other than under subparagraph (E) of such section) unless such payment is made under such section to a provider of services or a renal dialysis facility for such services."

(b) QUALITY INCENTIVE PAYMENTS.—Section 1881 of such Act is amended by adding at the end the following new subsection:

"(i) QUALITY INCENTIVE PAYMENTS IN THE END-STAGE RENAL DISEASE PROGRAM.—

"(1) QUALITY INCENTIVE PAYMENTS FOR SERVICES FURNISHED IN 2008, 2009, AND 2010.—

"(A) IN GENERAL.—With respect to renal dialysis services furnished during a performance period (as defined in subparagraph (B)) by a provider of services or renal dialysis facility that the Secretary determines meets the applicable performance standard for the period under subparagraph (C) and reports on measures for 2009 and 2010 under subparagraph (D) for such services, in addition to

the amount otherwise paid under this section, subject to subparagraph (G), there also shall be paid to the provider or facility an amount equal to the applicable percentage (specified in subparagraph (E) for the period) of the Secretary's estimate (based on claims submitted not later than two months after the end of the performance period) of the amount specified in subparagraph (F) for such period.

"(B) PERFORMANCE PERIOD.—In this paragraph, the term 'performance period' means each of the following:

"(i) The period beginning on July 1, 2008, and ending on December 31, 2008.

"(ii) 2009.

"(iii) 2010.

"(C) PERFORMANCE STANDARD.—

"(i) 2008.—For the performance period occurring in 2008, the applicable performance standards for a provider or facility under this subparagraph are—

"(I) 92 percent or more of individuals with end stage renal disease receiving erythropoietin stimulating agents who have an average hematocrit of 33.0 percent or more; and

"(II) less than a percentage, specified by the Secretary, of individuals with end stage renal disease receiving erythropoietin stimulating agents who have an average hematocrit of 39.0 percent or more.

"(ii) 2009 AND 2010.—For the 2009 and 2010 performance periods, the applicable performance standard for a provider or facility under this subparagraph is successful performance (relative to national average) on—

"(I) such measures of anemia management as the Secretary shall specify, including measures of hemoglobin levels or hematocrit levels for erythropoietin stimulating agents that are consistent with the labeling for dosage of erythropoietin stimulating agents approved by the Food and Drug Administration for treatment of anemia in patients with end stage renal disease, taking into account variations in hemoglobin ranges or hematocrit levels of patients; and

"(II) such other measures, relating to subjects described in subparagraph (D)(i), as the Secretary may specify.

"(D) REPORTING PERFORMANCE MEASURES.—The performance measures under this subparagraph to be reported shall include—

"(i) such measures as the Secretary specifies, before the beginning of the performance period involved and taking into account measures endorsed by the National Quality Forum, including, to the extent feasible measures on—

"(I) iron management;

"(II) dialysis adequacy; and

"(III) vascular access, including for maximizing the placement of arterial venous fistula; and

"(ii) to the extent feasible, such measure (or measures) of patient satisfaction as the Secretary shall specify.

The provider or facility submitting information on such measures shall attest to the completeness and accuracy of such information.

"(E) APPLICABLE PERCENTAGE.—The applicable percentage specified in this subparagraph for—

"(i) the performance period occurring in 2008, is 1.0 percent;

"(ii) the 2009 performance period, is 2.0 percent; and

"(iii) the 2010 performance period, is 2.0 percent.

In the case of any performance period which is less than an entire year, the applicable percentage specified in this subparagraph shall be multiplied by the ratio of the number of months in the year to the number of months in such performance period. In the

case of 2010, the applicable percentage specified in this subparagraph shall be multiplied by the Secretary's estimate of the ratio of the aggregate payment amount described in subparagraph (F)(i) that would apply in 2010 if paragraph (14) did not apply, to the aggregate payment base under subparagraph (F)(ii) for 2010.

“(F) PAYMENT BASE.—The payment base described in this subparagraph for a provider or facility is—

“(i) for performance periods before 2010, the payment amount determined under paragraph (12) for services furnished by the provider or facility during the performance period, including the drug payment adjustment described in subparagraph (B)(ii) of such paragraph; and

“(ii) for the 2010 performance period is the amount determined under paragraph (14) for services furnished by the provider or facility during the period.

“(G) LIMITATION ON FUNDING.—

“(i) IN GENERAL.—If the Secretary determines that the total payments under this paragraph for a performance period is projected to exceed the dollar amount specified in clause (ii) for such period, the Secretary shall reduce, in a pro rata manner, the amount of such payments for each provider or facility for such period to eliminate any such projected excess for the period.

“(ii) DOLLAR AMOUNT.—The dollar amount specified in this clause—

“(I) for the performance period occurring in 2008, is \$50,000,000;

“(II) for the 2009 performance period is \$100,000,000; and

“(III) for the 2010 performance period is \$150,000,000.

“(H) FORM OF PAYMENT.—The payment under this paragraph shall be in the form of a single consolidated payment.

“(2) QUALITY INCENTIVE PAYMENTS FOR FACILITIES AND PROVIDERS FOR 2011.—

“(A) INCREASED PAYMENT.—For 2011, in the case of a provider or facility that, for the performance period (as defined in subparagraph (B))—

“(i) meets (or exceeds) the performance standard for anemia management specified in paragraph (1)(C)(ii)(I);

“(ii) has substantially improved performance or exceeds a performance standard (as determined under subparagraph (E)); and

“(iii) reports measures specified in paragraph (1)(D),

with respect to renal dialysis services furnished by the provider or facility during the quality bonus payment period (as specified in subparagraph (C)) the payment amount otherwise made to such provider or facility under subsection (b)(14) shall be increased, subject to subparagraph (F), by the applicable percentage specified in subparagraph (D). Payment amounts under paragraph (1) shall not be counted for purposes of applying the previous sentence.

“(B) PERFORMANCE PERIOD.—In this paragraph, the term ‘performance period’ means a multi-month period specified by the Secretary.

“(C) QUALITY BONUS PAYMENT PERIOD.—In this paragraph, the term ‘quality bonus payment period’ means, with respect to a performance period, a multi-month period beginning on January 1, 2011, specified by the Secretary that begins at least 3 months (but not more than 9 months) after the end of the performance period.

“(D) APPLICABLE PERCENTAGE.—The applicable percentage specified in this subparagraph is a percentage, not to exceed the 2.0 percent, specified by the Secretary consistent with subparagraph (F). Such percentage may vary based on the level of performance and improvement. The applicable per-

centage specified in this subparagraph shall be multiplied by the ratio applied under the third sentence of paragraph (1)(E) for 2010.

“(E) PERFORMANCE STANDARD.—Based on performance of a provider of services or a renal dialysis facility on performance measures described in paragraph (1)(D) for a performance period, the Secretary shall determine a composite score for such period.

“(F) LIMITATION ON FUNDING.—If the Secretary determines that the total amount to be paid under this paragraph for a quality bonus payment period is projected to exceed \$200,000,000, the Secretary shall reduce, in a uniform manner, the applicable percentage otherwise applied under subparagraph (D) for services furnished during the period to eliminate any such projected excess.

“(3) APPLICATION.—

“(A) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement by program instruction or otherwise this subsection.

“(B) LIMITATIONS ON REVIEW.—

“(i) IN GENERAL.—There shall be no administrative or judicial review under section 1869 or 1878 or otherwise of—

“(I) the determination of performance measures and standards under this subsection;

“(II) the determination of successful reporting, including a determination of composite scores; and

“(III) the determination of the quality incentive payments made under this subsection.

“(ii) TREATMENT OF DETERMINATIONS.—A determination under this subparagraph shall not be treated as a determination for purposes of section 1869.

“(4) TECHNICAL ASSISTANCE.—The Secretary shall identify or establish an appropriately skilled group or organization, such as the ESRD Networks, to provide technical assistance to consistently low-performing facilities or providers that are in the bottom quintile.

“(5) PUBLIC REPORTING.—

“(A) ANNUAL NOTICE.—The Secretary shall provide an annual written notification to each individual who is receiving renal dialysis services from a provider of services or renal dialysis facility that—

“(i) informs such individual of the composite scores described in subparagraph (A) and other relevant quality measures with respect to providers of services or renal dialysis facilities in the local area;

“(ii) compares such scores and measures to the average local and national scores and measures; and

“(iii) provides information on how to access additional information on quality of such services furnished and options for alternative providers and facilities.

“(B) CERTIFICATES.—The Secretary shall provide certificates to facilities and providers who provide services to individuals with end-stage renal disease under this title to display in patient areas. The certificate shall indicate the composite score obtained by the facility or provider under the quality initiative.

“(C) WEB-BASED QUALITY LIST.—The Secretary shall establish a web-based list of facilities and providers who furnish renal dialysis services under this section that indicates their composite score of each provider and facility.

“(6) RECOMMENDATIONS FOR REPORTING AND QUALITY INCENTIVE INITIATIVE FOR PHYSICIANS.—The Secretary shall develop recommendations for applying quality incentive payments under this subsection to physicians who receive the monthly capitated payment under this title. Such recommendations shall include the following:

“(A) Recommendations to include pediatric specific measures for physicians with at least 50 percent of their patients with end stage renal disease being individuals under 18 years of age.

“(B) Recommendations on how to structure quality incentive payments for physicians who demonstrate improvements in quality or who attain quality standards, as specified by the Secretary.

“(7) REPORTS.—

“(A) INITIAL REPORT.—Not later than January 1, 2013, the Secretary shall submit to Congress a report on the implementation of the bundled payment system under subsection (b)(14) and the quality initiative under this subsection. Such report shall include the following information:

“(i) A comparison of the aggregate payments under subsection (b)(14) for items and services to the cost of such items and services.

“(ii) The changes in utilization rates for erythropoietin stimulating agents.

“(iii) The mode of administering such agents, including information on the proportion of such individuals receiving such agents intravenously as compared to subcutaneously.

“(iv) The frequency of dialysis.

“(v) Other differences in practice patterns, such as the adoption of new technology, different modes of practice, and variations in use of drugs other than drugs described in clause (iii).

“(vi) The performance of facilities and providers under paragraph (2).

“(vii) Other recommendations for legislative and administrative actions determined appropriate by the Secretary.

“(B) SUBSEQUENT REPORT.—Not later than January 1, 2015, the Secretary shall submit to Congress a report that contains the information described in each of clauses (ii) through (vii) of subparagraph (A) and a comparison of the results of the payment system under subsection (b)(14) for renal dialysis services furnished during the 2-year period beginning on January 1, 2013, and the results of such payment system for such services furnished during the previous two-year period.”

#### SEC. 638. MEDPAC REPORT ON ESRD BUNDLING SYSTEM.

Not later than March 1, 2012, the Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act) shall submit to Congress a report on the implementation of the payment system under section 1881(b)(14) of the Social Security Act (as added by section 7) for renal dialysis services and related services (defined in subparagraph (B) of such section). Such report shall include, with respect to such payment system for such services, an analysis of each of the following:

(1) An analysis of the overall adequacy of payment under such system for all such services.

(2) An analysis that compares the adequacy of payment under such system for services furnished by—

(A) a provider of services or renal dialysis facility that is described in section 1881(b)(13)(C)(iv) of the Social Security Act;

(B) a provider of services or renal dialysis facility not described in such section;

(C) a hospital-based facility;

(D) a freestanding renal dialysis facility;

(E) a renal dialysis facility located in an urban area; and

(F) a renal dialysis facility located in a rural area.

(3) An analysis of the financial status of providers of such services and renal dialysis facilities, including access to capital, return on equity, and return on capital.

(4) An analysis of the adequacy of payment under such method and the adequacy of the quality improvement payments under section 1881(i) of the Social Security Act in ensuring that payments for such services under the Medicare program are consistent with costs for such services.

(5) Recommendations, if appropriate, for modifications to such payment system.

**SEC. 639. OIG STUDY AND REPORT ON ERYTHROPOIETIN.**

(a) **STUDY.**—The Inspector General of the Department of Health and Human Services shall conduct a study on the following:

(1) The dosing guidelines, standards, protocols, and algorithms for erythropoietin stimulating agents recommended or used by providers of services and renal dialysis facilities that are described in section 1881(b)(13)(C)(iv) of the Social Security Act and providers and facilities that are not described in such section.

(2) The extent to which such guidelines, standards, protocols, and algorithms are consistent with the labeling of the Food and Drug Administration for such agents.

(3) The extent to which physicians sign standing orders for such agents that are consistent with such guidelines, standards, protocols, and algorithms recommended or used by the provider or facility involved.

(4) The extent to which the prescribing decisions of physicians, with respect to such agents, are independent of—

(A) such relevant guidelines, standards, protocols, and algorithms; or

(B) recommendations of an anemia management nurse or other appropriate employee of the provider or facility involved.

(5) The role of medical directors of providers of services and renal dialysis facilities and the financial relationships between such providers and facilities and the physicians hired as medical directors of such providers and facilities, respectively.

(b) **REPORT.**—Not later than January 1, 2009, the Inspector General of the Department of Health and Human Services shall submit to Congress a report on the study conducted under subsection (a), together with such recommendations as the Inspector General determines appropriate.

**Subtitle D—Miscellaneous**

**SEC. 651. LIMITATION ON EXCEPTION TO THE PROHIBITION ON CERTAIN PHYSICIAN REFERRALS FOR HOSPITALS.**

(a) **IN GENERAL.**—Section 1877 of the Social Security Act (42 U.S.C. 1395) is amended—

(1) in subsection (d)(2)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

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

“(C) if the entity is a hospital, the hospital meets the requirements of paragraph (3)(D).”;

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

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

“(D) the hospital meets the requirements described in subsection (i)(1) not later than 18 months after the date of the enactment of this subparagraph.”; and

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

“(i) **REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR HOSPITAL EXCEPTION TO OWNERSHIP OR INVESTMENT PROHIBITION.**—

“(1) **REQUIREMENTS DESCRIBED.**—For purposes of paragraphs subsection (d)(3)(D), the requirements described in this paragraph for a hospital are as follows:

“(A) **PROVIDER AGREEMENT.**—The hospital had a provider agreement under section 1866 in effect on July 24, 2007.

“(B) **PROHIBITION OF EXPANSION OF FACILITY CAPACITY.**—The number of operating rooms and beds of the hospital at any time on or after the date of the enactment of this subsection are no greater than the number of operating rooms and beds as of such date.

“(C) **PREVENTING CONFLICTS OF INTEREST.**—“(i) The hospital submits to the Secretary an annual report containing a detailed description of—

“(I) the identity of each physician owner and any other owners of the hospital; and

“(II) the nature and extent of all ownership interests in the hospital.

“(ii) The hospital has procedures in place to require that any referring physician owner discloses to the patient being referred, by a time that permits the patient to make a meaningful decision regarding the receipt of care, as determined by the Secretary—

“(I) the ownership interest of such referring physician in the hospital; and

“(II) if applicable, any such ownership interest of the treating physician.

“(iii) The hospital does not condition any physician ownership interests either directly or indirectly on the physician owner making or influencing referrals to the hospital or otherwise generating business for the hospital.

“(D) **ENSURING BONA FIDE INVESTMENT.**—

“(i) Physician owners in the aggregate do not own more than 40 percent of the total value of the investment interests held in the hospital or in an entity whose assets include the hospital.

“(ii) The investment interest of any individual physician owner does not exceed 2 percent of the total value of the investment interests held in the hospital or in an entity whose assets include the hospital.

“(iii) Any ownership or investment interests that the hospital offers to a physician owner are not offered on more favorable terms than the terms offered to a person who is not a physician owner.

“(iv) The hospital does not directly or indirectly provide loans or financing for any physician owner investments in the hospital.

“(v) The hospital does not directly or indirectly guarantee a loan, make a payment toward a loan, or otherwise subsidize a loan, for any individual physician owner or group of physician owners that is related to acquiring any ownership interest in the hospital.

“(vi) Investment returns are distributed to investors in the hospital in an amount that is directly proportional to the investment of capital by the physician owner in the hospital.

“(vii) Physician owners do not receive, directly or indirectly, any guaranteed receipt of or right to purchase other business interests related to the hospital, including the purchase or lease of any property under the control of other investors in the hospital or located near the premises of the hospital.

“(viii) The hospital does not offer a physician owner the opportunity to purchase or lease any property under the control of the hospital or any other investor in the hospital on more favorable terms than the terms offered to an individual who is not a physician owner.

“(E) **PATIENT SAFETY.**—

“(i) Insofar as the hospital admits a patient and does not have any physician available on the premises to provide services during all hours in which the hospital is providing services to such patient, before admitting the patient—

“(I) the hospital discloses such fact to a patient; and

“(II) following such disclosure, the hospital receives from the patient a signed acknowl-

edgment that the patient understands such fact.

“(ii) The hospital has the capacity to—

“(I) provide assessment and initial treatment for patients; and

“(II) refer and transfer patients to hospitals with the capability to treat the needs of the patient involved.

“(2) **PUBLICATION OF INFORMATION REPORTED.**—The Secretary shall publish, and update on an annual basis, the information submitted by hospitals under paragraph (1)(A)(i) on the public Internet website of the Centers for Medicare & Medicaid Services.

“(3) **COLLECTION OF OWNERSHIP AND INVESTMENT INFORMATION.**—For purposes of clauses (i) and (ii) of paragraph (1)(D), the Secretary shall collect physician ownership and investment information for each hospital as it existed on the date of the enactment of this subsection.

“(4) **PHYSICIAN OWNER DEFINED.**—For purposes of this subsection, the term ‘physician owner’ means a physician (or an immediate family member of such physician) with a direct or an indirect ownership interest in the hospital.”.

(b) **ENFORCEMENT.**—

(1) **ENSURING COMPLIANCE.**—The Secretary of Health and Human Services shall establish policies and procedures to ensure compliance with the requirements described in such section 1877(i)(1) of the Social Security Act, as added by subsection (a)(3), beginning on the date such requirements first apply. Such policies and procedures may include unannounced site reviews of hospitals.

(2) **AUDITS.**—Beginning not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct audits to determine if hospitals violate the requirements referred to in paragraph (1).

**TITLE VII—PROVISIONS RELATING TO MEDICARE PARTS A AND B**

**SEC. 701. HOME HEALTH PAYMENT UPDATE FOR 2008.**

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 (IV) at the end, by striking “and”;

(2) by redesignating subclause (V) as subclause (VII); and

(3) by inserting after subclause (IV) the following new subclauses:

“(V) 2007, subject to clause (v), the home health market basket percentage increase;

“(VI) 2008, subject to clause (v), 0 percent; and”.

**SEC. 702. 2-YEAR EXTENSION OF TEMPORARY MEDICARE PAYMENT INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.**

Section 421 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2283; 42 U.S.C. 1395fff note), as amended by section 5201(b) of the Deficit Reduction Act of 2005, is amended—

(1) in the heading, by striking “**ONE-YEAR**” and inserting “**TEMPORARY**”; and

(2) in subsection (a), by striking “and episodes and visits beginning on or after January 1, 2006, and before January 1, 2007” and inserting “episodes and visits beginning on or after January 1, 2006, and before January 1, 2007, and episodes and visits beginning on or after January 1, 2008, and before January 1, 2010”.

**SEC. 703. EXTENSION OF MEDICARE SECONDARY PAYER FOR BENEFICIARIES WITH END STAGE RENAL DISEASE FOR LARGE GROUP PLANS.**

(a) **IN GENERAL.**—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and indenting accordingly;

(2) by amending the text preceding subclause (I), as so redesignated, to read as follows:

“(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—

“(i) IN GENERAL.—A group health plan (as defined in subparagraph (A)(v))—”;

(3) in the matter following subclause (II), as so redesignated—

(A) by striking “clause (i)” and inserting “subclause (I)”;

(B) by striking “clause (ii)” and inserting “subclause (II)”;

(C) by striking “clauses (i) and (ii)” and inserting “subclauses (I) and (II)”;

(D) in the last sentence, by striking “Effective for items” and inserting “Subject to clause (ii), effective for items”;

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

“(ii) SPECIAL RULE FOR LARGE GROUP PLANS.—In applying clause (i) to a large group health plan (as defined in subparagraph (B)(iii)), with respect to periods beginning on or after the date that is 30 months prior to January 1, 2008, subclauses (I) and (II) of such clause shall be applied by substituting ‘42-month’ for ‘12-month’ each place it appears.”

#### SEC. 704. PLAN FOR MEDICARE PAYMENT ADJUSTMENTS FOR NEVER EVENTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall develop a plan (in this section referred to as the “never events plan”) to implement, beginning in fiscal year 2010, a policy to reduce or eliminate payments under title XVIII of the Social Security Act for never events.

(b) NEVER EVENT DEFINED.—For purposes of this section, the term “never event” means an event involving the delivery of (or failure to deliver) physicians’ services, inpatient or outpatient hospital services, or facility services furnished in an ambulatory surgical facility in which there is an error in medical care that is clearly identifiable, usually preventable, and serious in consequences to patients, and that indicates a deficiency in the safety and process controls of the services furnished with respect to the physician, hospital, or ambulatory surgical center involved.

(c) PLAN DETAILS.—

(1) DEFINING NEVER EVENTS.—With respect to criteria for identifying never events under the never events plan, the Secretary should consider whether the event meets the following characteristics:

(A) CLEARLY IDENTIFIABLE.—The event is clearly identifiable and measurable and feasible to include in a reporting system for never events.

(B) USUALLY PREVENTABLE.—The event is usually preventable taking into consideration that, because of the complexity of medical care, certain medical events are not always avoidable.

(C) SERIOUS.—The event is serious and could result in death or loss of a body part, disability, or more than transient loss of a body function.

(D) DEFICIENCY IN SAFETY AND PROCESS CONTROLS.—The event is indicative of a problem in safety systems and process controls used by the physician, hospital, or ambulatory surgical center involved and is indicative of the reliability of the quality of services provided by the physician, hospital, or ambulatory surgical center, respectively.

(2) IDENTIFICATION AND PAYMENT ISSUES.—With respect to policies under the never events plan for identifying and reducing (or

eliminating) payment for never events, the Secretary shall consider—

(A) mechanisms used by hospitals and physicians in reporting and coding of services that would reliably identify never events; and

(B) modifications in billing and payment mechanisms that would enable the Secretary to efficiently and accurately reduce or eliminate payments for never events.

(3) PRIORITIES.—Under the never events plan the Secretary shall identify priorities regarding the services to focus on and, among those, the never events for which payments should be reduced or eliminated.

(4) CONSULTATION.—In developing the never events plan, the Secretary shall consult with affected parties that are relevant to payment reductions in response to never events.

(d) CONGRESSIONAL REPORT.—By not later than June 1, 2008, the Secretary shall submit a report to Congress on the never events plan developed under this subsection and shall include in the report recommendations on specific methods for implementation of the plan on a timely basis.

#### SEC. 705. TREATMENT OF MEDICARE HOSPITAL RECLASSIFICATIONS.

(a) EXTENDING CERTAIN MEDICARE HOSPITAL WAGE INDEX RECLASSIFICATIONS THROUGH FISCAL YEAR 2009.—

(1) IN GENERAL.—Section 106(a) of the Medicare Improvements and Extension Act of 2006 (division B of public Law 109-432) is amended by striking “September 30, 2007” and inserting “September 30, 2009”.

(2) SPECIAL EXCEPTION RECLASSIFICATIONS.—The Secretary of Health and Human Services shall extend for discharges occurring through September 30, 2009, the special exception reclassification made under the authority of section 1886(d)(5)(I)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(I)(i)) and contained in the final rule promulgated by the Secretary in the Federal Register on August 11, 2004 (69 Fed. Reg. 49105, 49107).

(b) DISREGARDING SECTION 508 HOSPITAL RECLASSIFICATIONS FOR PURPOSES OF GROUP RECLASSIFICATIONS.—Section 508 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173, 42 U.S.C. 1395ww note) is amended by adding at the end the following new subsection:

“(g) DISREGARDING HOSPITAL RECLASSIFICATIONS FOR PURPOSES OF GROUP RECLASSIFICATIONS.—For purposes of the reclassification of a group of hospitals in a geographic area under section 1886(d), a hospital reclassified under this section (including any such reclassification which is extended under section 106(a) of the Medicare Improvements and Extension Act of 2006) shall not be taken into account and shall not prevent the other hospitals in such area from establishing such a group for such purpose.”

#### TITLE VIII—MEDICAID

##### Subtitle A—Protecting Existing Coverage

#### SEC. 801. MODERNIZING TRANSITIONAL MEDICAID.

(a) TWO-YEAR EXTENSION.—

(1) IN GENERAL.—Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r-6(f)) are each amended by striking “September 30, 2003” and inserting “September 30, 2009”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2007.

(b) STATE OPTION OF INITIAL 12-MONTH ELIGIBILITY.—Section 1925 of the Social Security Act (42 U.S.C. 1396r-6) is amended—

(1) in subsection (a)(1), by inserting “but subject to paragraph (5)” after “Notwithstanding any other provision of this title”;

(2) by adding at the end of subsection (a) the following:

“(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY PERIOD.—A State may elect to treat any reference in this subsection to a 6-month period (or 6 months) as a reference to a 12-month period (or 12 months). In the case of such an election, subsection (b) shall not apply.”; and

(3) in subsection (b)(1), by inserting “but subject to subsection (a)(5)” after “Notwithstanding any other provision of this title”.

(c) REMOVAL OF REQUIREMENT FOR PREVIOUS RECEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of such Act (42 U.S.C. 1396r-6(a)(1)), as amended by subsection (b)(1), is further amended—

(1) by inserting “subparagraph (B) and” before “paragraph (5)”;

(2) by redesignating the matter after “REQUIREMENT.—” as a subparagraph (A) with the heading “IN GENERAL.—” and with the same indentation as subparagraph (B) (as added by paragraph (3)); and

(3) by adding at the end the following:

“(B) STATE OPTION TO WAIVE REQUIREMENT FOR 3 MONTHS BEFORE RECEIPT OF MEDICAL ASSISTANCE.—A State may, at its option, elect also to apply subparagraph (A) in the case of a family that was receiving such aid for fewer than three months or that had applied for and was eligible for such aid for fewer than 3 months during the 6 immediately preceding months described in such subparagraph.”.

(d) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 of such Act (42 U.S.C. 1396r-6), as amended by this section, is further amended by adding at the end the following new subsection:

“(g) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—

“(1) COLLECTION OF INFORMATION FROM STATES.—Each State shall collect and submit to the Secretary (and make publicly available), in a format specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section and of the number and percentage of children who become ineligible for medical assistance under this section whose medical assistance is continued under another eligibility category or who are enrolled under the State’s child health plan under title XXI. Such information shall be submitted at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

“(2) ANNUAL REPORTS TO CONGRESS.—Using the information submitted under paragraph (1), the Secretary shall submit to Congress annual reports concerning enrollment and participation rates described in such paragraph.”.

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on the date of the enactment of this Act.

#### SEC. 802. FAMILY PLANNING SERVICES.

(a) COVERAGE AS OPTIONAL CATEGORICALLY NEEDY GROUP.—

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

(A) in subclause (XVIII), by striking “or” at the end;

(B) in subclause (XIX), by adding “or” at the end; and

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

“(XX) who are described in subsection (ee) (relating to individuals who meet certain income standards)”.

(2) GROUP DESCRIBED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 112(c), is amended by adding at the end the following new subsection:

“(ee)(1) Individuals described in this subsection are individuals

“(A) whose income does not exceed an income eligibility level established by the State that does not exceed the highest income eligibility level established under the State plan under this title (or under its State child health plan under title XXI) for pregnant women; and

“(B) who are not pregnant.

“(2) At the option of a State, individuals described in this subsection may include individuals who are determined to meet the eligibility requirements referred to in paragraph (1) under the terms, conditions, and procedures applicable to making eligibility determinations for medical assistance under this title under a waiver to provide the benefits described in clause (XV) of the matter following subparagraph (G) of section 1902(a)(10) granted to the State under section 1115 as of January 1, 2007.”

(3) LIMITATION ON BENEFITS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(A) by striking “and (XIV)” and inserting “(XIV)”; and

(B) by inserting “, and (XV) the medical assistance made available to an individual described in subsection (ee) shall be limited to family planning services and supplies described in section 1905(a)(4)(C) including medical diagnosis or treatment services that are provided pursuant to a family planning service in a family planning setting provided during the period in which such an individual is eligible;” after “cervical cancer”.

(4) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396(a)) is amended in the matter preceding paragraph (1)—

(A) in clause (xii), by striking “or” at the end;

(B) in clause (xii), by adding “or” at the end; and

(C) by inserting after clause (xiii) the following:

“(xiv) individuals described in section 1902(ee).”

(b) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920B the following:

“PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING SERVICES

“SEC. 1920C. (a) STATE OPTION.— State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(ee) (relating to individuals who meet certain income eligibility standard) during a presumptive eligibility period. In the case of an individual described in section 1902(ee), such medical assistance shall be limited to family planning services and supplies described in 1905(a)(4)(C) and, at the State’s option, medical diagnosis or treatment services that are provided in conjunction with a family planning service in a family planning setting provided during the period in which such an individual is eligible.

“(b) DEFINITIONS.—For purposes of this section:

“(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The term ‘presumptive eligibility period’ means, with respect to an individual described in subsection (a), the period that—

“(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(ee); and

“(B) ends with (and includes) the earlier of—

“(i) the day on which a determination is made with respect to the eligibility of such

individual for services under the State plan; or

“(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

“(2) QUALIFIED ENTITY.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘qualified entity’ means any entity that—

“(i) is eligible for payments under a State plan approved under this title; and

“(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

“(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities in order to prevent fraud and abuse.

“(c) ADMINISTRATION.—

“(1) IN GENERAL.—The State agency shall provide qualified entities with—

“(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

“(B) information on how to assist such individuals in completing and filing such forms.

“(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

“(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

“(B) inform such individual at the time the determination is made that an application for medical assistance is required to be made by not later than the last day of the month following the month during which the determination is made.

“(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance by not later than the last day of the month following the month during which the determination is made.

“(d) PAYMENT.—Notwithstanding any other provision of this title, medical assistance that—

“(1) is furnished to an individual described in subsection (a)—

“(A) during a presumptive eligibility period;

“(B) by an entity that is eligible for payments under the State plan; and

“(2) is included in the care and services covered by the State plan, shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).”

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: “and provide for making medical assistance available to individuals described in subsection (a) of section 1920C during a presumptive eligibility period in accordance with such section.”

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking “or for” and inserting “, for”; and

(ii) by inserting before the period the following: “, or for medical assistance provided to an individual described in subsection (a) of section 1920C during a presumptive eligibility period under such section”.

(e) CLARIFICATION OF COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Section

1937(b) of the Social Security Act (42 U.S.C. 1396u–7(b)) is amended by adding at the end the following:

“(5) COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—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 such coverage includes for any individual described in section 1905(a)(4)(C), medical assistance for family planning services and supplies in accordance with such section.”

(f) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2007.

**SEC. 803. AUTHORITY TO CONTINUE PROVIDING ADULT DAY HEALTH SERVICES APPROVED UNDER A STATE MEDICAID PLAN.**

(a) IN GENERAL.—During the period described in subsection (b), the Secretary of Health and Human Services shall not—

(1) withhold, suspend, disallow, or otherwise deny Federal financial participation under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) for the provision of adult day health care services, day activity and health services, or adult medical day care services, as defined under a State Medicaid plan approved during or before 1994, during such period if such services are provided consistent with such definition and the requirements of such plan; or

(2) withdraw Federal approval of any such State plan or part thereof regarding the provision of such services (by regulation or otherwise).

(b) PERIOD DESCRIBED.—The period described in this subsection is the period that begins on November 3, 2005, and ends on March 1, 2009.

**SEC. 804. STATE OPTION TO PROTECT COMMUNITY SPOUSES OF INDIVIDUALS WITH DISABILITIES.**

Section 1924(h)(1)(A) of the Social Security Act (42 U.S.C. 1396i–5(h)(1)(A)) is amended by striking “is described in section 1902(a)(10)(A)(ii)(VI)” and inserting “is being provided medical assistance for home and community-based services under subsection (c), (d), (e), (i), or (j) of section 1915 or pursuant to section 1115”.

**SEC. 805. COUNTY MEDICAID HEALTH INSURING ORGANIZATIONS.**

(a) IN GENERAL.—Section 9517(c)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 1396b note), as added by section 4734 of the Omnibus Budget Reconciliation Act of 1990 and as amended by section 704 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, is amended—

(1) in subparagraph (A), by inserting “, in the case of any health insuring organization described in such subparagraph that is operated by a public entity established by Ventura County, and in the case of any health insuring organization described in such subparagraph that is operated by a public entity established by Merced County” after “described in subparagraph (B)”; and

(2) in subparagraph (C), by striking “14 percent” and inserting “16 percent”.

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

**Subtitle B—Payments**

**SEC. 811. PAYMENTS FOR PUERTO RICO AND TERRITORIES.**

(a) PAYMENT CEILING.—Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended—

(1) in paragraph (2), by striking “paragraph (3)” and inserting “paragraphs (3) and (4)”; and

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

“(4) FISCAL YEARS 2009 THROUGH 2012 FOR CERTAIN INSULAR AREAS.—The amounts otherwise determined under this subsection for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa for fiscal years 2009 through 2012 shall be increased by the following amounts:

“(A) PUERTO RICO.—For Puerto Rico, \$250,000,000 for fiscal year 2009, \$350,000,000 for fiscal year 2010, \$500,000,000 for fiscal year 2011, and \$600,000,000 for fiscal year 2012.

“(B) VIRGIN ISLANDS.—For the Virgin Islands, \$5,000,000 for each of fiscal years 2009 through 2012.

“(C) GUAM.—For Guam, \$5,000,000 for each of fiscal years 2009 through 2012.

“(D) NORTHERN MARIANA ISLANDS.—For the Northern Mariana Islands, \$4,000,000 for each of fiscal years 2009 through 2012.

“(E) AMERICAN SAMOA.—For American Samoa, \$4,000,000 for each of fiscal years 2009 through 2012.

Such amounts shall not be taken into account in applying paragraph (2) for fiscal years 2009 through 2012 but shall be taken into account in applying such paragraph for fiscal year 2013 and subsequent fiscal years.”.

(b) REMOVAL OF FEDERAL MATCHING PAYMENTS FOR IMPROVING DATA REPORTING SYSTEMS FROM THE OVERALL LIMIT ON PAYMENTS TO TERRITORIES UNDER TITLE XIX.—Such section is further amended by adding at the end the following new paragraph:

“(5) EXCLUSION OF CERTAIN EXPENDITURES FROM PAYMENT LIMITS.—With respect to fiscal year 2008 and each fiscal year thereafter, if Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa qualify for a payment under subparagraph (A)(i) or (B) of section 1903(a)(3) for a calendar quarter of such fiscal year with respect to expenditures for improvements in data reporting systems described in such subparagraph, the limitation on expenditures under title XIX for such commonwealth or territory otherwise determined under subsection (f) and this subsection for such fiscal year shall be determined without regard to payment for such expenditures.”.

#### SEC. 812. MEDICAID DRUG REBATE.

(a) BRAND.—Paragraph (1)(B)(i) of section 1927(c) of the Social Security Act (42 U.S.C. 1396r-8(c)) is amended—

(1) by striking “and” at the end of subclause (IV);

(2) in subclause (V)—

(A) by inserting “and before January 1, 2008,” after “December 31, 1995”; and

(B) by striking the period at the end and inserting “; and”; and

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

“(VI) after December 31, 2007, is 20.1 percent.”.

(b) PBMS TO BEST PRICE DEFINITION.—

(1) IN GENERAL.—Section 1927(c)(1)(C)(ii)(I) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(C)(ii)(I)) is amended—

(A) by striking “and” before “rebates”; and

(B) by inserting before the semicolon at the end the following: “, and rebates, discounts, and other price concessions to pharmaceutical benefit managers (PBMs)”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to calendar quarters beginning on or after January 1, 2008.

#### SEC. 813. ADJUSTMENT IN COMPUTATION OF MEDICAID FMAP TO DISREGARD AN EXTRAORDINARY EMPLOYER PENSION CONTRIBUTION.

(a) IN GENERAL.—Only for purposes of computing the Federal medical assistance percentage under section 1905(b) of the Social

Security Act (42 U.S.C. 1396d(b)) for a State for a fiscal year (beginning with fiscal year 2006), any significantly disproportionate employer pension contribution described in subsection (b) shall be disregarded in computing the per capita income of such State, but shall not be disregarded in computing the per capita income for the continental United States (and Alaska) and Hawaii.

(b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER PENSION CONTRIBUTION.—For purposes of subsection (a), a significantly disproportionate employer pension contribution described in this subsection with respect to a State for a fiscal year is an employer contribution towards pensions that is allocated to such State for a period if the aggregate amount so allocated exceeds 25 percent of the total increase in personal income in that State for the period involved.

#### SEC. 814. MORATORIUM ON CERTAIN PAYMENT RESTRICTIONS.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to the date that is 1 year after the date of enactment of this Act, take any action (through promulgation of regulation, issuance of regulatory guidance, use of federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to restrict coverage or payment under title XIX of the Social Security Act for rehabilitation services, or school-based administration, transportation, or medical services if such restrictions are more restrictive in any aspect than those applied to such coverage or payment as of July 1, 2007.

#### SEC. 815. TENNESSEE DSH.

The DSH allotments for Tennessee for each fiscal year beginning with fiscal year 2008 under subsection (f)(3) of section 1923 of the Social Security Act (42 U.S.C. 1396r-4) are deemed to be \$30,000,000. The Secretary of Health and Human Services may impose a limitation on the total amount of payments made to hospitals under the TennCare Section 1115 waiver only to the extent that such limitation is necessary to ensure that a hospital does not receive payment in excess of the amounts described in subsection (f) of such section or as necessary to ensure that the waiver remains budget neutral.

#### SEC. 816. CLARIFICATION TREATMENT OF REGIONAL MEDICAL CENTER.

(a) 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 subsection (b), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(b) CENTER DESCRIBED.—A center described in this subsection is a publicly-owned regional medical center that—

(1) provides level 1 trauma and burn care services;

(2) provides level 3 neonatal care services;

(3) is obligated to serve all patients, regardless of ability to pay;

(4) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States;

(5) provides services as a tertiary care provider for patients residing within a 125-mile radius; and

(6) meets the criteria for a disproportionate share hospital under section 1923 of such Act (42 U.S.C. 1396r-4) in at least one

State other than the State in which the center is located.

#### Subtitle C—Miscellaneous

#### SEC. 821. DEMONSTRATION PROJECT FOR EMPLOYER BUY-IN.

Title XXI of the Social Security Act, as amended by section 115(a)(1), is further amended by adding at the end the following new section:

#### “SEC. 2112. DEMONSTRATION PROJECT FOR EMPLOYER BUY-IN.

“(a) AUTHORITY.—

“(1) IN GENERAL.—The Secretary shall establish a demonstration project under which up to 10 States (each referred to in this section as a ‘participating State’) that meets the conditions of paragraph (2) may provide, under its State child health plan (notwithstanding section 2102(b)(3)(C)) for a period of 5 years, for child health assistance in relation to family coverage described in subsection (d) for children who would be targeted low-income children but for coverage as beneficiaries under a group health plan as the children of participants by virtue of a qualifying employer's contribution under subsection (b)(2). :

“(2) CONDITIONS.—The conditions described in this paragraph for a State are as follows:

“(A) NO WAITING LISTS.—The State does not impose any waiting list, enrollment cap, or similar limitation on enrollment of targeted low-income children under the State child health plan.

“(B) ELIGIBILITY OF ALL CHILDREN UNDER 200 PERCENT OF POVERTY LINE.—The State is applying an income eligibility level under section 2110(b)(1)(B)(ii)(I) that is at least 200 percent of the poverty line.

“(3) QUALIFYING EMPLOYER DEFINED.—In this section, the term ‘qualifying employer’ means an employer that has a majority of its workforce composed of full-time workers with family incomes reasonably estimated by the employer (based on wage information available to the employer) at or below 200 percent of the poverty line. In applying the previous sentence, two part-time workers shall be treated as a single full-time worker.

“(b) FUNDING.—A demonstration project under this section in a participating State shall be funded, with respect to assistance provided to children described in subsection (a)(1), consistent with the following:

“(1) LIMITED FAMILY CONTRIBUTION.—The family involved shall be responsible for providing payment towards the premium for such assistance of such amount as the State may specify, except that the limitations on cost-sharing (including premiums) under paragraphs (2) and (3) of section 2103(e) shall apply to all cost-sharing of such family under this section.

“(2) MINIMUM EMPLOYER CONTRIBUTION.—The qualifying employer involved shall be responsible for providing payment to the State child health plan in the State of at least 50 percent of the portion of the cost (as determined by the State) of the family coverage in which the employer is enrolling the family that exceeds the amount of the family contribution under paragraph (1) applied towards such coverage.

“(3) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—In no case shall the Federal financial participation under section 2105 with respect to a demonstration project under this section be made for any portion of the costs of family coverage described in subsection (d) (including the costs of administration of such coverage) that are not attributable to children described in subsection (a)(1).

“(c) UNIFORM ELIGIBILITY RULES.—In providing assistance under a demonstration project under this section—

“(1) a State shall establish uniform rules of eligibility for families to participate; and

“(2) a State shall not permit a qualifying employer to select, within those families that meet such eligibility rules, which families may participate.

“(d) TERMS AND CONDITIONS.—The family coverage offered to families of qualifying employers under a demonstration project under this section in a State shall be the same as the coverage and benefits provided under the State child health plan in the State for targeted low-income children with the highest family income level permitted.”.

#### SEC. 822. DIABETES GRANTS.

Section 2104 of the Social Security Act (42 U.S.C. 1397dd), as amended by section 101, is further amended—

(1) in subsection (a)(11), by inserting before the period at the end the following: “plus for fiscal year 2009 the total of the amount specified in subsection (j)”;

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

“(j) FUNDING FOR DIABETES GRANTS.—From the amounts appropriated under subsection (a)(11), for fiscal year 2009 from the amounts—

“(1) \$150,000,000 is hereby transferred and made available in such fiscal year for grants under section 330B of the Public Health Service Act; and

“(2) \$150,000,000 is hereby transferred and made available in such fiscal year for grants under section 330C of such Act.”.

#### SEC. 823. TECHNICAL CORRECTION.

(a) CORRECTION OF REFERENCE TO CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—Section 1937(a)(2)(B)(viii) of the Social Security Act (42 U.S.C. 1396u-7(a)(2)(B)) is amended by striking “aid or assistance is made available under part B of title IV to children in foster care” and inserting “child welfare services are made available under part B of title IV on the basis of being a child in foster care”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 6044(a) of the Deficit Reduction Act of 2005.

### TITLE IX—MISCELLANEOUS

#### SEC. 901. MEDICARE PAYMENT ADVISORY COMMISSION STATUS.

Section 1805(a) of the Social Security Act (42 U.S.C. 1395b-6(a)) is amended by inserting “as an agency of Congress” after “established”.

#### SEC. 902. REPEAL OF TRIGGER PROVISION.

Subtitle A of title VIII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) is repealed and the provisions of law amended by such subtitle are restored as if such subtitle had never been enacted.

#### SEC. 903. REPEAL OF COMPARATIVE COST ADJUSTMENT (CCA) PROGRAM.

Section 1860C-1 of the Social Security Act (42 U.S.C. 1395w-29), as added by section 241(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), is repealed.

#### SEC. 904. COMPARATIVE EFFECTIVENESS RESEARCH.

(a) IN GENERAL.—Part A of title XVIII of the Social Security Act is amended by adding at the end the following new section:

“COMPARATIVE EFFECTIVENESS RESEARCH  
“SEC. 1822. (a) CENTER FOR COMPARATIVE EFFECTIVENESS RESEARCH ESTABLISHED.—

“(1) IN GENERAL.—The Secretary shall establish within the Agency of Healthcare Research and Quality a Center for Comparative Effectiveness Research (in this section referred to as the ‘Center’) to conduct, support, and synthesize research (including research conducted or supported under section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) with

respect to the outcomes, effectiveness, and appropriateness of health care services and procedures in order to identify the manner in which diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

“(2) DUTIES.—The Center shall—

“(A) conduct, support, and synthesize research relevant to the comparative clinical effectiveness of the full spectrum of health care treatments, including pharmaceuticals, medical devices, medical and surgical procedures, and other medical interventions;

“(B) conduct and support systematic reviews of clinical research, including original research conducted subsequent to the date of the enactment of this section;

“(C) use methodologies such as randomized controlled clinical trials as well as other various types of clinical research, such as observational studies;

“(D) submit to the Comparative Effectiveness Research Commission, the Secretary, and Congress appropriate relevant reports described in subsection (d)(2);

“(E) encourage, as appropriate, the development and use of clinical registries and the development of clinical effectiveness research data networks from electronic health records, post marketing drug and medical device surveillance efforts, and other forms of electronic health data; and

“(F) not later than 180 days after the date of the enactment of this section, develop methodological standards to be used when conducting studies of comparative clinical effectiveness and value (and procedures for use of such standards) in order to help ensure accurate and effective comparisons and update such standards at least biennially.

“(b) OVERSIGHT BY COMPARATIVE EFFECTIVENESS RESEARCH COMMISSION.—

“(1) IN GENERAL.—The Secretary shall establish an independent Comparative Effectiveness Research Commission (in this section referred to as the ‘Commission’) to oversee and evaluate the activities carried out by the Center under subsection (a) to ensure such activities result in highly credible research and information resulting from such research.

“(2) DUTIES.—The Commission shall—

“(A) determine national priorities for research described in subsection (a) and in making such determinations consult with patients and health care providers and payers;

“(B) monitor the appropriateness of use of the CERTF described in subsection (f) with respect to the timely production of comparative effectiveness research determined to be a national priority under subparagraph (A);

“(C) identify highly credible research methods and standards of evidence for such research to be considered by the Center;

“(D) review and approve the methodological standards (and updates to such standards) developed by the Center under subsection (a)(2)(F);

“(E) enter into an arrangement under which the Institute of Medicine of the National Academy of Sciences shall conduct an evaluation and report on standards of evidence for such research;

“(F) support forums to increase stakeholder awareness and permit stakeholder feedback on the efforts of the Agency of Healthcare Research and Quality to advance methods and standards that promote highly credible research;

“(G) make recommendations for public data access policies of the Center that would allow for access of such data by the public while ensuring the information produced from research involved is timely and credible;

“(H) appoint a clinical perspective advisory panel for each research priority determined under subparagraph (A), which shall frame the specific research inquiry to be examined with respect to such priority to ensure that the information produced from such research is clinically relevant to decisions made by clinicians and patients at the point of care;

“(I) make recommendations for the priority for periodic reviews of previous comparative effectiveness research and studies conducted by the Center under subsection (a);

“(J) routinely review processes of the Center with respect to such research to confirm that the information produced by such research is objective, credible, consistent with standards of evidence established under this section, and developed through a transparent process that includes consultations with appropriate stakeholders;

“(K) at least annually, provide guidance or recommendations to health care providers and consumers for the use of information on the comparative effectiveness of health care services by consumers, providers (as defined for purposes of regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996) and public and private purchasers;

“(L) make recommendations for a strategy to disseminate the findings of research conducted and supported under this section that enables clinicians to improve performance, consumers to make more informed health care decisions, and payers to set medical policies that improve quality and value;

“(M) provide for the public disclosure of relevant reports described in subsection (d)(2); and

“(N) submit to Congress an annual report on the progress of the Center in achieving national priorities determined under subparagraph (A) for the provision of credible comparative effectiveness information produced from such research to all interested parties.

“(3) COMPOSITION OF COMMISSION.—

“(A) IN GENERAL.—The members of the Commission shall consist of—

“(i) the Director of the Agency for Healthcare Research and Quality;

“(ii) the Chief Medical Officer of the Centers for Medicare & Medicaid Services; and

“(iii) up to 15 additional members who shall represent broad constituencies of stakeholders including clinicians, patients, researchers, third-party payers, consumers of Federal and State beneficiary programs. .

“(B) QUALIFICATIONS.—

“(i) DIVERSE REPRESENTATION OF PERSPECTIVES.—The members of the Commission shall represent a broad range of perspectives and shall collectively have experience in the following areas:

“(I) Epidemiology.

“(II) Health services research.

“(III) Bioethics.

“(IV) Decision sciences.

“(V) Economics.

“(ii) DIVERSE REPRESENTATION OF HEALTH CARE COMMUNITY.—At least one member shall represent each of the following health care communities:

“(I) Consumers.

“(II) Practicing physicians, including surgeons.

“(III) Employers.

“(IV) Public payers.

“(V) Insurance plans.

“(VI) Clinical researchers who conduct research on behalf of pharmaceutical or device manufacturers.

“(4) APPOINTMENT.—The Comptroller General of the United States, in consultation with the chairs of the committees of jurisdiction of the House of Representatives and

the Senate, shall appoint the members of the Commission.

“(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General of the United States shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment, except that in the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General may designate another member for the remainder of that member’s term.

“(6) TERMS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each member of the Commission shall be appointed for a term of 4 years.

“(B) TERMS OF INITIAL APPOINTEES.—Of the members first appointed—

“(i) 10 shall be appointed for a term of 4 years; and

“(ii) 9 shall be appointed for a term of 3 years.

“(7) COORDINATION.—To enhance effectiveness and coordination, the Comptroller General is encouraged, to the greatest extent possible, to seek coordination between the Commission and the National Advisory Council of the Agency for Healthcare Research and Quality.

“(8) CONFLICTS OF INTEREST.—In appointing the members of the Commission or a clinical perspective advisory panel described in paragraph (2)(G), the Comptroller General of the United States or the Commission, respectively, shall take into consideration any financial conflicts of interest.

“(9) COMPENSATION.—While serving on the business of the Commission (including travel time), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member’s regular place of business, a member may be allowed travel expenses, as authorized by the Director of the Commission.

“(10) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

“(11) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Secretary, in consultation with the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

“(A) employ and fix the compensation of an Executive Director (subject to the approval of the Secretary, in consultation with the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

“(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

“(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

“(D) make advance, progress, and other payments which relate to the work of the Commission;

“(E) provide transportation and subsistence for persons serving without compensation; and

“(F) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

“(12) POWERS.—

“(A) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Executive Director, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

“(B) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

“(i) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

“(ii) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

“(iii) adopt procedures allowing any interested party to submit information for the Commission’s use in making reports and recommendations.

“(C) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

“(D) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General.

“(c) RESEARCH REQUIREMENTS.—Any research conducted, supported, or synthesized under this section shall meet the following requirements:

“(1) ENSURING TRANSPARENCY, CREDIBILITY, AND ACCESS.—

“(A) The establishment of the agenda and conduct of the research shall be insulated from inappropriate political or stakeholder influence.

“(B) Methods of conducting such research shall be scientifically based.

“(C) All aspects of the prioritization of research, conduct of the research, and development of conclusions based on the research shall be transparent to all stakeholders.

“(D) The process and methods for conducting such research shall be publicly documented and available to all stakeholders.

“(E) Throughout the process of such research, the Center shall provide opportunities for all stakeholders involved to review and provide comment on the methods and findings of such research.

“(2) USE OF CLINICAL PERSPECTIVE ADVISORY PANELS.—The research shall meet a national research priority determined under subsection (b)(2)(A) and shall examine the specific research inquiry framed by the clinical perspective advisory panel for the national research priority.

“(3) STAKEHOLDER INPUT.—The priorities of the research, the research, and the dissemination of the research shall involve the consultation of patients, health care providers, and health care consumer representatives through transparent mechanisms recommended by the Commission.

“(d) PUBLIC ACCESS TO COMPARATIVE EFFECTIVENESS INFORMATION.—

“(1) IN GENERAL.—Not later than 90 days after receipt by the Center or Commission, as applicable, of a relevant report described in paragraph (2) made by the Center, Commission, or clinical perspective advisory panel under this section, appropriate information contained in such report shall be posted on the official public Internet site of the Center and of the Commission, as applicable.

“(2) RELEVANT REPORTS DESCRIBED.—For purposes of this section, a relevant report is each of the following submitted by a grantee or contractor of the Center:

“(A) An interim progress report.

“(B) A draft final comparative effectiveness review.

“(C) A final progress report on new research submitted for publication by a peer review journal.

“(D) Stakeholder comments.

“(E) A final report.

“(3) ACCESS BY CONGRESS AND THE COMMISSION TO THE CENTER’S INFORMATION.—Congress and the Commission shall each have unrestricted access to all deliberations, records, and nonproprietary data of the Center, immediately upon request.

“(e) DISSEMINATION AND INCORPORATION OF COMPARATIVE EFFECTIVENESS INFORMATION.—

“(1) DISSEMINATION.—The Center shall provide for the dissemination of appropriate findings produced by research supported, conducted, or synthesized under this section to health care providers, patients, vendors of health information technology focused on clinical decision support, appropriate professional associations, and Federal and private health plans.

“(2) INCORPORATION.—The Center shall assist users of health information technology focused on clinical decision support to promote the timely incorporation of the findings described in paragraph (1) into clinical practices and to promote the ease of use of such incorporation.

“(f) REPORTS TO CONGRESS.—

“(1) ANNUAL REPORTS.—Beginning not later than one year after the date of the enactment of this section, the Director of the Agency of Healthcare Research and Quality and the Center for Comparative Effectiveness Research shall submit to Congress an annual report on the activities of the Center and the Commission, as well as the research, conducted under this section.

“(2) RECOMMENDATION FOR FAIR SHARE PER CAPITA AMOUNT FOR ALL-PAYER FINANCING.—Beginning not later than December 31, 2009, the Secretary shall submit to Congress an annual recommendation for a fair share per capita amount described in subsection (c)(1) of section 9511 of the Internal Revenue Code of 1986 for purposes of funding the CERTF under such section.

“(3) ANALYSIS AND REVIEW.—Not later than December 31, 2011, the Secretary, in consultation with the Commission, shall submit to Congress a report on all activities conducted or supported under this section as of such date. Such report shall include an evaluation of the return on investment resulting from such activities, the overall costs of such activities, and an analysis of the backlog of any research proposals approved by the Commission but not funded. Such report shall also address whether Congress should expand the responsibilities of the Center and of the Commission to include studies of the effectiveness of various aspects of the health care delivery system, including health plans and delivery models, such as health plan features, benefit designs and performance, and the ways in which health services are organized, managed, and delivered.

“(g) COORDINATING COUNCIL FOR HEALTH SERVICES RESEARCH.—

“(1) ESTABLISHMENT.—The Secretary shall establish a permanent council (in this section referred to as the ‘Council’) for the purpose of—

“(A) assisting the offices and agencies of the Department of Health and Human Services, the Department of Veterans Affairs, the Department of Defense, and any other Federal department or agency to coordinate the conduct or support of health services research; and

“(B) advising the President and Congress on—

“(i) the national health services research agenda;

“(ii) strategies with respect to infrastructure needs of health services research; and

“(iii) appropriate organizational expenditures in health services research by relevant Federal departments and agencies.

“(2) MEMBERSHIP.—

“(A) NUMBER AND APPOINTMENT.—The Council shall be composed of 20 members. One member shall be the Director of the Agency for Healthcare Research and Quality. The Director shall appoint the other members not later than 30 days after the enactment of this Act.

“(B) TERMS.—

“(i) IN GENERAL.—Except as provided in clause (ii), each member of the Council shall be appointed for a term of 4 years.

“(ii) TERMS OF INITIAL APPOINTEES.—Of the members first appointed—

“(I) 8 shall be appointed for a term of 4 years; and

“(II) 7 shall be appointed for a term of 3 years.

“(iii) VACANCIES.—Any vacancies shall not affect the power and duties of the Council and shall be filled in the same manner as the original appointment.

“(C) QUALIFICATIONS.—

“(i) IN GENERAL.—The members of the Council shall include one senior official from each of the following agencies:

“(I) The Veterans Health Administration.

“(II) The Department of Defense Military Health Care System.

“(III) The Centers for Disease Control and Prevention.

“(IV) The National Center for Health Statistics.

“(V) The National Institutes of Health.

“(VI) The Center for Medicare & Medicaid Services.

“(VII) The Federal Employees Health Benefits Program.

“(ii) NATIONAL, PHILANTHROPIC FOUNDATIONS.—The members of the Council shall include 4 senior leaders from major national, philanthropic foundations that fund and use health services research.

“(iii) STAKEHOLDERS.—The remaining members of the Council shall be representatives of other stakeholders in health services research, including private purchasers, health plans, hospitals and other health facilities, and health consumer groups.

“(3) ANNUAL REPORT.—The Council shall submit to Congress an annual report on the progress of the implementation of the national health services research agenda.

“(h) FUNDING OF COMPARATIVE EFFECTIVENESS RESEARCH.—For fiscal year 2009 and each subsequent fiscal year, amounts in the Comparative Effectiveness Research Trust Fund (referred to in this section as the ‘CERTF’) under section 9511 of the Internal Revenue Code of 1986 shall be available to the Secretary to carry out this section.”

(b) COMPARATIVE EFFECTIVENESS RESEARCH TRUST FUND; FINANCING FOR TRUST FUND.—

(1) ESTABLISHMENT OF TRUST FUND.—

(A) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

“SEC. 9511. HEALTH CARE COMPARATIVE EFFECTIVENESS RESEARCH TRUST FUND.

“(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ‘Health Care Comparative Effectiveness Research Trust Fund’ (hereinafter in this section referred to as the ‘CERTF’), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section and section 9602(b).

“(b) TRANSFERS TO FUND.—There are hereby appropriated to the Trust Fund the following:

“(1) For fiscal year 2008, \$90,000,000.

“(2) For fiscal year 2009, \$100,000,000.

“(3) For fiscal year 2010, \$110,000,000.

“(4) For each fiscal year beginning with fiscal year 2011—

“(A) an amount equivalent to the net revenues received in the Treasury from the fees imposed under subchapter B of chapter 34 (relating to fees on health insurance and self-insured plans) for such fiscal year; and

“(B) subject to subsection (c)(2), amounts determined by the Secretary of Health and Human Services to be equivalent to the fair share per capita amount computed under subsection (c)(1) for the fiscal year multiplied by the average number of individuals entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act during such fiscal year.

The amounts appropriated under paragraphs (1), (2), (3), and (4)(B) shall be transferred from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund (established under section 1841 of such Act), and from the Medicare Prescription Drug Account within such Trust Fund, in proportion (as estimated by the Secretary) to the total expenditures during such fiscal year that are made under title XVIII of such Act from the respective trust fund or account.

“(c) FAIR SHARE PER CAPITA AMOUNT.—

“(1) COMPUTATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the fair share per capita amount under this paragraph for a fiscal year (beginning with fiscal year 2011) is an amount computed by the Secretary of Health and Human Services for such fiscal year that, when applied under this section and subchapter B of chapter 34 of the Internal Revenue Code of 1986, will result in revenues to the CERTF of \$375,000,000 for the fiscal year.

“(B) ALTERNATIVE COMPUTATION.—

“(i) IN GENERAL.—If the Secretary is unable to compute the fair share per capita amount under subparagraph (A) for a fiscal year, the fair share per capita amount under this paragraph for the fiscal year shall be the default amount determined under clause (ii) for the fiscal year.

“(ii) DEFAULT AMOUNT.—The default amount under this clause for—

“(I) fiscal year 2011 is equal to \$2; or

“(II) a subsequent year is equal to the default amount under this clause for the preceding fiscal year increased by the annual percentage increase in the medical care component of the consumer price index (United States city average) for the 12-month period ending with April of the preceding fiscal year.

Any amount determined under subclause (II) shall be rounded to the nearest penny.

“(2) LIMITATION ON MEDICARE FUNDING.—In no case shall the amount transferred under subsection (b)(4)(B) for any fiscal year exceed \$90,000,000.

“(d) EXPENDITURES FROM FUND.—

“(1) IN GENERAL.—Subject to paragraph (2), amounts in the CERTF are available to the Secretary of Health and Human Services for carrying out section 1822 of the Social Security Act.

“(2) ALLOCATION FOR COMMISSION.—The following amounts in the CERTF for a fiscal year shall be available to carry out the activities of the Comparative Effectiveness Research Commission established under section 1822(b) of the Social Security Act for such fiscal year:

“(A) For fiscal year 2008, \$7,000,000.

“(B) For fiscal year 2009, \$9,000,000.

“(C) For each fiscal year beginning with 2010, \$10,000,000.

Nothing in this paragraph shall be construed as preventing additional amounts in the CERTF from being made available to the Comparative Effectiveness Research Commission for such activities.

“(e) NET REVENUES.—For purposes of this section, the term ‘net revenues’ means the amount estimated by the Secretary based on the excess of—

“(1) the fees received in the Treasury under subchapter B of chapter 34, over

“(2) the decrease in the tax imposed by chapter 1 resulting from the fees imposed by such subchapter.”

(B) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

“Sec. 9511. Health Care Comparative Effectiveness Research Trust Fund.”

(2) FINANCING FOR FUND FROM FEES ON INSURED AND SELF-INSURED HEALTH PLANS.—

(A) GENERAL RULE.—Chapter 34 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

“Subchapter B—Insured and Self-Insured Health Plans

“Sec. 4375. Health insurance.

“Sec. 4376. Self-insured health plans.

“Sec. 4377. Definitions and special rules.

“SEC. 4375. HEALTH INSURANCE.

“(a) IMPOSITION OF FEE.—There is hereby imposed on each specified health insurance policy for each policy year a fee equal to the fair share per capita amount determined under section 9511(c)(1) multiplied by the average number of lives covered under the policy.

“(b) LIABILITY FOR FEE.—The fee imposed by subsection (a) shall be paid by the issuer of the policy.

“(c) SPECIFIED HEALTH INSURANCE POLICY.—For purposes of this section—

“(1) IN GENERAL.—Except as otherwise provided in this section, the term ‘specified health insurance policy’ means any accident or health insurance policy issued with respect to individuals residing in the United States.

“(2) EXEMPTION OF CERTAIN POLICIES.—The term ‘specified health insurance policy’ does not include any insurance policy if substantially all of the coverage provided under such policy relates to—

“(A) liabilities incurred under workers’ compensation laws,

“(B) tort liabilities,

“(C) liabilities relating to ownership or use of property,

“(D) credit insurance,

“(E) medicare supplemental coverage, or

“(F) such other similar liabilities as the Secretary may specify by regulations.

“(3) TREATMENT OF PREPAID HEALTH COVERAGE ARRANGEMENTS.—

“(A) IN GENERAL.—In the case of any arrangement described in subparagraph (B)—

“(i) such arrangement shall be treated as a specified health insurance policy, and

“(ii) the person referred to in such subparagraph shall be treated as the issuer.

“(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement is described in this subparagraph if under such arrangement fixed payments or premiums are received as consideration for any person’s agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided.

“SEC. 4376. SELF-INSURED HEALTH PLANS.

“(a) IMPOSITION OF FEE.—In the case of any applicable self-insured health plan for each plan year, there is hereby imposed a fee equal to the fair share per capita amount determined under section 9511(c)(1) multiplied by the average number of lives covered under the plan.

“(b) LIABILITY FOR FEE.—

“(1) IN GENERAL.—The fee imposed by subsection (a) shall be paid by the plan sponsor.

“(2) PLAN SPONSOR.—For purposes of paragraph (1) the term ‘plan sponsor’ means—

“(A) the employer in the case of a plan established or maintained by a single employer,

“(B) the employee organization in the case of a plan established or maintained by an employee organization,

“(C) in the case of—

“(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

“(ii) a multiple employer welfare arrangement, or

“(iii) a voluntary employees’ beneficiary association described in section 501(c)(9),

the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, or

“(D) the cooperative or association described in subsection (c)(2)(F) in the case of a plan established or maintained by such a cooperative or association.

“(c) APPLICABLE SELF-INSURED HEALTH PLAN.—For purposes of this section, the term ‘applicable self-insured health plan’ means any plan for providing accident or health coverage if—

“(1) any portion of such coverage is provided other than through an insurance policy, and

“(2) such plan is established or maintained—

“(A) by one or more employers for the benefit of their employees or former employees,

“(B) by one or more employee organizations for the benefit of their members or former members,

“(C) jointly by 1 or more employers and 1 or more employee organizations for the benefit of employees or former employees,

“(D) by a voluntary employees’ beneficiary association described in section 501(c)(9),

“(E) by any organization described in section 501(c)(6), or

“(F) in the case of a plan not described in the preceding subparagraphs, by a multiple employer welfare arrangement (as defined in section 3(40) of Employee Retirement Income Security Act of 1974), a rural electric cooperative (as defined in section 3(40)(B)(iv) of such Act), or a rural telephone cooperative association (as defined in section 3(40)(B)(v) of such Act).

#### “SEC. 4377. DEFINITIONS AND SPECIAL RULES.

“(a) DEFINITIONS.—For purposes of this subchapter—

“(1) ACCIDENT AND HEALTH COVERAGE.—The term ‘accident and health coverage’ means any coverage which, if provided by an insurance policy, would cause such policy to be a specified health insurance policy (as defined in section 4375(c)).

“(2) INSURANCE POLICY.—The term ‘insurance policy’ means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

“(3) UNITED STATES.—The term ‘United States’ includes any possession of the United States.

“(b) TREATMENT OF GOVERNMENTAL ENTITIES.—

“(1) IN GENERAL.—For purposes of this subchapter—

“(A) the term ‘person’ includes any governmental entity, and

“(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the fees imposed by this subchapter except as provided in paragraph (2).

“(2) TREATMENT OF EXEMPT GOVERNMENTAL PROGRAMS.—In the case of an exempt governmental program, no fee shall be imposed

under section 4375 or section 4376 on any covered life under such program.

“(3) EXEMPT GOVERNMENTAL PROGRAM DEFINED.—For purposes of this subchapter, the term ‘exempt governmental program’ means—

“(A) any insurance program established under title XVIII of the Social Security Act,

“(B) the medical assistance program established by title XIX or XXI of the Social Security Act,

“(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

“(i) members of the Armed Forces of the United States, or

“(ii) veterans, and

“(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

“(c) TREATMENT AS TAX.—For purposes of subtitle F, the fees imposed by this subchapter shall be treated as if they were taxes.

“(d) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.”

(B) CLERICAL AMENDMENT.—Chapter 34 of such Code is amended by striking the chapter heading and inserting the following:

#### “CHAPTER 34—TAXES ON CERTAIN INSURANCE POLICIES

“SUBCHAPTER A. POLICIES ISSUED BY FOREIGN INSURERS

“SUBCHAPTER B. INSURED AND SELF-INSURED HEALTH PLANS

#### “Subchapter A—Policies Issued By Foreign Insurers”.

(C) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to policies and plans for portions of policy or plan years beginning on or after October 1, 2010.

#### SEC. 905. IMPLEMENTATION OF HEALTH INFORMATION TECHNOLOGY (IT) UNDER MEDICARE.

(a) IN GENERAL.—Not later than January 1, 2010, the Secretary of Health and Human Services shall submit to Congress a report that includes—

(1) a plan to develop and implement a health information technology (health IT) system for all health care providers under the Medicare program that meets the specifications described in subsection (b); and

(2) an analysis of the impact, feasibility, and costs associated with the use of health information technology in medically underserved communities.

(b) PLAN SPECIFICATION.—The specifications described in this subsection, with respect to a health information technology system described in subsection (a), are the following:

(1) The system protects the privacy and security of individually identifiable health information.

(2) The system maintains and provides permitted access to health information in an electronic format (such as through computerized patient records or a clinical data repository).

(3) The system utilizes interface software that allows for interoperability.

(4) The system includes clinical decision support.

(5) The system incorporates e-prescribing and computerized physician order entry.

(6) The system incorporates patient tracking and reminders.

(7) The system utilizes technology that is open source (if available) or technology that has been developed by the government.

The report shall include an analysis of the financial and administrative resources necessary to develop such system and recommendations regarding the level of subsidies needed for all such health care providers to adopt the system.

#### SEC. 906. DEVELOPMENT, REPORTING, AND USE OF HEALTH CARE MEASURES.

(a) IN GENERAL.—Part E of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by inserting after section 1889 the following:

##### “DEVELOPMENT, REPORTING, AND USE OF HEALTH CARE MEASURES

“SEC. 1890. (a) FOSTERING DEVELOPMENT OF HEALTH CARE MEASURES.—The Secretary shall designate, and have in effect an arrangement with, a single organization (such as the National Quality Forum) that meets the requirements described in subsection (c), under which such organization provides the Secretary with advice on, and recommendations with respect to, the key elements and priorities of a national system for establishing health care measures. The arrangement shall be effective beginning no sooner than January 1, 2008, and no later than September 30, 2008.

“(b) DUTIES.—The duties of the organization designated under subsection (a) (in this title referred to as the ‘designated organization’) shall, in accordance with subsection (d), include—

“(1) establishing and managing an integrated national strategy and process for setting priorities and goals in establishing health care measures;

“(2) coordinating the development and specifications of such measures;

“(3) establishing standards for the development and testing of such measures;

“(4) endorsing national consensus health care measures; and

“(5) advancing the use of electronic health records for automating the collection, aggregation, and transmission of measurement information.

“(c) REQUIREMENTS DESCRIBED.—For purposes of subsection (a), the requirements described in this subsection, with respect to an organization, are the following:

“(1) PRIVATE NONPROFIT.—The organization is a private nonprofit entity governed by a board and an individual designated as president and chief executive officer.

“(2) BOARD MEMBERSHIP.—The members of the board of the organization include representatives of—

“(A) health care providers or groups representing such providers;

“(B) health plans or groups representing health plans;

“(C) groups representing health care consumers;

“(D) health care purchasers and employers or groups representing such purchasers or employers; and

“(E) health care practitioners or groups representing practitioners.

“(3) OTHER MEMBERSHIP REQUIREMENTS.—The membership of the organization is representative of individuals with experience with—

“(A) urban health care issues;

“(B) safety net health care issues;

“(C) rural and frontier health care issues; and

“(D) health care quality and safety issues.

“(4) OPEN AND TRANSPARENT.—With respect to matters related to the arrangement described in subsection (a), the organization conducts its business in an open and transparent manner and provides the opportunity for public comment.

“(5) VOLUNTARY CONSENSUS STANDARDS SETTING ORGANIZATION.—The organization operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113) and Office of Management and Budget Revised Circular A-119 (published in the Federal Register on February 10, 1998).

“(6) EXPERIENCE.—The organization has at least 7 years experience in establishing national consensus standards.

“(d) REQUIREMENTS FOR EFFECTIVENESS MEASURES.—In carrying out its duties under subsection (b), the designated organization shall ensure the following:

“(1) MEASURES.—The designated organization shall ensure that the measures established or endorsed under subsection (b) are evidence-based, reliable, and valid; and include—

“(A) measures of clinical processes and outcomes, patient experience, efficiency, and equity;

“(B) measures to assess effectiveness, timeliness, patient self-management, patient centeredness, and safety; and

“(C) measures of under use and over use.

“(2) PRIORITIES.—

“(A) IN GENERAL.—The designated organization shall ensure that priority is given to establishing and endorsing—

“(i) measures with the greatest potential impact for improving the effectiveness and efficiency of health care;

“(ii) measures that may be rapidly implemented by group health plans, health insurance issuers, physicians, hospitals, nursing homes, long-term care providers, and other providers;

“(iii) measures which may inform health care decisions made by consumers and patients; and

“(iv) measures that apply to multiple services furnished by different providers during an episode of care.

“(B) ANNUAL REPORT ON PRIORITIES; SECRETARIAL PUBLICATION AND COMMENT.—

“(i) ANNUAL REPORT.—The designated organization shall issue and submit to the Secretary a report by March 31 of each year (beginning with 2009) on the organization’s recommendations for priorities and goals in establishing and endorsing health care measures under this section over the next five years.

“(ii) SECRETARIAL REVIEW AND COMMENT.—After receipt of the report under clause (i) for a year, the Secretary shall publish the report in the Federal Register, including any comments of the Secretary on the priorities and goals set forth in the report.

“(3) RISK ADJUSTMENT.—The designated organization, in consultation with health care measure developers and other stakeholders, shall establish procedures to assure that health care measures established and endorsed under this section account for differences in patient health status, patient characteristics, and geographic location, as appropriate.

“(4) MAINTENANCE.—The designated organization, in consultation with owners and developers of health care measures, shall require the owners or developers of such measures to update and enhance such measures, including the development of more accurate and precise specifications, and retire existing outdated measures. Such updating shall occur not more often than once during each 12-month period, except in the case of emergent circumstances requiring a more immediate update to a measure.

“(e) USE OF HEALTH CARE MEASURES; REPORTING.—

“(1) USE OF MEASURES.—For purposes of activities authorized or required under this

title, the Secretary shall select from health care measures—

“(A) recommended by multi-stakeholder groups; and

“(B) endorsed by the designated organization under subsection (b)(4).

“(2) REPORTING.—The Secretary shall implement procedures, consistent with generally accepted standards, to enable the Department of Health and Human Services to accept the electronic submission of data for purposes of—

“(A) effectiveness measurement using the health care measures developed pursuant to this section; and

“(B) reporting to the Secretary measures used to make value-based payments under this title.

“(f) CONTRACTS.—The Secretary, acting through the Agency for Healthcare Research and Quality, may contract with organizations to support the development and testing of health care measures meeting the standards established by the designated organization.

“(g) DISSEMINATION OF INFORMATION.—In order to make comparative effectiveness information available to health care consumers, health professionals, public health officials, oversight organizations, researchers, and other appropriate individuals and entities, the Secretary shall work with multi-stakeholder groups to provide for the dissemination of effectiveness information developed pursuant to this title.

“(h) FUNDING.—For purposes of carrying out subsections (a), (b), (c), and (d), including for expenses incurred for the arrangement under subsection (a) with the designated organization, there is payable from the Federal Hospital Insurance Trust Fund (established under section 1817) and the Federal Supplementary Medical Insurance Trust Fund (established under section 1841)—

“(1) for fiscal year 2008, \$15,000,000, multiplied by the ratio of the total number of months in the year to the number of months (and portions of months) of such year during which the arrangement under subsection (a) is effective; and

“(2) for each of the fiscal years, 2009 through 2012, \$15,000,000.”

#### SEC. 907. IMPROVEMENTS TO THE MEDIGAP PROGRAM.

(a) IMPLEMENTATION OF NAIC RECOMMENDATIONS.—The Secretary of Health and Human Services shall provide, under subsections (p)(1)(E) of section 1882 of the Social Security Act (42 U.S.C. 1395s), for implementation of the changes in the NAIC model law and regulations recommended by the National Association of Insurance Commissioners in its Model #651 (“Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act”) on March 11, 2007, as modified to reflect the changes made under this Act. In carrying out the previous sentence, the benefit packages classified as “K” and “L” shall be eliminated and such NAIC recommendations shall be treated as having been adopted by such Association as of January 1, 2008.

(b) REQUIRED OFFERING OF A RANGE OF POLICIES.—

(1) IN GENERAL.—Subsection (o) of such section is amended by adding at the end the following new paragraph:

“(4) In addition to the requirement of paragraph (2), the issuer of the policy must make available to the individual at least medicare supplemental policies with benefit packages classified as ‘C’ or ‘F’.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to medicare supplemental policies issued on or after January 1, 2008.

(c) REMOVAL OF NEW BENEFIT PACKAGES.—Such section is further amended—

(1) in subsection (o)(1), by striking “(p), (v), and (w)” and inserting “(p) and (v)”;

(2) in subsection (v)(3)(A)(i), by striking “or a benefit package described in subparagraph (A) or (B) of subsection (w)(2)”;

(3) in subsection (w)—

(A) by striking “POLICIES” and all that follows through “The Secretary” and inserting “POLICIES.—The Secretary”;

(B) by striking the second sentence; and

(C) by striking paragraph (2).

#### TITLE X—REVENUES

##### SEC. 1001. INCREASE IN RATE OF EXCISE TAXES ON TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES.

(a) SMALL CIGARETTES.—Paragraph (1) of section 5701(b) of the Internal Revenue Code of 1986 is amended by striking “\$19.50 per thousand (\$17 per thousand on cigarettes removed during 2000 or 2001)” and inserting “\$42 per thousand”.

(b) LARGE CIGARETTES.—Paragraph (2) of section 5701(b) of such Code is amended by striking “\$40.95 per thousand (\$35.70 per thousand on cigarettes removed during 2000 or 2001)” and inserting “\$88.20 per thousand”.

(c) SMALL CIGARS.—Paragraph (1) of section 5701(a) of such Code is amended by striking “\$1.828 cents per thousand (\$1.594 cents per thousand on cigars removed during 2000 or 2001)” and inserting “\$42 per thousand”.

(d) LARGE CIGARS.—Paragraph (2) of section 5701(a) of such Code is amended—

(1) by striking “20.719 percent (18.063 percent on cigars removed during 2000 or 2001)” and inserting “44.63 percent”; and

(2) by striking “\$48.75 per thousand (\$42.50 per thousand on cigars removed during 2000 or 2001)” and inserting “\$1 per cigar”.

(e) CIGARETTE PAPERS.—Subsection (c) of section 5701 of such Code is amended by striking “1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)” and inserting “2.63 cents”.

(f) CIGARETTE TUBES.—Subsection (d) of section 5701 of such Code is amended by striking “2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)” and inserting “5.26 cents”.

(g) SNUFF.—Paragraph (1) of section 5701(e) of such Code is amended by striking “58.5 cents (51 cents on snuff removed during 2000 or 2001)” and inserting “\$1.26”.

(h) CHEWING TOBACCO.—Paragraph (2) of section 5701(e) of such Code is amended by striking “19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)” and inserting “42 cents”.

(i) PIPE TOBACCO.—Subsection (f) of section 5701 of such Code is amended by striking “\$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)” and inserting “\$2.36”.

(j) ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Subsection (g) of section 5701 of such Code is amended by striking “\$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001)” and inserting “\$7.4667”.

(2) INCLUSION OF CIGAR TOBACCO.—Subsection (o) of section 5702 of such Code is amended by inserting “or cigars, or for use as wrappers for making cigars” before the period at the end.

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed after December 31, 2007.

(l) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before January 1, 2008, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) **AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.**—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on January 1, 2008, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the \$500 amount in paragraph (3) with respect to such person.

(3) **CREDIT AGAINST TAX.**—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to \$500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) **LIABILITY FOR TAX AND METHOD OF PAYMENT.**—

(A) **LIABILITY FOR TAX.**—A person holding cigarettes on January 1, 2008, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) **METHOD OF PAYMENT.**—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) **TIME FOR PAYMENT.**—The tax imposed by paragraph (1) shall be paid on or before April 14, 2008.

(5) **ARTICLES IN FOREIGN TRADE ZONES.**—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on January 1, 2008, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) **DEFINITIONS.**—For purposes of this subsection—

(A) **IN GENERAL.**—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(B) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

(7) **CONTROLLED GROUPS.**—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) **OTHER LAWS APPLICABLE.**—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

**SEC. 1002. EXEMPTION FOR EMERGENCY MEDICAL SERVICES TRANSPORTATION.**

(a) **IN GENERAL.**—Subsection (l) of section 4041 of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) **EXEMPTION FOR CERTAIN USES.**—

“(1) **CERTAIN AIRCRAFT.**—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter or a fixed-wing aircraft for purposes of providing transportation with respect to which the requirements of subsection (f) or (g) of section 4261 are met.

“(2) **EMERGENCY MEDICAL SERVICES.**—No tax shall be imposed under this section on any liquid sold for use in, or used in, any ambu-

lance for purposes of providing transportation for emergency medical services. The preceding sentence shall not apply to any liquid used after December 31, 2009.”.

(b) **FUELS NOT USED FOR TAXABLE PURPOSES.**—Section 6427 of such Code is amended by inserting after subsection (e) the following new subsection:

“(f) **USE TO PROVIDE EMERGENCY MEDICAL SERVICES.**—Except as provided in subsection (k), if any fuel on which tax was imposed by section 4081 or 4041 is used in an ambulance for a purpose described in section 4041(1)(2), the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of the tax imposed on such fuel. The preceding sentence shall not apply to any liquid used after December 31, 2009.”.

(c) **TIME FOR FILING CLAIMS; PERIOD COVERED.**—Paragraphs (1) and (2)(A) of section 6427(i) of such Code are each amended by inserting “(f),” after “(d),”.

(d) **CONFORMING AMENDMENT.**—Section 6427(d) of such Code is amended by striking “4041(1)” and inserting “4041(1)”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fuel used in transportation provided in quarters beginning after the date of the enactment of this Act.

The **SPEAKER** pro tempore (Mr. TIERNEY). Pursuant to House Resolution 594, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in House Report 110-285, is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Children’s Health and Medicare Protection Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—CHILDREN’S HEALTH INSURANCE PROGRAM**

Sec. 100. Purpose.

*Subtitle A—Funding*

Sec. 101. Establishment of new base CHIP allotments.

Sec. 102. 2-year initial availability of CHIP allotments.

Sec. 103. Redistribution of unused allotments to address State funding shortfalls.

Sec. 104. Extension of option for qualifying States.

*Subtitle B—Improving Enrollment and Retention of Eligible Children*

Sec. 111. CHIP performance bonus payment to offset additional enrollment costs resulting from enrollment and retention efforts.

Sec. 112. State option to rely on findings from an express lane agency to conduct simplified eligibility determinations.

Sec. 113. Application of medicaid outreach procedures to all children and pregnant women.

Sec. 114. Encouraging culturally appropriate enrollment and retention practices.

Sec. 115. Continuous coverage under CHIP.

*Subtitle C—Coverage*

Sec. 121. Ensuring child-centered coverage.

Sec. 122. Improving benchmark coverage options.

Sec. 123. Premium grace period.

*Subtitle D—Populations*

Sec. 131. Optional coverage of children up to age 21 under CHIP.

Sec. 132. Optional coverage of legal immigrants under the Medicaid program and CHIP.

Sec. 133. State option to expand or add coverage of certain pregnant women under CHIP.

Sec. 134. Limitation on waiver authority to cover adults.

Sec. 135. No Federal funding for illegal aliens.

Sec. 136. Awaiting requirement to enforce citizenship restrictions on eligibility for Medicaid and CHIP benefits.

*Subtitle E—Access*

Sec. 141. Children’s Access, Payment, and Equality Commission.

Sec. 142. Model of Interstate coordinated enrollment and coverage process.

Sec. 143. Medicaid citizenship documentation requirements.

Sec. 144. Access to dental care for children.

Sec. 145. Prohibiting initiation of new health opportunity account demonstration programs.

*Subtitle F—Quality and Program Integrity*

Sec. 151. Pediatric health quality measurement program.

Sec. 152. Application of certain managed care quality safeguards to CHIP.

Sec. 153. Updated Federal evaluation of CHIP.

Sec. 154. Access to records for IG and GAO audits and evaluations.

Sec. 155. References to title XXI.

Sec. 156. Reliance on law; exception for State legislation.

**TITLE II—MEDICARE BENEFICIARY IMPROVEMENTS**

*Subtitle A—Improvements in Benefits*

Sec. 201. Coverage and waiver of cost-sharing for preventive services.

Sec. 202. Waiver of deductible for colorectal cancer screening tests regardless of coding, subsequent diagnosis, or ancillary tissue removal.

Sec. 203. Parity for mental health coinsurance.

*Subtitle B—Improving, Clarifying, and Simplifying Financial Assistance for Low Income Medicare Beneficiaries*

Sec. 211. Improving assets tests for Medicare Savings Program and low-income subsidy program.

Sec. 212. Making QI program permanent and expanding eligibility.

Sec. 213. Eliminating barriers to enrollment.

Sec. 214. Eliminating application of estate recovery.

Sec. 215. Elimination of part D cost-sharing for certain non-institutionalized full-benefit dual eligible individuals.

Sec. 216. Exemptions from income and resources for determination of eligibility for low-income subsidy.

Sec. 217. Cost-sharing protections for low-income subsidy-eligible individuals.

Sec. 218. Intelligent assignment in enrollment.

*Subtitle C—Part D Beneficiary Improvements*

Sec. 221. Including costs incurred by AIDS drug assistance programs and Indian Health Service in providing prescription drugs toward the annual out of pocket threshold under Part D.

Sec. 222. Permitting mid-year changes in enrollment for formulary changes adversely impact an enrollee.

Sec. 223. Removal of exclusion of benzodiazepines from required coverage under the Medicare prescription drug program.

Sec. 224. Permitting updating drug compendia under part D using part B update process.

Sec. 225. Codification of special protections for six protected drug classifications.

- Sec. 226. Elimination of Medicare part D late enrollment penalties paid by low-income subsidy-eligible individuals.
- Sec. 227. Special enrollment period for subsidy eligible individuals.
- Subtitle D—Reducing Health Disparities
- Sec. 231. Medicare data on race, ethnicity, and primary language.
- Sec. 232. Ensuring effective communication in Medicare.
- Sec. 233. Demonstration to promote access for Medicare beneficiaries with limited English proficiency by providing reimbursement for culturally and linguistically appropriate services.
- Sec. 234. Demonstration to improve care to previously uninsured.
- Sec. 235. Office of the Inspector General report on compliance with and enforcement of national standards on culturally and linguistically appropriate services (CLAS) in Medicare.
- Sec. 236. IOM report on impact of language access services.
- Sec. 237. Definitions.
- TITLE III—PHYSICIANS' SERVICE PAYMENT REFORM
- Sec. 301. Establishment of separate target growth rates for service categories.
- Sec. 302. Improving accuracy of relative values under the Medicare physician fee schedule.
- Sec. 303. Feedback mechanism on practice patterns.
- Sec. 304. Payments for efficient areas.
- Sec. 305. Recommendations on refining the physician fee schedule.
- Sec. 306. Improved and expanded medical home demonstration project.
- Sec. 307. Repeal of Physician Assistance and Quality Initiative Fund.
- Sec. 308. Adjustment to Medicare payment localities.
- Sec. 309. Payment for imaging services.
- Sec. 310. Reducing frequency of meetings of the Practicing Physicians Advisory Council.
- TITLE IV—MEDICARE ADVANTAGE REFORMS
- Subtitle A—Payment Reform
- Sec. 401. Equalizing payments between Medicare Advantage plans and fee-for-service Medicare.
- Subtitle B—Beneficiary Protections
- Sec. 411. NAIC development of marketing, advertising, and related protections.
- Sec. 412. Limitation on out-of-pocket costs for individual health services.
- Sec. 413. MA plan enrollment modifications.
- Sec. 414. Information for beneficiaries on MA plan administrative costs.
- Subtitle C—Quality and Other Provisions
- Sec. 421. Requiring all MA plans to meet equal standards.
- Sec. 422. Development of new quality reporting measures on racial disparities.
- Sec. 423. Strengthening audit authority.
- Sec. 424. Improving risk adjustment for MA payments.
- Sec. 425. Eliminating special treatment of private fee-for-service plans.
- Sec. 426. Renaming of Medicare Advantage program.
- Subtitle D—Extension of Authorities
- Sec. 431. Extension and revision of authority for special needs plans (SNPs).
- Sec. 432. Extension and revision of authority for Medicare reasonable cost contracts.
- TITLE V—PROVISIONS RELATING TO MEDICARE PART A
- Sec. 501. Inpatient hospital payment updates.
- Sec. 502. Payment for inpatient rehabilitation facility (IRF) services.
- Sec. 503. Long-term care hospitals.
- Sec. 504. Increasing the DSH adjustment cap.
- Sec. 505. PPS-exempt cancer hospitals.
- Sec. 506. Skilled nursing facility payment update.
- Sec. 507. Revocation of unique deeming authority of the Joint Commission for the Accreditation of Healthcare Organizations.
- Sec. 508. Treatment of Medicare hospital reclassifications.
- Sec. 509. Medicare critical access hospital designations.
- TITLE VI—OTHER PROVISIONS RELATING TO MEDICARE PART B
- Subtitle A—Payment and Coverage Improvements
- Sec. 601. Payment for therapy services.
- Sec. 602. Medicare separate definition of outpatient speech-language pathology services.
- Sec. 603. Increased reimbursement rate for certified nurse-midwives.
- Sec. 604. Adjustment in outpatient hospital fee schedule increase factor.
- Sec. 605. Exception to 60-day limit on Medicare substitute billing arrangements in case of physicians ordered to active duty in the Armed Forces.
- Sec. 606. Excluding clinical social worker services from coverage under the Medicare skilled nursing facility prospective payment system and consolidated payment.
- Sec. 607. Coverage of marriage and family therapist services and mental health counselor services.
- Sec. 608. Rental and purchase of power-driven wheelchairs.
- Sec. 609. Rental and purchase of oxygen equipment.
- Sec. 610. Adjustment for Medicare mental health services.
- Sec. 611. Extension of brachytherapy special rule.
- Sec. 612. Payment for part B drugs.
- Subtitle B—Extension of Medicare Rural Access Protections
- Sec. 621. 2-year extension of floor on Medicare work geographic adjustment.
- Sec. 622. 2-year extension of special treatment of certain physician pathology services under Medicare.
- Sec. 623. 2-year extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
- Sec. 624. 2-year extension of Medicare incentive payment program for physician scarcity areas.
- Sec. 625. 2-year extension of Medicare increase payments for ground ambulance services in rural areas.
- Sec. 626. Extending hold harmless for small rural hospitals under the HOPD prospective payment system.
- Subtitle C—End Stage Renal Disease Program
- Sec. 631. Chronic kidney disease demonstration projects.
- Sec. 632. Medicare coverage of kidney disease patient education services.
- Sec. 633. Required training for patient care dialysis technicians.
- Sec. 634. MedPAC report on treatment modalities for patients with kidney failure.
- Sec. 635. Adjustment for erythropoietin stimulating agents (ESAs).
- Sec. 636. Site neutral composite rate.
- Sec. 637. Development of ESRD bundling system and quality incentive payments.
- Sec. 638. MedPAC report on ESRD bundling system.
- Sec. 639. OIG study and report on erythropoietin.
- Subtitle D—Miscellaneous
- Sec. 651. Limitation on exception to the prohibition on certain physician referrals for hospitals.
- TITLE VII—PROVISIONS RELATING TO MEDICARE PARTS A AND B
- Sec. 701. Home health payment update for 2008.
- Sec. 702. 2-year extension of temporary Medicare payment increase for home health services furnished in a rural area.
- Sec. 703. Extension of Medicare secondary payer for beneficiaries with end stage renal disease for large group plans.
- Sec. 704. Plan for Medicare payment adjustments for never events.
- Sec. 705. Reinstatement of residency slots.
- Sec. 706. Studies relating to home health.
- Sec. 707. Rural home health quality demonstration products.
- TITLE VIII—MEDICAID
- Subtitle A—Protecting Existing Coverage
- Sec. 801. Modernizing transitional Medicaid.
- Sec. 802. Family planning services.
- Sec. 803. Authority to continue providing adult day health services approved under a State Medicaid plan.
- Sec. 804. State option to protect community spouses of individuals with disabilities.
- Sec. 805. County Medicaid health insuring organizations.
- Subtitle B—Payments
- Sec. 811. Payments for Puerto Rico and territories.
- Sec. 812. Medicaid drug rebate.
- Sec. 813. Adjustment in computation of Medicaid FMAP to disregard an extraordinary employer pension contribution.
- Sec. 814. Moratorium on certain payment restrictions.
- Sec. 815. Tennessee DSH.
- Sec. 816. Clarification treatment of regional medical center.
- Sec. 817. Extension of SSI web-based asset demonstration project to the Medicaid program.
- Subtitle C—Miscellaneous
- Sec. 821. Demonstration project for employer buy-in.
- Sec. 822. Diabetes grants.
- Sec. 823. Technical correction.
- TITLE IX—MISCELLANEOUS
- Sec. 901. Medicare Payment Advisory Commission status.
- Sec. 902. Repeal of trigger provision.
- Sec. 903. Repeal of comparative cost adjustment (CCA) program.
- Sec. 904. Comparative effectiveness research.
- Sec. 905. Implementation of health information technology (IT) under Medicare.
- Sec. 906. Development, reporting, and use of health care measures.
- Sec. 907. Improvements to the Medigap program.
- Sec. 908. Implementation funding.
- Sec. 909. Access to data on prescription drug plans and Medicare advantage plans.
- Sec. 910. Abstinence education.
- TITLE X—REVENUES
- Sec. 1001. Increase in rate of excise taxes on tobacco products and cigarette papers and tubes.
- Sec. 1002. Exemption for emergency medical services transportation.
- TITLE I—CHILDREN'S HEALTH INSURANCE PROGRAM
- SEC. 100. PURPOSE.
- It is the purpose of this title to provide dependable and stable funding for children's

health insurance under titles XXI and XIX of the Social Security Act in order to enroll all six million uninsured children who are eligible, but not enrolled, for coverage today through such titles.

#### Subtitle A—Funding

##### SEC. 101. ESTABLISHMENT OF NEW BASE CHIP ALLOTMENTS.

Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(1) in subsection (a)—  
(A) in paragraph (9), by striking “and” at the end;

(B) in paragraph (10), by striking the period at the end and inserting “; and”; and

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

“(11) for fiscal year 2008 and each succeeding fiscal year, the sum of the State allotments provided under subsection (i) for such fiscal year.”; and

(2) in subsections (b)(1) and (c)(1), by striking “subsection (d)” and inserting “subsections (d) and (i)”; and

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

“(i) ALLOTMENTS FOR STATES AND TERRITORIES BEGINNING WITH FISCAL YEAR 2008.—

“(1) GENERAL ALLOTMENT COMPUTATION.—Subject to the succeeding provisions of this subsection, the Secretary shall compute a State allotment for each State for each fiscal year as follows:

“(A) FOR FISCAL YEAR 2008.—For fiscal year 2008, the allotment of a State is equal to the greater of—

“(i) the State projection (in its submission on forms CMS-21B and CMS-37 for May 2007) of Federal payments to the State under this title for such fiscal year, except that, in the case of a State that has enacted legislation to modify its State child health plan during 2007, the State may substitute its projection in its submission on forms CMS-21B and CMS-37 for August 2007, instead of such forms for May 2007; or

“(ii) the allotment of the State under this section for fiscal year 2007 multiplied by the allotment increase factor under paragraph (2) for fiscal year 2008.

“(B) INFLATION UPDATE FOR FISCAL YEAR 2009 AND EACH SECOND SUCCEEDING FISCAL YEAR.—For fiscal year 2009 and each second succeeding fiscal year, the allotment of a State is equal to the amount of the State allotment under this paragraph for the previous fiscal year multiplied by the allotment increase factor under paragraph (2) for the fiscal year involved.

“(C) REBASING IN FISCAL YEAR 2010 AND EACH SECOND SUCCEEDING FISCAL YEAR.—For fiscal year 2010 and each second succeeding fiscal year, the allotment of a State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State (including allotments made available under paragraph (3) as well as amounts redistributed to the State) in the previous fiscal year multiplied by the allotment increase factor under paragraph (2) for the fiscal year involved.

“(D) SPECIAL RULES FOR TERRITORIES.—Notwithstanding the previous subparagraphs, the allotment for a State that is not one of the 50 States or the District of Columbia for fiscal year 2008 and for a succeeding fiscal year is equal to the Federal payments provided to the State under this title for the previous fiscal year multiplied by the allotment increase factor under paragraph (2) for the fiscal year involved (but determined by applying under paragraph (2)(B) as if the reference to ‘in the State’ were a reference to ‘in the United States’).

“(2) ALLOTMENT INCREASE FACTOR.—The allotment increase factor under this paragraph for a fiscal year is equal to the product of the following:

“(A) PER CAPITA HEALTH CARE GROWTH FACTOR.—1 plus the percentage increase in the pro-

jected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary before the beginning of the fiscal year.

“(B) CHILD POPULATION GROWTH FACTOR.—1 plus the percentage increase (if any) in the population of children under 19 years of age in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by the Secretary based on the most recent published estimates of the Bureau of the Census before the beginning of the fiscal year involved, plus 1 percentage point.

“(3) PERFORMANCE-BASED SHORTFALL ADJUSTMENT.—

“(A) IN GENERAL.—If a State’s expenditures under this title in a fiscal year (beginning with fiscal year 2008) exceed the total amount of allotments available under this section to the State in the fiscal year (determined without regard to any redistribution it receives under subsection (f) that is available for expenditure during such fiscal year, but including any carry-over from a previous fiscal year) and if the average monthly unduplicated number of children enrolled under the State plan under this title (including children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during such fiscal year exceeds its target average number of such enrollees (as determined under subparagraph (B)) for that fiscal year, the allotment under this section for the State for the subsequent fiscal year (or, pursuant to subparagraph (F), for the fiscal year involved) shall be increased by the product of—

“(i) the amount by which such average monthly caseload exceeds such target number of enrollees; and

“(ii) the projected per capita expenditures under the State child health plan (as determined under subparagraph (C) for the original fiscal year involved), multiplied by the enhanced FMAP (as defined in section 2105(b)) for the State and fiscal year involved.

“(B) TARGET AVERAGE NUMBER OF CHILD ENROLLEES.—In this subsection, the target average number of child enrollees for a State—

“(i) for fiscal year 2008 is equal to the monthly average unduplicated number of children enrolled in the State child health plan under this title (including such children receiving health care coverage through funds under this title pursuant to a waiver under section 1115) during fiscal year 2007 increased by the population growth for children in that State for the year ending on June 30, 2006 (as estimated by the Bureau of the Census) plus 1 percentage point; or

“(ii) for a subsequent fiscal year is equal to the target average number of child enrollees for the State for the previous fiscal year increased by the population growth for children in that State for the year ending on June 30 before the beginning of the fiscal year (as estimated by the Bureau of the Census) plus 1 percentage point.

“(C) PROJECTED PER CAPITA EXPENDITURES.—For purposes of subparagraph (A)(ii), the projected per capita expenditures under a State child health plan—

“(i) for fiscal year 2008 is equal to the average per capita expenditures (including both State and Federal financial participation) under such plan for the targeted low-income children counted in the average monthly caseload for purposes of this paragraph during fiscal year 2007, increased by the annual percentage increase in the per capita amount of National Health Expenditures (as estimated by the Secretary) for 2008; or

“(ii) for a subsequent fiscal year is equal to the projected per capita expenditures under such plan for the previous fiscal year (as determined under clause (i) or this clause) increased by the annual percentage increase in the per capita amount of National Health Expenditures (as estimated by the Secretary) for the year in which such subsequent fiscal year ends.

“(D) AVAILABILITY.—Notwithstanding subsection (e), an increase in allotment under this paragraph shall only be available for expenditure during the fiscal year in which it is provided.

“(E) NO REDISTRIBUTION OF PERFORMANCE-BASED SHORTFALL ADJUSTMENT.—In no case shall any increase in allotment under this paragraph for a State be subject to redistribution to other States.

“(F) INTERIM ALLOTMENT ADJUSTMENT.—The Secretary shall develop a process to administer the performance-based shortfall adjustment in a manner so it is applied to (and before the end of) the fiscal year (rather than the subsequent fiscal year) involved for a State that the Secretary estimates will be in shortfall and will exceed its enrollment target for that fiscal year.

“(G) PERIODIC AUDITING.—The Comptroller General of the United States shall periodically audit the accuracy of data used in the computation of allotment adjustments under this paragraph. Based on such audits, the Comptroller General shall make such recommendations to the Congress and the Secretary as the Comptroller General deems appropriate.

“(4) CONTINUED REPORTING.—For purposes of paragraph (3) and subsection (f), the State shall submit to the Secretary the State’s projected Federal expenditures, even if the amount of such expenditures exceeds the total amount of allotments available to the State in such fiscal year.”.

##### SEC. 102. 2-YEAR INITIAL AVAILABILITY OF CHIP ALLOTMENTS.

Section 2104(e) of the Social Security Act (42 U.S.C. 1397dd(e)) is amended to read as follows:

“(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (i)(3)(D), amounts allotted to a State pursuant to this section—

“(A) for each of fiscal years 1998 through 2007, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

“(B) for fiscal year 2008 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

“(2) AVAILABILITY OF AMOUNTS REDISTRIBUTED.—Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed, except that funds so redistributed to a State that are not expended by the end of such fiscal year shall remain available after the end of such fiscal year and shall be available in the following fiscal year for subsequent redistribution under such subsection.”.

##### SEC. 103. REDISTRIBUTION OF UNUSED ALLOTMENTS TO ADDRESS STATE FUNDING SHORTFALLS.

Section 2104(f) of the Social Security Act (42 U.S.C. 1397dd(f)) is amended—

(1) by striking “The Secretary” and inserting the following:

“(1) IN GENERAL.—The Secretary”;

(2) by striking “States that have fully expended the amount of their allotments under this section.” and inserting “States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal year, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C)). The amount of allotments not expended or redistributed under the previous sentence shall remain available for redistribution in the succeeding fiscal year.”; and

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

“(2) SHORTFALL STATES DESCRIBED.—

“(A) IN GENERAL.—For purposes of paragraph (1), with respect to a fiscal year, a shortfall State described in this subparagraph 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, that the projected expenditures under such plan for the State for the fiscal year will exceed the sum of—

“(i) the amount of the State’s allotments for any preceding fiscal years that remains available for expenditure and that will not be expended by the end of the immediately preceding fiscal year;

“(ii) the amount (if any) of the performance based adjustment under subsection (i)(3)(A); and

“(iii) the amount of the State’s allotment for the fiscal year.

“(B) PRORATION RULE.—If the amounts available for redistribution under paragraph (1) for a fiscal year are less than the total amounts of the estimated shortfalls determined for the year under subparagraph (A), the amount to be redistributed under such paragraph for each shortfall State shall be reduced proportionally.

“(C) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the estimates and determinations made under paragraph (1) and this paragraph with respect to a fiscal year as necessary on the basis of the amounts reported by States not later than November 30 of the succeeding fiscal year, as approved by the Secretary.”.

#### SEC. 104. EXTENSION OF OPTION FOR QUALIFYING STATES.

Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by inserting after “or 2007” the following: “or 100 percent of any allotment under section 2104 for any subsequent fiscal year”.

#### Subtitle B—Improving Enrollment and Retention of Eligible Children

#### SEC. 111. CHIP PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.

(a) IN GENERAL.—Section 2105(a) of the Social Security Act (42 U.S.C. 1397ee(a)) is amended by adding at the end the following new paragraphs:

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the effectiveness of the performance bonus payment program under the amendment made by subsection (a) on the enrollment and retention of eligible children under the Medicaid and CHIP programs and in reducing the rate of uninsurance among such children.

(2) REPORT.—Not later than January 1, 2013, the Comptroller General shall submit a report to Congress on such study and shall include in such report such recommendations for extending or modifying such program as the Comptroller General determines appropriate.

“(3) PERFORMANCE BONUS PAYMENT TO OFFSET ADDITIONAL MEDICAID AND CHIP CHILD ENROLLMENT COSTS RESULTING FROM ENROLLMENT AND RETENTION EFFORTS.—

“(A) IN GENERAL.—In addition to the payments made under paragraph (1), for each fiscal year (beginning with fiscal year 2008 and ending with fiscal year 2013) the Secretary shall pay to each State that meets the condition under paragraph (4) for the fiscal year, an amount equal to the amount described in subparagraph (B) for the State and fiscal year. The payment under this paragraph shall be made, to a State for a fiscal year, as a single payment not later than the last day of the first calendar quarter of the following fiscal year.

“(B) AMOUNT.—The amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

“(i) FOR ABOVE BASELINE MEDICAID CHILD ENROLLMENT COSTS.—

“(I) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as deter-

mined under subparagraph (C)(i)) under title XIX for the State and fiscal year multiplied by 35 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)(i)) for the State and fiscal year under title XIX.

“(II) SECOND TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees (as determined under subparagraph (C)(ii)) under title XIX for the State and fiscal year multiplied by 90 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)(i)) for the State and fiscal year under title XIX.

“(ii) FOR ABOVE BASELINE CHIP ENROLLMENT COSTS.—

“(I) FIRST TIER ABOVE BASELINE CHIP ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees under this title (as determined under subparagraph (C)(i)) for the State and fiscal year multiplied by 5 percent of the projected per capita State CHIP expenditures (as determined under subparagraph (D)(ii)) for the State and fiscal year under this title.

“(II) SECOND TIER ABOVE BASELINE CHIP ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees under this title (as determined under subparagraph (C)(ii)) for the State and fiscal year multiplied by 75 percent of the projected per capita State CHIP expenditures (as determined under subparagraph (D)(ii)) for the State and fiscal year under this title.

“(C) NUMBER OF FIRST AND SECOND TIER ABOVE BASELINE CHILD ENROLLEES; BASELINE NUMBER OF CHILD ENROLLEES.—For purposes of this paragraph:

“(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under this title or title XIX is equal to the number (if any, as determined by the Secretary) by which—

“(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (E)) enrolled during the fiscal year under the State child health plan under this title or under the State plan under title XIX, respectively; exceeds

“(II) the baseline number of enrollees described in clause (iii) for the State and fiscal year under this title or title XIX, respectively; but not to exceed 3 percent (in the case of title XIX) or 7.5 percent (in the case of this title) of the baseline number of enrollees described in subclause (II).

“(ii) SECOND TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under this title or title XIX is equal to the number (if any, as determined by the Secretary) by which—

“(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (E)) enrolled during the fiscal year under this title or under title XIX, respectively, as described in clause (i)(I); exceeds

“(II) the sum of the baseline number of child enrollees described in clause (iii) for the State and fiscal year under this title or title XIX, respectively, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under this title or title XIX, respectively, as determined under clause (i).

“(iii) BASELINE NUMBER OF CHILD ENROLLEES.—The baseline number of child enrollees for a State under this title or title XIX—

“(I) for fiscal year 2008 is equal to the monthly average unduplicated number of qualifying children enrolled in the State child health plan under this title or in the State plan under title XIX, respectively, during fiscal year 2007 increased by the population growth for children in that State for the year ending on June 30, 2006 (as estimated by the Bureau of the Census) plus 1 percentage point; or

“(II) for a subsequent fiscal year is equal to the baseline number of child enrollees for the State for the previous fiscal year under this title or title XIX, respectively, increased by the population growth for children in that State for the year ending on June 30 before the beginning of the fiscal year (as estimated by the Bureau of the Census) plus 1 percentage point.

“(D) PROJECTED PER CAPITA STATE EXPENDITURES.—For purposes of subparagraph (B)—

“(i) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—The projected per capita State Medicaid expenditures for a State and fiscal year under title XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such title, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b)) for the fiscal year involved.

“(ii) PROJECTED PER CAPITA STATE CHIP EXPENDITURES.—The projected per capita State CHIP expenditures for a State and fiscal year under this title is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State child health plan under this title, including under waivers, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the enhanced FMAP (as defined in section 2105(b)) for the fiscal year involved.

“(E) QUALIFYING CHILDREN DEFINED.—For purposes of this subsection, the term ‘qualifying children’ means, with respect to this title or title XIX, children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2007, for enrollment under this title or title XIX, respectively, taking into account criteria applied as of such date under this title or title XIX, respectively, pursuant to a waiver under section 1115.

“(4) ENROLLMENT AND RETENTION PROVISIONS FOR CHILDREN.—For purposes of paragraph (3)(A), a State meets the condition of this paragraph for a fiscal year if it is implementing at least 4 of the following enrollment and retention provisions (treating each subparagraph as a separate enrollment and retention provision) throughout the entire fiscal year:

“(A) CONTINUOUS ELIGIBILITY.—The State has elected the option of continuous eligibility for a full 12 months for all children described in section 1902(e)(12) under title XIX under 19 years of age, as well as applying such policy under its State child health plan under this title.

“(B) LIBERALIZATION OF ASSET REQUIREMENTS.—The State meets the requirement specified in either of the following clauses:

“(i) ELIMINATION OF ASSET TEST.—The State does not apply any asset or resource test for eligibility for children under title XIX or this title.

“(ii) ADMINISTRATIVE VERIFICATION OF ASSETS.—The State—

“(I) permits a parent or caretaker relative who is applying on behalf of a child for medical assistance under title XIX or child health assistance under this title to declare and certify by

signature under penalty of perjury information relating to family assets for purposes of determining and redetermining financial eligibility; and

“(II) takes steps to verify assets through means other than by requiring documentation from parents and applicants except in individual cases of discrepancies or where otherwise justified.

“(C) **ELIMINATION OF IN-PERSON INTERVIEW REQUIREMENT.**—The State does not require an application of a child for medical assistance under title XIX (or for child health assistance under this title), including an application for renewal of such assistance, to be made in person nor does the State require a face-to-face interview, unless there are discrepancies or individual circumstances justifying an in-person application or face-to-face interview.

“(D) **USE OF JOINT APPLICATION FOR MEDICAID AND CHIP.**—The application form and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children for medical assistance under title XIX and child health assistance under this title.

“(E) **AUTOMATIC RENEWAL (USE OF ADMINISTRATIVE RENEWAL).**—

“(i) **IN GENERAL.**—The State provides, in the case of renewal of a child’s eligibility for medical assistance under title XIX or child health assistance under this title, a pre-printed form completed by the State based on the information available to the State and notice to the parent or caretaker relative of the child that eligibility of the child will be renewed and continued based on such information unless the State is provided other information. Nothing in this clause shall be construed as preventing a State from verifying, through electronic and other means, the information so provided.

“(ii) **SATISFACTION THROUGH DEMONSTRATED USE OF EX PARTE PROCESS.**—A State shall be treated as satisfying the requirement of clause (i) if renewal of eligibility of children under title XIX or this title is determined without any requirement for an in-person interview, unless sufficient information is not in the State’s possession and cannot be acquired from other sources (including other State agencies) without the participation of the applicant or the applicant’s parent or caretaker relative.

“(F) **PRESUMPTIVE ELIGIBILITY FOR CHILDREN.**—The State is implementing section 1920A under title XIX as well as, pursuant to section 2107(e)(1), under this title.

“(G) **EXPRESS LANE.**—The State is implementing the option described in section 1902(e)(13) under title XIX as well as, pursuant to section 2107(e)(1), under this title.”

**SEC. 112. STATE OPTION TO RELY ON FINDINGS FROM AN EXPRESS LANE AGENCY TO CONDUCT SIMPLIFIED ELIGIBILITY DETERMINATIONS.**

(a) **MEDICAID.**—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

“(13) **EXPRESS LANE OPTION.**—

“(A) **IN GENERAL.**—

“(i) **OPTION TO USE A FINDING FROM AN EXPRESS LANE AGENCY.**—At the option of the State, the State plan may provide that in determining eligibility under this title for a child (as defined in subparagraph (F)), the State may rely on a finding made within a reasonable period (as determined by the State) from an Express Lane agency (as defined in subparagraph (E)) when it determines whether a child satisfies one or more components of eligibility for medical assistance under this title. The State may rely on a finding from an Express Lane agency notwithstanding sections 1902(a)(46)(B), 1903(x), and 1137(d) and any differences in budget unit, disregard, deeming or other methodology, if the following requirements are met:

“(I) **PROHIBITION ON DETERMINING CHILDREN INELIGIBLE FOR COVERAGE.**—If a finding from an Express Lane agency would result in a deter-

mination that a child does not satisfy an eligibility requirement for medical assistance under this title and for child health assistance under title XXI, the State shall determine eligibility for assistance using its regular procedures.

“(II) **NOTICE REQUIREMENT.**—For any child who is found eligible for medical assistance under the State plan under this title or child health assistance under title XXI and who is subject to premiums based on an Express Lane agency’s finding of such child’s income level, the State shall provide notice that the child may qualify for lower premium payments if evaluated by the State using its regular policies and of the procedures for requesting such an evaluation.

“(III) **COMPLIANCE WITH SCREEN AND ENROLL REQUIREMENT.**—The State shall satisfy the requirements under (A) and (B) of section 2102(b)(3) (relating to screen and enroll) before enrolling a child in child health assistance under title XXI. At its option, the State may fulfill such requirements in accordance with either option provided under subparagraph (C) of this paragraph.

“(ii) **OPTION TO APPLY TO RENEWALS AND REDETERMINATIONS.**—The State may apply the provisions of this paragraph when conducting initial determinations of eligibility, redeterminations of eligibility, or both, as described in the State plan.

“(B) **RULES OF CONSTRUCTION.**—Nothing in this paragraph shall be construed—

“(i) to limit or prohibit a State from taking any actions otherwise permitted under this title or title XXI in determining eligibility for or enrolling children into medical assistance under this title or child health assistance under title XXI; or

“(ii) to modify the limitations in section 1902(a)(5) concerning the agencies that may make a determination of eligibility for medical assistance under this title.

“(C) **OPTIONS FOR SATISFYING THE SCREEN AND ENROLL REQUIREMENT.**—

“(i) **IN GENERAL.**—With respect to a child whose eligibility for medical assistance under this title or for child health assistance under title XXI has been evaluated by a State agency using an income finding from an Express Lane agency, a State may carry out its duties under subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll) in accordance with either clause (ii) or clause (iii).

“(ii) **ESTABLISHING A SCREENING THRESHOLD.**—

“(I) **IN GENERAL.**—Under this clause, the State establishes a screening threshold set as a percentage of the Federal poverty level that exceeds the highest income threshold applicable under this title to the child by a minimum of 30 percentage points or, at State option, a higher number of percentage points that reflects the value (as determined by the State and described in the State plan) of any differences between income methodologies used by the program administered by the Express Lane agency and the methodologies used by the State in determining eligibility for medical assistance under this title.

“(II) **CHILDREN WITH INCOME NOT ABOVE THRESHOLD.**—If the income of a child does not exceed the screening threshold, the child is deemed to satisfy the income eligibility criteria for medical assistance under this title regardless of whether such child would otherwise satisfy such criteria.

“(III) **CHILDREN WITH INCOME ABOVE THRESHOLD.**—If the income of a child exceeds the screening threshold, the child shall be considered to have an income above the Medicaid applicable income level described in section 2110(b)(4) and to satisfy the requirement under section 2110(b)(1)(C) (relating to the requirement that CHIP matching funds be used only for children not eligible for Medicaid). If such a child is enrolled in child health assistance under title XXI, the State shall provide the parent, guardian, or custodial relative with the following:

“(aa) Notice that the child may be eligible to receive medical assistance under the State plan

under this title if evaluated for such assistance under the State’s regular procedures and notice of the process through which a parent, guardian, or custodial relative can request that the State evaluate the child’s eligibility for medical assistance under this title using such regular procedures.

“(bb) A description of differences between the medical assistance provided under this title and child health assistance under title XXI, including differences in cost-sharing requirements and covered benefits.

“(iii) **TEMPORARY ENROLLMENT IN CHIP PENDING SCREEN AND ENROLL.**—

“(I) **IN GENERAL.**—Under this clause, a State enrolls a child in child health assistance under title XXI for a temporary period if the child appears eligible for such assistance based on an income finding by an Express Lane agency.

“(II) **DETERMINATION OF ELIGIBILITY.**—During such temporary enrollment period, the State shall determine the child’s eligibility for child health assistance under title XXI or for medical assistance under this title in accordance with this clause.

“(III) **PROMPT FOLLOW UP.**—In making such a determination, the State shall take prompt action to determine whether the child should be enrolled in medical assistance under this title or child health assistance under title XXI pursuant to subparagraphs (A) and (B) of section 2102(b)(3) (relating to screen and enroll).

“(IV) **REQUIREMENT FOR SIMPLIFIED DETERMINATION.**—In making such a determination, the State shall use procedures that, to the maximum feasible extent, reduce the burden imposed on the individual of such determination. Such procedures may not require the child’s parent, guardian, or custodial relative to provide or verify information that already has been provided to the State agency by an Express Lane agency or another source of information unless the State agency has reason to believe the information is erroneous.

“(V) **AVAILABILITY OF CHIP MATCHING FUNDS DURING TEMPORARY ENROLLMENT PERIOD.**—Medical assistance for items and services that are provided to a child enrolled in title XXI during a temporary enrollment period under this clause shall be treated as child health assistance under such title.

“(D) **OPTION FOR AUTOMATIC ENROLLMENT.**—

“(i) **IN GENERAL.**—At its option, a State may initiate an evaluation of an individual’s eligibility for medical assistance under this title without an application and determine the individual’s eligibility for such assistance using findings from one or more Express Lane agencies and information from sources other than a child, if the requirements of clauses (ii) and (iii) are met.

“(ii) **INDIVIDUAL CHOICE REQUIREMENT.**—The requirement of this clause is that the child is enrolled in medical assistance under this title or child health assistance under title XXI only if the child (or a parent, caretaker relative, or guardian on the behalf of the child) has affirmatively assented to such enrollment.

“(iii) **INFORMATION REQUIREMENT.**—The requirement of this clause is that the State informs the parent, guardian, or custodial relative of the child of the services that will be covered, appropriate methods for using such services, premium or other cost sharing charges (if any) that apply, medical support obligations (under section 1912(a)) created by enrollment (if applicable), and the actions the parent, guardian, or relative must take to maintain enrollment and renew coverage.

“(E) **EXPRESS LANE AGENCY DEFINED.**—In this paragraph, the term ‘express lane agency’ means an agency that meets the following requirements:

“(i) The agency determines eligibility for assistance under the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, the Child Nutrition Act of 1966, or the Child Care and Development Block Grant Act of 1990.

“(ii) The agency notifies the child (or a parent, caretaker relative, or guardian on the behalf of the child)—

“(I) of the information which shall be disclosed;

“(II) that the information will be used by the State solely for purposes of determining eligibility for and for providing medical assistance under this title or child health assistance under title XXI; and

“(III) that the child, or parent, caretaker relative, or guardian, may elect to not have the information disclosed for such purposes.

“(iii) The agency and the State agency are subject to an interagency agreement limiting the disclosure and use of such information to such purposes.

“(iv) The agency is determined by the State agency to be capable of making the determinations described in this paragraph and is identified in the State plan under this title or title XXI.

For purposes of this subparagraph, the term ‘State agency’ refers to the agency determining eligibility for medical assistance under this title or child health assistance under title XXI.

“(F) CHILD DEFINED.—For purposes of this paragraph, the term ‘child’ means an individual under 19 years of age, or, at the option of a State, such higher age, not to exceed 21 years of age, as the State may elect.”

(b) CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (E), (H), and (I), respectively, and by inserting after subparagraph (A) the following new subparagraph:

“(C) Section 1902(e)(13) (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child’s eligibility for medical assistance).”

(c) ELECTRONIC TRANSMISSION OF INFORMATION.—Section 1902 of such Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

“(dd) ELECTRONIC TRANSMISSION OF INFORMATION.—If the State agency determining eligibility for medical assistance under this title or child health assistance under title XXI verifies an element of eligibility based on information from an Express Lane Agency (as defined in subsection (e)(13)(F)), or from another public agency, then the applicant’s signature under penalty of perjury shall not be required as to such element. Any signature requirement for an application for medical assistance may be satisfied through an electronic signature, as defined in section 1710(1) of the Government Paperwork Elimination Act (44 U.S.C. 3504 note). The requirements of subparagraphs (A) and (B) of section 1137(d)(2) may be met through evidence in digital or electronic form.”

(d) AUTHORIZATION OF INFORMATION DISCLOSURE.—

(1) IN GENERAL.—Title XIX of the Social Security Act is amended—

(A) by redesignating section 1939 as section 1940; and

(B) by inserting after section 1938 the following new section:

**“SEC. 1939. AUTHORIZATION TO RECEIVE PERTINENT INFORMATION.**

“(a) IN GENERAL.—Notwithstanding any other provision of law, a Federal or State agency or private entity in possession of the sources of data potentially pertinent to eligibility determinations under this title (including eligibility files maintained by Express Lane agencies described in paragraph (2) or (3) of section 1137(a), vital records information about births in any State, and information described in sections 453(i) and 1902(a)(25)(I)) is authorized to convey such data or information to the State agency administering the State plan under this title, to the extent such conveyance meets the requirements of subsection (b).

“(b) REQUIREMENTS FOR CONVEYANCE.—Data or information may be conveyed pursuant to

subsection (a) only if the following requirements are met:

“(1) The individual whose circumstances are described in the data or information (or such individual’s parent, guardian, caretaker relative, or authorized representative) has either provided advance consent to disclosure or has not objected to disclosure after receiving advance notice of disclosure and a reasonable opportunity to object.

“(2) Such data or information are used solely for the purposes of—

“(A) identifying individuals who are eligible or potentially eligible for medical assistance under this title and enrolling or attempting to enroll such individuals in the State plan; and

“(B) verifying the eligibility of individuals for medical assistance under the State plan.

“(3) An interagency or other agreement, consistent with standards developed by the Secretary—

“(A) prevents the unauthorized use, disclosure, or modification of such data and otherwise meets applicable Federal requirements safeguarding privacy and data security; and

“(B) requires the State agency administering the State plan to use the data and information obtained under this section to seek to enroll individuals in the plan.

“(c) CRIMINAL PENALTY.—A private entity described in the subsection (a) that publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both, for each such unauthorized publication or disclosure.

“(d) RULE OF CONSTRUCTION.—The limitations and requirements that apply to disclosure pursuant to this section shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under Federal law (without regard to this section).”

(2) CONFORMING AMENDMENT TO TITLE XXI.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by subsection (b), is amended by adding at the end the following new subparagraph:

“(J) Section 1939 (relating to authorization to receive data potentially pertinent to eligibility determinations).”

(3) CONFORMING AMENDMENT TO PROVIDE ACCESS TO DATA ABOUT ENROLLMENT IN INSURANCE FOR PURPOSES OF EVALUATING APPLICATIONS AND FOR CHIP.—Section 1902(a)(25)(I)(i) of such Act (42 U.S.C. 1396a(a)(25)(I)(i)) is amended—

(A) by inserting “(and, at State option, individuals who are potentially eligible or who apply)” after “with respect to individuals who are eligible”; and

(B) by inserting “under this title (and, at State option, child health assistance under title XXI)” after “the State plan”.

(e) EFFECTIVE DATE.—The amendments made by this section are effective on January 1, 2008.

**SEC. 113. APPLICATION OF MEDICAID OUTREACH PROCEDURES TO ALL CHILDREN AND PREGNANT WOMEN.**

(a) IN GENERAL.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended—

(1) in the matter before subparagraph (A), by striking “individuals for medical assistance under subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX)” and inserting “children and pregnant women for medical assistance under any provision of this title”; and

(2) in subparagraph (B), by inserting before the semicolon at the end the following: “, which need not be the same application form for all such individuals”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on January 1, 2008.

**SEC. 114. ENCOURAGING CULTURALLY APPROPRIATE ENROLLMENT AND RETENTION PRACTICES.**

(a) USE OF MEDICAID FUNDS.—Section 1903(a)(2) of the Social Security Act (42 U.S.C.

1396b(a)(2)) is amended by adding at the end the following new subparagraph:

“(E) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to translation or interpretation services in connection with the enrollment and retention under this title of children of families for whom English is not the primary language; plus”.

(b) USE OF COMMUNITY HEALTH WORKERS FOR OUTREACH ACTIVITIES.—

(1) IN GENERAL.—Section 2102(c)(1) of such Act (42 U.S.C. 1397b(c)(1)) is amended by inserting “(through community health workers and others)” after “Outreach”.

(2) IN FEDERAL EVALUATION.—Section 2108(c)(3)(B) of such Act (42 U.S.C. 1397hh(c)(3)(B)) is amended by inserting “(such as through community health workers and others)” after “including practices”.

**SEC. 115. CONTINUOUS COVERAGE UNDER CHIP.**

(a) IN GENERAL.—Section 2102(b) of the Social Security Act (42 U.S.C. 1397b(b)) is amended by adding at the end the following new paragraph:

“(5) 12-MONTHS CONTINUOUS ELIGIBILITY.—In the case of a State child health plan that provides child health assistance under this title through a means other than described in section 2101(a)(2), the plan shall provide for implementation under this title of the 12-months continuous eligibility option described in section 1902(e)(12) for targeted low-income children whose family income is below 200 percent of the poverty line.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations (and redeterminations) of eligibility made on or after January 1, 2008.

**Subtitle C—Coverage**

**SEC. 121. ENSURING CHILD-CENTERED COVERAGE.**

(a) ADDITIONAL REQUIRED SERVICES.—

(1) CHILD-CENTERED COVERAGE.—Section 2103 of the Social Security Act (42 U.S.C. 1397cc) is amended—

(A) in subsection (a)—

(i) in the matter before paragraph (1), by striking “subsection (c)(5)” and inserting “paragraphs (5) and (6) of subsection (c)”; and

(ii) in paragraph (1), by inserting “at least” after “that is”; and

(B) in subsection (c)—

(i) by redesignating paragraph (5) as paragraph (6); and

(ii) by inserting after paragraph (4), the following:

“(5) DENTAL, FQHC, AND RHC SERVICES.—The child health assistance provided to a targeted low-income child (whether through benchmark coverage or benchmark-equivalent coverage or otherwise) shall include coverage of the following:

“(A) Dental services necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions.

“(B) Federally-qualified health center services (as defined in section 1905(l)(2)) and rural health clinic services (as defined in section 1905(l)(1)).

Nothing in this section shall be construed as preventing a State child health plan from providing such services as part of benchmark coverage or in addition to the benefits provided through benchmark coverage.”

(2) REQUIRED PAYMENT FOR FQHC AND RHC SERVICES.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by sections 112(b) and 112(d)(2), is amended by inserting after subparagraph (C) the following new subparagraph:

“(D) Section 1902(bb) (relating to payment for services provided by Federally-qualified health centers and rural health clinics).”

(3) MENTAL HEALTH PARITY.—Section 2103(a)(2)(C) of such Act (42 U.S.C.

1397aa(a)(2)(C)) is amended by inserting “(or 100 percent in the case of the category of services described in subparagraph (B) of such subsection)” after “75 percent”.

(4) EFFECTIVE DATE.—The amendments made by this subsection and subsection (d) shall apply to health benefits coverage provided on or after October 1, 2008.

(b) CLARIFICATION OF REQUIREMENT TO PROVIDE EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK BENEFIT PACKAGES UNDER MEDICAID.—

(1) IN GENERAL.—Section 1937(a)(1) of the Social Security Act (42 U.S.C. 1396u-7(a)(1)) is amended—

(A) in subparagraph (A)—  
(i) in the matter before clause (i), by striking “Notwithstanding any other provision of this title” and inserting “Subject to subparagraph (E)”; and

(ii) by striking “enrollment in coverage that provides” and all that follows and inserting “benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2).”;

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

“(C) STATE OPTION TO PROVIDE ADDITIONAL BENEFITS.—A State, at its option, may provide such additional benefits to benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2) as the State may specify.”; and

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

“(E) REQUIRING COVERAGE OF EPSDT SERVICES.—Nothing in this paragraph shall be construed as affecting a child’s entitlement to care and services described in subsections (a)(4)(B) and (f) of section 1905 and provided in accordance with section 1902(a)(43) whether provided through benchmark coverage, benchmark equivalent coverage, or otherwise.”.

(c) CLARIFICATION OF COVERAGE OF SERVICES IN SCHOOL-BASED HEALTH CENTERS INCLUDED AS CHILD HEALTH ASSISTANCE.—

(1) IN GENERAL.—Section 2110(a)(5) of such Act (42 U.S.C. 1397jj(a)(5)) is amended by inserting after “health center services” the following: “and school-based health center services for which coverage is otherwise provided under this title when furnished by a school-based health center that is authorized to furnish such services under State law”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to child health assistance furnished on or after the date of the enactment of this Act.

(d) ASSURING ACCESS TO CARE.—

(1) STATE CHILD HEALTH PLAN REQUIREMENT.—Section 2102(a)(7)(B) of such Act (42 U.S.C. 1397bb(c)(2)) is amended by inserting “and services described in section 2103(c)(5)” after “emergency services”.

(2) REFERENCE TO EFFECTIVE DATE.—For the effective date for the amendments made by this subsection, see subsection (a)(5).

#### SEC. 122. IMPROVING BENCHMARK COVERAGE OPTIONS.

(a) LIMITATION ON SECRETARY-APPROVED COVERAGE.—

(1) UNDER CHIP.—Section 2103(a)(4) of the Social Security Act (42 U.S.C. 1397cc(a)(4)) is amended by inserting before the period at the end the following: “if the health benefits coverage is at least equivalent to the benefits coverage in a benchmark benefit package described in subsection (b)”.

(2) UNDER MEDICAID.—Section 1937(b)(1)(D) of the Social Security Act (42 U.S.C. 1396u-7(b)(1)(D)) is amended by inserting before the period at the end the following: “if the health benefits coverage is at least equivalent to the benefits coverage in benchmark coverage described in subparagraph (A), (B), or (C)”.

(b) REQUIREMENT FOR MOST POPULAR FAMILY COVERAGE FOR STATE EMPLOYEE COVERAGE BENCHMARK.—

(1) CHIP.—Section 2103(b)(2) of such Act (42 U.S.C. 1397(b)(2)) is amended by inserting “and that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years” before the period at the end.

#### SEC. 123. PREMIUM GRACE PERIOD.

(a) IN GENERAL.—Section 2103(e)(3) of the Social Security Act (42 U.S.C. 1397cc(e)(3)) is amended by adding at the end the following new subparagraph:

“(C) PREMIUM GRACE PERIOD.—The State child health plan—

“(i) shall afford individuals enrolled under the plan a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before the individual’s coverage under the plan may be terminated; and

“(ii) shall provide to such an individual, not later than 7 days after the first day of such grace period, notice—

“(I) that failure to make a premium payment within the grace period will result in termination of coverage under the State child health plan; and

“(II) of the individual’s right to challenge the proposed termination pursuant to the applicable Federal regulations.

For purposes of clause (i), the term ‘new coverage period’ means the month immediately following the last month for which the premium has been paid.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to new coverage periods beginning on or after January 1, 2009.

#### Subtitle D—Populations

##### SEC. 131. OPTIONAL COVERAGE OF CHILDREN UP TO AGE 21 UNDER CHIP.

(a) IN GENERAL.—Section 2110(c)(1) of the Social Security Act (42 U.S.C. 1397jj(c)(1)) is amended by inserting “(or, at the option of the State, under 20 or 21 years of age)” after “19 years of age”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2008.

(F) Section 1932(a)(2)(A) of such Act (42 U.S.C. 1396u-2(a)(2)(A)) is amended by inserting “(or under such higher age as the State has elected under section 1902(l)(1)(D))” after “19 years of age”.

(b) TITLE XXI.—Section 2110(c)(1) of such Act (42 U.S.C. 1397jj(c)(1)) is amended by inserting “(or, at the option of the State and subject to section 131(d) of the Children’s Health and Medicare Protection Act of 2007, under such higher age as the State has elected under section 1902(l)(1)(D))” after “19 years of age”.

(c) EFFECTIVE DATE.—Subject to subsection (d), the amendments made by this section take effect on January 1, 2010.

(d) TRANSITION.—In carrying out the amendments made by subsections (a) and (b)—

(1) for 2010, a State election under section 1902(l)(1)(D) shall only apply with respect to title XXI of such Act and the age elected may not exceed 21 years of age;

##### SEC. 132. OPTIONAL COVERAGE OF LEGAL IMMIGRANTS UNDER THE MEDICAID PROGRAM AND CHIP.

(a) MEDICAID PROGRAM.—Section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking “paragraph (2)” and inserting “paragraphs (2) and (4)”; and

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

“(4)(A) A State may elect (in a plan amendment under this title) to provide medical assistance under this title, notwithstanding sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, for aliens who are lawfully residing in the United States (including battered aliens described in section 431(c) of such Act)

and who are otherwise eligible for such assistance, within either or both of the following eligibility categories:

“(i) PREGNANT WOMEN.—Women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy).

“(ii) CHILDREN.—Individuals under age 19 (or such higher age as the State has elected under section 1902(l)(1)(D)), including optional targeted low-income children described in section 1905(u)(2)(B).

“(B) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of medical assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.”.

(b) CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by section 112(b), 112(d)(2), and 121(a)(2), is amended by inserting after subparagraph (E) the following new subparagraphs:

“(F) Section 1903(v)(4)(A) (relating to optional coverage of certain categories of lawfully residing immigrants), insofar as it relates to the category of pregnant women described in clause (i) of such section, but only if the State has elected to apply such section with respect to such women under title XIX and the State has elected the option under section 2111 to provide assistance for pregnant women under this title.

“(G) Section 1903(v)(4)(A) (relating to optional coverage of categories of lawfully residing immigrants), insofar as it relates to the category of children described in clause (ii) of such section, but only if the State has elected to apply such section with respect to such children under title XIX.”.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

##### SEC. 133. STATE OPTION TO EXPAND OR ADD COVERAGE OF CERTAIN PREGNANT WOMEN UNDER CHIP.

(a) CHIP.—

(1) COVERAGE.—Title XXI (42 U.S.C. 1397aa et seq.) of the Social Security Act is amended by adding at the end the following new section:

##### “SEC. 2111. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN.

“(a) OPTIONAL COVERAGE.—Notwithstanding any other provision of this title, a State may provide for coverage, through an amendment to its State child health plan under section 2102, of assistance for pregnant women for targeted low-income pregnant women in accordance with this section, but only if—

“(1) the State has established an income eligibility level—

“(A) for pregnant women, under any of clauses (i)(III), (i)(IV), or (ii)(IX) of section 1902(a)(10)(A), that is at least 185 percent (or such higher percent as the State has in effect for pregnant women under this title) of the poverty line applicable to a family of the size involved, but in no case a percent lower than the percent in effect under any such clause as of July 1, 2007; and

“(B) for children under 19 years of age under this title (or title XIX) that is at least 200 percent of the poverty line applicable to a family of the size involved; and

“(2) the State does not impose, with respect to the enrollment under the State child health plan of targeted low-income children during the quarter, any enrollment cap or other numerical limitation on enrollment, any waiting list, any procedures designed to delay the consideration of applications for enrollment, or similar limitation with respect to enrollment.

“(b) DEFINITIONS.—For purposes of this title:

“(1) ASSISTANCE FOR PREGNANT WOMEN.—The term ‘assistance for pregnant women’ has the meaning given the term child health assistance in section 2110(a) as if any reference to targeted low-income children were a reference to targeted low-income pregnant women.

“(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term ‘targeted low-income pregnant woman’ means a woman—

“(A) during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends;

“(B) whose family income exceeds 185 percent (or, if higher, the percent applied under subsection (a)(1)(A)) of the poverty level applicable to a family of the size involved, but does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

“(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b), applied as if any reference to a child was a reference to a pregnant woman.

“(c) REFERENCES TO TERMS AND SPECIAL RULES.—In the case of, and with respect to, a State providing for coverage of assistance for pregnant women to targeted low-income pregnant women under subsection (a), the following special rules apply:

“(1) Any reference in this title (other than in subsection (b)) to a targeted low-income child is deemed to include a reference to a targeted low-income pregnant woman.

“(2) Any reference in this title to child health assistance (other than with respect to the provision of early and periodic screening, diagnostic, and treatment services) with respect to such women is deemed a reference to assistance for pregnant women.

“(3) Any such reference (other than in section 2105(d)) to a child is deemed a reference to a woman during pregnancy and the period described in subsection (b)(2)(A).

“(4) In applying section 2102(b)(3)(B), any reference to children found through screening to be eligible for medical assistance under the State Medicaid plan under title XIX is deemed a reference to pregnant women.

“(5) There shall be no exclusion of benefits for services described in subsection (b)(1) based on any preexisting condition and no waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) shall apply.

“(6) In applying section 2103(e)(3)(B) in the case of a pregnant woman provided coverage under this section, the limitation on total annual aggregate cost-sharing shall be applied to such pregnant woman.

“(7) In applying section 2104(i)—

“(A) in the case of a State which did not provide for coverage for pregnant women under this title (under a waiver or otherwise) during fiscal year 2007, the allotment amount otherwise computed for the first fiscal year in which the State elects to provide coverage under this section shall be increased by an amount (determined by the Secretary) equal to the enhanced FMAP of the expenditures under this title for such coverage, based upon projected enrollment and per capita costs of such enrollment; and

“(B) in the case of a State which provided for coverage of pregnant women under this title for the previous fiscal year—

“(i) in applying paragraph (2)(B) of such section, there shall also be taken into account (in an appropriate proportion) the percentage increase in births in the State for the relevant period; and

“(ii) in applying paragraph (3), pregnant women (and per capita expenditures for such women) shall be accounted for separately from children, but shall be included in the total amount of any allotment adjustment under such paragraph.

“(d) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING ASSISTANCE FOR PREGNANT WOMEN.—If a child is born to a targeted low-income pregnant woman who was receiving assistance for pregnant women under this section on the date of the child’s birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied

for medical assistance under title XIX and to have been found eligible for such assistance under such title on the date of such birth, based on the mother’s reported income as of the time of her enrollment under this section and applicable income eligibility levels under this title and title XIX, and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the assistance for pregnant women or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).”

(2) ADDITIONAL AMENDMENT.—Section 2107(e)(1)(I) of such Act (42 U.S.C. 1397gg(e)(1)(H)), as redesignated by section 112(b), is amended to read as follows:

“(I) Sections 1920 and 1920A (relating to presumptive eligibility for pregnant women and children).”

(b) AMENDMENTS TO MEDICAID.—

(1) ELIGIBILITY OF A NEWBORN.—Section 1902(e)(4) of the Social Security Act (42 U.S.C. 1396a(e)(4)) is amended in the first sentence by striking “so long as the child is a member of the woman’s household and the woman remains (or would remain if pregnant) eligible for such assistance”.

(2) APPLICATION OF QUALIFIED ENTITIES TO PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN UNDER MEDICAID.—Section 1920(b) of the Social Security Act (42 U.S.C. 1396–1(b)) is amended by adding after paragraph (2) the following flush sentence:

“‘The term ‘qualified provider’ also includes a qualified entity, as defined in section 1920A(b)(3).”

**SEC. 134. LIMITATION ON WAIVER AUTHORITY TO COVER ADULTS.**

Section 2102 of the Social Security Act (42 U.S.C. 1397bb) is amended by adding at the end the following new subsection:

“(d) LIMITATION ON COVERAGE OF ADULTS.—Notwithstanding any other provision of this title, the Secretary may not, through the exercise of any waiver authority on or after January 1, 2008, provide for Federal financial participation to a State under this title for health care services for individuals who are not targeted low-income children or pregnant women unless the Secretary determines that no eligible targeted low-income child in the State would be denied coverage under this title for health care services because of such eligibility. In making such determination, the Secretary must receive assurances that—

“(1) there is no waiting list under this title in the State for targeted low-income children to receive child health assistance under this title; and

“(2) the State has in place an outreach program to reach all targeted low-income children in families with incomes less than 200 percent of the poverty line.”

**SEC. 135. NO FEDERAL FUNDING FOR ILLEGAL ALIENS.**

Nothing in this Act allows Federal payment for individuals who are not legal residents.

**SEC. 136. AUDITING REQUIREMENT TO ENFORCE CITIZENSHIP RESTRICTIONS ON ELIGIBILITY FOR MEDICAID AND CHIP BENEFITS.**

Section 1903(x) of the Social Security Act (as amended by section 405(c)(1)(A) of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432)) is amended by adding at the end the following new paragraph:

“(4)(A) Each State shall audit a statistically-based sample of cases of individuals whose eligibility for medical assistance (or child health assistance) is determined under section 1902(a)(46)(B) or under subsection (v)(4)(A) in order to demonstrate to the satisfaction of the

Secretary that Federal funds under this title or title XXI are not unlawfully spent for benefits for individuals who are not legal residents. In conducting such audits, a State may rely on case reviews regularly conducted pursuant to its Medicaid Quality Control or Payment Error Rate Measurement (PERM) eligibility reviews under subsection (u) and the provisions of subsection (e) of section 1137 shall apply under this paragraph in the same manner as they apply under subsection (b) of such section.

“(B) The State shall remit to the Secretary the Federal share of any unlawful expenditures for benefits, for aliens who are not legal residents, which are identified under an audit conducted under subparagraph (A).”

**Subtitle E—Access**

**SEC. 141. CHILDREN’S ACCESS, PAYMENT, AND EQUALITY COMMISSION.**

Title XIX of the Social Security Act is amended by inserting before section 1901 the following new section:

“CHILDREN’S ACCESS, PAYMENT, AND EQUALITY COMMISSION

“SEC. 1900. (a) ESTABLISHMENT.—There is hereby established as an agency of Congress the Children’s Access, Payment, and Equality Commission (in this section referred to as the ‘Commission’).

“(b) DUTIES.—

“(1) REVIEW OF PAYMENT POLICIES AND ANNUAL REPORTS.—The Commission shall—

“(A) review Federal and State payment policies of the Medicaid program established under this title (in this section referred to as ‘Medicaid’) and the State Children’s Health Insurance Program established under title XXI (in this section referred to as ‘CHIP’), including topics described in paragraph (2);

“(B) review access to, and affordability of, coverage and services for enrollees under Medicaid and CHIP;

“(C) make recommendations to Congress concerning such policies;

“(D) by not later than March 1 of each year, submit to Congress a report containing the results of such reviews and its recommendations concerning such policies; and

“(E) by not later than June 1 of each year, submit to Congress a report containing an examination of issues affecting Medicaid and CHIP, including the implications of changes in health care delivery in the United States and in the market for health care services on such programs.

“(2) SPECIFIC TOPICS TO BE REVIEWED.—Specifically, the Commission shall review the following:

“(A) The factors affecting expenditures for services in different sectors (such as physician, hospital and other sectors), payment methodologies, and their relationship to access and quality of care for Medicaid and CHIP beneficiaries.

“(B) The impact of Federal and State Medicaid and CHIP payment policies on access to services (including dental services) for children (including children with disabilities) and other Medicaid and CHIP populations.

“(C) The impact of Federal and State Medicaid and CHIP policies on reducing health disparities, including geographic disparities and disparities among minority populations.

“(D) The overall financial stability of the health care safety net, including Federally-qualified health centers, rural health centers, school-based clinics, disproportionate share hospitals, public hospitals, providers and grantees under section 2612(a)(5) of the Public Health Service Act (popularly known as the Ryan White CARE Act), and other providers that have a patient base which includes a disproportionate number of uninsured or low-income individuals and the impact of CHIP and Medicaid policies on such stability.

“(E) The relation (if any) between payment rates for providers and improvement in care for children as measured under the children’s

health quality measurement program established under section 151 of the Children's Health and Medicare Protection Act of 2007.

"(F) The affordability, cost effectiveness, and accessibility of services needed by special populations under Medicaid and CHIP as compared with private-sector coverage.

"(G) The extent to which the operation of Medicaid and CHIP ensures access, comparable to access under employer-sponsored or other private health insurance coverage (or in the case of federally-qualified health center services (as defined in section 1905(l)(2)) and rural health clinic services (as defined in section 1905(l)(1)), access comparable to the access to such services under title XIX), for targeted low-income children.

"(H) The effect of demonstrations under section 1115, benchmark coverage under section 1937, and other coverage under section 1938, on access to care, affordability of coverage, provider ability to achieve children's health quality performance measures, and access to safety net services.

"(3) COMMENTS ON CERTAIN SECRETARIAL REPORTS.—If the Secretary submits to Congress (or a committee of Congress) a report that is required by law and that relates to payment policies under Medicaid or CHIP, the Secretary shall transmit a copy of the report to the Commission. The Commission shall review the report and, not later than 6 months after the date of submittal of the Secretary's report to Congress, shall submit to the appropriate committees of Congress written comments on such report. Such comments may include such recommendations as the Commission deems appropriate.

"(4) AGENDA AND ADDITIONAL REVIEWS.—The Commission shall consult periodically with the Chairmen and Ranking Minority Members of the appropriate committees of Congress regarding the Commission's agenda and progress towards achieving the agenda. The Commission may conduct additional reviews, and submit additional reports to the appropriate committees of Congress, from time to time on such topics relating to the program under this title or title XXI as may be requested by such Chairmen and Members and as the Commission deems appropriate.

"(5) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

"(6) APPROPRIATE COMMITTEE OF CONGRESS.—For purposes of this section, the term 'appropriate committees of Congress' means the Committees on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate.

"(7) VOTING AND REPORTING REQUIREMENTS.—With respect to each recommendation contained in a report submitted under paragraph (1), each member of the Commission shall vote on the recommendation, and the Commission shall include, by member, the results of that vote in the report containing the recommendation.

"(8) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, the Commission shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.

"(c) APPLICATION OF PROVISIONS.—The following provisions of section 1805 shall apply to the Commission in the same manner as they apply to the Medicare Payment Advisory Commission:

"(1) Subsection (c) (relating to membership), except that the membership of the Commission shall also include representatives of children, pregnant women, individuals with disabilities, seniors, low-income families, and other groups of CHIP and Medicaid beneficiaries.

"(2) Subsection (d) (relating to staff and consultants).

"(3) Subsection (e) (relating to powers).

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

**SEC. 142. MODEL OF INTERSTATE COORDINATED ENROLLMENT AND COVERAGE PROCESS.**

(a) IN GENERAL.—In order to assure continuity of coverage of low-income children under the Medicaid program and the State Children's Health Insurance Program (CHIP), not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States, in consultation with State Medicaid and CHIP directors and organizations representing program beneficiaries, shall develop a model process for the coordination of the enrollment, retention, and coverage under such programs of children who, because of migration of families, emergency evacuations, educational needs, or otherwise, frequently change their State of residency or otherwise are temporarily located outside of the State of their residency.

(b) REPORT TO CONGRESS.—After development of such model process, the Comptroller General shall submit to Congress a report describing additional steps or authority needed to make further improvements to coordinate the enrollment, retention, and coverage under CHIP and Medicaid of children described in subsection (a).

**SEC. 143. MEDICAID CITIZENSHIP DOCUMENTATION REQUIREMENTS.**

(a) STATE OPTION TO REQUIRE CHILDREN TO PRESENT SATISFACTORY DOCUMENTARY EVIDENCE OF PROOF OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID; REQUIREMENT FOR AUDITING.—

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

(A) in subsection (a)(46)—

(i) by inserting "(A)" after "(46)"; and

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

"(B) at the option of the State, require that, with respect to a child under 21 years of age (other than an individual described in section 1903(x)(2)) who declares to be a citizen or national of the United States for purposes of establishing initial eligibility for medical assistance under this title (or, at State option, for purposes of renewing or redetermining such eligibility to the extent that such satisfactory documentary evidence of citizenship or nationality has not yet been presented), there is presented satisfactory documentary evidence of citizenship or nationality of the individual (using criteria determined by the State, which shall be no more restrictive than the documentation specified in section 1903(x)(3)); and

"(C) comply with the auditing requirements of section 1903(x)(4)"; and

(B) in subsection (b)(3), by inserting "or any citizenship documentation requirement for a child under 21 years of age that is more restrictive than what a State may provide under section 1903(x)" before the period at the end.

(2) ELIMINATION OF DENIAL OF PAYMENTS FOR CHILDREN.—Section 1903(i)(22) of such Act (42 U.S.C. 1396b(i)(22)) is amended by inserting "other than a child under the age of 21" after "for an individual".

(b) CLARIFICATION OF RULES FOR CHILDREN BORN IN THE UNITED STATES TO MOTHERS ELIGIBLE FOR MEDICAID.—Section 1903(x)(2) of such Act (42 U.S.C. 1396b(x)(2)) is amended—

(1) in subparagraph (C), by striking "or" at the end;

(2) by redesignating subparagraph (D) as subparagraph (E); and

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

"(D) pursuant to the application of section 1902(e)(4) (and, in the case of an individual who is eligible for medical assistance on such basis, the individual shall be deemed to have provided satisfactory documentary evidence of citizenship or nationality and shall not be required to provide further documentary evidence on any date that occurs during or after the period in which the individual is eligible for medical assistance on such basis; or".

(c) DOCUMENTATION FOR NATIVE AMERICANS.—Section 1903(x)(3)(B) of such Act is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by inserting after clause (iv) the following new clause:

"(v) For an individual who is a member of, or enrolled in or affiliated with, a federally-recognized Indian tribe, a document issued by such tribe evidencing such membership, enrollment, or affiliation with the tribe (such as a tribal enrollment card or certificate of degree of Indian blood), and, only with respect to those federally-recognized Indian tribes located within States having an international border whose membership includes individuals who are not citizens of the United States, such other forms of documentation (including tribal documentation, if appropriate) as the Secretary, after consulting with such tribes, determines to be satisfactory documentary evidence of citizenship or nationality for purposes of satisfying the requirement of this subparagraph."

(d) REASONABLE OPPORTUNITY.—Section 1903(x) of such Act, as amended by subsection (a)(2), is further amended by adding at the end the following new paragraph:

"(5) In the case of an individual declaring to be a citizen or national of the United States with respect to whom a State requires the presentation of satisfactory documentary evidence of citizenship or nationality under section 1902(a)(46)(B), the individual shall be provided at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality under this subsection as is provided under clauses (i) and (ii) of section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status and shall not be denied medical assistance on the basis of failure to provide such documentation until the individual has had such an opportunity."

(e) EFFECTIVE DATE.—

(1) RETROACTIVE APPLICATION.—The amendments made by this section shall take effect as if included in the enactment of the Deficit Reduction Act of 2005 (Public Law 109-171; 120 Stat. 4).

(2) RESTORATION OF ELIGIBILITY.—In the case of an individual who, during the period that began on July 1, 2006, and ends on the date of the enactment of this Act, was determined to be ineligible for medical assistance under a State Medicaid program solely as a result of the application of subsections (i)(22) and (x) of section 1903 of the Social Security Act (as in effect during such period), but who would have been determined eligible for such assistance if such subsections, as amended by this section, had applied to the individual, a State may deem the individual to be eligible for such assistance as of the date that the individual was determined to be ineligible for such medical assistance on such basis.

**SEC. 144. ACCESS TO DENTAL CARE FOR CHILDREN.**

(a) DENTAL EDUCATION FOR PARENTS OF NEWBORNS.—The Secretary of Health and Human Services shall develop and implement, through entities that fund or provide perinatal care services to targeted low-income children under a State child health plan under title XXI of the Social Security Act, a program to deliver oral health educational materials that inform new parents about risks for, and prevention of, early childhood caries and the need for a dental visit within their newborn's first year of life.

(b) **PROVISION OF DENTAL SERVICES THROUGH FQHCs.**—

(1) **MEDICAID.**—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking “and” at the end of paragraph (69);

(B) by striking the period at the end of paragraph (70) and inserting “; and”; and

(C) by inserting after paragraph (70) the following new paragraph:

“(71) provide that the State will not prevent a Federally-qualified health center from entering into contractual relationships with private practice dental providers in the provision of Federally-qualified health center services.”.

(2) **CHIP.**—Section 2107(e)(1) of such Act (42 U.S.C. 1397g(e)(1)), as amended by section 112(b), is amended by inserting after subparagraph (A) the following new subparagraph:

“(B) Section 1902(a)(71) (relating to limiting FQHC contracting for provision of dental services).”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on January 1, 2008.

(c) **REPORTING INFORMATION ON DENTAL HEALTH.**—

(1) **MEDICAID.**—Section 1902(a)(43)(D)(iii) of such Act (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by inserting “and other information relating to the provision of dental services to such children described in section 2108(e)” after “receiving dental services.”.

(2) **CHIP.**—Section 2108 of such Act (42 U.S.C. 1397h) is amended by adding at the end the following new subsection:

“(e) **INFORMATION ON DENTAL CARE FOR CHILDREN.**—

“(1) **IN GENERAL.**—Each annual report under subsection (a) shall include the following information with respect to care and services described in section 1905(r)(3) provided to targeted low-income children enrolled in the State child health plan under this title at any time during the year involved:

“(A) The number of enrolled children by age grouping used for reporting purposes under section 1902(a)(43).

“(B) For children within each such age grouping, information of the type contained in questions 12(a)–(c) of CMS Form 416 (that consists of the number of enrolled targeted low income children who receive any, preventive, or restorative dental care under the State plan).

“(C) For the age grouping that includes children 8 years of age, the number of such children who have received a protective sealant on at least one permanent molar tooth.

“(2) **INCLUSION OF INFORMATION ON ENROLLEES IN MANAGED CARE PLANS.**—The information under paragraph (1) shall include information on children who are enrolled in managed care plans and other private health plans and contracts with such plans under this title shall provide for the reporting of such information by such plans to the State.”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall be effective for annual reports submitted for years beginning after date of enactment.

(d) **GAO STUDY AND REPORT.**—

(1) **STUDY.**—The Comptroller General of the United States shall provide for a study that examines—

(A) access to dental services by children in underserved areas; and

(B) the feasibility and appropriateness of using qualified mid-level dental health providers, in coordination with dentists, to improve access for children to oral health services and public health overall.

(2) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1).

**SEC. 145. PROHIBITING INITIATION OF NEW HEALTH OPPORTUNITY ACCOUNT DEMONSTRATION PROGRAMS.**

After the date of the enactment of this Act, the Secretary of Health and Human Services

may not approve any new demonstration programs under section 1938 of the Social Security Act (42 U.S.C. 1396u–8).

**Subtitle F—Quality and Program Integrity**  
**SEC. 151. PEDIATRIC HEALTH QUALITY MEASUREMENT PROGRAM.**

(a) **QUALITY MEASUREMENT OF CHILDREN'S HEALTH.**—

(1) **ESTABLISHMENT OF PROGRAM TO DEVELOP QUALITY MEASURES FOR CHILDREN'S HEALTH.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish a child health care quality measurement program (in this subsection referred to as the “children’s health quality measurement program”) to develop and implement—

(A) pediatric quality measures on children’s health care that may be used by public and private health care purchasers (and a system for reporting such measures); and

(B) measures of overall program performance that may be used by public and private health care purchasers.

The Secretary shall publish, not later than September 30, 2009, the recommended measures under the program for application under the amendments made by subsection (b) for years beginning with 2010.

(2) **MEASURES.**—

(A) **SCOPE.**—The measures developed under the children’s health quality measurement program shall—

(i) provide comprehensive information with respect to the provision and outcomes of health care for young children, school age children, and older children.

(ii) be designed to identify disparities by pediatric characteristics (including, at a minimum, those specified in subparagraph (C)) in child health and the provision of health care;

(iii) be designed to ensure that the data required for such measures is collected and reported in a standard format that permits comparison at a State, plan, and provider level, and between insured and uninsured children;

(iv) take into account existing measures of child health quality and be periodically updated;

(v) include measures of clinical health care quality which meet the requirements for pediatric quality measures in paragraph (1);

(vi) improve and augment existing measures of clinical health care quality for children’s health care and develop new and emerging measures; and

(vii) increase the portfolio of evidence-based pediatric quality measures available to public and private purchasers, providers, and consumers.

(B) **SPECIFIC MEASURES.**—Such measures shall include measures relating to at least the following aspects of health care for children:

(i) The proportion of insured (and uninsured) children who receive age-appropriate preventive health and dental care (including age appropriate immunizations) at each stage of child health development.

(ii) The proportion of insured (and uninsured) children who receive dental care for restoration of teeth, relief of pain and infection, and maintenance of dental health.

(iii) The effectiveness of early health care interventions for children whose assessments indicate the presence or risk of physical or mental conditions that could adversely affect growth and development.

(iv) The effectiveness of treatment to ameliorate the effects of diagnosed physical and mental health conditions, including chronic conditions.

(v) The proportion of children under age 21 who are continuously insured for a period of 12 months or longer.

(vi) The effectiveness of health care for children with disabilities.

In carrying out clause (vi), the Secretary shall develop quality measures and best practices relating to cystic fibrosis.

(vii) Data on State efforts to reduce hospitalization rate of premature infants under the age of 12 months who were born prior to 35 weeks.

(C) **REPORTING METHODOLOGY FOR ANALYSIS BY PEDIATRIC CHARACTERISTICS.**—The children’s health quality measurement program shall describe with specificity such measures and the process by which such measures will be reported in a manner that permits analysis based on each of the following pediatric characteristics:

(i) Age.

(ii) Gender.

(iii) Race.

(iv) Ethnicity.

(v) Primary language of the child’s parents (or caretaker relative).

(vi) Disability or chronic condition (including cystic fibrosis).

(vii) Geographic location.

(viii) Coverage status under public and private health insurance programs.

(D) **PEDIATRIC QUALITY MEASURE.**—In this subsection, the term “pediatric quality measure” means a measurement of clinical care that assesses one or more aspects of pediatric health care quality (in various settings) including the structure of the clinical care system, the process and outcome of care, or patient experience in such care.

(3) **CONSULTATION IN DEVELOPING QUALITY MEASURES FOR CHILDREN'S HEALTH SERVICES.**—In developing and implementing the children’s health quality measurement program, the Secretary shall consult with—

(A) States;

(B) pediatric hospitals, pediatricians, and other primary and specialized pediatric health care professionals (including members of the allied health professions) who specialize in the care and treatment of children, particularly children with special physical, mental, and developmental health care needs;

(C) dental professionals;

(D) health care providers that furnish primary health care to children and families who live in urban and rural medically underserved communities or who are members of distinct population sub-groups at heightened risk for poor health outcomes;

(E) national organizations representing children, including children with disabilities and children with chronic conditions;

(F) national organizations and individuals with expertise in pediatric health quality performance measurement; and

(G) voluntary consensus standards setting organizations and other organizations involved in the advancement of evidence based measures of health care.

(4) **USE OF GRANTS AND CONTRACTS.**—In carrying out the children’s health quality measurement program, the Secretary may award grants and contracts to develop, test, validate, update, and disseminate quality measures under the program.

(5) **TECHNICAL ASSISTANCE.**—The Secretary shall provide technical assistance to States to establish for the reporting of quality measures under titles XIX and XXI of the Social Security Act in accordance with the children’s health quality measurement program.

(b) **DISSEMINATION OF INFORMATION ON THE QUALITY OF PROGRAM PERFORMANCE.**—Not later than January 1, 2009, and annually thereafter, the Secretary shall collect, analyze, and make publicly available on a public website of the Department of Health and Human Services in an online format—

(1) a complete list of all measures in use by States as of such date and used to measure the quality of medical and dental health services furnished to children enrolled under title XIX of the Social Security Act by participating providers, managed care entities, and plan issuers; and

(2) information on health care quality for children contained in external quality review reports required under section 1932(c)(2) of such

Act (42 U.S.C. 1396u-2) or produced by States that administer separate plans under title XXI of such Act.

(c) **REPORTS TO CONGRESS ON PROGRAM PERFORMANCE.**—Not later than January 1, 2010, and every 2 years thereafter, the Secretary shall report to Congress on—

(1) the quality of health care for children enrolled under title XIX and XXI of the Social Security Act under the children's health quality measurement program; and

(2) patterns of health care utilization with respect to the measures specified in subsection (a)(2)(B) among children by the pediatric characteristics listed in subsection (a)(2)(C).

**SEC. 152. APPLICATION OF CERTAIN MANAGED CARE QUALITY SAFEGUARDS TO CHIP.**

(a) **IN GENERAL.**—Section 2103(f) of Social Security Act (42 U.S.C. 1397bb(f)) is amended by adding at the end the following new paragraph:

“(3) **COMPLIANCE WITH MANAGED CARE REQUIREMENTS.**—The State child health plan shall provide for the application of subsections (a)(4), (a)(5), (b), (c), (d), and (e) of section 1932 (relating to requirements for managed care) to coverage, State agencies, enrollment brokers, managed care entities, and managed care organizations under this title in the same manner as such subsections apply to coverage and such entities and organizations under title XIX.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to contract years for health plans beginning on or after July 1, 2008.

**SEC. 153. UPDATED FEDERAL EVALUATION OF CHIP.**

Section 2108(c) of the Social Security Act (42 U.S.C. 1397hh(c)) is amended by striking paragraph (5) and inserting the following:

“(5) **SUBSEQUENT EVALUATION USING UPDATED INFORMATION.**—

“(A) **IN GENERAL.**—The Secretary, directly or through contracts or interagency agreements, shall conduct an independent subsequent evaluation of 10 States with approved child health plans.

“(B) **SELECTION OF STATES AND MATTERS INCLUDED.**—Paragraphs (2) and (3) shall apply to such subsequent evaluation in the same manner as such provisions apply to the evaluation conducted under paragraph (1).

“(C) **SUBMISSION TO CONGRESS.**—Not later than December 31, 2010, the Secretary shall submit to Congress the results of the evaluation conducted under this paragraph.

“(D) **FUNDING.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$10,000,000 for fiscal year 2009 for the purpose of conducting the evaluation authorized under this paragraph. Amounts appropriated under this paragraph shall remain available for expenditure through fiscal year 2011.”

**SEC. 154. ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.**

Section 2108(d) of the Social Security Act (42 U.S.C. 1397hh(d)) is amended to read as follows:

“(d) **ACCESS TO RECORDS FOR IG AND GAO AUDITS AND EVALUATIONS.**—For the purpose of evaluating and auditing the program established under this title, the Secretary, the Office of Inspector General, and the Comptroller General shall have access to any books, accounts, records, correspondence, and other documents that are related to the expenditure of Federal funds under this title and that are in the possession, custody, or control of States receiving Federal funds under this title or political subdivisions thereof, or any grantee or contractor of such States or political subdivisions.”

**SEC. 155. REFERENCES TO TITLE XXI.**

Section 704 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A-321), as enacted into law by section 1000(a)(6) of Public Law 106-113) is repealed and the item relating to such

section in the table of contents of such Act is repealed.

**SEC. 156. RELIANCE ON LAW; EXCEPTION FOR STATE LEGISLATION.**

(a) **RELIANCE ON LAW.**—With respect to amendments made by this title or title VIII that become effective as of a date—

(1) such amendments are effective as of such date whether or not regulations implementing such amendments have been issued; and

(2) Federal financial participation for medical assistance or child health assistance furnished under title XIX or XXI, respectively, of the Social Security Act on or after such date by a State in good faith reliance on such amendments before the date of promulgation of final regulations, if any, to carry out such amendments (or before the date of guidance, if any, regarding the implementation of such amendments) shall not be denied on the basis of the State's failure to comply with such regulations or guidance.

(b) **EXCEPTION FOR STATE LEGISLATION.**—In the case of a State plan under title XIX or State child health plan under XXI of the Social Security Act, which the Secretary of Health and Human Services determines requires State legislation in order for respective plan to meet one or more additional requirements imposed by amendments made by this title or title VIII, the respective 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 such an additional requirement 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.

**TITLE II—MEDICARE BENEFICIARY IMPROVEMENTS**

**Subtitle A—Improvements in Benefits**

**SEC. 201. COVERAGE AND WAIVER OF COST-SHARING FOR PREVENTIVE SERVICES.**

(a) **PREVENTIVE SERVICES DEFINED; COVERAGE OF ADDITIONAL PREVENTIVE SERVICES.**—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) in subparagraph (Z), by striking “and” after the semicolon at the end;

(B) in subparagraph (AA), by adding “and” after the semicolon at the end; and

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

“(BB) additional preventive services (described in subsection (ccc)(1)(M));” and

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

“(ccc)(1) The term ‘preventive services’ means the following:

“(A) Prostate cancer screening tests (as defined in subsection (oo)).

“(B) Colorectal cancer screening tests (as defined in subsection (pp)).

“(C) Diabetes outpatient self-management training services (as defined in subsection (qq)).

“(D) Screening for glaucoma for certain individuals (as described in subsection (s)(2)(U)).

“(E) Medical nutrition therapy services for certain individuals (as described in subsection (s)(2)(V)).

“(F) An initial preventive physical examination (as defined in subsection (ww)).

“(G) Cardiovascular screening blood tests (as defined in subsection (xx)(1)).

“(H) Diabetes screening tests (as defined in subsection described in subsection (s)(2)(Y)).

“(I) Ultrasound screening for abdominal aortic aneurysm for certain individuals (as described in subsection (s)(2)(AA)).

“(J) Pneumococcal and influenza vaccine and their administration (as described in subsection (s)(10)(A)).

“(K) Hepatitis B vaccine and its administration for certain individuals (as described in subsection (s)(10)(B)).

“(L) Screening mammography (as defined in subsection (jj)).

“(M) Screening pap smear and screening pelvic exam (as described in subsection (s)(14)).

“(N) Bone mass measurement (as defined in subsection (rr)).

“(O) Additional preventive services (as determined under paragraph (2)).

“(2)(A) The term ‘additional preventive services’ means items and services, including mental health services, not described in subparagraphs (A) through (N) of paragraph (1) that the Secretary determines to be reasonable and necessary for the prevention or early detection of an illness or disability.

“(B) In making determinations under subparagraph (1), the Secretary shall—

“(i) take into account evidence-based recommendations by the United States Preventive Services Task Force and other appropriate organizations; and

“(ii) use the process for making national coverage determinations (as defined in section 1869(f)(1)(B)) under this title.”

(b) **PAYMENT AND ELIMINATION OF COST-SHARING.**—

(1) **IN GENERAL.**—

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

(i) in clause (T), by striking “80 percent” and inserting “100 percent”; and

(ii) by striking “and” before “(V)”; and

(iii) by inserting before the semicolon at the end the following: “, and (W) with respect to additional preventive services (as defined in section 1861(ccc)(2)) and other preventive services for which a payment rate is not otherwise established under this section, the amount paid shall be 100 percent of the lesser of the actual charge for the services or the amount determined under a fee schedule established by the Secretary for purposes of this clause”.

(B) **APPLICATION TO SIGMOIDOSCOPIES AND COLONOSCOPIES.**—Section 1834(d) of such Act (42 U.S.C. 1395m(d)) is amended—

(i) in paragraph (2)(C), by amending clause (ii) to read as follows:

“(ii) **NO COINSURANCE.**—In the case of a beneficiary who receives services described in clause (i), there shall be no coinsurance applied.”; and

(ii) in paragraph (3)(C), by amending clause (ii) to read as follows:

“(ii) **NO COINSURANCE.**—In the case of a beneficiary who receives services described in clause (i), there shall be no coinsurance applied.”.

(2) **ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.**—

(A) **EXCLUSION FROM OPD FEE SCHEDULE.**—Section 1833(t)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by striking “screening mammography (as defined in section 1861(jj)) and diagnostic mammography” and inserting “diagnostic mammography and preventive services (as defined in section 1861(ccc)(1))”.

(B) **CONFORMING AMENDMENTS.**—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (F), by striking “and” after the semicolon at the end;

(ii) in subparagraph (G)(ii), by adding “and” at the end; and

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

“(H) with respect to additional preventive services (as defined in section 1861(ccc)(2)) furnished by an outpatient department of a hospital, the amount determined under paragraph (1)(W);”.

(3) **WAIVER OF APPLICATION OF DEDUCTIBLE FOR ALL PREVENTIVE SERVICES.**—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(A) in clause (1), by striking “items and services described in section 1861(s)(10)(A)” and inserting “preventive services (as defined in section 1861(ccc)(1))”;

(B) by inserting “and” before “(4)”; and

(C) by striking clauses (5) through (8).

(c) **INCLUSION AS PART OF INITIAL PREVENTIVE PHYSICAL EXAMINATION.**—Section 1861(w)(2) of the Social Security Act (42 U.S.C. 1395x(w)(2)) is amended by adding at the end the following new subparagraph:

“(M) Additional preventive services (as defined in subsection (ccc)(2)).”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services furnished on or after January 1, 2008.

**SEC. 202. WAIVER OF DEDUCTIBLE FOR COLORECTAL CANCER SCREENING TESTS REGARDLESS OF CODING, SUBSEQUENT DIAGNOSIS, OR ANCILLARY TISSUE REMOVAL.**

(a) **IN GENERAL.**—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)), as amended by section 201(b), is amended by adding at the end the following new sentence: “Clause (1) of the first sentence of this subsection shall apply with respect to a colorectal cancer screening test regardless of the code applied, of the establishment of a diagnosis as a result of the test, or of the removal of tissue or other matter or other procedure that is performed in connection with and as a result of the screening test.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 2008.

**SEC. 203. PARITY FOR MENTAL HEALTH COINSURANCE.**

Section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended by inserting “before 2008” after “in any calendar year”.

**Subtitle B—Improving, Clarifying, and Simplifying Financial Assistance for Low Income Medicare Beneficiaries**

**SEC. 211. IMPROVING ASSETS TESTS FOR MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM.**

(a) **APPLICATION OF HIGHEST LEVEL PERMITTED UNDER LIS.**—

(1) **TO FULL-PREMIUM SUBSIDY ELIGIBLE INDIVIDUALS.**—Section 1860D-14(a) of the Social Security Act (42 U.S.C. 1395w-114(a)) is amended—

(A) in paragraph (1), in the matter before subparagraph (A), by inserting “(or, beginning with 2009, paragraph (3)(E))” after “paragraph (3)(D)”; and

(B) in paragraph (3)(A)(iii), by striking “(D) or”.

(2) **ANNUAL INCREASE IN LIS RESOURCE TEST.**—Section 1860D-14(a)(3)(E)(i) of such Act (42 U.S.C. 1395w-114(a)(3)(E)(i)) is amended—

(A) by striking “and” at the end of subclause (I);

(B) in subclause (II), by inserting “(before 2009)” after “subsequent year”;

(C) by striking the period at the end of subclause (II) and inserting a semicolon;

(D) by inserting after subclause (II) the following new subclauses:

“(III) for 2009, \$17,000 (or \$34,000 in the case of the combined value of the individual’s assets or resources and the assets or resources of the individual’s spouse); and

“(IV) for a subsequent year, the dollar amounts specified in this subclause (or subclause (III)) for the previous year increased by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of such previous year; and,”

(E) in the last sentence, by inserting “or (IV)” after “subclause (II)”.

(3) **APPLICATION OF LIS TEST UNDER MEDICARE SAVINGS PROGRAM.**—Section 1905(p)(1)(C) of such Act (42 U.S.C. 1396d(p)(1)(C)) is amended by inserting before the period at the end the following: “or, effective beginning with January 1, 2009, whose resources (as so determined) do not exceed the maximum resource level applied for

the year under section 1860D-14(a)(3)(E) applicable to an individual or to the individual and the individual’s spouse (as the case may be)”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to eligibility determinations for income-related subsidies and medicare cost-sharing furnished for periods beginning on or after January 1, 2009.

**SEC. 212. MAKING QI PROGRAM PERMANENT AND EXPANDING ELIGIBILITY.**

(a) **MAKING PROGRAM PERMANENT.**—

(1) **IN GENERAL.**—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396b(a)(10)(E)(iv)) is amended—

(A) by striking “sections 1933 and” and by inserting “section”; and

(B) by striking “(but only for” and all that follows through “September 2007”.

(2) **ELIMINATION OF FUNDING LIMITATION.**—

(A) **IN GENERAL.**—Section 1933 of such Act (42 U.S.C. 1396u-3) is amended—

(i) in subsection (a), by striking “who are selected to receive such assistance under subsection (b)”

(ii) by striking subsections (b), (c), (e), and (g);

(iii) in subsection (d), by striking “furnished in a State” and all that follows and inserting “the Federal medical assistance percentage shall be equal to 100 percent.”; and

(iv) by redesignating subsections (d) and (f) as subsections (b) and (c), respectively.

(B) **CONFORMING AMENDMENT.**—Section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by striking “1933(d)” and inserting “1933(b)”.

(C) **EFFECTIVE DATE.**—The amendments made by subparagraph (A) shall take effect on October 1, 2007.

(b) **INCREASE IN ELIGIBILITY TO 150 PERCENT OF THE FEDERAL POVERTY LEVEL.**—Section 1902(a)(10)(E)(iv) of such Act is further amended by inserting “(or, effective January 1, 2008, 150 percent)” after “135 percent”.

**SEC. 213. ELIMINATING BARRIERS TO ENROLLMENT.**

(a) **ADMINISTRATIVE VERIFICATION OF INCOME AND RESOURCES UNDER THE LOW-INCOME SUBSIDY PROGRAM.**—Clause (iii) of section 1860D-14(a)(3)(E) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)(E)) is amended to read as follows:

“(iii) **CERTIFICATION OF INCOME AND RESOURCES.**—For purposes of applying this section—

“(I) an individual shall be permitted to apply on the basis of self-certification of income and resources; and

“(II) matters attested to in the application shall be subject to appropriate methods of verification without the need of the individual to provide additional documentation, except in extraordinary situations as determined by the Commissioner.”

(b) **AUTOMATIC REENROLLMENT WITHOUT NEED TO REAPPLY UNDER LOW-INCOME SUBSIDY PROGRAM.**—Section 1860D-14(a)(3) of such Act (42 U.S.C. 1395w-114(a)(3)), is amended by adding at the end the following new subparagraph:

“(G) **AUTOMATIC REENROLLMENT.**—For purposes of applying this section, in the case of an individual who has been determined to be a subsidy eligible individual (and within a particular class of such individuals, such as a full-subsidy eligible individual or a partial subsidy eligible individual), the individual shall be deemed to continue to be so determined without the need for any annual or periodic application unless and until the individual notifies a Federal or State official responsible for such determinations that the individual’s eligibility conditions have changed so that the individual is no longer a subsidy eligible individual (or is no longer within such class of such individuals).”

(c) **ENCOURAGING APPLICATION OF PROCEDURES UNDER MEDICARE SAVINGS PROGRAM.**—Section 1905(p) of such Act (42 U.S.C. 1396d(p))

is amended by adding at the end the following new paragraph:

“(7) The Secretary shall take all reasonable steps to encourage States to provide for administrative verification of income and automatic reenrollment (as provided under “subparagraphs (c)(iii) and (G) of section 1860D-14(a)(3)” in the case of the low-income subsidy program).”

(d) **SSA ASSISTANCE WITH MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM APPLICATIONS.**—Section 1144 of such Act (42 U.S.C. 1320b-14) is amended by adding at the end the following new subsection:

“(c) **ASSISTANCE WITH MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM APPLICATIONS.**—

“(1) **DISTRIBUTION OF APPLICATIONS TO APPLICANTS FOR MEDICARE.**—In the case of each individual applying for hospital insurance benefits under section 226 or 226A, the Commissioner shall provide the following:

“(A) Information describing the low-income subsidy program under section 1860D-14 and the medicare savings program under title XIX.

“(B) An application for enrollment under such low-income subsidy program as well as a simplified application form (developed under section 1905(p)(5)) for medical assistance for medicare cost-sharing under title XIX.

“(C) Information on how the individual may obtain assistance in completing such applications, including information on how the individual may contact the State health insurance assistance program (SHIP) for the State in which the individual is located.

The Commissioner shall make such application forms available at local offices of the Social Security Administration.

“(2) **TRAINING PERSONNEL IN ASSISTING IN COMPLETING APPLICATIONS.**—The Commissioner shall provide training to those employees of the Social Security Administration who are involved in receiving applications for benefits described in paragraph (1) in assisting applicants in completing a medicare savings program application described in paragraph (1). Such employees who are so trained shall provide such assistance upon request.

“(3) **TRANSMITTAL OF APPLICATION.**—If such an employee assists in completing such an application, the employee, with the consent of the applicant, shall transmit the application to the appropriate State medicare agency for processing.

“(4) **COORDINATION WITH OUTREACH.**—The Commissioner shall coordinate outreach activities under this subsection with outreach activities conducted by States in connection with the low-income subsidy program and the medicare savings program.”

(e) **MEDICAID AGENCY CONSIDERATION OF APPLICATIONS.**—Section 1935(a) of such Act (42 U.S.C. 1396u-5(a)) is amended by adding at the end the following new paragraph:

“(4) **CONSIDERATION OF MSP APPLICATIONS.**—The State shall accept medicare savings program applications transmitted under section 1144(c)(3) and act on such applications in the same manner and deadlines as if they had been submitted directly by the applicant.”

(f) **TRANSLATION OF MODEL FORM.**—Section 1905(p)(5)(A) of the Social Security Act (42 U.S.C. 1396d(p)(5)(A)) is amended by adding at the end the following: “The Secretary shall provide for the translation of such application form into at least the 10 languages (other than English) that are most often used by individuals applying for hospital insurance benefits under section 226 or 226A and shall make the translated forms available to the States and to the Commissioner of Social Security.”

(g) **DISCLOSURE OF TAX RETURN INFORMATION FOR PURPOSES OF PROVIDING LOW-INCOME SUBSIDIES UNDER MEDICARE.**—

(1) **IN GENERAL.**—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(21) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF PROVIDING LOW-INCOME SUBSIDIES UNDER MEDICARE.—

“(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—The Secretary, upon written request from the Commissioner of Social Security, shall disclose to the officers and employees of the Social Security Administration with respect to any individual identified by the Commissioner as potentially eligible (based on information other than return information) for low-income subsidies under section 1860D-14 of the Social Security Act—

“(i) whether the adjusted gross income for the applicable year is less than 135 percent of the poverty line (as specified by the Commissioner in such request),

“(ii) whether such adjusted gross income is between 135 percent and 150 percent of the poverty line (as so specified),

“(iii) whether any designated distributions (as defined in section 3405(e)(1)) were reported with respect to such individual under section 6047(d) for the applicable year, and the amount (if any) of the distributions so reported,

“(iv) whether the return was a joint return for the applicable year, and

“(v) the applicable year.

“(B) APPLICABLE YEAR.—

“(i) IN GENERAL.—For the purposes of this paragraph, the term ‘applicable year’ means the most recent taxable year for which information is available in the Internal Revenue Service’s taxpayer data information systems, or, if there is no return filed for the individual for such year, the prior taxable year.

“(ii) NO RETURN.—If no return is filed for such individual for both taxable years referred to in clause (i), the Secretary shall disclose the fact that there is no return filed for such individual for the applicable year in lieu of the information described in subparagraph (A).

“(C) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under this paragraph may be used only for the purpose of improving the efforts of the Social Security Administration to contact and assist eligible individuals for, and administering, low-income subsidies under section 1860D-14 of the Social Security Act.

“(D) TERMINATION.—No disclosure shall be made under this paragraph after the 2-year period beginning on the date of the enactment of this paragraph.”

(2) PROCEDURES AND RECORDKEEPING RELATED TO DISCLOSURES.—Paragraph (4) of section 6103(p) of such Code is amended by striking “or (17)” each place it appears and inserting “(17), or (21)”.

(3) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury, after consultation with the Commissioner of Social Security, shall submit a written report to Congress regarding the use of disclosures made under section 6103(l)(21) of the Internal Revenue Code of 1986, as added by this subsection, in identifying individuals eligible for the low-income subsidies under section 1860D-14 of the Social Security Act.

(4) EFFECTIVE DATE.—The amendment made by this subsection shall apply to disclosures made after the date of the enactment of this Act.

(h) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on January 1, 2009.

**SEC. 214. ELIMINATING APPLICATION OF ESTATE RECOVERY.**

(a) IN GENERAL.—Section 1917(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(B)(ii)) is amended by inserting “(but not including medical assistance for medicare cost-sharing or for benefits described in section 1902(a)(10)(E))” before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of January 1, 2008.

**SEC. 215. ELIMINATION OF PART D COST-SHARING FOR CERTAIN NON-INSTITUTIONALIZED FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.**

(a) IN GENERAL.—Section 1860D-14(a)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395w-114(a)(1)(D)(i)) is amended—

(1) by striking “INSTITUTIONALIZED INDIVIDUALS.—In” and inserting “ELIMINATION OF COST-SHARING FOR CERTAIN FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.—

“(I) INSTITUTIONALIZED INDIVIDUALS.—In”;

and

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

“(II) CERTAIN OTHER INDIVIDUALS.—In the case of an individual who is a full-benefit dual eligible individual and with respect to whom there has been a determination that but for the provision of home and community based care (whether under section 1915 or under a waiver under section 1115) the individual would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the State plan under title XIX, the elimination of any beneficiary coinsurance described in section 1860D-2(b)(2) (for all amounts through the total amount of expenditures at which benefits are available under section 1860D-2(b)(4)).”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs dispensed on or after January 1, 2009.

**SEC. 216. EXEMPTIONS FROM INCOME AND RESOURCES FOR DETERMINATION OF ELIGIBILITY FOR LOW-INCOME SUBSIDY.**

(a) IN GENERAL.—Section 1860D-14(a)(3) of the Social Security Act (42 U.S.C. 1395w-114(a)(3)), as amended by subsections (a) and (b) of section 213, is further amended—

(1) in subparagraph (C)(i), by inserting “and except that support and maintenance furnished in kind shall not be counted as income” after “section 1902(r)(2)”;

(2) in subparagraph (D), in the matter before clause (i), by inserting “subject to the additional exclusions provided under subparagraph (G)” before “”;

(3) in subparagraph (E)(i), in the matter before subclause (I), by inserting “subject to the additional exclusions provided under subparagraph (G)” before “”;

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

“(I) ADDITIONAL EXCLUSIONS.—In determining the resources of an individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraphs (D) and (E) the following additional exclusions shall apply: “(i) LIFE INSURANCE POLICY.—No part of the value of any life insurance policy shall be taken into account.

“(ii) PENSION OR RETIREMENT PLAN.—No balance in any pension or retirement plan shall be taken into account.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2009, and shall apply to determinations of eligibility for months beginning with January 2009.

**SEC. 217. COST-SHARING PROTECTIONS FOR LOW-INCOME SUBSIDY-ELIGIBLE INDIVIDUALS.**

(a) IN GENERAL.—Section 1860D-14(a) of the Social Security Act (42 U.S.C. 1395w-114(a)) is amended—

(1) in paragraph (1)(D), by adding at the end the following new clause:

“(iv) OVERALL LIMITATION ON COST-SHARING.—In the case of all such individuals, a limitation on aggregate cost-sharing under this part for a year not to exceed 5 percent of income.”; and

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

“(F) OVERALL LIMITATION ON COST-SHARING.—A limitation on aggregate cost-sharing under

this part for a year not to exceed 5 percent of income.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as of January 1, 2009.

**SEC. 218. INTELLIGENT ASSIGNMENT IN ENROLLMENT.**

(a) IN GENERAL.—Section 1860D-1(b)(1) of the Social Security Act (42 U.S.C. 1395w-101(b)(1)) is amended—

(1) in the second sentence of subparagraph (C), by inserting “, subject to subparagraph (D),” before “on a random basis”; and

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

“(D) INTELLIGENT ASSIGNMENT.—In the case of any auto-enrollment under subparagraph (C), no part D eligible individual described in such subparagraph shall be enrolled in a prescription drug plan which does not meet the following requirements:

“(i) FORMULARY.—The plan has a formulary that covers at least—

“(I) 95 percent of the 100 most commonly prescribed non-duplicative generic covered part D drugs for the population of individuals entitled to benefits under part A or enrolled under part B; and

“(II) 95 percent of the 100 most commonly prescribed non-duplicative brand name covered part D drugs for such population.

“(ii) PHARMACY NETWORK.—The plan has a network of pharmacies that substantially exceeds the minimum requirements for prescription drug plans in the State and that provides access in areas where lower income individuals reside.

“(iii) QUALITY.—

“(I) IN GENERAL.—Subject to subclause (I), the plan has an above average score on quality ratings of the Secretary of prescription drug plans under this part.

“(II) EXCEPTION.—Subclause (I) shall not apply to a plan that is a new plan (as defined by the Secretary), with respect to the plan year involved.

“(iv) LOW COST.—The total cost under this title of providing prescription drug coverage under the plan consistent with the previous clauses of this subparagraph is among the lowest 25th percentile of prescription drug plans under this part in the State.

In the case that no plan meets the requirements under clauses (i) through (iv), the Secretary shall implement this subparagraph to the greatest extent possible with the goal of protecting beneficiary access to drugs without increasing the cost relative to the enrollment process under subparagraph (C) as in existence before the date of the enactment of this subparagraph.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect for enrollments effected on or after November 15, 2009.

**Subtitle C—Part D Beneficiary Improvements**

**SEC. 221. INCLUDING COSTS INCURRED BY AIDS DRUG ASSISTANCE PROGRAMS AND INDIAN HEALTH SERVICE IN PROVIDING PRESCRIPTION DRUGS TOWARD THE ANNUAL OUT OF POCKET THRESHOLD UNDER PART D.**

(a) IN GENERAL.—Section 1860D-2(b)(4)(C) of the Social Security Act (42 U.S.C. 1395w-102(b)(4)(C)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii)—

(A) by striking “such costs shall be treated as incurred only if” and inserting “subject to clause (iii), such costs shall be treated as incurred only if”;

(B) by striking “, under section 1860D-14, or under a State Pharmaceutical Assistance Program”; and

(C) by striking the period at the end and inserting “; and”; and

(3) by inserting after clause (ii) the following new clause:

“(iii) such costs shall be treated as incurred and shall not be considered to be reimbursed

under clause (ii) if such costs are borne or paid—

“(I) under section 1860D–14;

“(II) under a State Pharmaceutical Assistance Program;

“(III) by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act); or

“(IV) under an AIDS Drug Assistance Program under part B of title XXVI of the Public Health Service Act.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to costs incurred on or after January 1, 2009.

**SEC. 222. PERMITTING MID-YEAR CHANGES IN ENROLLMENT FOR FORMULARY CHANGES ADVERSELY IMPACT AN ENROLLEE.**

(a) IN GENERAL.—Section 1860D–1(b)(3) of the Social Security Act (42 U.S.C. 1395w–101(b)(3)) is amended by adding at the end the following new subparagraph:

“(F) CHANGE IN FORMULARY RESULTING IN INCREASE IN COST-SHARING.—

“(i) IN GENERAL.—Except as provided in clause (ii), in the case of an individual enrolled in a prescription drug plan (or MA–PD plan) who has been prescribed a covered part D drug while so enrolled, if the formulary of the plan is materially changed (other than at the end of a contract year) so to reduce the coverage (or increase the cost-sharing) of the drug under the plan.

“(ii) EXCEPTION.—Clause (i) shall not apply in the case that a drug is removed from the formulary of a plan because of a recall or withdrawal of the drug issued by the Food and Drug Administration.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contract years beginning on or after January 1, 2009.

**SEC. 223. REMOVAL OF EXCLUSION OF BENZODIAZEPINES FROM REQUIRED COVERAGE UNDER THE MEDICARE PRESCRIPTION DRUG PROGRAM.**

(a) IN GENERAL.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended—

(1) by striking “subparagraph (E)” and inserting “subparagraphs (E) and (J)”; and

(2) by inserting “and benzodiazepines, respectively” after “smoking cessation agents”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to prescriptions dispensed on or after January 1, 2013.

**SEC. 224. PERMITTING UPDATING DRUG COMPENDIA UNDER PART D USING PART B UPDATE PROCESS.**

Section 1860D–4(b)(3)(C) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)(C)) is amended by adding at the end the following new clause:

“(iv) UPDATING DRUG COMPENDIA USING PART B PROCESS.—The Secretary may apply under this subparagraph the same process for updating drug compendia that is used for purposes of section 1861(b)(2)(B)(ii).”

**SEC. 225. CODIFICATION OF SPECIAL PROTECTIONS FOR SIX PROTECTED DRUG CLASSIFICATIONS.**

(a) IN GENERAL.—Section 1860D–4(b)(3) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)) is amended—

(1) in subparagraph (C)(i), by inserting “, except as provided in subparagraph (G),” after “although”; and

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

“(G) REQUIRED INCLUSION OF DRUGS IN CERTAIN THERAPEUTIC CLASSES.—

“(i) IN GENERAL.—The formulary must include all or substantially all covered part D drugs in each of the following therapeutic classes of covered part D drugs:

“(I) Anticonvulsants.

“(II) Antineoplastics.

“(III) Antiretrovirals.

“(IV) Antidepressants.

“(V) Antipsychotics.

“(VI) Immunosuppressants.

“(ii) USE OF UTILIZATION MANAGEMENT TOOLS.—A PDP sponsor of a prescription drug plan may use prior authorization or step therapy for the initiation of medications within one of the classifications specified in clause (i) but only when approved by the Secretary, except that such prior authorization or step therapy may not be used in the case of antiretrovirals and in the case of individuals who already are stabilized on a drug treatment regimen.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for plan years beginning on or after January 1, 2009.

**SEC. 226. ELIMINATION OF MEDICARE PART D LATE ENROLLMENT PENALTIES PAID BY LOW-INCOME SUBSIDY-ELIGIBLE INDIVIDUALS.**

(a) INDIVIDUALS WITH INCOME BELOW 135 PERCENT OF POVERTY LINE.—Paragraph (1)(A)(ii) of section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended to read as follows:

“(i) 100 percent of any late enrollment penalties imposed under section 1860D–13(b) for such individual.”

(b) INDIVIDUALS WITH INCOME BETWEEN 135 AND 150 PERCENT OF POVERTY LINE.—Paragraph (2)(A) of such section is amended—

(1) by inserting “equal to (i) an amount” after “premium subsidy”; and

(2) by striking “paragraph (1)(A)” and inserting “clause (i) of paragraph (1)(A)”; and

(3) by adding at the end before the period the following: “, plus (ii) 100 percent of the amount described in clause (ii) of such paragraph for such individual”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to subsidies for months beginning with January 2008.

**SEC. 227. SPECIAL ENROLLMENT PERIOD FOR SUBSIDY ELIGIBLE INDIVIDUALS.**

(a) IN GENERAL.—Section 1860D–1(b)(3) of the Social Security Act (42 U.S.C. 1395w–101(b)(3)), as amended by section 222(a), is further amended by adding at the end the following new subparagraph:

“(G) ELIGIBILITY FOR LOW-INCOME SUBSIDY.—

“(i) IN GENERAL.—In the case of an applicable subsidy eligible individual (as defined in clause (ii)), the special enrollment period described in clause (iii).

“(ii) APPLICABLE SUBSIDY ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this subparagraph, the term ‘applicable subsidy eligible individual’ means a part D eligible individual who is determined under subparagraph (B) of section 1860D–14(a)(3) to be a subsidy eligible individual (as defined in subparagraph (A) of such section), and includes such an individual who was enrolled in a prescription drug plan or an MA–PD plan on the date of such determination.

“(iii) SPECIAL ENROLLMENT PERIOD DESCRIBED.—The special enrollment period described in this clause, with respect to an applicable subsidy eligible individual, is the 90-day period beginning on the date the individual receives notification that such individual has been determined under section 1860D–14(a)(3)(B) to be a subsidy eligible individual (as so defined).”

(b) AUTOMATIC ENROLLMENT PROCESS FOR CERTAIN SUBSIDY ELIGIBLE INDIVIDUALS.—Section 1860D–1(b)(1) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)), as amended by section 218(a)(2), is further amended by adding at the end the following new subparagraph:

“(E) SPECIAL RULE FOR SUBSIDY ELIGIBLE INDIVIDUALS.—The process established under subparagraph (A) shall include, in the case of an applicable subsidy eligible individual (as defined in clause (ii) of paragraph (3)(F)) who fails to enroll in a prescription drug plan or an MA–PD plan during the special enrollment period described in clause (iii) of such paragraph applicable to such individual, a process for the facilitated enrollment of the individual in the prescription drug plan or MA–PD plan that is most

appropriate for such individual (as determined by the Secretary). Nothing in the previous sentence shall prevent an individual described in such sentence from declining enrollment in a plan determined appropriate by the Secretary (or in the program under this part) or from changing such enrollment.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to subsidy determinations made for months beginning with January 2008.

**Subtitle D—Reducing Health Disparities**

**SEC. 231. MEDICARE DATA ON RACE, ETHNICITY, AND PRIMARY LANGUAGE.**

(a) REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this subtitle referred to as the “Secretary”) shall—

(A) collect data on the race, ethnicity, and primary language of each applicant for and recipient of benefits under title XVIII of the Social Security Act—

(i) using, at a minimum, the categories for race and ethnicity described in the 1997 Office of Management and Budget Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity;

(ii) using the standards developed under subsection (e) for the collection of language data;

(iii) where practicable, collecting data for additional population groups if such groups can be aggregated into the minimum race and ethnicity categories; and

(iv) where practicable, through self-reporting;

(B) with respect to the collection of the data described in subparagraph (A) for applicants and recipients who are minors or otherwise legally incapacitated, require that—

(i) such data be collected from the parent or legal guardian of such an applicant or recipient; and

(ii) the preferred language of the parent or legal guardian of such an applicant or recipient be collected;

(C) systematically analyze at least annually such data using the smallest appropriate units of analysis feasible to detect racial and ethnic disparities in health and health care and when appropriate, for men and women separately;

(D) report the results of analysis annually to the Director of the Office for Civil Rights, the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives; and

(E) ensure that the provision of assistance to an applicant or recipient of assistance is not denied or otherwise adversely affected because of the failure of the applicant or recipient to provide race, ethnicity, and primary language data.

(2) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed—

(A) to permit the use of information collected under this subsection in a manner that would adversely affect any individual providing any such information; and

(B) to require health care providers to collect data.

(b) PROTECTION OF DATA.—The Secretary shall ensure (through the promulgation of regulations or otherwise) that all data collected pursuant to subsection (a) is protected—

(1) under the same privacy protections as the Secretary applies to other health data under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033) relating to the privacy of individually identifiable health information and other protections; and

(2) from all inappropriate internal use by any entity that collects, stores, or receives the data, including use of such data in determinations of eligibility (or continued eligibility) in health plans, and from other inappropriate uses, as defined by the Secretary.

(c) **COLLECTION PLAN.**—In carrying out the duties specified in subsection (a), the Secretary shall develop and implement a plan to improve the collection, analysis, and reporting of racial, ethnic, and primary language data within the programs administered under title XVIII of the Social Security Act, and, in consultation with the National Committee on Vital Health Statistics, the Office of Minority Health, and other appropriate public and private entities, shall make recommendations on how to—

(1) implement subsection (a) while minimizing the cost and administrative burdens of data collection and reporting;

(2) expand awareness that data collection, analysis, and reporting by race, ethnicity, and primary language is legal and necessary to assure equity and non-discrimination in the quality of health care services;

(3) ensure that future patient record systems including electronic health records, electronic medical records and patient health records, have data code sets for racial, ethnic, and primary language identifiers and that such identifiers can be retrieved from clinical records, including records transmitted electronically;

(4) improve health and health care data collection and analysis for more population groups if such groups can be aggregated into the minimum race and ethnicity categories;

(5) provide researchers with greater access to racial, ethnic, and primary language data, subject to privacy and confidentiality regulations; and

(6) safeguard and prevent the misuse of data collected under subsection (a).

(d) **COMPLIANCE WITH STANDARDS.**—Data collected under subsection (a) shall be obtained, maintained, and presented (including for reporting purposes and at a minimum) in accordance with the 1997 Office of Management and Budget Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity.

(e) **LANGUAGE COLLECTION STANDARDS.**—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Minority Health, in consultation with the Office for Civil Rights of the Department of Health and Human Services, shall develop and disseminate Standards for the Classification of Federal Data on Preferred Written and Spoken Language.

(f) **TECHNICAL ASSISTANCE FOR THE COLLECTION AND REPORTING OF DATA.**—

(1) **IN GENERAL.**—The Secretary may, either directly or through grant or contract, provide technical assistance to enable a health care provider or plan operating under the Medicare program to comply with the requirements of this section.

(2) **TYPES OF ASSISTANCE.**—Assistance provided under this subsection may include assistance to—

(A) enhance or upgrade computer technology that will facilitate racial, ethnic, and primary language data collection and analysis;

(B) improve methods for health data collection and analysis including additional population groups beyond the Office of Management and Budget categories if such groups can be aggregated into the minimum race and ethnicity categories;

(C) develop mechanisms for submitting collected data subject to existing privacy and confidentiality regulations; and

(D) develop educational programs to raise awareness that data collection and reporting by race, ethnicity, and preferred language are legal and essential for eliminating health and health care disparities; and,

(E) provide for the revision of existing HIPAA claims-related code sets to mandate the collection of racial and ethnicity data, and to provide a code set for primary language.

(g) **ANALYSIS OF RACIAL AND ETHNIC DATA.**—The Secretary, acting through the Director of the Agency for Health Care Research and Quality and in coordination with the Administrator of the Centers for Medicare & Medicaid Services, shall—

(1) identify appropriate quality assurance mechanisms to monitor for health disparities under the Medicare program;

(2) specify the clinical, diagnostic, or therapeutic measures which should be monitored;

(3) develop new quality measures relating to racial and ethnic disparities in health and health care;

(4) identify the level at which data analysis should be conducted; and

(5) share data with external organizations for research and quality improvement purposes, in compliance with applicable Federal privacy laws.

(h) **REPORT.**—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall submit to the appropriate committees of Congress a report on the effectiveness of data collection, analysis, and reporting on race, ethnicity, and primary language under the programs administered through title XVIII of the Social Security Act. The report shall evaluate the progress made with respect to the plan under subsection (c) or subsequent revisions thereto.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2008 through 2012.

**SEC. 232. ENSURING EFFECTIVE COMMUNICATION IN MEDICARE.**

(a) **ENSURING EFFECTIVE COMMUNICATION BY THE CENTERS FOR MEDICARE & MEDICAID SERVICES.**—

(1) **STUDY ON MEDICARE PAYMENTS FOR LANGUAGE SERVICES.**—The Secretary of Health and Human Services shall conduct a study that examines ways that Medicare should develop payment systems for language services using the results of the demonstration program conducted under section 233.

(2) **ANALYSES.**—The study shall include an analysis of each of the following:

(A) How to develop and structure appropriate payment systems for language services for all Medicare service providers.

(B) The feasibility of adopting a payment methodology for on-site interpreters, including interpreters who work as independent contractors and interpreters who work for agencies that provide on-site interpretation, pursuant to which such interpreters could directly bill Medicare for services provided in support of physician office services for an LEP Medicare patient.

(C) The feasibility of Medicare contracting directly with agencies that provide off-site interpretation including telephonic and video interpretation pursuant to which such contractors could directly bill Medicare for the services provided in support of physician office services for an LEP Medicare patient.

(D) The feasibility of modifying the existing Medicare resource-based relative value scale (RBRVS) by using adjustments (such as multipliers or add-ons) when a patient is LEP.

(E) How each of options described in a previous paragraph would be funded and how such funding would affect physician payments, a physician's practice, and beneficiary cost-sharing.

(3) **VARIATION IN PAYMENT SYSTEM DESCRIBED.**—The payment systems described in subsection (b) may allow variations based upon types of service providers, available delivery methods, and costs for providing language services including such factors as—

(A) the type of language services provided (such as provision of health care or health care related services directly in a non-English language by a bilingual provider or use of an interpreter);

(B) type of interpretation services provided (such as in-person, telephonic, video interpretation);

(C) the methods and costs of providing language services (including the costs of providing language services with internal staff or through

contract with external independent contractors and/or agencies);

(D) providing services for languages not frequently encountered in the United States; and

(E) providing services in rural areas.

(4) **REPORT.**—The Secretary shall submit a report on the study conducted under subsection (a) to appropriate committees of Congress not later than 1 year after the expiration of the demonstration program conducted under section 3.

(b) **HEALTH PLANS.**—Section 1857(g)(1) of the Social Security Act (42 U.S.C. 1395w-27(g)(1)) is amended—

(1) by striking “or” at the end of subparagraph (F);

(2) by adding “or” at the end of subparagraph (G); and

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

“(H) fails substantially to provide language services to limited English proficient beneficiaries enrolled in the plan that are required under law;”.

**SEC. 233. DEMONSTRATION TO PROMOTE ACCESS FOR MEDICARE BENEFICIARIES WITH LIMITED ENGLISH PROFICIENCY BY PROVIDING REIMBURSEMENT FOR CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES.**

(a) **IN GENERAL.**—Within one year after the date of the enactment of this Act the Secretary, acting through the Centers for Medicare & Medicaid Services, shall award 24 3-year demonstration grants to eligible Medicare service providers to improve effective communication between such providers and Medicare beneficiaries who are “living in communities where racial and ethnic minorities, including populations that face language barriers, are underserved with respect to such services”. The Secretary shall not authorize a grant larger than \$500,000 over three years for any grantee.

(b) **ELIGIBILITY; PRIORITY.**—

(1) **ELIGIBILITY.**—To be eligible to receive a grant under subsection (1) an entity shall—

(A) be—

(i) a provider of services under part A of title XVIII of the Social Security Act;

(ii) a service provider under part B of such title;

(iii) a part C organization offering a Medicare part C plan under part C of such title; or

(iv) a PDP sponsor of a prescription drug plan under part D of such title; and

(B) prepare and submit to the Secretary an application, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

(2) **PRIORITY.**—

(A) **DISTRIBUTION.**—To the extent feasible, in awarding grants under this section, the Secretary shall award—

(i) 6 grants to providers of services described in paragraph (1)(A)(i);

(ii) 6 grants to service providers described in paragraph (1)(A)(ii);

(iii) 6 grants to organizations described in paragraph (1)(A)(iii); and

(iv) 6 grants to sponsors described in paragraph (1)(A)(iv).

(B) **FOR COMMUNITY ORGANIZATIONS.**—The Secretary shall give priority to applicants that have developed partnerships with community organizations or with agencies with experience in language access.

(C) **VARIATION IN GRANTEEES.**—The Secretary shall also ensure that the grantees under this section represent, among other factors, variations in—

(i) different types of service providers and organizations under parts A through D of title XVIII of the Social Security Act;

(ii) languages needed and their frequency of use;

(iii) urban and rural settings;

(iv) at least two geographic regions; and

(v) at least two large metropolitan statistical areas with diverse populations.

(c) USE OF FUNDS.—

(1) IN GENERAL.—A grantee shall use grant funds received under this section to pay for the provision of competent language services to Medicare beneficiaries who are limited English proficient. Competent interpreter services may be provided through on-site interpretation, telephonic interpretation, or video interpretation or direct provision of health care or health care related services by a bilingual health care provider. A grantee may use bilingual providers, staff, or contract interpreters. A grantee may use grant funds to pay for competent translation services. A grantee may use up to 10 percent of the grant funds to pay for administrative costs associated with the provision of competent language services and for reporting required under subsection (E).

(2) ORGANIZATIONS.—Grantees that are part C organizations or PDP sponsors must ensure that their network providers receive at least 50 percent of the grant funds to pay for the provision of competent language services to Medicare beneficiaries who are limited English proficient, including physicians and pharmacies.

(3) DETERMINATION OF PAYMENTS FOR LANGUAGE SERVICES.—Payments to grantees shall be calculated based on the estimated numbers of LEP Medicare beneficiaries in a grantee's service area utilizing—

(A) data on the numbers of limited English proficient individuals who speak English less than "very well" from the most recently available data from the Bureau of the Census or other State-based study the Secretary determines likely to yield accurate data regarding the number of LEP individuals served by the grantee; or

(B) the grantee's own data if the grantee routinely collects data on Medicare beneficiaries' primary language in a manner determined by the Secretary to yield accurate data and such data shows greater numbers of LEP individuals than the data listed in subparagraph (A).

(4) LIMITATIONS.—

(A) REPORTING.—Payments shall only be provided under this section to grantees that report their costs of providing language services as required under subsection (e). If a grantee fails to provide the reports under such section for the first year of a grant, the Secretary may terminate the grant and solicit applications from new grantees to participate in the subsequent two years of the demonstration program.

(B) TYPE OF SERVICES.—

(i) IN GENERAL.—Subject to clause (ii), payments shall be provided under this section only to grantees that utilize competent bilingual staff or competent interpreter or translation services which—

(I) if the grantee operates in a State that has statewide health care interpreter standards, meet the State standards currently in effect; or

(II) if the grantee operates in a State that does not have statewide health care interpreter standards, utilizes competent interpreters who follow the National Council on Interpreting in Health Care's Code of Ethics and Standards of Practice.

(ii) EXEMPTIONS.—The requirements of clause (i) shall not apply—

(I) in the case of a Medicare beneficiary who is limited English proficient (who has been informed in the beneficiary's primary language of the availability of free interpreter and translation services) and who requests the use of family, friends, or other persons untrained in interpretation or translation and the grantee documents the request in the beneficiary's record; and

(II) in the case of a medical emergency where the delay directly associated with obtaining a competent interpreter or translation services would jeopardize the health of the patient.

Nothing in clause (ii)(II) shall be construed to exempt an emergency rooms or similar entities

that regularly provide health care services in medical emergencies from having in place systems to provide competent interpreter and translation services without undue delay.

(d) ASSURANCES.—Grantees under this section shall—

(1) ensure that appropriate clinical and support staff receive ongoing education and training in linguistically appropriate service delivery; ensure the linguistic competence of bilingual providers;

(2) offer and provide appropriate language services at no additional charge to each patient with limited English proficiency at all points of contact, in a timely manner during all hours of operation;

(3) notify Medicare beneficiaries of their right to receive language services in their primary language;

(4) post signage in the languages of the commonly encountered group or groups present in the service area of the organization; and

(5) ensure that—

(A) primary language data are collected for recipients of language services; and

(B) consistent with the privacy protections provided under the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note), if the recipient of language services is a minor or is incapacitated, the primary language of the parent or legal guardian is collected and utilized.

(e) REPORTING REQUIREMENTS.—Grantees under this section shall provide the Secretary with reports at the conclusion of the each year of a grant under this section. Each report shall include at least the following information:

(1) The number of Medicare beneficiaries to whom language services are provided.

(2) The languages of those Medicare beneficiaries.

(3) The types of language services provided (such as provision of services directly in non-English language by a bilingual health care provider or use of an interpreter).

(4) Type of interpretation (such as in-person, telephonic, or video interpretation).

(5) The methods of providing language services (such as staff or contract with external independent contractors or agencies).

(6) The length of time for each interpretation encounter.

(7) The costs of providing language services (which may be actual or estimated, as determined by the Secretary).

(f) NO COST SHARING.—LEP Beneficiaries shall not have to pay cost-sharing or co-pays for language services provided through this demonstration program.

(g) EVALUATION AND REPORT.—The Secretary shall conduct an evaluation of the demonstration program under this section and shall submit to the appropriate committees of Congress a report not later than 1 year after the completion of the program. The report shall include the following:

(1) An analysis of the patient outcomes and costs of furnishing care to the LEP Medicare beneficiaries participating in the project as compared to such outcomes and costs for limited English proficient Medicare beneficiaries not participating.

(2) The effect of delivering culturally and linguistically appropriate services on beneficiary access to care, utilization of services, efficiency and cost-effectiveness of health care delivery, patient satisfaction, and select health outcomes.

(3) Recommendations regarding the extension of such project to the entire Medicare program.

(h) GENERAL PROVISIONS.—Nothing in this section shall be construed to limit otherwise existing obligations of recipients of Federal financial assistance under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d) et. seq.) or any other statute.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry

out this section \$10,000,000 for each fiscal year of the demonstration.

**SEC. 234. DEMONSTRATION TO IMPROVE CARE TO PREVIOUSLY UNINSURED.**

(a) ESTABLISHMENT.—Within one year after the date of enactment of this Act, the Secretary shall establish a demonstration project to determine the greatest needs and most effective methods of outreach to Medicare beneficiaries who were previously uninsured.

(b) SCOPE.—The demonstration shall be in no fewer than 10 sites, and shall include state health insurance assistance programs, community health centers, community-based organizations, community health workers, and other service providers under parts A, B, and C of title XVIII of the Social Security Act. Grantees that are plans operating under part C shall document that enrollees who were previously uninsured receive the "Welcome to Medicare" physical exam.

(c) DURATION.—The Secretary shall conduct the demonstration project for a period of 2 years.

(d) REPORT AND EVALUATION.—The Secretary shall conduct an evaluation of the demonstration and not later than 1 year after the completion of the project shall submit to Congress a report including the following:

(1) An analysis of the effectiveness of outreach activities targeting beneficiaries who were previously uninsured, such as revising outreach and enrollment materials (including the potential for use of video information), providing one-on-one counseling, working with community health workers, and amending the Medicare and You handbook.

(2) The effect of such outreach on beneficiary access to care, utilization of services, efficiency and cost-effectiveness of health care delivery, patient satisfaction, and select health outcomes.

**SEC. 235. OFFICE OF THE INSPECTOR GENERAL REPORT ON COMPLIANCE WITH AND ENFORCEMENT OF NATIONAL STANDARDS ON CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES (CLAS) IN MEDICARE.**

(a) REPORT.—Not later than two years after the date of the enactment of this Act, the Inspector General of the Department of Health and Human Services shall prepare and publish a report on—

(1) the extent to which Medicare providers and plans are complying with the Office for Civil Rights' Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons and the Office of Minority Health's Culturally and Linguistically Appropriate Services Standards in health care; and

(2) a description of the costs associated with or savings related to the provision of language services.

Such report shall include recommendations on improving compliance with CLAS Standards and recommendations on improving enforcement of CLAS Standards.

(b) IMPLEMENTATION.—Not later than one year after the date of publication of the report under subsection (a), the Department of Health and Human Services shall implement changes responsive to any deficiencies identified in the report.

**SEC. 236. IOM REPORT ON IMPACT OF LANGUAGE ACCESS SERVICES.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall seek to enter into an arrangement with the Institute of Medicine under which the Institute will prepare and publish, not later than 3 years after the date of the enactment of this Act, a report on the impact of language access services on the health and health care of limited English proficient populations.

(b) CONTENTS.—Such report shall include—

(1) recommendations on the development and implementation of policies and practices by

health care organizations and providers for limited English proficient patient populations;

(2) a description of the effect of providing language access services on quality of health care and access to care and reduced medical error; and

(3) a description of the costs associated with or savings related to provision of language access services.

#### SEC. 237. DEFINITIONS.

In this subtitle:

(1) **BILINGUAL.**—The term “bilingual” with respect to an individual means a person who has sufficient degree of proficiency in two languages and can ensure effective communication can occur in both languages.

(2) **COMPETENT INTERPRETER SERVICES.**—The term “competent interpreter services” means a trans-language rendition of a spoken message in which the interpreter comprehends the source language and can speak comprehensively in the target language to convey the meaning intended in the source language. The interpreter knows health and health-related terminology and provides accurate interpretations by choosing equivalent expressions that convey the best matching and meaning to the source language and captures, to the greatest possible extent, all nuances intended in the source message.

(3) **COMPETENT TRANSLATION SERVICES.**—The term “competent translation services” means a trans-language rendition of a written document in which the translator comprehends the source language and can write comprehensively in the target language to convey the meaning intended in the source language. The translator knows health and health-related terminology and provides accurate translations by choosing equivalent expressions that convey the best matching and meaning to the source language and captures, to the greatest possible extent, all nuances intended in the source document.

(4) **EFFECTIVE COMMUNICATION.**—The term “effective communication” means an exchange of information between the provider of health care or health care-related services and the limited English proficient recipient of such services that enables limited English proficient individuals to access, understand, and benefit from health care or health care-related services.

(5) **INTERPRETING/INTERPRETATION.**—The terms “interpreting” and “interpretation” mean the transmission of a spoken message from one language into another, faithfully, accurately, and objectively.

(6) **HEALTH CARE SERVICES.**—The term “health care services” means services that address physical as well as mental health conditions in all care settings.

(7) **HEALTH CARE-RELATED SERVICES.**—The term “health care-related services” means human or social services programs or activities that provide access, referrals or links to health care.

(8) **LANGUAGE ACCESS.**—The term “language access” means the provision of language services to an LEP individual designed to enhance that individual’s access to, understanding of or benefit from health care or health care-related services.

(9) **LANGUAGE SERVICES.**—The term “language services” means provision of health care services directly in a non-English language, interpretation, translation, and non-English signage.

(10) **LIMITED ENGLISH PROFICIENT.**—The term “limited English proficient” or “LEP” with respect to an individual means an individual who speaks a primary language other than English and who cannot speak, read, write or understand the English language at a level that permits the individual to effectively communicate with clinical or nonclinical staff at an entity providing health care or health care related services.

(11) **MEDICARE PROGRAM.**—The term “Medicare program” means the programs under parts A through D of title XVIII of the Social Security Act.

(12) **SERVICE PROVIDER.**—The term “service provider” includes all suppliers, providers of services, or entities under contract to provide coverage, items or services under any part of title XVIII of the Social Security Act.

### TITLE III—PHYSICIANS’ SERVICE PAYMENT REFORM

#### SEC. 301. ESTABLISHMENT OF SEPARATE TARGET GROWTH RATES FOR SERVICE CATEGORIES.

(a) **ESTABLISHMENT OF SERVICE CATEGORIES.**—Subsection (j) of section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended by adding at the end the following new paragraph:

“(5) **SERVICE CATEGORIES.**—For services furnished on or after January 1, 2008, each of the following categories of physicians’ services shall be treated as a separate ‘service category’:

“(A) Evaluation and management services for primary care (including new and established patient office visits delivered by physicians who the Secretary determines provide accessible, continuous, coordinated, and comprehensive care for Medicare beneficiaries, emergency department visits, and home visits), and for preventive services (including screening mammography, colorectal cancer screening, and other services as defined by the Secretary, limited to the recommendations of the United States Preventive Services Task Force).

“(B) Evaluation and management services not described in subparagraph (A).

“(C) Imaging services (as defined in subsection (b)(4)(B)) and diagnostic tests (other than clinical diagnostic laboratory tests) not described in subparagraph (A).

“(D) Procedures that are subject (under regulations promulgated to carry out this section) to a 10-day or 90-day global period (in this paragraph referred to as ‘major procedures’), except that the Secretary may reclassify as minor procedures under subparagraph (F) any procedures that would otherwise be included in this category if the Secretary determines that such procedures are not major procedures.

“(E) Anesthesia services that are paid on the basis of the separate conversion factor for anesthesia services determined under subsection (d)(1)(D).

“(F) Minor procedures and any other physicians’ services that are not described in a preceding subparagraph.”

(b) **ESTABLISHMENT OF SEPARATE CONVERSION FACTORS FOR EACH SERVICE CATEGORY.**—Subsection (d)(1) of section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended—

(1) in subparagraph (A)—

(A) by designating the sentence beginning “The conversion factor” as clause (i) with the heading “APPLICATION OF SINGLE CONVERSION FACTOR.”—and with appropriate indentation;

(B) by striking “The conversion factor” and inserting “Subject to clause (ii), the conversion factor”; and

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

“(ii) **APPLICATION OF MULTIPLE CONVERSION FACTORS BEGINNING WITH 2008.**—

“(I) **IN GENERAL.**—In applying clause (i) for years beginning with 2008, separate conversion factors shall be established for each service category of physicians’ services (as defined in subsection (j)(5)) and any reference in this section to a conversion factor for such years shall be deemed to be a reference to the conversion factor for each of such categories.

“(II) **INITIAL CONVERSION FACTORS; SPECIAL RULE FOR ANESTHESIA SERVICES.**—Such factors for 2008 shall be based upon the single conversion factor for 2007 multiplied by the update established under paragraph (8) for such category for 2008. In the case of the service category described in subsection (j)(5)(F) (relating to anesthesia services), the conversion factor for 2008 shall be based on the separate conversion factor specified in subparagraph (D) for 2007 multiplied by the update established under paragraph (8) for such category for 2008.

“(III) **UPDATING OF CONVERSION FACTORS.**—Such factor for a service category for a subsequent year shall be based upon the conversion factor for such category for the previous year and adjusted by the update established for such category under paragraph (8) for the year involved.”; and

(2) in subparagraph (D), by inserting “(before 2008)” after “for a year”.

(c) **ESTABLISHING UPDATES FOR CONVERSION FACTORS FOR SERVICE CATEGORIES.**—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w-4(d)) is amended—

(1) in paragraph (4)(B), by striking “and (6)” and inserting “, (6), (8), and (9).”

(2) in paragraph (4)(C)(iii), by striking “The allowed” and inserting “Subject to paragraph (8)(B), the allowed”;

(3) in paragraph (4)(D), by striking “The update” and inserting “Subject to paragraph (8)(E), the update”; and

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

“(8) **UPDATES FOR SERVICE CATEGORIES BEGINNING WITH 2008 AND ENDING WITH 2012.**

“(9) **NO UPDATE FOR SERVICE CATEGORIES BEGINNING WITH 2013.**—THE UPDATE TO THE CONVERSION FACTOR FOR EACH OF THE SERVICE CATEGORIES ESTABLISHED UNDER PARAGRAPH (8) FOR 2013 AND EACH SUCCEEDING YEAR SHALL BE 0 PERCENT.”

“(A) **IN GENERAL.**—In applying paragraph (4) for a year beginning with 2008 and ending with 2012, the following rules apply:

“(i) **APPLICATION OF SEPARATE UPDATE ADJUSTMENTS FOR EACH SERVICE CATEGORY.**—Pursuant to paragraph (1)(A)(ii)(I), the update shall be made to the conversion factor for each service category (as defined in subsection (j)(5)) based upon an update adjustment factor for the respective category and year and the update adjustment factor shall be computed, for a year, separately for each service category.

“(ii) **COMPUTATION OF ALLOWED AND ACTUAL EXPENDITURES BASED ON SERVICE CATEGORIES.**—In computing the prior year adjustment component and the cumulative adjustment component under clauses (i) and (ii) of paragraph (4)(B), the following rules apply:

“(I) **APPLICATION BASED ON SERVICE CATEGORIES.**—The allowed expenditures and actual expenditures shall be the allowed and actual expenditures for the service category, as determined under subparagraph (B).

“(II) **LIMITATION TO PHYSICIAN FEE-SCHEDULE SERVICES.**—Actual expenditures shall only take into account expenditures for services furnished under the physician fee schedule.

“(III) **APPLICATION OF CATEGORY SPECIFIC TARGET GROWTH RATE.**—The growth rate applied under clause (ii)(II) of such paragraph shall be the target growth rate for the service category involved under subsection (f)(5).

“(IV) **ALLOCATION OF CUMULATIVE OVERHANG.**—There shall be substituted for the difference described in subparagraph (B)(ii)(I) of such paragraph the amount described in subparagraph (C)(i) for the service category involved.

“(B) **DETERMINATION OF ALLOWED EXPENDITURES.**—In applying paragraph (4) for a year beginning with 2008, notwithstanding subparagraph (C)(iii) of such paragraph, the allowed expenditures for a service category for a year is an amount computed by the Secretary as follows:

“(i) **FOR 2008.**—For 2008:

“(I) **TOTAL 2007 ALLOWED EXPENDITURES FOR ALL SERVICES INCLUDED IN SGR COMPUTATION.**—Compute total allowed expenditures for physicians’ services (as defined in subsection (f)(4)(A)) for 2007 that would otherwise be calculated under subsection (d) but for this paragraph.

“(II) **TOTAL 2007 ALLOWED EXPENDITURES FOR PHYSICIAN FEE SCHEDULE SERVICES.**—Compute total allowed expenditures for services furnished under the physician fee schedule for 2007 by

subtracting, from the total allowed expenditures computed under subclause (I), the Secretary's estimate of the amount of the actual expenditures for 2007 for services included in such subclause for which payment is not made under the fee schedule established pursuant to this section.

“(III) ALLOCATION OF 2007 ALLOWED EXPENDITURES TO SERVICE CATEGORY.—Compute allowed expenditures for the service category involved for 2007 by multiplying the total allowed expenditures computed under subclause (II) by the overhang allocation factor for the service category (as defined in subparagraph (C)(iii)).

“(IV) INCREASE BY GROWTH RATE TO OBTAIN 2008 ALLOWED EXPENDITURES FOR SERVICE CATEGORY.—Compute allowed expenditures for the service category for 2008 by increasing the allowed expenditures for the service category for 2007 computed under subclause (III) by the target growth rate for such service category under subsection (f) for 2008.

“(ii) FOR SUBSEQUENT YEARS.—For a subsequent year, take the amount of allowed expenditures for such category for the preceding year (under clause (i) or this clause) and increase it by the target growth rate determined under subsection (f) for such category and year.

“(C) COMPUTATION AND APPLICATION OF CUMULATIVE OVERHANG AMONG CATEGORIES.—

“(i) IN GENERAL.—For purposes of applying paragraph (4)(B)(ii)(II) under clause (ii)(IV), the amount described in this clause for a year (beginning with 2008) is the sum of the following:

“(I) PRE-2008 CUMULATIVE OVERHANG.—The amount of the pre-2008 cumulative excess spending (as defined in clause (ii)) multiplied by the overhang allocation factor for the service category (under clause (iii)).

“(II) POST-2007 CUMULATIVE AMOUNTS.—For a year beginning with 2009, the difference (which may be positive or negative) between the amount of the allowed expenditures for physicians' services (as determined under paragraph (4)(C)) in the service category from January 1, 2008, through the end of the prior year and the amount of the actual expenditures for such services in such category during that period.

“(ii) PRE-2008 CUMULATIVE EXCESS SPENDING DEFINED.—For purposes of clause (i)(I), the term ‘pre-2008 cumulative excess spending’ means the difference described in paragraph (4)(B)(ii)(I) as determined for the year 2008, taking into account expenditures through December 31, 2007. Such difference takes into account expenditures included in subsection (f)(4)(A).

“(iii) OVERHANG ALLOCATION FACTOR.—For purposes of this paragraph, the term ‘overhang allocation factor’ means, for a service category, the proportion, as determined by the Secretary of total actual expenditures under this part for items and services in such category during 2007 to the total of such actual expenditures for all the service categories. In calculating such proportion, the Secretary shall only take into account services furnished under the physician fee schedule.

“(D) UPDATES FOR 2008 AND 2009.—The update to the conversion factors for each service category for each of 2008 and 2009 shall be equal to 0.5 percent.

“(E) CHANGE IN RESTRICTION ON UPDATE ADJUSTMENT FACTOR FOR 2010 AND 2011.—The update adjustment factor determined under subparagraph (4)(B), as modified by this paragraph, for a service category for a year (beginning with 2010 and ending with 2011) may be less than -0.07, but may not be less than -0.14.”.

(d) APPLICATION OF SEPARATE TARGET GROWTH RATES FOR EACH CATEGORY.—

(1) IN GENERAL.—Section 1848(f) of the Social Security Act (42 U.S.C. 1395w-4(f)) is amended by adding at the end the following new paragraph:

“(5) APPLICATION OF SEPARATE TARGET GROWTH RATES FOR EACH SERVICE CATEGORY BEGINNING WITH 2008.—The target growth rate for a

year beginning with 2008 shall be computed and applied separately under this subsection for each service category (as defined in subsection (j)(5)) and shall be computed using the same method for computing the sustainable growth rate except for the following:

“(A) The reference in paragraphs (2)(A) and (2)(D) to ‘all physicians’ services’ is deemed a reference to the physicians’ services included in such category but shall not take into account items and services included in physicians’ services through the operation of paragraph (4)(A).

“(B) The factor described in paragraph (2)(C) for the service category described in subsection (j)(5)(A) shall be increased by 0.025.

“(C) A national coverage determination (as defined in section 1869(f)(1)(B)) shall be treated as a change in regulation described in paragraph (2)(D).”.

(2) USE OF TARGET GROWTH RATES.—Section 1848 of such Act is further amended—

(A) in subsection (d)—

(i) in paragraph (1)(E)(ii), by inserting “or target” after “sustainable”; and

(ii) in paragraph (4)(B)(ii)(II), by inserting “or target” after “sustainable”; and

(B) in subsection (f)—

(i) in the heading by inserting “; TARGET GROWTH RATE” after “SUSTAINABLE GROWTH RATE”

(ii) in paragraph (1)—

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

(II) in subparagraph (B), by inserting “before 2008” after “each succeeding year” and by striking the period at the end and inserting “; and”; and

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

“(C) November 1 of each succeeding year the target growth rate for such succeeding year and each of the 2 preceding years.”; and

(iii) in paragraph (2), in the matter before subparagraph (A), by inserting after “beginning with 2000” the following: “and ending with 2007”.

(e) REPORTS ON EXPENDITURES FOR PART B DRUGS AND CLINICAL DIAGNOSTIC LABORATORY TESTS.—

(1) REPORTING REQUIREMENT.—The Secretary of Health and Human Services shall include information in the annual physician fee schedule proposed rule on the change in the annual rate of growth of actual expenditures for clinical diagnostic laboratory tests or drugs, biologicals, and radiopharmaceuticals for which payment is made under part B of title XVIII of the Social Security Act.

(2) RECOMMENDATIONS.—The report submitted under paragraph (1) shall include an analysis of the reasons for such excess expenditures and recommendations for addressing them in the future.

### SEC. 302. IMPROVING ACCURACY OF RELATIVE VALUES UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

(a) USE OF EXPERT PANEL TO IDENTIFY MISVALUED PHYSICIANS' SERVICES.—Section 1848(c) of the Social Security Act (42 U.S.C. 1395w(c)) is amended by adding at the end the following new paragraph:

“(7) USE OF EXPERT PANEL TO IDENTIFY MISVALUED PHYSICIANS' SERVICES.—

“(A) IN GENERAL.—The Secretary shall establish an expert panel (in this paragraph referred to as the ‘expert panel’)—

“(i) to identify, through data analysis, physicians’ services for which the relative value under this subsection is potentially misvalued, particularly those services for which such relative value may be overvalued;

“(ii) to assess whether those misvalued services warrant review using existing processes (referred to in paragraph (2)(J)(ii)) for the consideration of coding changes; and

“(iii) to advise the Secretary concerning the exercise of authority under clauses (ii)(III) and (vi) of paragraph (2)(B).

“(B) COMPOSITION OF PANEL.—The expert panel shall be appointed by the Secretary and composed of—

“(i) members with expertise in medical economics and technology diffusion;

“(ii) members with clinical expertise;

“(iii) physicians, particularly physicians (such as a physician employed by the Veterans Administration or a physician who has a full time faculty appointment at a medical school) who are not directly affected by changes in the physician fee schedule under this section;

“(iv) carrier medical directors; and

“(v) representatives of private payor health plans.

“(C) APPOINTMENT CONSIDERATIONS.—In appointing members to the expert panel, the Secretary shall assure racial and ethnic diversity on the panel and may consider appointing a liaison from organizations with experience in the consideration of coding changes to the panel.”.

(b) EXAMINATION OF SERVICES WITH SUBSTANTIAL CHANGES.—Such section is further amended by adding at the end the following new paragraph:

“(B) EXAMINATION OF SERVICES WITH SUBSTANTIAL CHANGES.—The Secretary, in consultation with the expert panel under paragraph (7), shall—

“(A) conduct a five-year review of physicians’ services in conjunction with the RUC 5-year review, particularly for services that have experienced substantial changes in length of stay, site of service, volume, practice expense, or other factors that may indicate changes in physician work;

“(B) identify new services to determine if they are likely to experience a reduction in relative value over time and forward a list of the services so identified for such five-year review; and

“(C) for physicians’ services that are otherwise unreviewed under the process the Secretary has established, periodically review a sample of relative value units within different types of services to assess the accuracy of the relative values contained in the Medicare physician fee schedule.”.

(c) AUTHORITY TO REDUCE WORK COMPONENT FOR SERVICES WITH ACCELERATED VOLUME GROWTH.—

(1) IN GENERAL.—Paragraph (2)(B) of such section is amended—

(A) in clause (v), by adding at the end the following new subclause:

“(III) REDUCTIONS IN WORK VALUE UNITS FOR SERVICES WITH ACCELERATED VOLUME GROWTH.—Effective January 1, 2009, reduced expenditures attributable to clause (vi).”; and

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

“(vi) AUTHORIZING REDUCTION IN WORK VALUE UNITS FOR SERVICES WITH ACCELERATED VOLUME GROWTH.—The Secretary may provide (without using existing processes the Secretary has established for review of relative value) for a reduction in the work value units for a particular physician’s service if the annual rate of growth in the expenditures for such service for which payment is made under this part for individuals for 2006 or a subsequent year exceeds the average annual rate of growth in expenditures of all physicians’ services for which payment is made under this part by more than 10 percentage points for such year.

“(vii) CONSULTATION WITH EXPERT PANEL AND BASED ON CLINICAL EVIDENCE.—The Secretary shall exercise authority under clauses (ii)(III) and (vi) in consultation with the expert panel established under paragraph (7) and shall take into account clinical evidence supporting or refuting the merits of such accelerated growth.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to payment for services furnished on or after January 1, 2009.

(d) ADJUSTMENT AUTHORITY FOR EFFICIENCY GAINS FOR NEW PROCEDURES.—Paragraph (2)(B)(ii) of such section is amended by adding at the end the following new subclause:

“(III) ADJUSTMENT AUTHORITY FOR EFFICIENCY GAINS FOR NEW PROCEDURES.—In carrying out subclauses (I) and (II), the Secretary may apply a methodology, based on supporting evidence, under which there is imposed a reduction over a period of years in specified relative value units in the case of a new (or newer) procedure to take into account inherent efficiencies that are typically or likely to be gained during the period of initial increased application of the procedure.”.

**SEC. 303. FEEDBACK MECHANISM ON PRACTICE PATTERNS.**

By not later than July 1, 2008, the Secretary of Health and Human Services shall develop and implement a mechanism to measure resource use on a per capita and an episode basis in order to provide confidential feedback to physicians in the Medicare program on how their practice patterns compare to physicians generally, both in the same locality as well as nationally. Such feedback shall not be subject to disclosure under section 552 of title 5, United States Code). The Secretary shall consider extending such mechanism to other suppliers as necessary.

**SEC. 304. PAYMENTS FOR EFFICIENT AREAS.**

Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

“(v) INCENTIVE PAYMENTS FOR EFFICIENT AREAS.—

“(1) IN GENERAL.—In the case of services furnished under the physician fee schedule under section 1848 on or after January 1, 2009, and before January 1, 2011, by a supplier that is paid under such fee schedule in an efficient area (as identified under paragraph (2)), in addition to the amount of payment that would otherwise be made for such services under this part, there also shall be paid an amount equal to 5 percent of the payment amount for the services under this part.

“(2) IDENTIFICATION OF EFFICIENT AREAS.—

“(A) IN GENERAL.—Based upon available data, the Secretary shall identify those counties or equivalent areas in the United States in the lowest fifth percentile of utilization based on per capita spending for services provided in 2007 under this part and part A, “as standardized to eliminate the effect of geographic adjustments in payment rates”.

“(B) IDENTIFICATION OF COUNTIES WHERE SERVICE IS FURNISHED.—For purposes of paying the additional amount specified in paragraph (1), if the Secretary uses the 5-digit postal ZIP Code where the service is furnished, the dominant county of the postal ZIP Code (as determined by the United States Postal Service, or otherwise) shall be used to determine whether the postal ZIP Code is in a county described in subparagraph (A).

“(C) JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise, respecting—

“(i) the identification of a county or other area under subparagraph (A); or

“(ii) the assignment of a postal ZIP Code to a county or other area under subparagraph (B).

“(D) PUBLICATION OF LIST OF COUNTIES; POSTING ON WEBSITE.—With respect to a year for which a county or area is identified under this paragraph, the Secretary shall identify such counties or areas as part of the proposed and final rule to implement the physician fee schedule under section 1848 for the applicable year. The Secretary shall post the list of counties identified under this paragraph on the Internet website of the Centers for Medicare & Medicaid Services.”.

**SEC. 305. RECOMMENDATIONS ON REFINING THE PHYSICIAN FEE SCHEDULE.**

(a) RECOMMENDATIONS ON CONSOLIDATED CODING FOR SERVICES COMMONLY PERFORMED TOGETHER.—Not later than December 31, 2008, the Comptroller General of the United States shall—

(1) complete an analysis of codes paid under the Medicare physician fee schedule to deter-

mine whether the codes for procedures that are commonly furnished together should be combined; and

(2) submit to Congress a report on such analysis and include in the report recommendations on whether an adjustment should be made to the relative value units for such combined code.

(b) RECOMMENDATIONS ON INCREASED USE OF BUNDLED PAYMENTS.—Not later than December 31, 2008, the Comptroller General of the United States shall—

(1) complete an analysis of those procedures under the Medicare physician fee schedule for which no global payment methodology is applied but for which a “bundled” payment methodology would be appropriate; and

(2) submit to Congress a report on such analysis and include in the report recommendations on increasing the use of “bundled” payment methodology under such schedule.

(c) MEDICARE PHYSICIAN FEE SCHEDULE.—In this section, the term “Medicare physician fee schedule” means the fee schedule established under section 1848 of the Social Security Act (42 U.S.C. 1395w-4).

**SEC. 306. IMPROVED AND EXPANDED MEDICAL HOME DEMONSTRATION PROJECT.**

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish under title XVIII of the Social Security Act an expanded medical home demonstration project (in this section referred to as the “expanded project”) under this section. The expanded project supersedes the project that was initiated under section 204 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432). The purpose of the expanded project is—

(1) to guide the redesign of the health care delivery system to provide accessible, continuous, comprehensive, and coordinated, care to Medicare beneficiaries; and

(2) to provide care management fees to personal physicians delivering continuous and comprehensive care in qualified medical homes.

(b) NATURE AND SCOPE OF PROJECT.—

(1) DURATION; SCOPE.—The expanded project shall operate during a period of three years, beginning not later than October 1, 2009, and shall include a nationally representative sample of physicians serving urban, rural, and underserved areas throughout the United States.

(2) ENCOURAGING PARTICIPATION OF SMALL PHYSICIAN PRACTICES.—

(A) IN GENERAL.—The expanded project shall be designed to include the participation of physicians in practices with fewer than four full-time equivalent physicians, as well as physicians in larger practices particularly in rural and underserved areas.

(B) TECHNICAL ASSISTANCE.—In order to facilitate the participation under the expanded project of physicians in such practices, the Secretary shall make available additional technical assistance to such practices during the first year of the expanded project.

(3) SELECTION OF HOMES TO PARTICIPATE.—The Secretary shall select up to 500 medical homes to participate in the expanded project and shall give priority to—

(A) the selection of up to 100 HIT-enhanced medical homes; and

(B) the selection of other medical homes that serve communities whose populations are at higher risk for health disparities,

(4) BENEFICIARY PARTICIPATION.—The Secretary shall establish a process for any Medicare beneficiary who is served by a medical home participating in the expanded project to elect to participate in the project. Each beneficiary who elects to so participate shall be eligible—

(A) for enhanced medical home services under the project with no cost sharing for the additional services; and

(B) for a reduction of up to 50 percent in the coinsurance for services furnished under the physician fee schedule under section 1848 of the Social Security Act by the medical home.

The Secretary shall develop standard recruitment materials and election processes for Medicare beneficiaries who are electing to participate in the expanded project.

(c) STANDARDS FOR MEDICAL HOMES, HIT-ENHANCED MEDICAL HOMES.—

(1) STANDARD SETTING AND CERTIFICATION PROCESS.—The Secretary shall establish a process for selection of a qualified standard setting and certification organization—

(A) to establish standards, consistent with this section, for medical practices to qualify as medical homes or as HIT-enhanced medical homes; and

(B) to provide for the review and certification of medical practices as meeting such standards.

(2) BASIC STANDARDS FOR MEDICAL HOMES.—For purposes of this subsection, the term “medical home” means a physician-directed practice that has been certified, under paragraph (1), as meeting the following standards:

(A) ACCESS AND COMMUNICATION WITH PATIENTS.—The practice applies standards for access to care and communication with participating beneficiaries.

(B) MANAGING PATIENT INFORMATION AND USING INFORMATION IN MANAGEMENT TO SUPPORT PATIENT CARE.—The practice has readily accessible, clinically useful information on participating beneficiaries that enables the practice to treat such beneficiaries comprehensively and systematically.

(C) MANAGING AND COORDINATING CARE ACCORDING TO INDIVIDUAL NEEDS.—The practice maintains continuous relationships with participating beneficiaries by implementing evidence-based guidelines and applying them to the identified needs of individual beneficiaries over time and with the intensity needed by such beneficiaries.

(D) PROVIDING ONGOING ASSISTANCE AND ENCOURAGEMENT IN PATIENT SELF-MANAGEMENT.—The practice—

(i) collaborates with participating beneficiaries to pursue their goals for optimal achievable health; and

(ii) assesses patient-specific barriers to communication and conducts activities to support patient self-management.

(E) RESOURCES TO MANAGE CARE.—The practice has in place the resources and processes necessary to achieve improvements in the management and coordination of care for participating beneficiaries.

(F) MONITORING PERFORMANCE.—The practice monitors its clinical process and performance (including outcome measures) in meeting the applicable standards under this subsection and provides information in a form and manner specified by the Secretary with respect to such process and performance.

(3) ADDITIONAL STANDARDS FOR HIT-ENHANCED MEDICAL HOME.—For purposes of this subsection, the term “HIT-enhanced medical home” means a medical home that has been certified, under paragraph (1), as using a health information technology system that includes at least the following elements:

(A) ELECTRONIC HEALTH RECORD (EHR).—The system uses, for participating beneficiaries, an electronic health record that meets the following standards:

(i) IN GENERAL.—The record—

(I) has the capability of interoperability with secure data acquisition from health information technology systems of other health care providers in the area served by the home; or

(II) the capability to securely acquire clinical data delivered by such other health care providers to a secure common data source.

(ii) The record protects the privacy and security of health information.

(iii) The record has the capability to acquire, manage, and display all the types of clinical information commonly relevant to services furnished by the medical home, such as complete medical records, radiographic image retrieval, and clinical laboratory information.

(iv) The record is integrated with decision support capacities that facilitate the use of evidence-based medicine and clinical decision support tools to guide decision-making at the point-of-care based on patient-specific factors.

(B) E-PRESCRIBING.—The system supports e-prescribing and computerized physician order entry.

(C) OUTCOME MEASUREMENT.—The system supports the secure, confidential provision of clinical process and outcome measures approved by the National Quality Forum to the Secretary for use in confidential manner for provider feedback and peer review and for outcomes and clinical effectiveness research.

(D) PATIENT EDUCATION CAPABILITY.—The system actively facilitates participating beneficiaries engaging in the management of their own health through education and support systems and tools for shared decision-making.

(E) SUPPORT OF BASIC STANDARDS.—The elements of such system, such as the electronic health record, email communications, patient registries, and clinical-decision support tools, are integrated in a manner to better achieve the basic standards specified in paragraph (2) for a medical home.

(4) USE OF DATA.—The Secretary shall use the data submitted under paragraph (1)(F) in a confidential manner for feedback and peer review for medical homes and for outcomes and clinical effectiveness research. After the first two years of the expanded project, these data may be used for adjustment in the monthly medical home care management fee under subsection (d)(2)(E).

(d) MONTHLY MEDICAL HOME CARE MANAGEMENT FEE.—

(1) IN GENERAL.—Under the expanded project, the Secretary shall provide for payment to the personal physician of each participating beneficiary of a monthly medical home care management fee.

(2) AMOUNT OF PAYMENT.—In determining the amount of such fee, the Secretary shall consider the following:

(A) OPERATING EXPENSES.—The additional practice expenses for the delivery of services through a medical home, taking into account the additional expenses for an HIT-enhanced medical home. Such expenses include costs associated with—

(i) structural expenses, such as equipment, maintenance, and training costs;

(ii) enhanced access and communication functions;

(iii) population management and registry functions;

(iv) patient medical data and referral tracking functions;

(v) provision of evidence-based care;

(vi) implementation and maintenance of health information technology;

(vii) reporting on performance and improvement conditions; and

(viii) patient education and patient decision support, including print and electronic patient education materials.

(B) ADDED VALUE SERVICES.—The value of additional physician work, such as augmented care plan oversight, expanded e-mail and telephonic consultations, extended patient medical data review (including data stored and transmitted electronically), and physician supervision of enhanced self management education, and expanded follow-up accomplished by non-physician personnel, in a medical home that is not adequately taken into account in the establishment of the physician fee schedule under section 1848 of the Social Security Act.

(C) RISK ADJUSTMENT.—The development of an appropriate risk adjustment mechanism to account for the varying costs of medical homes based upon characteristics of participating beneficiaries.

(D) HIT ADJUSTMENT.—Variation of the fee based on the extensiveness of use of the health information technology in the medical home.

(E) PERFORMANCE-BASED.—After the first two years of the expanded project, an adjustment of

the fee based on performance of the medical home in achieving quality or outcomes standards.

(3) PERSONAL PHYSICIAN DEFINED.—For purposes of this subsection, the term “personal physician” means, with respect to a participating Medicare beneficiary, a physician (as defined in section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)) who provides accessible, continuous, coordinated, and comprehensive care for the beneficiary as part of a medical practice that is a qualified medical home. Such a physician may be a specialist for a beneficiary requiring ongoing care for a chronic condition or multiple chronic conditions (such as severe asthma, complex diabetes, cardiovascular disease, rheumatologic disorder) or for a beneficiary with a prolonged illness.

(e) FUNDING.—

(1) USE OF CURRENT PROJECT FUNDING.—Funds otherwise applied to the demonstration under section 204 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432) shall be available to carry out the expanded project

(2) ADDITIONAL FUNDING FROM SMI TRUST FUND.—

(A) IN GENERAL.—In addition to the funds provided under paragraph (1), there shall be available, from the Federal Supplementary Medical Insurance Trust Fund (under section 1841 of the Social Security Act), the amount of \$500,000,000 to carry out the expanded project, including payments to of monthly medical home care management fees under subsection (d), reductions in coinsurance for participating beneficiaries under subsection (b)(4)(B), and funds for the design, implementation, and evaluation of the expanded project.

(B) MONITORING EXPENDITURES; EARLY TERMINATION.—The Secretary shall monitor the expenditures under the expanded project and may terminate the project early in order that expenditures not exceed the amount of funding provided for the project under subparagraph (A).

(f) EVALUATIONS AND REPORTS.—

(1) ANNUAL INTERIM EVALUATIONS AND REPORTS.—For each year of the expanded project, the Secretary shall provide for an evaluation of the project and shall submit to Congress, by a date specified by the Secretary, a report on the project and on the evaluation of the project for each such year.

(2) FINAL EVALUATION AND REPORT.—The Secretary shall provide for an evaluation of the expanded project and shall submit to Congress, not later than 18 months after the date of completion of the project, a report on the project and on the evaluation of the project.

#### SEC. 307. REPEAL OF PHYSICIAN ASSISTANCE AND QUALITY INITIATIVE FUND.

Subsection (l) of section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is repealed.

#### SEC. 308. ADJUSTMENT TO MEDICARE PAYMENT LOCALITIES.

Section 1848(e) of the Social Security Act (42 U.S.C.1395w-4(e)) is amended by adding at the end the following new paragraph:

“(6) FEE SCHEDULE GEOGRAPHIC AREAS.—

“(A) IN GENERAL.—

“(i) REVISION.—Subject to clause (ii), for services furnished on or after January 1, 2008, the Secretary shall revise the fee schedule areas used for payment under this section applicable to the State of California using the county-based geographic adjustment factor as specified in option 3 (table 9) in the proposed rule for the 2008 physician fee schedule published at 72 Fed. Reg. 38,122 (July 12, 2007).

“(ii) TRANSITION.—For services furnished during the period beginning January 1, 2008, and ending December 31, 2010, after calculating the work, practice expense, and malpractice geographic indices described in clauses (i), (ii), and (iii) of paragraph (1)(A) that would otherwise apply, the Secretary shall increase any such geographic index for any county in California

that is lower than the geographic index used for payment for services under this section as of December 31, 2007, in such county to such geographic index level.

“(B) SUBSEQUENT REVISIONS.—

“(i) TIMING.—Not later than January 1, 2011, the Secretary shall review and make revisions to fee schedule areas in all States for which more than one fee schedule area is used for payment of services under this section. The Secretary may revise fee schedule areas in States in which a single fee schedule area is used for payment for services under this section using the same methodology applied in the previous sentence.

“(ii) LINK WITH GEOGRAPHIC INDEX DATA REVISION.—The revision described in clause (i) shall be made effective concurrently with the application of the periodic review of geographic adjustment factors required under paragraph (1)(C) for 2011 and subsequent periods.”

#### SEC. 309. PAYMENT FOR IMAGING SERVICES.

(a) PAYMENT UNDER PART B OF THE MEDICARE PROGRAM FOR DIAGNOSTIC IMAGING SERVICES FURNISHED IN FACILITIES CONDITIONED ON ACCREDITATION OF FACILITIES.—

(1) SPECIAL PAYMENT RULE.—

(A) IN GENERAL.—Section 1848(b)(4) of the Social Security Act (42 U.S.C. 1395w-4(b)(4)) is amended—

(i) in the heading, by striking “RULE” and inserting “RULES”;

(ii) in subparagraph (A), by striking “IN GENERAL” and inserting “LIMITATION”; and

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

“(C) PAYMENT ONLY FOR SERVICES PROVIDED IN ACCREDITED FACILITIES.—

“(i) IN GENERAL.—In the case of imaging services that are diagnostic imaging services described in clause (ii), the payment amount for the technical component and the professional component of the services established for a year under the fee schedule described in paragraph (1) shall each be zero, unless the services are furnished at a diagnostic imaging services facility that meets the certificate requirement described in section 354(b)(1) of the Public Health Service Act, as applied under subsection (m). The previous sentence shall not apply with respect to the technical component if the imaging equipment meets certification standards and the professional component of a diagnostic imaging service that is furnished by a physician.

“(ii) DIAGNOSTIC IMAGING SERVICES.—For purposes of clause (i) and subsection (m), the term ‘diagnostic imaging services’ means all imaging modalities, including diagnostic magnetic resonance imaging (‘MRI’), computed tomography (‘CT’), positron emission tomography (‘PET’), nuclear medicine procedures, x-rays, sonograms, ultrasounds, echocardiograms, and such emerging diagnostic imaging technologies as specified by the Secretary.”

(B) EFFECTIVE DATE.—

(i) IN GENERAL.—Subject to clause (ii), the amendments made by subparagraph (A) shall apply to diagnostic imaging services furnished on or after January 1, 2010.

(ii) EXTENSION FOR ULTRASOUND SERVICES.—The amendments made by subparagraph (A) shall apply to diagnostic imaging services that are ultrasound services on or after January 1, 2012.

(2) CERTIFICATION OF FACILITIES THAT FURNISH DIAGNOSTIC IMAGING SERVICES.—Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended by adding at the end the following new subsection:

“(m) CERTIFICATION OF FACILITIES THAT FURNISH DIAGNOSTIC IMAGING SERVICES.—

“(1) IN GENERAL.—For purposes of subsection (b)(4)(C)(i), except as provided under paragraphs (2) through (8), the provisions of section 354 of the Public Health Service Act (as in effect as of June 1, 2007), relating to the certification of mammography facilities, shall apply, with respect to the provision of diagnostic imaging

services (as defined in subsection (b)(4)(C)(ii) and to a diagnostic imaging services facility defined in paragraph (8) (and to the process of accrediting such facilities) in the same manner that such provisions apply, with respect to the provision of mammograms and to a facility defined in subsection (a)(3) of such section (and to the process of accrediting such mammography facilities).

“(2) **TERMINOLOGY AND REFERENCES.**—For purposes of applying section 354 of the Public Health Service Act under paragraph (1)—

“(A) any reference to ‘mammography’, or ‘breast imaging’ is deemed a reference to ‘diagnostic imaging services (as defined in section 1848(b)(4)(C)(ii) of the Social Security Act)’;

“(B) any reference to a mammogram or film is deemed a reference to an image, as defined in paragraph (8);

“(C) any reference to ‘mammography facility’ or to a ‘facility’ under such section 354 is deemed a reference to a diagnostic imaging services facility, as defined in paragraph (8);

“(D) any reference to radiological equipment used to image the breast is deemed a reference to medical imaging equipment used to provide diagnostic imaging services;

“(E) any reference to radiological procedures or radiological is deemed a reference to medical imaging services, as defined in paragraph (8) or medical imaging, respectively;

“(F) any reference to an inspection (as defined in subsection (a)(4) of such section) or inspector is deemed a reference to an audit (as defined in paragraph (8)) or auditor, respectively;

“(G) any reference to a medical physicist (as described in subsection (f)(1)(E) of such section) is deemed to include a reference to a magnetic resonance scientist or the appropriate qualified expert as determined by the accrediting body;

“(H) in applying subsection (d)(1)(A)(i) of such section, the reference to ‘type of each x-ray machine, image receptor, and processor’ is deemed a reference to ‘type of imaging equipment’;

“(I) in applying subsection (d)(1)(B) of such section, the reference that ‘the person or agent submits to the Secretary’ is deemed a reference that ‘the person or agent submits to the Secretary, through the appropriate accreditation body’;

“(J) in applying subsection (d)(1)(B)(i) of such section, the reference to standards established by the Secretary is deemed a reference to standards established by an accreditation body and approved by the Secretary;

“(K) in applying subsection (e) of such section, relating to an accreditation body—

“(i) in paragraph (1)(A), the reference to ‘may’ is deemed a reference to ‘shall’;

“(ii) in paragraph (1)(B)(i)(II), the reference to ‘a random sample of clinical images from such facilities’ is deemed a reference to ‘a statistically significant random sample of clinical images from a statistically significant random sample of facilities’;

“(iii) in paragraph (3)(A) of such section—

“(I) the reference to ‘paragraph (1)(B)’ in such subsection is deemed to be a reference to ‘paragraph (1)(B) and subsection (f)’; and

“(II) the reference to the ‘Secretary’ is deemed a reference to ‘an accreditation body, with the approval of the Secretary’; and

“(iv) in paragraph (6)(B), the reference to the Committee on Labor and Human Resources of the Senate is deemed to be the Committee on Finance of the Senate and the reference to the Committee on Energy and Commerce of the House of Representatives is deemed to include a reference to the Committee on Ways and Means of the House of Representatives;

“(L) in applying subsection (f), relating to quality standards—

“(i) each reference to standards established by the Secretary is deemed a reference to standards established by an accreditation body involved and approved by the Secretary under subsection (d)(1)(B)(i) of such section

“(ii) in paragraph (1)(A), the reference to ‘radiation dose’ is deemed a reference to ‘radiation dose, as appropriate’;

“(iii) in paragraph (1)(B), the reference to ‘radiological standards’ is deemed a reference to ‘medical imaging standards, as appropriate’;

“(iv) in paragraphs (1)(D)(ii) and (1)(E)(iii), the reference to ‘the Secretary’ is deemed a reference to ‘an accreditation body with the approval of the Secretary’;

“(v) in each of subclauses (III) and (IV) of paragraph (1)(G)(ii), each reference to ‘patient’ is deemed a reference to ‘patient, if requested by the patient’; and

“(M) in applying subsection (g), relating to inspections—

“(i) each reference to the ‘Secretary or State or local agency acting on behalf of the Secretary’ is deemed to include a reference to an accreditation body involved;

“(ii) in the first sentence of paragraph (1)(F), the reference to ‘annual inspections required under this paragraph’ is deemed a reference to ‘the audits carried out in facilities at least every three years from the date of initial accreditation under this paragraph’; and

“(iii) in the second sentence of paragraph (1)(F), the reference to ‘inspections carried out under this paragraph’ is deemed a reference to ‘audits conducted under this paragraph during the previous year’.

“(3) **DATES AND PERIODS.**—For purposes of paragraph (1), in applying section 354 of the Public Health Service Act, the following applies:

“(A) **IN GENERAL.**—Except as provided in subparagraph (B)—

“(i) any reference to ‘October 1, 1994’ shall be deemed a reference to ‘January 1, 2010’;

“(ii) the reference to ‘the date of the enactment of this section’ in each of subsections (e)(1)(D) and (f)(1)(E)(iii) is deemed to be a reference to ‘the date of the enactment of the Children’s Health and Medicare Protection Act of 2007’;

“(iii) the reference to ‘annually’ in subsection (g)(1)(E) is deemed a reference to ‘every three years’;

“(iv) the reference to ‘October 1, 1996’ in subsection (l) is deemed to be a reference to ‘January 1, 2011’;

“(v) the reference to ‘October 1, 1999’ in subsection (n)(3)(H) is deemed to be a reference to ‘January 1, 2012’; and

“(vi) the reference to ‘October 1, 1993’ in the matter following paragraph (3)(J) of subsection (n) is deemed to be a reference ‘January 1, 2010’.

“(B) **ULTRASOUND SERVICES.**—With respect to diagnostic imaging services that are ultrasounds—

“(i) any reference to ‘October 1, 1994’ shall be deemed a reference to ‘January 1, 2012’;

“(ii) the reference to ‘the date of the enactment of this section’ in subsection (f)(1)(E)(iii) is deemed to be a reference to ‘7 years after the date of the enactment of the Children’s Health and Medicare Protection Act of 2007’;

“(iii) the reference to ‘October 1, 1996’ in subsection (l) is deemed to be a reference to ‘January 1, 2013’;

“(4) **PROVISIONS NOT APPLICABLE.**—For purposes of paragraph (1), in applying section 354 of the Public Health Service Act, the following provision shall not apply:

“(A) Subsections (e) and (f) of such section, in so far as the respective subsection imposes any requirement for a physician to be certified, accredited, or otherwise meet requirements, with respect to the provision of any diagnostic imaging services, as a condition of payment under subsection (b)(4)(C)(i), with respect to the professional or technical component, for such service.

“(B) Subsection (e)(1)(B)(v).

“(C) Subsection (f)(1)(H) of such section, relating to standards for special techniques for mammograms of patients with breast implants.

“(D) Subsection (g)(6) of such section, relating to an inspection demonstration program.

“(E) Subsection (n) of such section, relating to the national advisory committee.

“(F) Subsection (p) of such section, relating to breast cancer screening surveillance research grants.

“(g) Paragraphs (1)(B) and (2) of subsection (r) of such section, related to funding.

“(5) **ACCREDITATION BODIES.**—For purposes of paragraph (1), in applying section 354(e)(1) of the Public Health Service, the following shall apply:

“(A) **APPROVAL OF TWO ACCREDITATION BODIES FOR EACH TREATMENT MODALITY.**—In the case that there is more than one accreditation body for a treatment modality that qualifies for approval under this subsection, the Secretary shall approve at least two accreditation bodies for such treatment modality.

“(B) **ADDITIONAL ACCREDITATION BODY STANDARDS.**—In addition to the standards described in subparagraph (B) of such section for accreditation bodies, the Secretary shall establish standards that require—

“(i) the timely integration of new technology by accreditation bodies for purposes of accrediting facilities under this subsection; and

“(ii) the accreditation body involved to evaluate the annual medical physicist survey (or annual medical survey of another appropriate qualified expert chosen by the accreditation body) of a facility upon onsite review of such facility.

“(6) **ADDITIONAL QUALITY STANDARDS.**—For purposes of paragraph (1), in applying subsection (f)(1) of section 354 of the Public Health Service—

“(A) the quality standards under such subsection shall, with respect to a facility include—

“(i) standards for qualifications of medical personnel who are not physicians and who perform diagnostic imaging services at the facility that require such personnel to ensure that individuals, prior to performing medical imaging, demonstrate compliance with the standards established under subsection (a) through successful completion of certification by a nationally recognized professional organization, licensure, completion of an examination, pertinent coursework or degree program, verified pertinent experience, or through other ways determined appropriate by an accreditation body (with the approval of the Secretary, or through some combination thereof);

“(ii) standards requiring the facility to maintain records of the credentials of physicians and other medical personnel described in clause (i);

“(iii) standards for qualifications and responsibilities of medical directors and other personnel with supervising roles at the facility;

“(iv) standards that require the facility has procedures to ensure the safety of patients of the facility; and

“(v) standards for the establishment of a quality control program at the facility to be implemented as described in subparagraph (E) of such subsection;

“(B) the quality standards described in subparagraph (B) of such subsection shall be deemed to include standards that require the establishment and maintenance of a quality assurance and quality control program at each facility that is adequate and appropriate to ensure the reliability, clarity, and accuracy of the technical quality of diagnostic images produced at such facilities; and

“(C) the quality standard described in subparagraph (C) of such subsection, relating to a requirement for personnel who perform specified services, shall include in such requirement that such personnel must meet continuing medical education standards as

specified by an accreditation body (with the approval of the Secretary) and update such standards at least once every three years.

“(7) ADDITIONAL REQUIREMENTS.—Notwithstanding any provision of section 354 of the Public Health Service Act, the following shall apply to the accreditation process under this subsection for purposes of subsection (b)(4)(C)(i):

“(A) Any diagnostic imaging services facility accredited before January 1, 2010 (or January 1, 2012 in the case of ultrasounds), by an accrediting body approved by the Secretary shall be deemed a facility accredited by an approved accreditation body for purposes of such subsection as of such date if the facility submits to the Secretary proof of such accreditation by transmittal of the certificate of accreditation, including by electronic means.

“(B) The Secretary may require the accreditation under this subsection of an emerging technology used in the provision of a diagnostic imaging service as a condition of payment under subsection (b)(4)(C)(i) for such service at such time as the Secretary determines there is sufficient empirical and scientific information to properly carry out the accreditation process for such technology.

“(8) DEFINITIONS.—For purposes of this subsection:

“(A) AUDIT.—The term ‘audit’ means an onsite evaluation, with respect to a diagnostic imaging services facility, by the Secretary, State or local agency on behalf of the Secretary, or accreditation body approved under this subsection that includes the following:

“(i) Equipment verification.

“(ii) Evaluation of policies and procedures for compliance with accreditation requirements.

“(iii) Evaluation of personnel qualifications and credentialing.

“(iv) Evaluation of the technical quality of images.

“(v) Evaluation of patient reports.

“(vi) Evaluation of peer-review mechanisms and other quality assurance activities.

“(vii) Evaluation of quality control procedures, results, and follow-up actions.

“(viii) Evaluation of medical physicists (or other appropriate professionals chosen by the accreditation body) and magnetic resonance scientist surveys.

“(ix) Evaluation of consumer complaint mechanisms.

“(x) Provision of recommendations for improvement based on findings with respect to clauses (i) through (ix).

“(B) DIAGNOSTIC IMAGING SERVICES FACILITY.—The term ‘diagnostic imaging services facility’ has the meaning given the term ‘facility’ in section 354(a)(3) of the Public Health Service Act (42 U.S.C. 263b(a)(3)) subject to the reference changes specified in paragraph (2), but does not include any facility that does not furnish diagnostic imaging services for which payment may be made under this section.

“(C) IMAGE.—The term ‘image’ means the portrayal of internal structures of the human body for the purpose of detecting and determining the presence or extent of disease or injury and may be produced through various techniques or modalities, including radiant energy or ionizing radiation and ultrasound and magnetic resonance. Such term does not include image guided procedures.

“(D) MEDICAL IMAGING SERVICE.—The term ‘medical imaging service’ means a service that involves the science of an image.”

(b) ADJUSTMENT IN PRACTICE EXPENSE TO REFLECT HIGHER PRESUMED UTILIZATION.—Section 1848 of the Social Security Act (42 U.S.C. 1395w) is amended—

(1) in subsection (b)(4)—

(A) in subparagraph (B), by striking “subparagraph (A)” and inserting “this paragraph”; and

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

“(D) ADJUSTMENT IN PRACTICE EXPENSE TO REFLECT HIGHER PRESUMED UTILIZATION.—In computing the number of practice expense relative value units under subsection (c)(2)(C)(ii) with respect to imaging services described in subparagraph (B), the Secretary shall adjust such number of units so it reflects a 75 percent (rather than 50 percent) presumed rate of utilization of imaging equipment.”; and

(2) in subsection (c)(2)(B)(v)(II), by inserting “AND OTHER PROVISIONS” after “OPD PAYMENT CAP”

(c) ADJUSTMENT IN TECHNICAL COMPONENT “DISCOUNT” ON SINGLE-SESSION IMAGING TO CONSECUTIVE BODY PARTS.—Section 1848(b)(4) of such Act is further amended by adding at the end the following new subparagraph:

“(E) ADJUSTMENT IN TECHNICAL COMPONENT DISCOUNT ON SINGLE-SESSION IMAGING INVOLVING CONSECUTIVE BODY PARTS.—The Secretary shall increase the reduction in expenditures attributable to the multiple procedure payment reduction applicable to the technical component for imaging under the final rule published by the Secretary in the Federal Register on November 21, 2005 (42 CFR 405, et al.) from 25 percent to 50 percent.”

(d) ADJUSTMENT IN ASSUMED INTEREST RATE FOR CAPITAL PURCHASES.—Section 1848(b)(4) of such Act is further amended by adding at the end the following new subparagraph:

“(F) ADJUSTMENT IN ASSUMED INTEREST RATE FOR CAPITAL PURCHASES.—In computing the practice expense component for imaging services under this section, the Secretary shall change the interest rate assumption for capital purchases of imaging devices to reflect the prevailing rate in the market, but in no case higher than 11 percent.”

(e) DISALLOWANCE OF GLOBAL BILLING.—Effective for claims filed for imaging services (as defined in subsection (b)(4)(B) of section 1848 of the Social Security Act) furnished on or after the first day of the first month that begins more than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall not accept (or pay) a claim under such section unless the claim is made separately for each component of such services.

(f) EFFECTIVE DATE.—Except as otherwise provided, this section, and the amendments made by this section, shall apply to services furnished on or after January 1, 2008.

**SEC. 310. REDUCING FREQUENCY OF MEETINGS OF THE PRACTICING PHYSICIANS ADVISORY COUNCIL.**

Section 1868(a)(2) of the Social Security Act (42 U.S.C. 1395ee(a)(2)) is amended by striking “once during each calendar quarter” and inserting “once each year (and at such other times as the Secretary may specify)”.

**TITLE IV—MEDICARE ADVANTAGE REFORMS**

**Subtitle A—Payment Reform**

**SEC. 401. EQUALIZING PAYMENTS BETWEEN MEDICARE ADVANTAGE PLANS AND FEE-FOR-SERVICE MEDICARE.**

(a) PHASE IN OF PAYMENT BASED ON FEE-FOR-SERVICE COSTS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w-23) is amended—

(1) in subsection (j)(1)(A)—

(A) by striking “beginning with 2007” and inserting “for 2007 and 2008”; and

(B) by inserting after “(k)(1)” the following: “, or, beginning with 2009, 1/2 of the blended benchmark amount determined under subsection (l)(1)”; and

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

“(l) DETERMINATION OF BLENDED BENCHMARK AMOUNT.—

“(1) IN GENERAL.—For purposes of subsection (j), subject to paragraphs (2) and (3), the term ‘blended benchmark amount’ means for an area—

“(A) for 2009 the sum of—

“(i) 2/3 of the applicable amount (as defined in subsection (k)(1)) for the area and year; and

“(ii) 1/3 of the amount specified in subsection (c)(1)(D)(i) for the area and year;

“(B) for 2010 the sum of—

“(i) 1/3 of the applicable amount for the area and year; and

“(ii) 2/3 of the amount specified in subsection (c)(1)(D)(i) for the area and year; and

“(C) for a subsequent year the amount specified in subsection (c)(1)(D)(i) for the area and year.

“(2) FEE-FOR-SERVICE PAYMENT FLOOR.—In no case shall the blended benchmark amount for an area and year be less than the amount specified in subsection (c)(1)(D)(i) for the area and year.

“(3) EXCEPTION FOR PACE PLANS.—This subsection shall not apply to payments to a PACE program under section 1894.”

(b) PHASE IN OF PAYMENT BASED ON IME COSTS.—

(1) IN GENERAL.—Section 1853(c)(1)(D)(i) of such Act (42 U.S.C. 1395w-23(c)(1)(D)(i)) is amended by inserting “and costs attributable to payments under section 1886(d)(5)(B)” after “1886(h)”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the capitation rate for years beginning with 2009.

(c) LIMITATION ON PLAN ENROLLMENT IN CASES OF EXCESS BIDS FOR 2009 AND 2010.—

(1) IN GENERAL.—In the case of a Medicare Part C organization that offers a Medicare Part C plan in the 50 States or the District of Columbia for which—

(A) bid amount described in paragraph (2) for a Medicare Part C plan for 2009 or 2010, exceeds

(B) the percent specified in paragraph (4) of the fee-for-service amount described in paragraph (3),

the Medicare Part C plan may not enroll any new enrollees in the plan during the annual, co-ordinated election period (under section 1851(e)(3)(B) of such Act (42 U.S.C. 1395w-21(e)(3)(B))) for the year or during the year (if the enrollment becomes effective during the year).

(2) BID AMOUNT FOR PART A AND B SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the bid amount described in this paragraph is the unadjusted Medicare Part C statutory non-drug monthly bid amount (as defined in section 1854(b)(2)(E) of the Social Security Act (42 U.S.C. 1395w-24(b)(2)(E))).

(B) TREATMENT OF MSA PLANS.—In the case of an MSA plan (as defined in section 1859(b)(3) of the Social Security Act, 42 U.S.C. 1395w-28(b)(3)), the bid amount described in this paragraph is the amount described in section 1854(a)(3)(A) of such Act (42 U.S.C. 1395w-24(a)(3)(A)).

(3) FEE-FOR-SERVICE AMOUNT DESCRIBED.—

(A) IN GENERAL.—Subject to subparagraph (B), the fee-for-service amount described in this paragraph for an Medicare Part C local area is the amount described in section 1853(c)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395w-23) for such area.

(B) TREATMENT OF MULTI-COUNTY PLANS.—In the case of an MA plan the service area for which covers more than one Medicare Part C local area, the fee-for-service amount described in this paragraph is the amount described in section 1853(c)(1)(D)(i) of the Social Security Act for each such area served, weighted for each such area by the proportion of the enrollment of the plan that resides in the county (as determined based on amounts posted by the Administrator of the Centers for Medicare & Medicaid Services in the April bid notice for the year involved).

(4) PERCENTAGE PHASE DOWN.—For purposes of paragraph (1), the percentage specified in this paragraph—

(A) for 2009 is 106 percent; and  
(B) for 2010 is 103 percent.

(5) EXEMPTION OF AGE-INS.—For purposes of paragraph (1), the term “new enrollee” with respect to a Medicare Part C plan offered by a Medicare Part C organization, does not include an individual who was enrolled in a plan offered by the organization in the month immediately before the month in which the individual was eligible to enroll in such a Medicare Part C plan offered by the organization.

(d) ANNUAL REBASING OF FEE-FOR-SERVICE RATES.—Section 1853(c)(1)(D)(ii) of the Social Security Act (42 U.S.C. 1395w–23(c)(1)(D)(ii)) is amended—

(1) by inserting “(before 2009)” after “for subsequent years”; and

(2) by inserting before the period at the end the following: “and for each year beginning with 2009”.

(e) REPEAL OF PPO STABILIZATION FUND.—Section 1858 of the Social Security Act (42 U.S.C. 1395) is amended—

(1) by striking subsection (e); and

(2) in subsection (f)(1), by striking “subject to subsection (e)”.

#### Subtitle B—Beneficiary Protections

#### SEC. 411. NAIC DEVELOPMENT OF MARKETING, ADVERTISING, AND RELATED PROTECTIONS.

(a) IN GENERAL.—Section 1852 of the Social Security Act (42 U.S.C. 1395w–22) is amended by adding at the end the following new subsection:

“(m) APPLICATION OF MODEL MARKETING AND ENROLLMENT STANDARDS.—

“(1) IN GENERAL.—The National Association of Insurance Commissioners (in this subsection referred to as the ‘NAIC’) is requested to develop, and to submit to the Secretary of Health and Human Services not later than 12 months after the date of the enactment of this Act, model regulations (in this section referred to as ‘model regulations’) regarding Medicare plan marketing, enrollment, broker and agent training and certification, agent and broker commissions, and market conduct by plans, agents and brokers for implementation (under paragraph (7)) under this part and part D, including for enforcement by States under section 1856(b)(3).

“(2) MARKETING GUIDELINES.—

“(A) IN GENERAL.—The model regulations shall address the sales and advertising techniques used by Medicare private plans, agents and brokers in selling plans, including defining and prohibiting cold calls, unsolicited door-to-door sales, cross-selling, and co-branding.

“(B) SPECIAL CONSIDERATIONS.—The model regulations shall specifically address the marketing—

“(i) of plans to full benefit dual-eligible individuals and qualified medicare beneficiaries;

“(ii) of plans to populations with limited English proficiency;

“(iii) of plans to beneficiaries in senior living facilities; and

“(iv) of plans at educational events.

“(3) ENROLLMENT GUIDELINES.—

“(A) IN GENERAL.—The model regulations shall address the disclosures Medicare private plans, agents, and brokers must make when enrolling beneficiaries, and a process—

“(i) for affirmative beneficiary sign off before enrollment in a plan; and

“(ii) in the case of Medicare Part C plans, for plans to conduct a beneficiary call-back to confirm beneficiary sign off and enrollment.

“(B) SPECIFIC CONSIDERATIONS.—The model regulations shall specially address beneficiary understanding of the Medicare plan through required disclosure (or beneficiary verification) of each of the following:

“(i) The type of Medicare private plan involved.

“(ii) Attributes of the plan, including premiums, cost sharing, formularies (if applicable), benefits, and provider access limitations in the plan.

“(iii) Comparative quality of the plan.

“(iv) The fact that plan attributes may change annually.

“(4) APPOINTMENT, CERTIFICATION AND TRAINING OF AGENTS AND BROKERS.—The model regulations shall establish procedures and requirements for appointment, certification (and periodic recertification), and training of agents and brokers that market or sell Medicare private plans consistent with existing State appointment and certification procedures and with this paragraph.

“(5) AGENT AND BROKER COMMISSIONS.—

“(A) IN GENERAL.—The model regulations shall establish standards for fair and appropriate commissions for agents and brokers consistent with this paragraph.

“(B) LIMITATION ON TYPES OF COMMISSION.—The model regulations shall specifically prohibit the following:

“(i) Differential commissions—

“(I) for Medicare Part C plans based on the type of Medicare private plan; or

“(II) prescription drug plans under part D based on the type of prescription drug plan.

“(ii) Commissions in the first year that are more than 200 percent of subsequent year commissions.

“(iii) The payment of extra bonuses or incentives (such as trips, gifts, and other non-commission cash payments).

“(C) AGENT DISCLOSURE.—In developing the model regulations, the NAIC shall consider requiring agents and brokers to disclose commissions to a beneficiary upon request of the beneficiary before enrollment.

“(D) PREVENTION OF FRAUD.—The model regulations shall consider the opportunity for fraud and abuse and beneficiary steering in setting standards under this paragraph and shall provide for the ability of State commissioners to investigate commission structures.

“(6) MARKET CONDUCT.—

“(A) IN GENERAL.—The model regulations shall establish standards for the market conduct of organizations offering Medicare private plans, and of agents and brokers selling such plans, and for State review of plan market conduct.

“(B) MATTERS TO BE INCLUDED.—Such standards shall include standards for—

“(i) timely payment of claims;

“(ii) beneficiary complaint reporting and disclosure; and

“(iii) State reporting of market conduct violations and sanctions.

“(7) IMPLEMENTATION.—

“(A) PUBLICATION OF NAIC MODEL REGULATIONS.—If the model regulations are submitted on a timely basis under paragraph (1)—

“(i) the Secretary shall publish them in the Federal Register upon receipt and request public comment on the issue of whether such regulations are consistent with the requirements established in this subsection for such regulations;

“(ii) not later than 6 months after the date of such publication, the Secretary shall determine whether such regulations are so consistent with such requirements and shall publish notice of such determination in the Federal Register; and

“(iii) if the Secretary makes the determination under clause (ii) that such regulations are consistent with such requirements, in the notice published under clause (ii) the Secretary shall publish notice of adoption of such model regulations as constituting the marketing and enrollment standards adopted under this subsection to be applied under this title; and

“(iv) if the Secretary makes the determination under such clause that such regulations are not consistent with such requirements, the procedures of clauses (ii) and (iii) of subparagraph (B) shall apply (in relation to the notice published under clause (ii)), in the same manner as such clauses would apply in the case of publication of a notice under subparagraph (B)(i).

“(B) NO MODEL REGULATIONS.—If the model regulations are not submitted on a timely basis under paragraph (1)—

“(i) the Secretary shall publish notice of such fact in the Federal Register;

“(ii) not later than 6 months after the date of publication of such notice, the Secretary shall propose regulations that provide for marketing and enrollment standards that incorporate the requirements of this subsection for the model regulations and request public comments on such proposed regulations; and

“(iii) not later than 6 months after the date of publication of such proposed regulations, the Secretary shall publish final regulations that shall constitute the marketing and enrollment standards adopted under this subsection to be applied under this title.

“(C) REFERENCES TO MARKETING AND ENROLLMENT STANDARDS.—In this title, a reference to marketing and enrollment standards adopted under this subsection is deemed a reference to the regulations constituting such standards adopted under subparagraph (A) or (B), as the case may be.

“(D) EFFECTIVE DATE OF STANDARDS.—In order to provide for the orderly and timely implementation of marketing and enrollment standards adopted under this subsection, the Secretary, in consultation with the NAIC, shall specify (by program instruction or otherwise) effective dates with respect to all components of such standards consistent with the following:

“(i) In the case of components that relate predominantly to operations in relation to Medicare private plans, the effective date shall be for plan years beginning on or after such date (not later than 1 year after the date of promulgation of the standards) as the Secretary specifies.

“(ii) In the case of other components, the effective date shall be such date, not later than 1 year after the date of promulgation of the standards, as the Secretary specifies.

“(E) CONSULTATION.—In promulgating marketing and enrollment standards under this paragraph, the NAIC or Secretary shall consult with a working group composed of representatives of issuers of Medicare private plans, consumer groups, medicare beneficiaries, State Health Insurance Assistance Programs, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

“(8) ENFORCEMENT.—

“(A) IN GENERAL.—Any Medicare private plan that violates marketing and enrollment standards is subject to sanctions under section 1857(g).

“(B) STATE RESPONSIBILITIES.—Nothing in this subsection or section 1857(g) shall prohibit States from imposing sanctions against Medicare private plans, agents, or brokers for violations of the marketing and enrollment standards adopted under section 1852(m). States shall have the sole authority to regulate agents and brokers.

“(9) MEDICARE PRIVATE PLAN DEFINED.—In this subsection, the term ‘Medicare private plan’ means a Medicare Part C plan and a prescription drug plan under part D.”.

(b) EXPANSION OF EXCEPTION TO PREEMPTION OF STATE ROLE.—

(1) IN GENERAL.—Section 1856(b)(3) of the Social Security Act (42 U.S.C. 1395w–26(b)(3)) is amended by striking “(other than State licensing laws or State laws relating to plan solvency)” and inserting “(other than State laws relating to licensing or plan solvency and State laws or regulations adopting the marketing and enrollment standards adopted under section 1852(m))”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to plans offered on or after July 1, 2008.

(c) APPLICATION TO PRESCRIPTION DRUG PLANS.—

(1) IN GENERAL.—Section 1860D–1 of such Act is amended by adding at the end the following new subsection:

“(d) APPLICATION OF MARKETING AND ENROLLMENT STANDARDS.—The marketing and enrollment standards adopted under section 1852(m) shall apply to prescription drug plans (and sponsors of such plans) in the same manner as they apply to Medicare Part C plans and organizations offering such plans.”

(2) REFERENCE TO CURRENT LAW PROVISIONS.—The amendment made by subsection (a) and (b) apply, pursuant to section 1860D–1(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)(B)(ii)), to prescription drug plans under part D of title XVIII of such Act.

(d) CONTRACT REQUIREMENT TO MEET MARKETING AND ADVERTISING STANDARDS.—

(1) IN GENERAL.—Section 1857(d) of the Social Security Act (42 U.S.C. 1395w–27(d)), as amended by subsection (b)(1), is further amended by adding at the end the following new paragraph:

“(7) MARKETING AND ADVERTISING STANDARDS.—The contract shall require the organization to meet all standards adopted under section 1852(m) (including those enforced by the State involved pursuant to section 1856(b)(3)) relating to marketing and advertising conduct.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts for plan years beginning on or after January 1, 2011.

(e) APPLICATION OF SANCTIONS.—

(1) APPLICATION TO VIOLATION OF MARKETING AND ENROLLMENT STANDARDS.—Section 1857(g)(1) of such Act (42 U.S.C. 1395w–27(g)(1)), as amended by the preceding provisions of this Act, is further amended—

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

(B) by adding “and” at the end of subparagraph (H); and

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

“(I) violates marketing and enrollment standards adopted under section 1852(m);”

(2) ENHANCED CIVIL MONEY SANCTIONS.—Such section is further amended—

(A) in paragraph (2)(A), by striking “\$25,000”, “\$100,000”, and “\$15,000” and inserting “\$50,000”, “\$200,000”, and “\$30,000”, respectively; and

(B) in subparagraphs (A), (B), and (D) of paragraph (3), by striking “\$25,000”, “\$10,000”, and “\$100,000”, respectively, and inserting “\$50,000”, “\$20,000”, and “\$200,000”, respectively.

(3) EFFECTIVE DATE.—The amendments made by paragraph (2) shall apply to violations occurring on or after the date of the enactment of this Act.

(f) DISCLOSURE OF MARKET AND ADVERTISING CONTRACT VIOLATIONS AND IMPOSED SANCTIONS.—Section 1857 of such Act is amended by adding at the end the following new subsection

“(j) DISCLOSURE OF MARKET AND ADVERTISING CONTRACT VIOLATIONS AND IMPOSED SANCTIONS.—For years beginning with 2009, the Secretary shall post on its public website for the Medicare program an annual report that—

“(1) lists each MA organization for which the Secretary made during the year a determination under subsection (c)(2) the basis of which is described in paragraph (1)(E); and

“(2) that describes any applicable sanctions under subsection (g) applied to such organization pursuant to such determination.”

(g) STANDARD DEFINITIONS OF BENEFITS AND FORMATS FOR USE IN MARKETING MATERIALS.—Section 1851(h) of such Act (42 U.S.C. 1395w–21(h)) is amended by adding at the end the following new paragraph:

“(6) STANDARD DEFINITIONS OF BENEFITS AND FORMATS FOR USE IN MARKETING MATERIALS.—

“(A) IN GENERAL.—Not later than January 1, 2010, the Secretary, in consultation with the National Association of Insurance Commissioners and a working group of the type described in section 1852(m)(7)(E), shall develop standard descriptions and definitions for benefits under this title for use in marketing material distributed by

Medicare Part C organizations and formats for including such descriptions in such marketing material.

“(B) REQUIRED USE OF STANDARD DEFINITIONS.—For plan years beginning on or after January 1, 2011, the Secretary shall disapprove the distribution of marketing material under paragraph (1)(B) if such marketing material does not use, without modification, the applicable descriptions and formats specified under subparagraph (A).”

(h) SUPPORT FOR STATE HEALTH INSURANCE ASSISTANCE PROGRAMS (SHIPS).—Section 1857(e)(2) of the Social Security Act (42 U.S.C. 1395w–27(e)(2)) is amended—

(1) in subparagraph (B), by adding at the end the following: “Of the amounts so collected, no less than \$55,000,000 for fiscal year 2009, \$65,000,000 for fiscal year 2010, \$75,000,000 for fiscal year 2011, and \$85,000,000 for fiscal year 2012 and each succeeding fiscal year shall be used to support Medicare Part C and Part D counseling and assistance provided by State Health Insurance Assistance Programs.”;

(2) in subparagraph (C)—

(A) by striking “and” after “\$100,000,000,”

and (B) by striking “an amount equal to \$200,000,000” and inserting “and ending with fiscal year 2008 an amount equal to \$200,000,000, for fiscal year 2009 an amount equal to \$255,000,000, for fiscal year 2010 an amount equal to \$265,000,000, for fiscal year 2011 an amount equal to \$275,000,000, and for fiscal year 2012 and each succeeding fiscal year an amount equal to \$285,000,000.”

(3) in subparagraph (D)(ii)—

(A) by striking “and” at the end of subclause (IV);

(B) in subclause (V), by striking the period at the end and inserting “before fiscal year 2009; and”;

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

“(VI) for fiscal year 2009 and each succeeding fiscal year the applicable portion (as so defined) of the amount specified in subparagraph (C) for that fiscal year.”

**SEC. 412. LIMITATION ON OUT-OF-POCKET COSTS FOR INDIVIDUAL HEALTH SERVICES.**

(a) IN GENERAL.—Section 1852(a)(1) of the Social Security Act (42 U.S.C. 1395w–22(a)(1)) is amended—

(1) in subparagraph (A), by inserting before the period at the end the following: “with cost-sharing that is no greater (and may be less) than the cost-sharing that would otherwise be imposed under such program option”;

(2) in subparagraph (B)(i), by striking “or an actuarially equivalent level of cost-sharing as determined in this part”;

(3) by amending clause (ii) of subparagraph (B) to read as follows:

“(ii) PERMITTING USE OF FLAT COPAYMENT OR PER DIEM RATE.—Nothing in clause (i) shall be construed as prohibiting a Medicare part C plan from using a flat copayment or per diem rate, in lieu of the cost-sharing that would be imposed under part A or B, so long as the amount of the cost-sharing imposed does not exceed the amount of the cost-sharing that would be imposed under the respective part if the individual were not enrolled in a plan under this part.”

(b) LIMITATION FOR DUAL ELIGIBLES AND QUALIFIED MEDICARE BENEFICIARIES.—Section 1852(a) of such Act is amended by adding at the end the following new paragraph:

“(7) LIMITATION ON COST-SHARING FOR DUAL ELIGIBLES AND QUALIFIED MEDICARE BENEFICIARIES.—In the case of a individual who is a full-benefit dual eligible individual (as defined in section 1935(c)(6)) or a qualified medicare beneficiary (as defined in section 1905(p)(1)) who is enrolled in a Medicare Part C plan, the plan may not impose cost-sharing that exceeds the amount of cost-sharing that would be permitted with respect to the individual under this title and title XIX if the individual were not enrolled with such plan.”

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to plan years beginning on or after January 1, 2009.

(2) The amendments made by subsection (b) shall apply to plan years beginning on or after January 1, 2008.

**SEC. 413. MA PLAN ENROLLMENT MODIFICATIONS.**

(a) IMPROVED PLAN ENROLLMENT, DISENROLLMENT, AND CHANGE OF ENROLLMENT.—

(1) CONTINUOUS OPEN ENROLLMENT FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS AND QUALIFIED MEDICARE BENEFICIARIES (QMB).—Section 1851(e)(2)(D) of the Social Security Act (42 U.S.C. 1395w–21(e)(2)(D)) is amended—

(A) in the heading, by inserting “, FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS, AND QUALIFIED MEDICARE BENEFICIARIES” after “INSTITUTIONALIZED INDIVIDUALS”; and

(B) in the matter before clause (i), by inserting “, a full-benefit dual eligible individual (as defined in section 1935(c)(6)), or a qualified medicare beneficiary (as defined in section 1905(p)(1))” after “institutionalized (as defined by the Secretary)”; and

(C) in clause (i), by inserting “or disenroll” after “enroll”.

(2) SPECIAL ELECTION PERIODS FOR ADDITIONAL CATEGORIES OF INDIVIDUALS.—Section 1851(e)(4) of such Act (42 U.S.C. 1395w(e)(4)) is amended—

(A) in subparagraph (C), by striking at the end “or”;

(B) in subparagraph (D), by inserting “, taking into account the health or well-being of the individual” before the period and redesignating such subparagraph as subparagraph (F); and

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

“(D) the individual is described in section 1902(a)(10)(E)(iii) (relating to specified low-income medicare beneficiaries);

“(E) the individual is enrolled in an MA plan and enrollment in the plan is suspended under paragraph (2)(B) or (3)(C) of section 1857(g) because of a failure of the plan to meet applicable requirements; or”

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

(b) ACCESS TO MEDIGAP COVERAGE FOR INDIVIDUALS WHO LEAVE MA PLANS.—

(1) IN GENERAL.—Section 1882(s)(3) of the Social Security Act (42 U.S.C. 1395ss(s)(3)) is amended—

(A) in each of clauses (v)(III) and (vi) of subparagraph (B), by striking “12 months” and inserting “24 months”; and

(B) in each of subclauses (I) and (II) of subparagraph (F)(i), by striking “12 months” and inserting “24 months”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to terminations of enrollments in MA plans occurring on or after the date of the enactment of this Act.

(c) IMPROVED ENROLLMENT POLICIES.—

(1) NO AUTO-ENROLLMENT OF MEDICAID BENEFICIARIES.—

(A) IN GENERAL.—Section 1851(e) of such Act (42 U.S.C. 1395w–21(e)) is amended by adding at the end the following new paragraph:

“(7) NO AUTO-ENROLLMENT OF MEDICAID BENEFICIARIES.—In no case may the Secretary provide for the enrollment in a MA plan of a Medicare Advantage eligible individual who is eligible to receive medical assistance under title XIX as a full-benefit dual eligible individual or a qualified medicare beneficiary, without the affirmative application of such individual (or authorized representative of the individual) to be enrolled in such plan.”

(B) NO APPLICATION TO PRESCRIPTION DRUG PLANS.—Section 1860D–1(b)(1)(B)(iii) of such Act (42 U.S.C. 1395w–101(b)(1)(B)(iii)) is amended—

(i) by striking “paragraph (2) and” and by inserting “paragraph (2),”; and

(ii) by inserting “, and paragraph (7),” after “paragraph (4)”.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to enrollments that are effective on or after the date of the enactment of this Act.

**SEC. 414. INFORMATION FOR BENEFICIARIES ON MA PLAN ADMINISTRATIVE COSTS.**

(a) DISCLOSURE OF MEDICAL LOSS RATIOS AND OTHER EXPENSE DATA.—Section 1851 of the Social Security Act (42 U.S.C. 1395w21) is amended by adding at the end the following new subsection:

“(g) PUBLICATION OF MEDICAL LOSS RATIOS AND OTHER COST-RELATED INFORMATION.—

“(1) IN GENERAL.—The Secretary shall publish, not later than October 1 of each year (beginning with 2009), for each Medicare Part C plan contract, the following:

“(A) The medical loss ratio of the plan in the previous year.

“(B) The per enrollee payment under this part to the plan, as adjusted to reflect a risk score (based on factors described in section 1853(a)(1)(C)(i)) of 1.0.

“(C) The average risk score (as so based).

“(2) SUBMISSION OF DATA.—

“(A) IN GENERAL.—Each Medicare Part C organization shall submit to the Secretary, in a form and manner specified by the Secretary, data necessary for the Secretary to publish the information described in paragraph (1) on a timely basis, including the information described in paragraph (3).

“(B) DATA FOR 2008 AND 2009.—The data submitted under subparagraph (A) for 2008 and for 2009 shall be consistent in content with the data reported as part of the Medicare Part C plan bid in June 2007 for 2008.

“(C) MEDICAL LOSS RATIO DATA.—The data to be submitted under subparagraph (A) relating to medical loss ratio for a year—

“(i) shall be submitted not later than June 1 of the following year; and

“(ii) beginning with 2010, shall be submitted based on the standardized elements and definitions developed under paragraph (4).

“(D) AUDITED DATA.—Data submitted under this paragraph shall be data that has been audited by an independent third party auditor.

“(3) MLR INFORMATION.—The information described in this paragraph with respect to a Medicare Part C plan for a year is as follows:

“(A) The costs for the plan in the previous year for each of the following:

“(i) Total medical expenses, separately indicated for benefits for the original Medicare fee-for-service program option and for supplemental benefits.

“(ii) Non-medical expenses, shown separately for each of the following categories of expenses:

“(I) Marketing and sales.

“(II) Direct administration.

“(III) Indirect administration.

“(IV) Net cost of private reinsurance.

“(B) Gain or loss margin.

“(C) Total revenue requirement, computed as the total of medical and nonmedical expenses and gain or loss margin, multiplied by the gain or loss margin.

“(D) Percent of revenue ratio, computed as the total revenue requirement expressed as a percentage of revenue.

“(4) DEVELOPMENT OF DATA REPORTING STANDARDS.—

“(A) IN GENERAL.—The Secretary shall develop and implement standardized data elements and definitions for reporting under this subsection, for contract years beginning with 2010, of data necessary for the calculation of the medical loss ratio for Medicare Part C plans. Not later than December 31, 2008, the Secretary shall publish a report describing the elements and definitions so developed.

“(B) CONSULTATION.—The Secretary shall consult with representatives of Medicare Part C organizations, experts on health plan accounting systems, and representatives of the National

Association of Insurance Commissioners, in the development of such data elements and definitions

“(5) MEDICAL LOSS RATIO DEFINED.—For purposes of this part, the term ‘medical loss ratio’ means, with respect to an MA plan for a year, the ratio of—

“(A) the aggregate benefits (excluding non-medical expenses described in paragraph (3)(A)(ii)) paid under the plan for the year, to

“(B) the aggregate amount of premiums (including basic and supplemental beneficiary premiums) and payments made under sections 1853 and 1860D–15 collected for the plan and year. Such ratio shall be computed without regard to whether the benefits or premiums are for required or supplemental benefits under the plan.”

(b) AUDIT OF ADMINISTRATIVE COSTS AND COMPLIANCE WITH THE FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—Section 1857(d)(2)(B) of such Act (42 U.S.C. 1395w–27(d)(2)(B)) is amended—

(A) by striking “or (ii)” and inserting “(ii)”; and

(B) by inserting before the period at the end the following: “, or (iii) to compliance with the requirements of subsection (e)(4) and the extent to which administrative costs comply with the applicable requirements for such costs under the Federal Acquisition Regulation”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply for contract years beginning after the date of the enactment of this Act.

(c) MINIMUM MEDICAL LOSS RATIO.—Section 1857(e) of the Social Security Act (42 U.S.C. 1395w–27(e)) is amended by adding at the end the following new paragraph:

“(4) REQUIREMENT FOR MINIMUM MEDICAL LOSS RATIO.—If the Secretary determines for a contract year (beginning with 2010) that an MA plan has failed to have a medical loss ratio (as defined in section 1851(j)(4)) of at least .85—

“(A) for that contract year, the Secretary shall reduce the blended benchmark amount under subsection (l) for the second succeeding contract year by the number of percentage points by which such loss ratio was less than 85 percent;

“(B) for 3 consecutive contract years, the Secretary shall not permit the enrollment of new enrollees under the plan for coverage during the second succeeding contract year; and

“(C) the Secretary shall terminate the plan contract if the plan fails to have such a medical loss ratio for 5 consecutive contract years.”

(d) INFORMATION ON MEDICARE PART C PLAN ENROLLMENT AND SERVICES.—Section 1851 of such Act, as amended by subsection (a), is further amended by adding at the end the following new subsection:

“(k) PUBLICATION OF ENROLLMENT AND OTHER INFORMATION.—

“(1) MONTHLY PUBLICATION OF PLAN-SPECIFIC ENROLLMENT DATA.—The Secretary shall publish (on the public website of the Centers for Medicare & Medicaid Services or otherwise) not later than 30 days after the end of each month (beginning with January 2008) on the actual enrollment in each Medicare Part C plan by contract and by county.

“(2) AVAILABILITY OF OTHER INFORMATION.—The Secretary shall make publicly available data and other information in a format that may be readily used for analysis of the Medicare Part C program under this part and will contribute to the understanding of the organization and operation of such program.”

(e) MEDPAC REPORT ON VARYING MINIMUM MEDICAL LOSS RATIOS.—

(1) STUDY.—The Medicare Payment Advisory Commission shall conduct a study of the need and feasibility of providing for different minimum medical loss ratios for different types of Medicare Part C plans, including coordinated care plans, group model plans, coordinated care independent practice association plans, pre-

ferred provider organization plans, and private fee-for-services plans.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, submit to Congress a report on the study conducted under paragraph (1).

**Subtitle C—Quality and Other Provisions**

**SEC. 421. REQUIRING ALL MA PLANS TO MEET EQUAL STANDARDS.**

(a) COLLECTION AND REPORTING OF INFORMATION.—

(1) IN GENERAL.—Section 1852(e)(1) of the Social Security Act (42 U.S.C. 1395w–112(e)(1)) is amended by striking “(other than an MA private fee-for-service plan or an MSA plan)”.

(2) REPORTING FOR PRIVATE FEE-FOR-SERVICES AND MSA PLANS.—Section 1852(e)(3) of such Act is amended by adding at the end the following new subparagraph:

“(C) DATA COLLECTION REQUIREMENTS BY PRIVATE FEE-FOR-SERVICE PLANS AND MSA PLANS.—

“(i) USING MEASURES FOR PPOS FOR CONTRACT YEAR 2009.—For contract year 2009, the Medicare Part C organization offering a private fee-for-service plan or an MSA plan shall submit to the Secretary for such plan the same information on the same performance measures for which such information is required to be submitted for Medicare Part C plans that are preferred provider organization plans for that year.

“(ii) APPLICATION OF SAME MEASURES AS COORDINATED CARE PLANS BEGINNING IN CONTRACT YEAR 2010.—For a contract year beginning with 2010, a Medicare Part C organization offering a private fee-for-service plan or an MSA plan shall submit to the Secretary for such plan the same information on the same performance measures for which such information is required to be submitted for such contract year Medicare Part C plans described in section 1851(a)(2)(A)(i) for contract year such contract year.”

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after January 1, 2009.

(b) EMPLOYER PLANS.—

(1) IN GENERAL.—The first sentence of paragraph (2) of section 1857(i) of such Act (42 U.S.C. 1395w–27(i)) is amended by inserting before the period at the end the following: “, but only if 90 percent of the Medicare part C eligible individuals enrolled under such plan reside in a county in which the Medicare Part C organization offers a Medicare Part C local plan”.

(2) LIMITATION ON APPLICATION OF WAIVER AUTHORITY.—Paragraphs (1) and (2) of such section are each amended by inserting “that were in effect before the date of the enactment of the Children’s Health and Medicare Protection Act of 2007” after “waive or modify requirements”.

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall apply for plan years beginning on or after January 1, 2009, and the amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

**SEC. 422. DEVELOPMENT OF NEW QUALITY REPORTING MEASURES ON RACIAL DISPARITIES.**

(a) NEW QUALITY REPORTING MEASURES.—

(1) IN GENERAL.—Section 1852(e)(3) of the Social Security Act (42 U.S.C. 1395w–22(e)(3)), as amended by section 421(a)(2), is amended—

(A) in subparagraph (B)—

(i) in clause (i), by striking “The Secretary” and inserting “Subject to subparagraph (D), the Secretary”; and

(ii) in clause (ii), by striking “subclause (iii)” and inserting “clause (iii) and subparagraph (C)”; and

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

“(D) ADDITIONAL QUALITY REPORTING MEASURES.—

“(i) IN GENERAL.—The Secretary shall develop by October 1, 2009, quality measures for Medicare Part C plans that measure disparities in the amount and quality of health services provided to racial and ethnic minorities.

“(ii) DATA TO MEASURE RACIAL AND ETHNIC DISPARITIES IN THE AMOUNT AND QUALITY OF CARE PROVIDED TO ENROLLEES.—The Secretary shall provide for Medicare Part C organizations to submit data under this paragraph, including data similar to those submitted for other quality measures, that permits analysis of disparities among racial and ethnic minorities in health services, quality of care, and health status among Medicare Part C plan enrollees for use in submitting the reports under paragraph (5).”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to reporting of quality measures for plan years beginning on or after January 1, 2010.

(b) BIENNIAL REPORT ON RACIAL AND ETHNIC MINORITIES.—Section 1852(e) of such Act (42 U.S.C. 1395w–22(e)) is amended by adding at the end the following new paragraph:

“(5) REPORT TO CONGRESS.—

“(A) IN GENERAL.—Not later than 2 years after the date of the enactment of this paragraph, and biennially thereafter, the Secretary shall submit to Congress a report regarding how quality assurance programs conducted under this subsection measure and report on disparities in the amount and quality of health care services furnished to racial and ethnic minorities.

“(B) CONTENTS OF REPORT.—Each such report shall include the following:

“(i) A description of the means by which such programs focus on such racial and ethnic minorities.

“(ii) An evaluation of the impact of such programs on eliminating health disparities and on improving health outcomes, continuity and coordination of care, management of chronic conditions, and consumer satisfaction.

“(iii) Recommendations on ways to reduce clinical outcome disparities among racial and ethnic minorities.

“(iv) Data for each MA plan from HEDIS and other source reporting the disparities in the amount and quality of health services furnished to racial and ethnic minorities.”.

#### SEC. 423. STRENGTHENING AUDIT AUTHORITY.

(a) FOR PART C PAYMENTS RISK ADJUSTMENT.—Section 1857(d)(1) of the Social Security Act (42 U.S.C. 1395w–27(d)(1)) is amended by inserting after “section 1858(c)” the following: “, and data submitted with respect to risk adjustment under section 1853(a)(3)”.

(b) ENFORCEMENT OF AUDITS AND DEFICIENCIES.—

(1) IN GENERAL.—Section 1857(e) of such Act is amended by adding at the end the following new paragraph:

“(5) ENFORCEMENT OF AUDITS AND DEFICIENCIES.—

“(A) INFORMATION IN CONTRACT.—The Secretary shall require that each contract with a Medicare Part C organization under this section shall include terms that inform the organization of the provisions in subsection (d).

“(B) ENFORCEMENT AUTHORITY.—The Secretary is authorized, in connection with conducting audits and other activities under subsection (d), to take such actions, including pursuit of financial recoveries, necessary to address deficiencies identified in such audits or other activities.”.

(2) APPLICATION UNDER PART D.—For provision applying the amendment made by paragraph (1) to prescription drug plans under part D, see section 1860D–12(b)(3)(D) of the Social Security Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect the date of the enactment of this Act and shall apply to audits and activities conducted for contract years beginning on or after January 1, 2009.

#### SEC. 424. IMPROVING RISK ADJUSTMENT FOR MA PAYMENTS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall sub-

mit to Congress a report that evaluates the adequacy of the Medicare Advantage risk adjustment system under section 1853(a)(1)(C) of the Social Security Act (42 U.S.C. 1395–23(a)(1)(C)).

(b) PARTICULARS.—The report under subsection (a) shall include an evaluation of at least the following:

(1) The need and feasibility of improving the adequacy of the risk adjustment system in predicting costs for beneficiaries with co-morbid conditions and associated cognitive impairments.

(2) The need and feasibility of including further gradations of diseases and conditions (such as the degree of severity of congestive heart failure).

(3) The feasibility of measuring difference in coding over time between Medicare part C plans and the Medicare traditional fee-for-service program and, to the extent this difference exists, the options for addressing it.

(4) The feasibility and value of including part D and other drug utilization data in the risk adjustment model.

#### SEC. 425. ELIMINATING SPECIAL TREATMENT OF PRIVATE FEE-FOR-SERVICE PLANS.

(a) ELIMINATION OF EXTRA BILLING PROVISION.—Section 1852(k)(2) of the Social Security Act (42 U.S.C. 1395w–22(k)(2)) is amended—

(1) in subparagraph (A)(i), by striking “115 percent” and inserting “100 percent”; and

(2) in subparagraph (C)(i), by striking “including any liability for balance billing consistent with this subsection”.

(b) REVIEW OF BID INFORMATION.—Section 1854(a)(6)(B) of such Act (42 U.S.C. 1395w–24(a)(6)(B)) is amended—

(1) in clause (i), by striking “clauses (iii) and (iv)” and inserting “clause (iii)”; and

(2) by striking clause (iv).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contract years beginning with 2009.

#### SEC. 426. RENAMING OF MEDICARE ADVANTAGE PROGRAM.

(a) IN GENERAL.—The program under part C of title XVIII of the Social Security Act is henceforth to be known as the “Medicare Part C program”.

(b) CHANGE IN REFERENCES.—

(1) AMENDING SOCIAL SECURITY ACT.—The Social Security Act is amended by striking “Medicare Advantage”, “MA”, and “Medicare+Choice” and inserting “Medicare Part C” each place it appears, with the appropriate, respective typographic formatting, including typeface and capitalization.

(2) ADDITIONAL REFERENCES.—Notwithstanding section 201(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173), any reference to the program under part C of title XVIII of the Social Security Act shall be deemed a reference to the “Medicare Part C” program and, with respect to such part, any reference to “Medicare+Choice”, “Medicare Advantage”, or “MA” is deemed a reference to the program under such part.

#### Subtitle D—Extension of Authorities

#### SEC. 431. EXTENSION AND REVISION OF AUTHORITY FOR SPECIAL NEEDS PLANS (SNPS).

(a) EXTENDING RESTRICTION ON ENROLLMENT AUTHORITY FOR SNPS FOR 3 YEARS.—Subsection (f) of section 1859 of the Social Security Act (42 U.S.C. 1395w–28) is amended by striking “2009” and inserting “2012”.

(b) STRUCTURE OF AUTHORITY FOR SNPS.—(1) IN GENERAL.—Such section is further amended—

(A) in subsection (b)(6)(A), by striking all that follows “means” and inserting the following: “an MA plan and

“(i) that serves special needs individuals (as defined in subparagraph (B));

“(ii) as of January 1, 2009—

“(I) at least 90 percent of the enrollees in which are described in subparagraph (B)(i), as

determined under regulations in effect as of July 1, 2007;

“(II) at least 90 percent of the enrollees in which are described in subparagraph (B)(ii) and are full-benefit dual eligible individuals (as defined in section 1935(c)(6)) or qualified Medicare beneficiaries (as defined in section 1905(p)(1)); or

“(III) at least 90 percent of the enrollees in which have a severe or disabling chronic condition of the type that the plan is committed to serve as indicated by the data submitted for the risk-adjustment of plan payments; and”.

“(iii) as of January 1, 2009, meets the applicable requirements of paragraph (2) or (3) of subsection (f), as the case may be.”;

(B) in subsection (f)—

(i) by amending the heading to read as follows: “REQUIREMENTS FOR ENROLLMENT IN PART C PLANS FOR SPECIAL NEEDS BENEFICIARIES”;

(ii) by designating the sentence beginning “In the case of” as paragraph (1) with the heading “REQUIREMENTS FOR ENROLLMENT.—” and with appropriate indentation; and

(iii) by adding at the end the following new paragraphs:

“(2) ADDITIONAL REQUIREMENTS FOR INSTITUTIONAL SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(A)(ii)(I), the applicable requirements of this subsection are as follows:

“(A) The plan has an agreement with the State that includes provisions regarding cooperation on the coordination of care for such individuals. Such agreement shall include a description of the manner that the State Medicaid program under title XIX will pay for the costs of services for individuals eligible under such title for medical assistance for acute care and long-term care services.

“(B) The plan has a contract with long-term care facilities and other providers in the area sufficient to provide care for enrollees described in subsection (b)(6)(B)(i).

“(C) The plan reports to the Secretary information on additional quality measures specified by the Secretary under section 1852(e)(3)(D)(iv)(I) for such plans.

“(3) ADDITIONAL REQUIREMENTS FOR DUAL SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(A)(ii)(II), the applicable requirements of this subsection are as follows:

“(A) The plan has an agreement with the State Medicaid agency that—

“(i) includes provisions regarding cooperation on the coordination of the financing of care for such individuals;

“(ii) includes a description of the manner that the State Medicaid program under title XIX will pay for the costs of cost-sharing and supplemental services for individuals enrolled in the plan eligible under such title for medical assistance for acute and long-term care services; and

“(iii) effective January 1, 2011, provides for capitation payments to cover costs of supplemental benefits for individuals described in subsection (b)(6)(A)(ii)(II).

“(B) The out-of-pocket costs for services under parts A and B that are charged to enrollees may not exceed the out-of-pocket costs for same services permitted for such individuals under title XIX.

“(C) The plan reports to the Secretary information on additional quality measures specified by the Secretary under section 1852(e)(3)(D)(iv)(II) for such plans.”.

“(4) ADDITIONAL REQUIREMENTS FOR SEVERE OR DISABLING CHRONIC CONDITION SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(A)(ii)(III), the applicable requirements of this subsection are as follows:

“(A) The plan is designated to serve, and serves, Medicare beneficiaries with one or more of the following specific severe or disabling chronic conditions:

“(i) Cardiovascular.

“(ii) Cerebrovascular.

“(iii) Congestive heart failure.

“(iv) Diabetes.

“(v) Chronic obstructive pulmonary disease.

“(vi) HIV/AIDS.

“(B) The plan has an average risk score under section 1853(a)(1)(C) of 1.35 or greater.

“(C) The plan has established and actively manages a chronic care improvement program under section 1852(e)(2) for each of the conditions that it serves under subparagraph (A) that significantly exceeds the features and results of such programs established and managed by Medicare Part C plans that are not specialized Medicare Part C plans for special needs individuals of the type described in this paragraph.

“(D) The plan has a network of a sufficient number of primary care and specialty physicians, hospitals, and other health care providers under contract to the plan so that the plan can clearly meet the routine and specialty needs of the severely ill and disabled enrollees of the plan throughout the service area of the plan.

“(E) The plan reports to the Secretary information on additional quality measures specified by the Secretary under section 1852(e)(3)(D)(iv)(III) for such plans.”.

(2) QUALITY STANDARDS AND QUALITY REPORTING.—Section 1852(e)(3) of such Act (42 U.S.C. 1395w-22(e)(3)) is amended—

(A) in subparagraph (A)(i), by adding at the end the following: “In the case of a specialized Medicare Part C plan for special needs individuals described in paragraph (2), (3), or (4) of section 1859(f), the organization shall provide for the reporting on quality measures developed for the plan under subparagraph (D)(iii).”; and

(B) in subparagraph (D), as added by section 422(a)(1), by adding at the end the following new clause:

“(iii) SPECIFICATION OF ADDITIONAL QUALITY MEASUREMENTS FOR SPECIALIZED PART C PLANS.—For implementation for plan years beginning not later than January 1, 2010, the Secretary shall develop new quality measures appropriate to meeting the needs of—

“(I) beneficiaries enrolled in specialized Medicare Part C plans for special needs individuals (described in section 1859(b)(6)(A)(ii)(I)) that serve predominantly individuals who are dual-eligible individuals eligible for medical assistance under title XIX by measuring the special needs for care of individuals who are both Medicare and Medicaid beneficiaries; and

“(II) beneficiaries enrolled in specialized Medicare Part C plans for special needs individuals (described in section 1859(b)(6)(A)(ii)(II)) that serve predominantly institutionalized individuals by measuring the special needs for care of individuals who are a resident in long-term care institution.”; and

“(III) beneficiaries enrolled in specialized Medicare Part C plans for special needs individuals (described in section 1859(b)(6)(A)(ii)(III)) that serve predominantly individuals with severe or disabling chronic conditions by measuring the special needs for care of such individuals.”.

(3) EFFECTIVE DATE; GRANDFATHER.—The amendments made by paragraph (1) shall take effect for enrollments occurring on or after January 1, 2009, and shall not apply—

(A) to a Medicare Advantage plan with a contract with a State Medicaid integrated Medicare-Medicaid plan program that had been approved by the Centers for Medicare & Medicaid Services as of January 1, 2004; and

(B) to plans that are operational as of the date of the enactment of this Act as approved Medicare demonstration projects and that provide services predominantly to individuals with end-stage renal disease.

(4) TRANSITION FOR NON-QUALIFYING SNPS.—

(A) RESTRICTIONS IN 2008 FOR CHRONIC CARE SNPS.—In the case of a specialized MA plan for special needs individuals (as defined in section 1859(b)(6)(A) of the Social Security Act (42 U.S.C. 1395w-28(b)(6)(A)) that, as of December

31, 2007, is not described in either subclause (I) or subclause (II) of clause (ii) of such section, as amended by paragraph (1), then as of January 1, 2008—

(i) the plan may not be offered unless it was offered before such date;

(ii) no new members may be enrolled with the plan; and

(iii) there may be no expansion of the service area of such plan.

(B) TRANSITION OF ENROLLEES.—The Secretary of Health and Human Services shall provide for an orderly transition of those specialized MA plans for special needs individuals (as defined in section 1859(b)(6)(A) of the Social Security Act (42 U.S.C. 1395w-28(b)(6)(A)), as of the date of the enactment of this Act), and their enrollees, that no longer qualify as such plans under such section, as amended by this subsection.

(c) SUNSET OF ADDITIONAL DESIGNATION AUTHORITY.—

(1) IN GENERAL.—Subsection (d) of section 231 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) is repealed.

(2) EFFECTIVE DATE.—The repeal made by paragraph (1) shall take effect on January 1, 2009, and shall apply to plans offered on or after such date.

**SEC. 432. EXTENSION AND REVISION OF AUTHORITY FOR MEDICARE REASONABLE COST CONTRACTS.**

(a) EXTENSION FOR 3 YEARS OF PERIOD REASONABLE COST PLANS CAN REMAIN IN THE MARKET.—Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter preceding subclause (I), by striking “January 1, 2008” and inserting “January 1, 2011”.

(b) APPLICATION OF CERTAIN MEDICARE ADVANTAGE REQUIREMENTS TO COST CONTRACTS EXTENDED OR RENEWED AFTER ENACTMENT.—Section 1876(h) of such Act (42 U.S.C. 1395mm(h)), as amended by subsection (a), is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

“(5)(A) Any reasonable cost reimbursement contract with an eligible organization under this subsection that is extended or renewed on or after the date of enactment of the Children’s Health and Medicare Protection Act of 2007 shall provide that the provisions of the Medicare Part C program described in subparagraph (B) shall apply to such organization and such contract in a substantially similar manner as such provisions apply to Medicare Part C organizations and Medicare Part C plans under part C.

“(B) The provisions described in this subparagraph are as follows:

“(i) Section 1851(h) (relating to the approval of marketing material and application forms).

“(ii) Section 1852(e) (relating to the requirement of having an ongoing quality improvement program and treatment of accreditation in the same manner as such provisions apply to Medicare Part C local plans that are preferred provider organization plans).

“(iii) Section 1852(f) (relating to grievance mechanisms).

“(iv) Section 1852(g) (relating to coverage determinations, reconsiderations, and appeals).

“(v) Section 1852(j)(4) (relating to limitations on physician incentive plans).

“(vi) Section 1854(c) (relating to the requirement of uniform premiums among individuals enrolled in the plan).

“(vii) Section 1854(g) (relating to restrictions on imposition of premium taxes with respect to payments to organizations).

“(viii) Section 1856(b)(3) (relating to relation to State laws).

“(ix) The provisions of part C relating to timelines for contract renewal and beneficiary notification.”.

**TITLE V—PROVISIONS RELATING TO MEDICARE PART A**

**SEC. 501. INPATIENT HOSPITAL PAYMENT UPDATES.**

(a) FOR ACUTE HOSPITALS.—Clause (i) of section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in subclause (XIX), by striking “and”;

(2) by redesignating subclause (XX) as subclause (XXII); and

(3) by inserting after subclause (XIX) the following new subclauses:

“(XX) for fiscal year 2007, subject to clause (viii), the market basket percentage increase for hospitals in all areas,

“(XXI) for fiscal year 2008, subject to clause (viii), the market basket percentage increase minus 0.25 percentage point for hospitals in all areas, and”.

(b) FOR OTHER HOSPITALS.—Clause (ii) of such section is amended—

(1) in subclause (VII) by striking “and”;

(2) by redesignating subclause (VIII) as subclause (X); and

(3) by inserting after subclause (VII) the following new subclauses:

“(VIII) fiscal years 2003 through 2007, is the market basket percentage increase,

“(IX) fiscal year 2008, is the market basket percentage increase minus 0.25 percentage point, and”.

(c) DELAYED EFFECTIVE DATE.—

(1) ACUTE CARE HOSPITALS.—The amendments made by subsection (a) shall not apply to discharges occurring before January 1, 2008.

(2) OTHER HOSPITALS.—The amendments made by subsection (b) shall be applied, only with respect to cost reporting periods beginning during fiscal year 2008 and not with respect to the computation for any succeeding cost reporting period, by substituting “0.1875 percentage point” for “0.25 percentage point”.

**SEC. 502. PAYMENT FOR INPATIENT REHABILITATION FACILITY (IRF) SERVICES.**

(a) PAYMENT UPDATE.—

(1) IN GENERAL.—Section 1886(j)(3)(C) of the Social Security Act (42 U.S.C. 1395ww(j)(3)(C)) is amended by adding at the end the following: “The increase factor to be applied under this subparagraph for fiscal year 2008 shall be 1 percent.”

(2) DELAYED EFFECTIVE DATE.—The amendment made by paragraph (1) shall not apply to payment units occurring before January 1, 2008.

(b) INPATIENT REHABILITATION FACILITY CLASSIFICATION CRITERIA.—

(1) IN GENERAL.—Section 5005 of the Deficit Reduction Act of 2005 (Public Law 109-171) is amended—

(A) in subsection (a), by striking “apply the applicable percent specified in subsection (b)” and inserting “require a compliance rate that is no greater than the 60 percent compliance rate that became effective for cost reporting periods beginning on or after July 1, 2006.”; and

(B) by amending subsection (b) to read as follows:

“(b) CONTINUED USE OF COMORBIDITIES.—For portions of cost reporting periods occurring on or after the date of the enactment of the Children’s Health and Medicare Protection Act of 2007, the Secretary shall include patients with comorbidities as described in section 412.23(b)(2)(i) of title 42, Code of Federal Regulations (as in effect as of January 1, 2007), in the inpatient population that counts towards the percent specified in subsection (a).”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall apply to portions of cost reporting periods beginning on or after the date of the enactment of this Act.

(c) PAYMENT FOR CERTAIN MEDICAL CONDITIONS TREATED IN INPATIENT REHABILITATION FACILITIES.—

(1) IN GENERAL.—Section 1886(j) of the Social Security Act (42 U.S.C. 1395ww(j)) is amended—

(A) by redesignating paragraph (7) as paragraph (8);

(B) by inserting after paragraph (6) the following new paragraph:

“(7) SPECIAL PAYMENT RULE FOR CERTAIN MEDICAL CONDITIONS.—

“(A) IN GENERAL.—Subject to subparagraph (H), in the case of discharges occurring on or after October 1, 2008, in lieu of the standardized payment amount (as determined pursuant to the preceding provisions of this subsection) that would otherwise be applicable under this subsection, the Secretary shall substitute, for payment units with respect to an applicable medical condition (as defined in subparagraph (G)(i)) that is treated in an inpatient rehabilitation facility, the modified standardized payment amount determined under subparagraph (B).

“(B) MODIFIED STANDARDIZED PAYMENT AMOUNT.—The modified standardized payment amount for an applicable medical condition shall be based on the amount determined under subparagraph (C) for such condition, as adjusted under subparagraphs (D), (E), and (F).

“(C) AMOUNT DETERMINED.—

“(i) IN GENERAL.—The amount determined under this subparagraph for an applicable medical condition shall be based on the sum of the following:

“(I) An amount equal to the average per stay skilled nursing facility payment rate for the applicable medical condition (as determined under clause (ii)).

“(II) An amount equal to 25 percent of the difference between the overhead costs (as defined in subparagraph (G)(iii)) component of the average inpatient rehabilitation facility per stay payment amount for the applicable medical condition (as determined under the preceding paragraphs of this subsection) and the overhead costs component of the average per stay skilled nursing facility payment rate for such condition (as determined under clause (ii)).

“(III) An amount equal to 33 percent of the difference between the patient care costs (as defined in subparagraph (G)(iii)) component of the average inpatient rehabilitation facility per stay payment amount for the applicable medical condition (as determined under the preceding paragraphs of this subsection) and the patient care costs component of the average per stay skilled nursing facility payment rate for such condition (as determined under clause (ii)).

“(ii) DETERMINATION OF AVERAGE PER STAY SKILLED NURSING FACILITY PAYMENT RATE.—For purposes of clause (i), the Secretary shall convert skilled nursing facility payment rates for applicable medical conditions, as determined under section 1888(e), to average per stay skilled nursing facility payment rates for each such condition.

“(D) ADJUSTMENTS.—The Secretary shall adjust the amount determined under subparagraph (C) for an applicable medical condition using the adjustments to the prospective payment rates for inpatient rehabilitation facilities described in paragraphs (2), (3), (4), and (6).

“(E) UPDATE FOR INFLATION.—Except in the case of a fiscal year for which the Secretary rebases the amounts determined under subparagraph (C) for applicable medical conditions pursuant to subparagraph (F), the Secretary shall annually update the amounts determined under subparagraph (C) for each applicable medical condition by the increase factor for inpatient rehabilitation facilities (as described in paragraph (3)(C)).

“(F) REBASING.—The Secretary shall periodically (but in no case less than once every 5 years) rebase the amounts determined under subparagraph (C) for applicable medical conditions using the methodology described in such subparagraph and the most recent and complete cost report and claims data available.

“(G) DEFINITIONS.—In this paragraph:

“(i) APPLICABLE MEDICAL CONDITION.—The term ‘applicable medical condition’ means—

“(I) unilateral knee replacement;

“(II) unilateral hip replacement; and

“(III) unilateral hip fracture.

“(ii) OVERHEAD COSTS.—The term ‘overhead costs’ means those Medicare-allowable costs that are contained in the General Service cost centers of the Medicare cost reports for inpatient rehabilitation facilities and for skilled nursing facilities, respectively, as determined by the Secretary.

“(iii) PATIENT CARE COSTS.—The term ‘patient care costs’ means total Medicare-allowable costs minus overhead costs.

“(H) SUNSET.—The provisions of this paragraph shall cease to apply as of the date the Secretary implements an integrated, site-neutral payment methodology under this title for post-acute care.”; and

(C) in paragraph (8), as redesignated by paragraph (1)—

(i) in subparagraph (C), by striking “and” at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting “, and”; and

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

“(E) modified standardized payment amounts under paragraph (7).”.

(2) SPECIAL RULE FOR DISCHARGES OCCURRING IN THE SECOND HALF OF FISCAL YEAR 2008.—

(A) IN GENERAL.—In the case of discharges from an inpatient rehabilitation facility occurring during the period beginning on April 1, 2008, and ending on September 30, 2008, for applicable medical conditions (as defined in paragraph (7)(G)(i) of section 1886(j) of the Social Security Act (42 U.S.C. 1395ww(j))), as inserted by paragraph (1)(B), in lieu of the standardized payment amount determined pursuant to such section, the standardized payment amount shall be \$9,507 for unilateral knee replacement, \$10,398 for unilateral hip replacement, and \$10,958 for unilateral hip fracture. Such amounts are the amounts that are estimated would be determined under paragraph (7)(C) of such section 1886(j) for such conditions if such paragraph applied for such period. Such standardized payment amounts shall be multiplied by the relative weights for each case-mix group and tier, as published in the final rule of the Secretary of Health and Human Services for inpatient rehabilitation facility services prospective payment for fiscal year 2008, to obtain the applicable payment amounts for each such condition for each case-mix group and tier.

(B) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement this subsection by program instruction or otherwise. Paragraph (8)(E) of such section 1886(j) of the Social Security Act, as added by paragraph (1)(C), shall apply for purposes of this subsection in the same manner as such paragraph applies for purposes of paragraph (7) of such section 1886(j).

(d) RECOMMENDATIONS FOR CLASSIFYING INPATIENT REHABILITATION HOSPITALS AND UNITS.—

(1) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with physicians (including geriatricians and physiatrists), administrators of inpatient rehabilitation, acute care hospitals, skilled nursing facilities, and other settings providing rehabilitation services, Medicare beneficiaries, trade organizations representing inpatient rehabilitation hospitals and units and skilled nursing facilities, and the Medicare Payment Advisory Commission, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that includes—

(A) an examination of Medicare beneficiaries’ access to medically necessary rehabilitation services;

(B) alternatives or refinements to the 75 percent rule policy for determining exclusion criteria for inpatient rehabilitation hospital and unit designation under the Medicare program, including determining clinical appropriateness of inpatient rehabilitation hospital and unit ad-

missions and alternative criteria which would consider a patient’s functional status, diagnosis, co-morbidities, and other relevant factors; and

(C) an examination that identifies any condition for which individuals are commonly admitted to inpatient rehabilitation hospitals that is not included as a condition described in section 412.23(b)(2)(iii) of title 42, Code of Federal Regulations, to determine the appropriate setting of care, and any variation in patient outcomes and costs, across settings of care, for treatment of such conditions.

For the purposes of this subsection, the term “75 percent rule” means the requirement of section 412.23(b)(2) of title 42, Code of Federal Regulations, that 75 percent of the patients of a rehabilitation hospital or converted rehabilitation unit are in 1 or more of 13 listed treatment categories.

(2) CONSIDERATIONS.—In developing the report described in paragraph (1), the Secretary shall include the following:

(A) The potential effect of the 75 percent rule on access to rehabilitation care by Medicare beneficiaries for the treatment of a condition, whether or not such condition is described in section 412.23(b)(2)(iii) of title 42, Code of Federal Regulations.

(B) An analysis of the effectiveness of rehabilitation care for the treatment of conditions, whether or not such conditions are described in section 412.23(b)(2)(iii) of title 42, Code of Federal Regulations, available to Medicare beneficiaries in various health care settings, taking into account variation in patient outcomes and costs across different settings of care, and which may include whether the Medicare program and Medicare beneficiaries may incur higher costs of care for the entire episode of illness due to readmissions, extended lengths of stay, and other factors.

#### SEC. 503. LONG-TERM CARE HOSPITALS.

(a) LONG-TERM CARE HOSPITAL PAYMENT UPDATE.—

(1) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

“(m) PROSPECTIVE PAYMENT FOR LONG-TERM CARE HOSPITALS.—

“(1) REFERENCE TO ESTABLISHMENT AND IMPLEMENTATION OF SYSTEM.—For provisions related to the establishment and implementation of a prospective payment system for payments under this title for inpatient hospital services furnished by a long-term care hospital described in subsection (d)(1)(B)(iv), see section 123 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 and section 307(b) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

“(2) UPDATE FOR RATE YEAR 2008.—In implementing the system described in paragraph (1) for discharges occurring during the rate year ending in 2008 for a hospital, the base rate for such discharges for the hospital shall be the same as the base rate for discharges for the hospital occurring during the previous rate year.”.

(2) DELAYED EFFECTIVE DATE.—Subsection (m)(2) of section 1886 of the Social Security Act, as added by paragraph (1), shall not apply to discharges occurring on or after July 1, 2007, and before January 1, 2008.

(b) PAYMENT FOR LONG-TERM CARE HOSPITAL SERVICES; PATIENT AND FACILITY CRITERIA.—

(1) DEFINITION OF LONG-TERM CARE HOSPITAL.—

(A) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 201(a)(2), is amended by adding at the end the following new subsection:

“‘Long-Term Care Hospital

“(ddd) The term ‘long-term care hospital’ means an institution which—

“(1) is primarily engaged in providing inpatient services, by or under the supervision of a physician, to Medicare beneficiaries whose

medically complex conditions require a long hospital stay and programs of care provided by a long-term care hospital;

“(2) has an average inpatient length of stay (as determined by the Secretary) for Medicare beneficiaries of greater than 25 days, or as otherwise defined in section 1886(d)(1)(B)(iv);

“(3) satisfies the requirements of subsection (e);

“(4) meets the following facility criteria:

“(A) the institution has a patient review process, documented in the patient medical record, that screens patients prior to admission for appropriateness of admission to a long-term care hospital, validates within 48 hours of admission that patients meet admission criteria for long-term care hospitals, regularly evaluates patients throughout their stay for continuation of care in a long-term care hospital, and assesses the available discharge options when patients no longer meet such continued stay criteria;

“(B) the institution has active physician involvement with patients during their treatment through an organized medical staff, physician-directed treatment with physician on-site availability on a daily basis to review patient progress, and consulting physicians on call and capable of being at the patient’s side within a moderate period of time, as determined by the Secretary;

“(C) the institution has interdisciplinary team treatment for patients, requiring interdisciplinary teams of health care professionals, including physicians, to prepare and carry out an individualized treatment plan for each patient; and

“(5) meets patient criteria relating to patient mix and severity appropriate to the medically complex cases that long-term care hospitals are designed to treat, as measured under section 1886(n).”

(B) NEW PATIENT CRITERIA FOR LONG-TERM CARE HOSPITAL PROSPECTIVE PAYMENT.—Section 1886 of such Act (42 U.S.C. 1395ww), as amended by subsection (a), is further amended by adding at the end the following new subsection:

“(n) PATIENT CRITERIA FOR PROSPECTIVE PAYMENT TO LONG-TERM CARE HOSPITALS.—

“(1) IN GENERAL.—To be eligible for prospective payment under this section as a long-term care hospital, a long-term care hospital must admit not less than a majority of patients who have a high level of severity, as defined by the Secretary, and who are assigned to one or more of the following major diagnostic categories:

“(A) Circulatory diagnoses.

“(B) Digestive, endocrine, and metabolic diagnoses.

“(C) Infection disease diagnoses.

“(D) Neurological diagnoses.

“(E) Renal diagnoses.

“(F) Respiratory diagnoses.

“(G) Skin diagnoses.

“(H) Other major diagnostic categories as selected by the Secretary.

“(2) MAJOR DIAGNOSTIC CATEGORY DEFINED.—In paragraph (1), the term ‘major diagnostic category’ means the medical categories formed by dividing all possible principle diagnosis into mutually exclusive diagnosis areas which are referred to in 67 Federal Register 49985 (August 1, 2002).”

(C) ESTABLISHMENT OF REHABILITATION UNITS WITHIN CERTAIN LONG-TERM CARE HOSPITALS.—If the Secretary of Health and Human Services does not include rehabilitation services within a major diagnostic category under section 1886(n)(2) of the Social Security Act, as added by subparagraph (B), the Secretary shall approve for purposes of title XVIII of such Act distinct part inpatient rehabilitation hospital units in long-term care hospitals consistent with the following:

(i) A hospital that, on or before October 1, 2004, was classified by the Secretary as a long-term care hospital, as described in section 1886(d)(1)(B)(iv)(I) of such Act (42 U.S.C. 1395ww(d)(1)(V)(iv)(I)), and was accredited by

the Commission on Accreditation of Rehabilitation Facilities, may establish a hospital rehabilitation unit that is a distinct part of the long-term care hospital, if the distinct part meets the requirements (including conditions of participation) that would otherwise apply to a distinct-part rehabilitation unit if the distinct part were established by a subsection (d) hospital in accordance with the matter following clause (v) of section 1886(d)(1)(B) of such Act, including any regulations adopted by the Secretary in accordance with this section, except that the one-year waiting period described in section 412.30(c) of title 42, Code of Federal Regulations, applicable to the conversion of hospital beds into a distinct-part rehabilitation unit shall not apply to such units.

(ii) Services provided in inpatient rehabilitation units established under clause (i) shall not be reimbursed as long-term care hospital services under section 1886 of such Act and shall be subject to payment policies established by the Secretary to reimburse services provided by inpatient hospital rehabilitation units.

(D) EFFECTIVE DATE.—The amendments made by subparagraphs (A) and (B), and the provisions of subparagraph (C), shall apply to discharges occurring on or after January 1, 2008.

(2) IMPLEMENTATION OF FACILITY AND PATIENT CRITERIA.—

(A) REPORT.—No later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall submit to the appropriate committees of Congress a report containing recommendations regarding the promulgation of the national long-term care hospital facility and patient criteria for application under paragraphs (4) and (5) of section 1861(ccc) and section 1886(n) of the Social Security Act, as added by subparagraphs (A) and (B), respectively, of paragraph (1). In the report, the Secretary shall consider recommendations contained in a report to Congress by the Medicare Payment Advisory Commission in June 2004 for long-term care hospital-specific facility and patient criteria to ensure that patients admitted to long-term care hospitals are medically complex and appropriate to receive long-term care hospital services.

(B) IMPLEMENTATION.—No later than 1 year after the date of submittal of the report under subparagraph (A), the Secretary shall, after rulemaking, implement the national long-term care hospital facility and patient criteria referred to in such subparagraph. Such long-term care hospital facility and patient criteria shall be used to screen patients in determining the medical necessity and appropriateness of a Medicare beneficiary’s admission to, continued stay at, and discharge from, long-term care hospitals under the Medicare program and shall take into account the medical judgment of the patient’s physician, as provided for under sections 1814(a)(3) and 1835(a)(2)(B) of the Social Security Act (42 U.S.C. 1395f(a)(3), 1395n(a)(2)(B)).

(3) EXPANDED REVIEW OF MEDICAL NECESSITY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall provide, under contracts with one or more appropriate fiscal intermediaries or medicare administrative contractors under section 1874A(a)(4)(G) of the Social Security Act (42 U.S.C. 1395kk(a)(4)(G)), for reviews of the medical necessity of admissions to long-term care hospitals (described in section 1886(d)(1)(B)(iv) of such Act) and continued stay at such hospitals, of individuals entitled to, or enrolled for, benefits under part A of title XVIII of such Act on a hospital-specific basis consistent with this paragraph. Such reviews shall be made for discharges occurring on or after October 1, 2007.

(B) REVIEW METHODOLOGY.—The medical necessity reviews under paragraph (A) shall be conducted for each such long-term care hospital on an annual basis in accordance with rules

(including a sample methodology) specified by the Secretary. Such sample methodology shall—

(i) provide for a statistically valid and representative sample of admissions of such individuals sufficient to provide results at a 95 percent confidence interval; and

(ii) guarantee that at least 75 percent of overpayments received by long-term care hospitals for medically unnecessary admissions and continued stays of individuals in long-term care hospitals will be identified and recovered and that related days of care will not be counted toward the length of stay requirement contained in section 1886(d)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(iv)).

(C) CONTINUATION OF REVIEWS.—Under contracts under this paragraph, the Secretary shall establish a denial rate with respect to such reviews that, if exceeded, could require further review of the medical necessity of admissions and continued stay in the hospital involved.

(D) TERMINATION OF REQUIRED REVIEWS.—

(i) IN GENERAL.—Subject to clause (iii), the previous provisions of this subsection shall cease to apply as of the date specified in clause (ii).

(ii) DATE SPECIFIED.—The date specified in this clause is the later of January 1, 2013, or the date of implementation of national long-term care hospital facility and patient criteria under section paragraph (2)(B).

(iii) CONTINUATION.—As of the date specified in clause (ii), the Secretary shall determine whether to continue to guarantee, through continued medical review and sampling under this paragraph, recovery of at least 75 percent of overpayments received by long-term care hospitals due to medically unnecessary admissions and continued stays.

(E) FUNDING.—The costs to fiscal intermediaries or medicare administrative contractors conducting the medical necessity reviews under subparagraph (A) shall be funded from the aggregate overpayments recouped by the Secretary of Health and Human Services from long-term care hospitals due to medically unnecessary admissions and continued stays. The Secretary may use an amount not in excess of 40 percent of the overpayments recouped under this paragraph to compensate the fiscal intermediaries or Medicare administrative contractors for the costs of services performed.

(4) LIMITED, QUALIFIED MORATORIUM OF LONG-TERM CARE HOSPITALS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall impose a temporary moratorium on the certification of new long-term care hospitals (and satellite facilities), and new long-term care hospital and satellite facility beds, for purposes of the Medicare program under title XVIII of the Social Security Act. The moratorium shall terminate at the end of the 4-year period beginning on the date of the enactment of this Act.

(B) EXCEPTIONS.—

(i) IN GENERAL.—The moratorium under subparagraph (A) shall not apply as follows:

(I) To a long-term care hospital, satellite facility, or additional beds under development as of the date of the enactment of this Act.

(II) To an existing long-term care hospital that requests to increase its number of long-term care hospital beds, if the Secretary determines there is a need at the long-term care hospital for additional beds to accommodate—

(aa) infectious disease issues for isolation of patients;

(bb) bedside dialysis services;

(cc) single-sex accommodation issues;

(dd) behavioral issues; or

(ee) any requirements of State or local law.

(III) To an existing long-term care hospital that requests an increase in beds because of the closure of a long-term care hospital or significant decrease in the number of long-term care hospital beds, in a State where there is only one other long-term care hospital.

There shall be no administrative or judicial review from a decision of the Secretary under this subparagraph.

(ii) "UNDER DEVELOPMENT" DEFINED.—For purposes of clause (i)(1), a long-term care hospital or satellite facility is considered to be "under development" as of a date if any of the following have occurred on or before such date:

(I) The hospital or a related party has a binding written agreement with an outside, unrelated party for the construction, reconstruction, lease, rental, or financing of the long-term care hospital and the hospital has expended, before the date of the enactment of this Act, at least 10 percent of the estimated cost of the project (or, if less, \$2,500,000).

(II) Actual construction, renovation or demolition for the long-term care hospital has begun and the hospital has expended, before the date of the enactment of this Act, at least 10 percent of the estimated cost of the project (or, if less, \$2,500,000).

(III) A certificate of need has been approved in a State where one is required or other necessary approvals from appropriate State agencies have been received for the operation of the hospital.

(IV) The hospital documents that, within 3 months after the date of the enactment of this Act, it is within a 6-month long-term care hospital demonstration period required by section 412.23(e)(1)–(3) of title 42, Code of Federal Regulations, to demonstrate that it has a greater than 25 day average length of stay.

(5) NO APPLICATION OF 25 PERCENT PATIENT THRESHOLD PAYMENT ADJUSTMENT TO FREESTANDING AND GRANDFATHERED LTCHS.—The Secretary shall not apply, during the 5-year period beginning on the date of the enactment of this Act, section 412.536 of title 42, Code of Federal Regulations, or any similar provision, to freestanding long-term care hospitals and the Secretary shall not apply such section or section 412.534 of title 42, Code of Federal Regulations, or any similar provisions, to a long-term care hospital identified by section 4417(a) of the Balanced Budget Act of 1997 (Public Law 105-33). A long-term care hospital identified by such section 4417(a) shall be deemed to be a freestanding long-term care hospital for the purpose of this section. Section 412.536 of title 42, Code of Federal Regulations, shall be void and of no effect.

(6) PAYMENT FOR HOSPITALS-WITHIN-HOSPITALS.—

(A) IN GENERAL.—Payments to an applicable long-term care hospital or satellite facility which is located in a rural area or which is co-located with an urban single or MSA dominant hospital under paragraphs (d)(1), (e)(1), and (e)(4) of section 412.534 of title 42, Code of Federal Regulations, shall not be subject to any payment adjustment under such section if no more than 75 percent of the hospital's Medicare discharges (other than discharges described in paragraphs (d)(2) or (e)(3) of such section) are admitted from a co-located hospital.

(B) CO-LOCATED LONG-TERM CARE HOSPITALS AND SATELLITE FACILITIES.—

(i) IN GENERAL.—Payment to an applicable long-term care hospital or satellite facility which is co-located with another hospital shall not be subject to any payment adjustment under section 412.534 of title 42, Code of Federal Regulations, if no more than 50 percent of the hospital's Medicare discharges (other than discharges described in section 412.534(c)(3) of such title) are admitted from a co-located hospital.

(ii) APPLICABLE LONG-TERM CARE HOSPITAL OR SATELLITE FACILITY DEFINED.—In this paragraph, the term "applicable long-term care hospital or satellite facility" means a hospital or satellite facility that is subject to the transition rules under section 412.534(g) of title 42, Code of Federal Regulations.

(C) EFFECTIVE DATE.—Subparagraphs (A) and (B) shall apply to discharges occurring on or after October 1, 2007, and before October 1, 2012.

(7) NO APPLICATION OF VERY SHORT-STAY OUTLIER POLICY.—The Secretary shall not apply, during the 5-year period beginning on the date of the enactment of this Act, the

amendments finalized on May 11, 2007 (72 Federal Register 26904) made to the short-stay outlier payment provision for long-term care hospitals contained in section 412.529(c)(3)(i) of title 42, Code of Federal Regulations, or any similar provision.

(8) NO APPLICATION OF ONE TIME ADJUSTMENT TO STANDARD AMOUNT.—The Secretary shall not, during the 5-year period beginning on the date of the enactment of this Act, make the one-time prospective adjustment to long-term care hospital prospective payment rates provided for in section 412.523(d)(3) of title 42, Code of Federal Regulations, or any similar provision.

(c) SEPARATE CLASSIFICATION FOR CERTAIN LONG-STAY CANCER HOSPITALS.—

(1) IN GENERAL.—Subsection (d)(1)(B) of section 1886 of the Social Security Act (42 U.S.C. 1395uu) is amended—

(A) in clause (iv)—

(i) in subclause (I), by striking "(iv)(I)" and inserting "(iv)" and by striking "or" at the end; and

(ii) in subclause (II)—

(I) by striking " , or" at the end and inserting a semicolon; and

(II) by redesignating such subclause as clause (vi) and by moving it to immediately follow clause (v); and

(B) in clause (v), by striking the semicolon at the end and inserting " , or".

(2) CONFORMING PAYMENT REFERENCES.—Subsection (b) of such section is amended—

(A) in paragraph (2)(E)(ii), by adding at the end the following new subclause:

"(III) Hospitals described in clause (vi) of such subsection.";

(B) in paragraph (3)(F)(iii), by adding at the end the following new subclause:

"(VI) Hospitals described in clause (vi) of such subsection.";

(C) in paragraphs (3)(G)(ii), (3)(H)(i), and (3)(H)(ii)(I), by inserting "or (vi)" after "clause (iv)" each place it appears;

(D) in paragraph (3)(H)(iv), by adding at the end the following new subclause:

"(IV) Hospitals described in clause (vi) of such subsection.";

(E) in paragraph (3)(J), by striking "subsection (d)(1)(B)(iv)" and inserting "clause (iv) or (vi) of subsection (d)(1)(B)"; and

(F) in paragraph (7)(B), by adding at the end the following new clause:

"(iv) Hospitals described in clause (vi) of such subsection.".

(3) ADDITIONAL CONFORMING AMENDMENTS.—The second sentence of subsection (d)(1)(B) of such section is amended—

(A) by inserting "(as in effect as of such date)" after "clause (iv)"; and

(B) by inserting "(or, in the case of a hospital classified under clause (iv)(II), as so in effect, shall be classified under clause (vi) on and after the effective date of such clause)" after "so classified".

(4) IN GENERAL.—In the case of a hospital that is classified under clause (iv)(II) of section 1886(d)(1)(B) of the Social Security Act immediately before the date of the enactment of this Act and which is classified under clause (vi) of such section after such date of enactment, payments under section 1886 of such Act for cost reporting periods beginning after the date of the enactment of this Act shall be based upon payment rates in effect for the cost reporting period for such hospital beginning during fiscal year 2001, increased for each succeeding cost reporting period (beginning before the date of the enactment of this Act) by the applicable percentage increase under section 1886(b)(3)(B)(ii) of such Act.

(5) CLARIFICATION OF TREATMENT OF SATELLITE FACILITIES AND REMOTE LOCATIONS.—A long-stay cancer hospital described in section 1886(d)(1)(B)(vi) of the Social Security Act, as designated under paragraph (1), shall include satellites or remote site locations for such hospital established before or after the date of the

enactment "without regard to section 412.22(h)(2)(i) of title 42, Code of Federal Regulations," if the provider-based requirements under section 413.65 of such title, applicable certification requirements under title XVIII of the Social Security, and such other applicable State licensure and certificate of need requirements are met with respect to such satellites or remote site locations.

**SEC. 504. INCREASING THE DSH ADJUSTMENT CAP.**

(a) IN GENERAL.—Section 1886(d)(5)(F)(xiv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)) is amended—

(b) SPECIAL RULE IN COMPUTING DISPROPORTIONATE PATIENT PERCENTAGE.—

(1) IN GENERAL.—Section 1886(d)(5)(F)(vi) of such Act (42 U.S.C. 1395ww(d)(5)(F)(vi)) is amended by adding at the end the following: "In applying this clause in the case of hospitals located in Puerto Rico, the Secretary shall substitute for the fraction described in subclause (I) one-half of the national average of such fraction for all subsection (d) hospitals, as estimated by the Secretary."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges in cost reporting periods of hospitals beginning on or after January 1, 2008.

(1) in subclause (II), by striking "12 percent" and inserting "the percent specified in subclause (III)"; and

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

"(III) The percent specified in this subclause is, in the case of discharges occurring—

"(a) before October 1, 2007, 12 percent;

"(b) during fiscal year 2008, 16 percent;

"(c) during fiscal year 2009, 18 percent; and

"(d) on or after October 1, 2009, 12 percent."

**SEC. 505. PPS-EXEMPT CANCER HOSPITALS.**

(a) AUTHORIZING REBASING FOR PPS-EXEMPT CANCER HOSPITALS.—Section 1886(b)(3)(F) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(F)) is amended by adding at the end the following new clause:

"(iv) In the case of a hospital (or unit described in the matter following clause (v) of subsection (d)(1)(B)) that received payment under this subsection for inpatient hospital services furnished during cost reporting periods beginning before October 1, 1999, that is within a class of hospital described in clause (iii) (other than subclause (IV), relating to long-term care hospitals, and that requests the Secretary (in a form and manner specified by the Secretary) to effect a rebasing under this clause for the hospital, the Secretary may compute the target amount for the hospital's 12-month cost reporting period beginning during fiscal year 2008 as an amount equal to the average described in clause (ii) but determined as if any reference in such clause to 'the date of the enactment of this subparagraph' were a reference to 'the date of the enactment of this clause'."

(b) ADDITIONAL CANCER HOSPITAL PROVISIONS.—

(1) IN GENERAL.—Section 1886(d)(1) of the Social Security Act (42 U.S.C. 1395ww(d)(1)) is amended—

(A) in subparagraph (B)(v)—

(i) by striking "or" at the end of subclause (II); and

(ii) by adding at the end the following:

"(IV) a hospital that is a nonprofit corporation, the sole member of which is affiliated with a university that has been the recipient of a cancer center support grant from the National Cancer Institute of the National Institutes of Health, and which sole member (or its predecessors or such university) was recognized as a comprehensive cancer center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983, if the hospital's articles of incorporation specify that at least 50 percent of its total discharges have a principal finding of neoplastic disease (as defined in subparagraph (E)) and if, of December 31, 2005, the

hospital was licensed for less than 150 acute care beds, or

“(V) a hospital (aa) that the Secretary has determined to be, at any time on or before December 31, 2011, a hospital involved extensively in treatment for, or research on, cancer, (bb) that is (as of the date of such determination) a freestanding facility, (cc) for which the hospital’s predecessor provider entity was University Hospitals of Cleveland with medicare provider number 36-0137;” and

(B) in subparagraph (B), by inserting after clause (vi), as redesignated by section 503(c)(1)(A)(ii)(II), the following new clause:

“(vii) a hospital that—

“(I) is located in a State that as of December 31, 2006, had only one center under section 414 of the Public Health Service Act that has been designated by the National Cancer Institute as a comprehensive center currently serving all 21 counties in the most densely populated State in the nation (U.S. Census estimate for 2005: 8,717,925 persons; 1,134.5 persons per square mile), serving more than 70,000 patient visits annually;

“(II) as of December 31, 2006, served as the teaching and clinical care, research and training hospital for the Center described in subclause (II), providing significant financial and operational support to such Center;

“(III) as of December 31, 2006, served as a core and essential element in such Center which conducts more than 130 clinical trial activities, national cooperative group studies, investigator-initiated and peer review studies and has received as of 2005 at least \$93,000,000 in research grant awards;

“(IV) as of December 31, 2006, includes dedicated patient care units organized primarily for the treatment of and research on cancer with approximately 125 beds, 75 percent of which are dedicated to cancer patients, and contains a radiation oncology department as well as specialized emergency services for oncology patients; and

“(V) as of December 31, 2004, is identified as the focus of the Center’s inpatient activities in the Center’s application as a NCI-designated comprehensive cancer center and shares the NCI comprehensive cancer designation with the Center; and

(D) in subparagraph (E)—

(i) by striking “subclauses (II) and (III)” and inserting “subclauses (II), (III), and (IV)”;

(ii) by inserting “and subparagraph (B)(vi)” after “subparagraph (B)(v)”.

(2) EFFECTIVE DATES; PAYMENTS.—

(A) APPLICATION TO COST REPORTING PERIODS.—

(i) Any classification by reason of section 1886(d)(1)(B)(vi) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(vi)), as inserted by paragraph (1), shall apply to cost reporting periods beginning on or after January 1, 2006.

(ii) The provisions of section 1886(d)(1)(B)(v)(IV) of the Social Security Act, as added by paragraph (1), shall take effect on January 1, 2008.

(B) BASE TARGET AMOUNT.—Notwithstanding subsection (b)(3)(E) of section 1886 of the Social Security Act (42 U.S.C. 1395ww), in the case of a hospital described in subsection (d)(1)(B)(vi) of such section, as inserted by paragraph (1)—

(i) the hospital shall be permitted to resubmit the 2006 Medicare 2552 cost report incorporating a cancer hospital sub-provider number and to apply the Medicare ratio-of-cost-to-charge settlement methodology for outpatient cancer services; and

(ii) the hospital’s target amount under subsection (b)(3)(E)(i) of such section for the first cost reporting period beginning on or after January 1, 2006, shall be the allowable operating costs of inpatient hospital services (referred to in subclause (I) of such subsection) for such first cost reporting period.

(C) DEADLINE FOR PAYMENTS.—Any payments owed to a hospital as a result of this subsection

for periods occurring before the date of the enactment of this Act shall be made expeditiously, but in no event later than 1 year after such date of enactment.

(3) APPLICATION TO CERTAIN HOSPITALS.—

(A) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The provisions of section 412.22(e) of title 42, Code of Federal Regulations, shall not apply to a hospital described in section 1886(d)(1)(B)(v)(V) of the Social Security Act, as added by paragraph (1).

(B) APPLICATION TO COST REPORTING PERIODS.—If the Secretary makes a determination that a hospital is described in section 1886(d)(1)(B)(v)(V) of the Social Security Act, as added by paragraph (1), such determination shall apply as of the first cost reporting period beginning on or after the date of such determination.

(C) BASE PERIOD.—Notwithstanding the provisions of section 1886(b)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(E)) or any other provision of law, the base cost reporting period for purposes of determining the target amount for any hospital for which a determination described in subparagraph (B) has been made shall be the first full 12-month cost reporting period beginning on or after the date of such determination.

(D) RULE.—A hospital described in subclause (V) of section 1886(b)(1)(B)(v) of the Social Security Act, as added by paragraph (1), shall not qualify as a hospital described in such subclause for any cost reporting period in which less than 50 percent of its total discharges have a principal finding of neoplastic disease. With respect to the first cost reporting period for which a determination described in subparagraph (B) has been made, the Secretary shall accept a self-certification by the hospital, which shall be applicable to such first cost reporting period, that the hospital intends to have total discharges during such first cost reporting period of which 50 percent or more have a principal finding of neoplastic disease.

(E) MEDPAC REPORT ON PPS-EXEMPT CANCER HOSPITALS.—Not later than March 1, 2009, the Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act (42 U.S.C. 1395b-6)) shall submit to the Secretary and Congress a report evaluating the following:

(1) Measures of payment adequacy and Medicare margins for PPS-exempt cancer hospitals, as established under section 1886(d)(1)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)).

(2) To the extent a PPS-exempt cancer hospital was previously affiliated with another hospital, the margins of the PPS-exempt hospital and the other hospital as separate entities and the margins of such hospitals that existed when the hospitals were previously affiliated.

(3) Payment adequacy for cancer discharges under the Medicare inpatient hospital prospective payment system.

**SEC. 506. SKILLED NURSING FACILITY PAYMENT UPDATE.**

(a) IN GENERAL.—Section 1888(e)(4)(E)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(4)(E)(ii)) is amended—

(1) in subclause (III), by striking “and” at the end;

(2) by redesignating subclause (IV) as subclause (VI); and

(3) by inserting after subclause (III) the following new subclauses:

“(IV) for each of fiscal years 2004, 2005, 2006, and 2007, the rate computed for the previous fiscal year increased by the skilled nursing facility market basket percentage change for the fiscal year involved;

“(V) for fiscal year 2008, the rate computed for the previous fiscal year; and”.

(b) DELAYED EFFECTIVE DATE.—Section 1888(e)(4)(E)(ii)(V) of the Social Security Act, as inserted by subsection (a)(3), shall not apply to payment for days before January 1, 2008.

**SEC. 507. REVOCATION OF UNIQUE DEEMING AUTHORITY OF THE JOINT COMMISSION FOR THE ACCREDITATION OF HEALTHCARE ORGANIZATIONS.**

(a) REVOCATION.—Section 1865 of the Social Security Act (42 U.S.C. 1395bb) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.

(b) CONFORMING AMENDMENTS.—(1) Such section is further amended—

(A) in subsection (a)(1), as so redesignated, by striking “In addition, if” and inserting “If”;

(B) in subsection (b), as so redesignated—

(i) by striking “released to him by the Joint Commission on Accreditation of Hospitals,” and inserting “released to the Secretary by”;

(ii) by striking the comma after “Association”;

(C) in subsection (c), as so redesignated, by striking “pursuant to subsection (a) or (b)(1)” and inserting “pursuant to subsection (a)(1)”;

(D) in subsection (d), as so redesignated, by striking “pursuant to subsection (a) or (b)(1)” and inserting “pursuant to subsection (a)(1)”.

(2) Section 1861(e) of such Act (42 U.S.C. 1395x(e)) is amended in the fourth sentence by striking “and (ii) is accredited by the Joint Commission on Accreditation of Hospitals, or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of the Joint Commission on Accreditation of Hospitals.” and inserting “and (ii) is accredited by a national accreditation body recognized by the Secretary under section 1865(a), or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of such a national accreditation body.”.

(3) Section 1864(c) of such Act (42 U.S.C. 1395aa(c)) is amended by striking “pursuant to subsection (a) or (b)(1) of section 1865” and inserting “pursuant to section 1865(a)(1)”.

(4) Section 1875(b) of such Act (42 U.S.C. 1395ll(b)) is amended by striking “the Joint Commission on Accreditation of Hospitals,” and inserting “national accreditation bodies under section 1865(a)”.

(5) Section 1834(a)(20)(B) of such Act (42 U.S.C. 1395m(a)(20)(B)) is amended by striking “section 1865(b)” and inserting “section 1865(a)”.

(6) Section 1852(e)(4)(C) of such Act (42 U.S.C. 1395w-22(e)(4)(C)) is amended by striking “section 1865(b)(2)” and inserting “section 1865(a)(2)”.

(c) AUTHORITY TO RECOGNIZE JCAHO AS A NATIONAL ACCREDITATION BODY.—The Secretary of Health and Human Services may recognize the Joint Commission on Accreditation of Healthcare Organizations as a national accreditation body under section 1865 of the Social Security Act (42 U.S.C. 1395bb), as amended by this section, upon such terms and conditions, and upon submission of such information, as the Secretary may require.

(d) EFFECTIVE DATE; TRANSITION RULE.—(1) Subject to paragraph (2), the amendments made by this section shall apply with respect to accreditations of hospitals granted on or after the date that is 18 months after the date of the enactment of this Act.

(2) For purposes of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the amendments made by this section shall not effect the accreditation of a hospital by the Joint Commission on Accreditation of Healthcare Organizations, or under accreditation or comparable approval standards found to be essentially equivalent to accreditation or approval standards of the Joint Commission on Accreditation of Healthcare Organizations, for the period of time applicable under such accreditation.

**SEC. 508. TREATMENT OF MEDICARE HOSPITAL RECLASSIFICATIONS.**

(a) **EXTENDING CERTAIN MEDICARE HOSPITAL WAGE INDEX RECLASSIFICATIONS THROUGH FISCAL YEAR 2009.**—

(1) **IN GENERAL.**—Section 106(a) of the Medicare Improvements and Extension Act of 2006 (division B of Public Law 109-432) is amended by striking “September 30, 2007” and inserting “September 30, 2009”.

(2) **SPECIAL EXCEPTION RECLASSIFICATIONS.**—The Secretary of Health and Human Services shall extend for discharges occurring through September 30, 2009, the special exception reclassification made under the authority of section 1886(d)(5)(I)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(I)(i)) and contained in the final rule promulgated by the Secretary in the Federal Register on August 11, 2004 (69 Fed. Reg. 49105, 49107).

(b) **DISREGARDING SECTION 508 HOSPITAL RECLASSIFICATIONS FOR PURPOSES OF GROUP RECLASSIFICATIONS.**—Section 508 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173, 42 U.S.C. 1395ww note) is amended by adding at the end the following new subsection:

“(g) **DISREGARDING HOSPITAL RECLASSIFICATIONS FOR PURPOSES OF GROUP RECLASSIFICATIONS.**—For purposes of the reclassification of a group of hospitals in a geographic area under section 1886(d), a hospital reclassified under this section (including any such reclassification which is extended under section 106(a) of the Medicare Improvements and Extension Act of 2006) shall not be taken into account and shall not prevent the other hospitals in such area from establishing such a group for such purpose.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to payments for discharges occurring on or after October 1, 2008.

(c) **OTHER HOSPITAL RECLASSIFICATION PROVISIONS.**—Notwithstanding any other provision of law—

(1) In the case of a subsection (d) hospital (as defined for purposes of section 1886 of the Social Security Act (42 U.S.C. 1395ww)) located in Putnam County, Tennessee with respect to which a reclassification of its wage index for purposes of such section would (but for this subsection) expire on September 30, 2007, such reclassification of such hospital shall be extended through September 30, 2008.

(2) For purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the Secretary of Health and Human Services shall classify any hospital located in Orange County, New York that was reclassified under the authority of section 508 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (Public Law 108-173) as being located in the New York-White Plains-Wayne, NY-NJ Core Based Statistical Area. Any reclassification under this subsection shall be treated as a reclassification under section 1886(d)(8) of such Act.

(3) For purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the large urban area of New York, New York is deemed to include hospitals, required by State law enacted prior to June 30, 2007, to join under a single unified governance structure if—

(A) such hospitals are located in a city with a population of no less than 20,000 and no greater than 30,000; and

(B) such hospitals are less than 3/4 miles apart.

(4) For purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) the large urban area of Buffalo-Niagara Falls, New York is deemed to include Chautauqua County, New York. In no case shall there be a reduction in the hospital wage index for Erie County, New York, or any adjoining county, as a result of the application of this paragraph, (other than as a result of a

general reduction required to carry out paragraph (8)(D) of that section).

(5) For purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) a hospital shall be reclassified into the New York-White Plains-Wayne, New York-New Jersey core based statistical area (CBSA code 35644) if the hospital is 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))) that—

(A) is licensed by the State in which it is located as a specialty hospital;

(B) specializes in the treatment of cardiac, vascular, and pulmonary diseases;

(C) provides at least 100 beds; and

(D) is located in Burlington County, New Jersey.

(6)(A) Any hospital described in subparagraph (B) shall be treated as located in the core based statistical area described in subparagraph (C) for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)).

(B) A hospital described in this subparagraph is any hospital that—

(i) is located in a core based statistical area (CBSA) that—

(I) had a population (as reported in the decennial census for the year 2000) of at least 500,000, but not more than 750,000;

(II) had a population (as reported in such census) that was at least 10,000 below the population for the area as reported in the previous decennial census; and

(III) has as of January 1, 2006, at least 5, and no more than 7, subsection (d) hospitals; and

(ii) demonstrates that its average hourly wage amount (as determined consistent with section 1886(d)(10)(D)(vi) of the Social Security Act) is not less than 96 percent of such average hourly wage amount rate for all subsection (d) hospitals located in same core base statistical area of the hospital.

(C) The area described in this subparagraph, with respect to a hospital described in subparagraph (B), is the core based statistical area that—

(i) is within the same State as, and is adjacent to, the core based statistical area in which the hospital is located; and

(ii) has an average hourly wage amount (described in subparagraph (B)(ii)) that is closest to (but does not exceed) such average hourly wage amount of the hospital.

(7) For purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the large urban area of Hartford, Connecticut is deemed to include Albany, Schenectady, and Rensselaer Counties, New York.

(8) For purposes of making payment under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), the Nashville-Davidson-Murfreesboro core based statistical area is deemed to include Cumberland County, Tennessee.

(9) For purposes of making payment under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), any hospital that is co-located in Marinette, Wisconsin and the Menominee, Michigan is deemed to be located in Chicago, Illinois.

(10) In the case of a hospital located in Massachusetts or Clinton County, New York, that is reclassified based on wages under paragraph (8) or (10) of section 1886(d) of the Social Security Act into an area the area wage index for which is increased under section 4410(a) of the Balanced Budget Act of 1997 (Public Law 105-33), such increased area wage index shall also apply to such hospital under such section 1886(d).

(11) For purposes of applying the area wage index under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), hospital provider numbers 360112 and 23005 shall be treated as located in the same urban area as Ann Arbor, Michigan.

(12) For purposes of making payment under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), any hospital that is located in Columbia County, New York, with less than 250 beds is deemed to be located in the New York-White Plains-Wayne, NY-NJ core based statistical area.

(13) For purposes of the previous provisions of this subsection (other than paragraph (1))—

(A) any reclassification effected under such provisions shall be treated as a decision of the Medicare Geographic Classification Review Board under section 1886(d) of the Social Security Act and subject to budget neutrality under paragraph (8)(D) of such section.; and

(B) such provisions shall only apply to discharges occurring on or after October 1, 2008, during the 3-year reclassification period beginning on such date.

**SEC. 509. MEDICARE CRITICAL ACCESS HOSPITAL DESIGNATIONS.**

(a) **IN GENERAL.**—

(1) Section 405(h) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2269) is amended by adding at the end the following new paragraph:

“(3) **EXCEPTION.**—

“(A) **IN GENERAL.**—The amendment made by paragraph (1) shall not apply to the certification by the State of Minnesota on or after January 1, 2006, under section 1820(c)(2)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395i-4(c)(2)(B)(i)(II)) of one hospital that meets the criteria described in subparagraph (B) and is located in Cass County, Minnesota, as a necessary provider of health care services to residents in the area of the hospital.

“(B) **CRITERIA DESCRIBED.**—A hospital meets the criteria described in this subparagraph if the hospital

“(i) has been granted an exception by the State to an otherwise applicable statutory restriction on hospital construction or licensing prior to the date of enactment of this subparagraph; and

“(ii) is located on property which the State has approved for conveyance to a county within the State prior to such date of enactment.”.

(2) Section 1820(c)(2)(B)(i)(I) of the Social Security Act (42 U.S.C. 1395i-4(c)(2)(B)(i)(I)) is amended by striking “or,” and inserting “or, in the case of a hospital that is located in the county seat of Butler, Alabama, a 32-mile drive, or,”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a)(2) shall apply to cost reporting periods beginning on or after the date of the enactment of this Act.

**TITLE VI—OTHER PROVISIONS RELATING TO MEDICARE PART B****Subtitle A—Payment and Coverage Improvements****SEC. 601. PAYMENT FOR THERAPY SERVICES.**

(a) **EXTENSION OF EXCEPTIONS PROCESS FOR MEDICARE THERAPY CAPS.**—Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as amended by section 201 of the Medicare Improvements and Extension Act of 2006 (division B of Public Law 109-432), is amended by striking “2007” and inserting “2009”.

(b) **STUDY AND REPORT.**—

(1) **STUDY.**—The Secretary of Health and Human Services, in consultation with appropriate stakeholders, shall conduct a study on refined and alternative payment systems to the Medicare payment cap under section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) for physical therapy services and speech-language pathology services, described in paragraph (1) of such section and occupational therapy services described in paragraph (3) of such section. Such study shall consider, with respect to payment amounts under Medicare, the following:

(A) The creation of multiple payment caps for such services to better reflect costs associated with specific health conditions.

(B) The development of a prospective payment system, including an episode-based system of payments, for such services.

(C) The data needed for the development of a system of multiple payment caps (or an alternative payment methodology) for such services and the availability of such data.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to Congress a report on the study conducted under paragraph (1).

**SEC. 602. MEDICARE SEPARATE DEFINITION OF OUTPATIENT SPEECH-LANGUAGE PATHOLOGY SERVICES.**

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

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) The term ‘outpatient speech-language pathology services’ has the meaning given the term ‘outpatient physical therapy services’ in subsection (p), except that in applying such subsection—

“(A) ‘speech-language pathology’ shall be substituted for ‘physical therapy’ each place it appears; and

“(B) ‘speech-language pathologist’ shall be substituted for ‘physical therapist’ each place it appears.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1832(a)(2)(C) of the Social Security Act (42 U.S.C. 1395k(a)(2)(C)) is amended—

(A) by striking “and outpatient” and inserting “, outpatient”; and

(B) by inserting before the semicolon at the end the following: “, and outpatient speech-language pathology services (other than services to which the second sentence of section 1861(p) applies through the application of section 1861(l)(2))”.

(2) Subparagraphs (A) and (B) of section 1833(a)(8) of such Act (42 U.S.C. 1395l(a)(8)) are each amended by striking “(which includes outpatient speech-language pathology services)” and inserting “, outpatient speech-language pathology services”.

(3) Section 1833(g)(1) of such Act (42 U.S.C. 1395l(g)(1)) is amended—

(A) by inserting “and speech-language pathology services of the type described in such section through the application of section 1861(l)(2)” after “1861(p)”; and

(B) by inserting “and speech-language pathology services” after “and physical therapy services”.

(4) The second sentence of section 1835(a) of such Act (42 U.S.C. 1395n(a)) is amended—

(A) by striking “section 1861(g)” and inserting “subsection (g) or (l)(2) of section 1861” each place it appears; and

(B) by inserting “or outpatient speech-language pathology services, respectively” after “occupational therapy services”.

(5) Section 1861(p) of such Act (42 U.S.C. 1395x(p)) is amended by striking the fourth sentence.

(6) Section 1861(s)(2)(D) of such Act (42 U.S.C. 1395x(s)(2)(D)) is amended by inserting “, outpatient speech-language pathology services,” after “physical therapy services”.

(7) Section 1862(a)(20) of such Act (42 U.S.C. 1395y(a)(20)) is amended—

(A) by striking “outpatient occupational therapy services or outpatient physical therapy services” and inserting “outpatient physical therapy services, outpatient speech-language pathology services, or outpatient occupational therapy services”; and

(B) by striking “section 1861(g)” and inserting “subsection (g) or (l)(2) of section 1861”.

(8) Section 1866(e)(1) of such Act (42 U.S.C. 1395cc(e)(1)) is amended—

(A) by striking “section 1861(g)” and inserting “subsection (g) or (l)(2) of section 1861” the first two places it appears;

(B) by striking “defined” or “and inserting “defined,”; and

(C) by inserting before the semicolon at the end the following: “, or (through the operation of section 1861(l)(2)) with respect to the furnishing of outpatient speech-language pathology”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2008.

(d) CONSTRUCTION.—Nothing in this section shall be construed to affect existing regulations and policies of the Centers for Medicare & Medicaid Services that require physician oversight of care as a condition of payment for speech-language pathology services under part B of the Medicare program.

**SEC. 603. INCREASED REIMBURSEMENT RATE FOR CERTIFIED NURSE-MIDWIVES.**

(a) IN GENERAL.—Section 1833(a)(1)(K) of the Social Security Act (42 U.S.C. 1395l(a)(1)(K)) is amended by striking “(but in no event” and all that follows through “performed by a physician”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 2008.

**SEC. 604. ADJUSTMENT IN OUTPATIENT HOSPITAL FEE SCHEDULE INCREASE FACTOR.**

The first sentence of section 1833(t)(3)(C)(iv) of the Social Security Act (42 U.S.C. 1395l(t)(3)(C)(iv)) is amended by inserting before the period at the end the following: “and reduced by 0.25 percentage point for such factor for such services furnished in 2008”.

**SEC. 605. EXCEPTION TO 60-DAY LIMIT ON MEDICARE SUBSTITUTE BILLING ARRANGEMENTS IN CASE OF PHYSICIANS ORDERED TO ACTIVE DUTY IN THE ARMED FORCES.**

(a) IN GENERAL.—Section 1842(b)(6)(D)(iii) of the Social Security Act (42 U.S.C. 1395u(b)(6)(D)(iii)) is amended by inserting after “of more than 60 days” the following: “or are provided over a longer continuous period during all of which the first physician has been called or ordered to active duty as a member of a reserve component of the Armed Forces”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this section.

**SEC. 606. EXCLUDING CLINICAL SOCIAL WORKER SERVICES FROM COVERAGE UNDER THE MEDICARE SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED PAYMENT.**

(a) IN GENERAL.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting “clinical social worker services,” after “qualified psychologist services”.

(b) CONFORMING AMENDMENT.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking “and other than services furnished to an inpatient of a skilled nursing facility which the facility is required to provide as a requirement for participation”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2008.

**SEC. 607. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES.**

(a) COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES.—

(1) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 201(a)(1), is amended—

(A) in subparagraph (AA), by striking “and” at the end;

(B) in subparagraph (BB), by adding “and” at the end; and

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

“(CC) marriage and family therapist services (as defined in subsection (eee));”.

(2) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by sections 201(a)(2) and 503(b)(1), is amended by adding at the end the following new subsection:

“Marriage and Family Therapist Services

“(eee)(1) The term ‘marriage and family therapist services’ means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, provided such services are covered under this title, as would otherwise be covered if furnished by a physician or as incident to a physician’s professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(2) The term ‘marriage and family therapist’ means an individual who—

“(A) possesses a master’s or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

“(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

“(C) is licensed or certified as a marriage and family therapist in the State in which marriage and family therapist services are performed.”.

(3) PROVISION FOR PAYMENT UNDER PART b.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

“(v) marriage and family therapist services;”.

(4) AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by section 201(b)(1), is amended—

(i) by striking “and” before “(W)”; and

(ii) by inserting before the semicolon at the end the following: “, and (X) with respect to marriage and family therapist services under section 1861(s)(2)(CC), the amounts paid shall be 80 percent of the lesser of (i) the actual charge for the services or (ii) 75 percent of the amount determined for payment of a psychologist under subparagraph (L)”.

(B) DEVELOPMENT OF CRITERIA WITH RESPECT TO CONSULTATION WITH A PHYSICIAN.—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for marriage and family therapist services for which payment may be made directly to the marriage and family therapist under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) under which such a therapist must agree to consult with a patient’s attending or primary care physician in accordance with such criteria.

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)), is amended by inserting “marriage and family therapist services (as defined in subsection (eee)(1)),” after “qualified psychologist services”.

(6) COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395t(aa)(1)(B)) is amended by striking “or by a clinical social worker (as defined in subsection (hh)(1)),” and inserting “, by a clinical social worker (as defined in subsection (hh)(1)), or by a marriage and family therapist (as defined in subsection (eee)(2))”.

(7) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clause:

“(vii) A marriage and family therapist (as defined in section 1861(eee)(2)).”

(b) **COVERAGE OF MENTAL HEALTH COUNSELOR SERVICES.**—

(1) **COVERAGE OF SERVICES.**—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by subsection (a)(1), is further amended—

(A) in subparagraph (BB), by striking “and” at the end;

(B) in subparagraph (CC), by inserting “and” at the end; and

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

“(DD) mental health counselor services (as defined in subsection (fff)(2)).”

(2) **DEFINITION.**—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by sections 201(a)(2) and 503(b)(1) and subsection (a)(2), is amended by adding at the end the following new subsection:

“Mental Health Counselor; Mental Health Counselor Services

“(fff)(1) The term ‘mental health counselor’ means an individual who—

“(A) possesses a master’s or doctor’s degree which qualifies the individual for licensure or certification for the practice of mental health counseling in the State in which the services are performed;

“(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

“(C) is licensed or certified as a mental health counselor or professional counselor by the State in which the services are performed.

“(2) The term ‘mental health counselor services’ means services performed by a mental health counselor (as defined in paragraph (1)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, provided such services are covered under this title, as would otherwise be covered if furnished by a physician or as incident to a physician’s professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.”

(3) **PROVISION FOR PAYMENT UNDER PART b.**—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)), as amended by subsection (a)(3), is further amended by adding at the end the following new clause:

“(vi) mental health counselor services;”

(4) **AMOUNT OF PAYMENT.**—

(A) **IN GENERAL.**—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by subsection (a)(4), is further amended—

(i) by striking “and” before “(X)”; and

(ii) by inserting before the semicolon at the end the following: “, and (Y) with respect to mental health counselor services under section 1861(s)(2)(DD), the amounts paid shall be 80 percent of the lesser of (i) the actual charge for the services or (ii) 75 percent of the amount determined for payment of a psychologist under subparagraph (L).”

(B) **DEVELOPMENT OF CRITERIA WITH RESPECT TO CONSULTATION WITH A PHYSICIAN.**—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for mental health counselor services for which payment may be made directly to the mental health counselor under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) under which such a counselor must agree to consult with a patient’s attending or primary care physician in accordance with such criteria.

(5) **EXCLUSION OF MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.**—Section

1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)), as amended by subsection (a)(5), is amended by inserting “mental health counselor services (as defined in section 1861(ddd)(2)),” after “marriage and family therapist services (as defined in subsection (eee)(1)).”

(6) **COVERAGE OF MENTAL HEALTH COUNSELOR SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.**—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)), as amended by subsection (a)(6), is amended by striking “or by a marriage and family therapist (as defined in subsection (eee)(2)),” and inserting “by a marriage and family therapist (as defined in subsection (eee)(2)), or a mental health counselor (as defined in subsection (fff)(1)).”

(7) **INCLUSION OF MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.**—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)), as amended by subsection (a)(7), is amended by adding at the end the following new clause:

“(viii) A mental health counselor (as defined in section 1861(fff)(1)).”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to items and services furnished on or after January 1, 2008.

**SEC. 608. RENTAL AND PURCHASE OF POWER-DRIVEN WHEELCHAIRS.**

(a) **IN GENERAL.**—Section 1834(a)(7) of the Social Security Act (42 U.S.C. 1395m(a)(7)) is amended—

(1) in subparagraph (A)—

(A) in clause (i)(I), by striking “Except as provided in clause (iii), payment” and inserting “Payment”;

(B) by striking clause (iii); and

(C) in clause (iv)—

(i) by redesignating such clause as clause (iii); and

(ii) by striking “or in the case of a power-driven wheelchair for which a purchase agreement has been entered into under clause (iii)”; and

(2) in subparagraph (C)(ii)(II), by striking “or (A)(iii)”.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Subject to paragraph (1), the amendments made by subsection (a) shall take effect on January 1, 2008, and shall apply to power-driven wheelchairs furnished on or after such date.

(2) **APPLICATION TO COMPETITIVE ACQUISITION.**—The amendments made by subsection (a) shall not apply to contracts entered into under section 1847 of the Social Security Act (42 U.S.C. 1395w-3) pursuant to a bid submitted under such section before October 1, 2007.

**SEC. 609. RENTAL AND PURCHASE OF OXYGEN EQUIPMENT.**

(a) **IN GENERAL.**—Section 1834(a)(5)(F) of the Social Security Act (42 U.S.C. 1395m(a)(5)(F)) is amended—

(1) in clause (i)—

(A) by striking “Payment” and inserting “Subject to clause (iii), payment”; and

(B) by striking “36 months” and inserting “18 months”;

(2) in clause (ii)(I), by striking “36th continuous month” and inserting “18th continuous month”; and

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

“(iii) **SPECIAL RULE FOR OXYGEN GENERATING PORTABLE EQUIPMENT.**—In the case of oxygen generating portable equipment referred to in the final rule published in the Federal Register on November 9, 2006 (71 Fed. Reg. 65897-65899), in applying clauses (i) and (ii)(I) each reference to ‘18 months’ is deemed a reference to ‘36 months’.”

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Subject to paragraph (3), the amendments made by subsection (a) shall apply to oxygen equipment furnished on or after January 1, 2008.

(2) **TRANSITION.**—In the case of an individual receiving oxygen equipment on December 31, 2007, for which payment is made under section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), the 18-month period described in paragraph (5)(F)(i) of such section, as amended by subsection (a), shall begin on January 1, 2008, but in no case shall the rental period for such equipment exceed 36 months.

(3) **APPLICATION TO COMPETITIVE ACQUISITION.**—The amendments made by subsection (a) shall not apply to contracts entered into under section 1847 of the Social Security Act (42 U.S.C. 1395w-3) pursuant to a bid submitted under such section before October 1, 2007.

(c) **STUDY AND REPORT.**—

(1) **STUDY.**—The Secretary of Health and Human Services shall conduct a study to examine the service component and the equipment component of the provision of oxygen to Medicare beneficiaries. The study shall assess—

(A) the type of services provided and variation across suppliers in providing such services;

(B) whether the services are medically necessary or affect patient outcomes;

(C) whether the Medicare program pays appropriately for equipment in connection with the provision of oxygen;

(D) whether such program pays appropriately for necessary services;

(E) whether such payment in connection with the provision of oxygen should be divided between equipment and services, and if so, how; and

(F) how such payment rate compares to a competitively bid rate.

(2) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under paragraph (1).

**SEC. 610. ADJUSTMENT FOR MEDICARE MENTAL HEALTH SERVICES.**

(a) **IN GENERAL.**—For purposes of payment for services furnished under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) during the applicable period, the Secretary of Health and Human Services shall increase the amount otherwise payable for applicable services by 5 percent.

(b) **DEFINITIONS.**—For purposes of subsection (a):

(1) **APPLICABLE PERIOD.**—The term “applicable period” means the period beginning on January 1, 2008, and ending on December 31 of the year before the effective date of the first review after January 1, 2008, of work relative value units conducted under section 1848(c)(2)(B)(i) of the Social Security Act.

(2) **APPLICABLE SERVICES.**—The term “applicable services” means procedure codes for services—

(A) in the categories of psychiatric therapeutic procedures furnished in office or other outpatient facility settings, or inpatient hospital, partial hospital or residential care facility settings; and

(B) which cover insight oriented, behavior modifying, or supportive psychotherapy and interactive psychotherapy services in the Healthcare Common Procedure Coding System established by the Secretary of Health and Human Services under section 1848(c)(5) of such Act.

(c) **IMPLEMENTATION.**—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement this section by program instruction or otherwise.

**SEC. 611. EXTENSION OF BRACHYTHERAPY SPECIAL RULE.**

Section 1833(t)(16)(C) of the Social Security Act (42 U.S.C. 1395l(t)(16)(C)) is amended by striking “2008” and inserting “2009”.

**SEC. 612. PAYMENT FOR PART B DRUGS.**

(a) **APPLICATION OF CONSISTENT VOLUME WEIGHTING IN COMPUTATION OF ASP.**—In order to assure that payments for drugs and

biologicals under section 1847A of the Social Security Act (42 U.S.C. 1395w-3a) are correct and consistent with law, the Secretary of Health and Human Services shall, for payment for drugs and biologicals furnished on or after July 1, 2008, compute the volume-weighted average sales price using equation #2 (specified in appendix A of the report of the Inspector General of the Department of Health and Human Services on "Calculation of Volume-Weighted Average Sales Price for Medicare Part B Prescription Drugs" (February 2006; OEI-03-05-00310)) used by the Office of Inspector General to calculate a volume-weighted ASP.

(b) IMPROVEMENTS IN THE COMPETITIVE ACQUISITION PROGRAM (CAP).—

(1) CONTINUOUS OPEN ENROLLMENT; AUTOMATIC REENROLLMENT WITHOUT NEED FOR REAPPLICATION.—Subsection (a)(1)(A) of section 1847B of the Social Security Act (42 U.S.C. 1395w-3b) is amended—

(A) in clause (ii), by striking "annually" and inserting "on an ongoing basis";

(B) in clause (iii), by striking "an annual selection" and inserting "a selection (which may be changed on an annual basis)"; and

(C) by adding at the end the following: "An election and selection described in clauses (ii) and (iii) shall continue to be effective without the need for any periodic reelection or reapplication or selection."

(2) PERMITTING APPROPRIATE DELIVERY AND TRANSPORT OF DRUGS.—Subsection (b)(4)(E) of such section is amended—

(A) by striking "or" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting a semicolon; and

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

"(iii) prevent a contractor from delivering drugs to a satellite office designated by the prescribing physician; or

"(iv) prevent a contractor from allowing a selecting physician to transport drugs or biologicals to the site of administration consistent with State law and other applicable laws and regulations."

(3) PHYSICIAN OUTREACH AND EDUCATION.—Subsection (a)(1) of such section is amended by adding at the end the following new subparagraph:

"(E) PHYSICIAN OUTREACH AND EDUCATION.—The Secretary shall conduct a program of outreach to education physicians concerning the program and the ongoing opportunity of physicians to elect to obtain drugs and biologicals under the program."

(4) REBIDDING OF CONTRACTS.—The Secretary of Health and Human Services shall provide for the rebidding of contracts under section 1847B(c) of the Social Security Act (42 U.S.C. 1395w-3b(c)) only for periods on or after the expiration of the contract in effect under such section as of the date of the enactment of this Act, except in the case of a contractor terminated as a result of the application of section 1847B(b)(2)(B) of such Act."

(c) TREATMENT OF CERTAIN DRUGS.—Section 1847A(b) of the Social Security Act (42 U.S.C. 1395w-3a(b)) is amended—

(1) in paragraph (1), by inserting "paragraph (6) and" after "Subject to"; and

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

"(G) SPECIAL RULE.—Beginning with January 1, 2008, the payment amount for—

"(A) each single source drug or biological described in section 1842(o)(1)(G) (including a single source drug or biological that is treated as a multiple source drug because of the application of subsection (c)(6)(C)(ii)) is the lower of—

"(i) the payment amount that would be determined for such drug or biological applying such subsection; or

"(ii) the payment amount that would have been determined for such drug or biological if such subsection were not applied; and

"(B) a multiple source drug (excluding a drug or biological that is treated as a multiple source

drug because of the application of such subsection) is the lower of—

"(i) the payment amount that would be determined for such drug or biological taking into account the application of such subsection; or

"(ii) the payment amount that would have been determined for such drug or biological if such subsection were not applied."

(d) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to drugs furnished on or after January 1, 2008.

#### Subtitle B—Extension of Medicare Rural Access Protections

#### SEC. 621. 2-YEAR EXTENSION OF FLOOR ON MEDICARE WORK GEOGRAPHIC ADJUSTMENT.

Section 1848(e)(1)(E) of such Act (42 U.S.C. 1395w-4(e)(1)(E)) is amended by striking "2008" and inserting "2010".

#### SEC. 622. 2-YEAR EXTENSION OF SPECIAL TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and section 104 of the Medicare Improvements and Extension Act of 2006 (division B of Public Law 109-432), is amended by striking "and 2007" and inserting "2007, 2008, and 2009".

#### SEC. 623. 2-YEAR EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 416(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2282; 42 U.S.C. 1395l-4(b)), as amended by section 105 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432), is amended by striking "3-year" and inserting "5-year".

#### SEC. 624. 2-YEAR EXTENSION OF MEDICARE INCENTIVE PAYMENT PROGRAM FOR PHYSICIAN SCARCITY AREAS.

(a) IN GENERAL.—Section 1833(u)(1) of the Social Security Act (42 U.S.C. 1395l(u)(1)) is amended by striking "2008" and inserting "2010".

(b) TRANSITION.—With respect to physicians' services furnished during 2008 and 2009, for purposes of subsection (a), the Secretary of Health and Human Services shall use the primary care scarcity areas and the specialty care scarcity areas (as identified in section 1833(u)(4)) that the Secretary was using under such subsection with respect to physicians' services furnished on December 31, 2007.

#### SEC. 625. 2-YEAR EXTENSION OF MEDICARE INCREASE PAYMENTS FOR GROUND AMBULANCE SERVICES IN RURAL AREAS.

Section 1834(l)(13) of the Social Security Act (42 U.S.C. 1395m(l)(13)) is amended—

(1) in subparagraph (A)—

(A) in the matter before clause (i), by striking "furnished on or after July 1, 2004, and before January 1, 2007,";

(B) in clause (i), by inserting "for services furnished on or after July 1, 2004, and before January 1, 2007, and on or after January 1, 2008, and before January 1, 2010," after "in such paragraph,"; and

(C) in clause (ii), by inserting "for services furnished on or after July 1, 2004, and before January 1, 2007," after "in clause (i),"; and

(2) in subparagraph (B)—

(A) in the heading, by striking "AFTER 2006" and inserting "FOR SUBSEQUENT PERIODS";

(B) by inserting "clauses (i) and (ii) of" before "subparagraph (A)"; and

(C) by striking "in such subparagraph" and inserting "in the respective clause".

#### SEC. 626. EXTENDING HOLD HARMLESS FOR SMALL RURAL HOSPITALS UNDER THE HOPD PROSPECTIVE PAYMENT SYSTEM.

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

(1) by striking "January 1, 2009" and inserting "January 1, 2010";

(2) by striking "2007, or 2008,"; and

(3) by striking "90 percent, and 85 percent, respectively," and inserting "and with respect to such services furnished after 2006 the applicable percentage shall be 90 percent."

#### Subtitle C—End Stage Renal Disease Program

#### SEC. 631. CHRONIC KIDNEY DISEASE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the Director of the National Institutes of Health, shall establish demonstration projects to—

(1) increase public and medical community awareness (particularly of those who treat patients with diabetes and hypertension) about the factors that lead to chronic kidney disease, how to prevent it, how to diagnose it, and how to treat it;

(2) increase screening and use of prevention techniques for chronic kidney disease for Medicare beneficiaries and the general public (particularly among patients with diabetes and hypertension, where prevention techniques are well established and early detection makes prevention possible); and

(3) enhance surveillance systems and expand research to better assess the prevalence and incidence of chronic kidney disease, (building on work done by Centers for Disease Control and Prevention).

(b) SCOPE AND DURATION.—

(1) SCOPE.—The Secretary shall select at least 3 States in which to conduct demonstration projects under this section. In selecting the States under this paragraph, the Secretary shall take into account the size of the population of individuals with end-stage renal disease who are enrolled in part B of title XVIII of the Social Security Act and ensure the participation of individuals who reside in rural and urban areas.

(2) DURATION.—The demonstration projects under this section shall be conducted for a period that is not longer than 5 years and shall begin on January 1, 2009.

(c) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of the demonstration projects conducted under this section.

(2) REPORT.—Not later than 12 months after the date on which the demonstration projects under this section are completed, the Secretary shall submit to Congress a report on the evaluation conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

#### SEC. 632. MEDICARE COVERAGE OF KIDNEY DISEASE PATIENT EDUCATION SERVICES.

(a) COVERAGE OF KIDNEY DISEASE EDUCATION SERVICES.—

(1) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395s(s)(2)), as amended by sections 201(a)(1), 607(a)(1), and 607(b)(1), is amended—

(A) in subparagraph (CC), by striking "and" after the semicolon at the end;

(B) in subparagraph (DD), by adding "and" after the semicolon at the end; and

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

"(EE) kidney disease education services (as defined in subsection (ggg));"

(2) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by sections 201(a)(2), 503(b)(1), 607(a)(2), and 607(b)(2), is amended by adding at the end the following new subsection:

*“Kidney Disease Education Services*

“(ggg)(1) The term ‘kidney disease education services’ means educational services that are—

“(A) furnished to an individual with stage IV chronic kidney disease who, according to accepted clinical guidelines identified by the Secretary, will require dialysis or a kidney transplant;

“(B) furnished, upon the referral of the physician managing the individual’s kidney condition, by a qualified person (as defined in paragraph (2)); and

“(C) designed—

“(i) to provide comprehensive information (consistent with the standards developed under paragraph (3)) regarding—

“(I) the management of comorbidities, including for purposes of delaying the need for dialysis;

“(II) the prevention of uremic complications; and

“(III) each option for renal replacement therapy (including hemodialysis and peritoneal dialysis at home and in-center as well as vascular access options and transplantation);

“(ii) to ensure that the individual has the opportunity to actively participate in the choice of therapy; and

“(iii) to be tailored to meet the needs of the individual involved.

“(2) The term ‘qualified person’ means a physician, physician assistant, nurse practitioner, or clinical nurse specialist who furnishes services for which payment may be made under the fee schedule established under section 1848. Such term does not include a renal dialysis facility.

“(3) The Secretary shall set standards for the content of such information to be provided under paragraph (1)(C)(i) after consulting with physicians, other health professionals, health educators, professional organizations, accrediting organizations, kidney patient organizations, dialysis facilities, transplant centers, network organizations described in section 1881(c)(2), and other knowledgeable persons. To the extent possible the Secretary shall consult with a person or entity described in the previous sentence, other than a dialysis facility, that has not received industry funding from a drug or biological manufacturer or dialysis facility.

“(4) In promulgating regulations to carry out this subsection, the Secretary shall ensure that each individual who is eligible for benefits for kidney disease education services under this title receives such services in a timely manner to maximize the benefit of those services.

“(5) The Secretary shall monitor the implementation of this subsection to ensure that individuals who are eligible for benefits for kidney disease education services receive such services in the manner described in paragraph (4).

“(6) No individual shall be eligible to be provided more than 6 sessions of kidney disease education services under this title.”.

(3) **PAYMENT UNDER THE PHYSICIAN FEE SCHEDULE.**—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(2)(DD),” after “(2)(AA),”.

(4) **LIMITATION ON NUMBER OF SESSIONS.**—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(A) in subparagraph (M), by striking “and” at the end;

(B) in subparagraph (N), by striking the semicolon at the end and inserting “, and”; and

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

“(O) in the case of kidney disease education services (as defined in section 1861(ggg)), which are furnished in excess of the number of sessions covered under such section;”.

(5) **GAO REPORT.**—Not later than September 1, 2010, the Comptroller General of the United States shall submit to Congress a report on the following:

(A) The number of Medicare beneficiaries who are eligible to receive benefits for kidney disease

education services (as defined in section 1861(ggg) of the Social Security Act, as added by paragraph (2)) under title XVIII of such Act and who receive such services.

(B) The extent to which there is a sufficient amount of physicians, physician assistants, nurse practitioners, and clinical nurse specialists to furnish kidney disease education services (as so defined) under such title and whether or not renal dialysis facilities (and appropriate employees of such facilities) should be included as an entity eligible under such section to furnish such services.

(C) Recommendations, if appropriate, for renal dialysis facilities (and appropriate employees of such facilities) to structure kidney disease education services (as so defined) in a manner that is objective and unbiased and that provides a range of options and alternative locations for renal replacement therapy and management of co-morbidities that may delay the need for dialysis.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services furnished on or after January 1, 2009.

**SEC. 633. REQUIRED TRAINING FOR PATIENT CARE DIALYSIS TECHNICIANS.**

Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended by adding the following new subsection:

“(h)(1) Except as provided in paragraph (2), a provider of services or a renal dialysis facility may not use, for more than 12 months during 2009, or for any period beginning on January 1, 2010, any individual as a patient care dialysis technician unless the individual—

“(A) has completed a training program in the care and treatment of an individual with chronic kidney failure who is undergoing dialysis treatment; and

“(B) has been certified by a nationally recognized certification entity for dialysis technicians.

“(2)(A) A provider of services or a renal dialysis facility may permit an individual enrolled in a training program described in paragraph (1)(A) to serve as a patient care dialysis technician while they are so enrolled.

“(B) The requirements described in subparagraphs (A), (B), and (C) of paragraph (1) do not apply to an individual who has performed dialysis-related services for at least 5 years.

“(3) For purposes of paragraph (1), if, since the most recent completion by an individual of a training program described in paragraph (1)(A), there has been a period of 24 consecutive months during which the individual has not furnished dialysis-related services for monetary compensation, such individual shall be required to complete a new training program or become recertified as described in paragraph (1)(B).

“(4) A provider of services or a renal dialysis facility shall provide such regular performance review and regular in-service education as assures that individuals serving as patient care dialysis technicians for the provider or facility are competent to perform dialysis-related services.”.

**SEC. 634. MEDPAC REPORT ON TREATMENT MODALITIES FOR PATIENTS WITH KIDNEY FAILURE.**

(a) **EVALUATION.**—

(1) **IN GENERAL.**—Not later than March 1, 2009, the Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act) shall submit to the Secretary and Congress a report evaluating the barriers that exist to increasing the number of individuals with end-stage renal disease who elect to receive home dialysis services under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) **REPORT DETAILS.**—The report shall include the following:

(A) A review of Medicare home dialysis demonstration projects initiated before the date of the enactment of this Act, and the results of such demonstration projects and recommenda-

tions for future Medicare home dialysis demonstration projects or Medicare program changes that will test models that can improve Medicare beneficiary access to home dialysis.

(B) A comparison of current Medicare home dialysis costs and payments with current in-center and hospital dialysis costs and payments.

(C) An analysis of the adequacy of Medicare reimbursement for patient training for home dialysis (including hemodialysis and peritoneal dialysis) and recommendations for ensuring appropriate payment for such home dialysis training.

(D) A catalogue and evaluation of the incentives and disincentives in the current reimbursement system that influence whether patients receive home dialysis services or other treatment modalities.

(E) An evaluation of patient education services and how such services impact the treatment choices made by patients.

(F) Recommendations for implementing incentives to encourage patients to elect to receive home dialysis services or other treatment modalities under the Medicare program

(3) **SCOPE OF REVIEW.**—In preparing the report under paragraph (1), the Medicare Payment Advisory Commission shall consider a variety of perspectives, including the perspectives of physicians, other health care professionals, hospitals, dialysis facilities, health plans, purchasers, and patients.

**SEC. 635. ADJUSTMENT FOR ERYTHROPOIETIN STIMULATING AGENTS (ESAS).**

(a) **IN GENERAL.**—Subsection (b)(13) of section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended—

(1) in subparagraph (A)(iii), by striking “For such drugs” and inserting “Subject to subparagraph (C), for such drugs”; and

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

“(C)(i) The payment amounts under this title for erythropoietin furnished during 2008 or 2009 to an individual with end stage renal disease by a large dialysis facility (as defined in subparagraph (D)) (whether to individuals in the facility or at home), in an amount equal to \$8.75 per thousand units (rounded to the nearest 100 units) or, if less, 102 percent of the average sales price (as determined under section 1847A) for such drug or biological.

“(ii) The payment amounts under this title for darbepoetin alfa furnished during 2008 or 2009 to an individual with end stage renal disease by a large dialysis facility (as defined in clause (iii)) (whether to individuals in the facility or at home), in an amount equal to \$2.92 per microgram or, if less, 102 percent of the average sales price (as determined under section 1847A) for such drug or biological.

“(iii) For purposes of this subparagraph, the term ‘large dialysis facility’ means a provider of services or renal dialysis facility that is owned or managed by a corporate entity that, as of July 24, 2007, owns or manages 300 or more such providers or facilities, and includes a successor to such a corporate entity.”.

(b) **NO IMPACT ON DRUG ADD-ON PAYMENT.**—Nothing in the amendments made by subsection (a) shall be construed to affect the amount of any payment adjustment made under section 1881(b)(12)(B)(ii) of the Social Security Act (42 U.S.C. 1395rr(b)(12)(B)(ii)).

**SEC. 636. SITE NEUTRAL COMPOSITE RATE.**

Subsection (b)(12)(A) of section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended by adding at the end the following new sentence: “Under such system the payment rate for dialysis services furnished on or after January 1, 2008, by providers of such services for hospital-based facilities shall be the same as the payment rate (computed without regard to this

sentence) for such services furnished by renal dialysis facilities that are not hospital-based, except that in applying the geographic index under subparagraph (D) to hospital-based facilities, the labor share shall be based on the labor share otherwise applied for such facilities.”.

**SEC. 637. DEVELOPMENT OF ESRD BUNDLING SYSTEM AND QUALITY INCENTIVE PAYMENTS.**

(a) DEVELOPMENT OF ESRD BUNDLING SYSTEM.—Subsection (b) of section 1881 of the Social Security Act (42 U.S.C. 1395rr) is further amended—

(1) in paragraph (12)(A), by striking “In lieu of payment” and inserting “Subject to paragraph (14), in lieu of payment”;

(2) in the second sentence of paragraph (12)(F)—

(A) by inserting “or paragraph (14)” after “this paragraph”; and

(B) by inserting “or under the system under paragraph (14)” after “subparagraph (B)”;

(3) in paragraph (12)(H)—

(A) by inserting “or paragraph (14)” after “under this paragraph” the first place it appears; and

(B) by inserting before the period at the end the following: “or, under paragraph (14), the identification of renal dialysis services included in the bundled payment, the adjustment for outliers, the identification of facilities to which the phase-in may apply, and the determination of payment amounts under subparagraph (A) under such paragraph, and the application of paragraph (13)(C)(iii)”;

(4) in paragraph (13)—

(A) in subparagraph (A), by striking “The payment amounts” and inserting “subject to paragraph (14), the payment amounts”; and

(B) in subparagraph (B)—

(i) in clause (i), by striking “(i)” after “(B)” and by inserting “, subject to paragraph (14)” before the period at the end; and

(ii) by striking clause (ii); and

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

“(14)(A) Subject to subparagraph (E), for services furnished on or after January 1, 2010, the Secretary shall implement a payment system under which a single payment is made under this title for renal dialysis services (as defined in subparagraph (B)) in lieu of any other payment (including a payment adjustment under paragraph (12)(B)(ii)) for such services and items furnished pursuant to paragraph (4). In implementing the system the Secretary shall ensure that the estimated total amount of payments under this title for 2010 for renal dialysis services shall equal 96 percent of the estimated amount of payments for such services, including payments under paragraph (12)(B)(ii), that would have been made if such system had not been implemented.

“(B) For purposes of this paragraph, the term ‘renal dialysis services’ includes—

“(i) items and services included in the composite rate for renal dialysis services as of December 31, 2009;

“(ii) erythropoietin stimulating agents furnished to individuals with end stage renal disease;

“(iii) other drugs and biologicals and diagnostic laboratory tests, that the Secretary identifies as commonly used in the treatment of such patients and for which payment was (before the application of this paragraph) made separately under this title, and any oral equivalent form of such drugs and biologicals or of drugs and biologicals described in clause (ii); and

“(iv) home dialysis training for which payment was (before the application of this paragraph) made separately under this section. Such term does not include vaccines.

“(C) The system under this paragraph may provide for payment on the basis of services furnished during a week or month or such other appropriate unit of payment as the Secretary specifies.

“(D) Such system—

“(i) shall include a payment adjustment based on case mix that may take into account patient weight, body mass index, comorbidities, length of time on dialysis, age, race, ethnicity, and other appropriate factors;

“(ii) shall include a payment adjustment for high cost outliers due to unusual variations in the type or amount of medically necessary care, including variations in the amount of erythropoietin stimulating agents necessary for anemia management; and

“(iii) may include such other payment adjustments as the Secretary determines appropriate, such as a payment adjustment—

“(I) by a geographic index, such as the index referred to in paragraph (12)(D), as the Secretary determines to be appropriate;

“(II) for pediatric providers of services and renal dialysis facilities;

“(III) for low volume providers of services and renal dialysis facilities;

“(IV) for providers of services or renal dialysis facilities located in rural areas; and

“(V) for providers of services or renal dialysis facilities that are not large dialysis facilities.

“(E) The Secretary may provide for a phase-in of the payment system described in subparagraph (A) for services furnished by a provider of services or renal dialysis facility described in any of subclauses (II) through (V) of subparagraph (D)(iii), but such payment system shall be fully implemented for services furnished in the case of any such provider or facility on or after January 1, 2013.

“(F) The Secretary shall apply the annual increase that would otherwise apply under subparagraph (F) of paragraph (12) to payment amounts established under such paragraph (if this paragraph did not apply) in an appropriate manner under this paragraph.”.

(b) PROHIBITION OF UNBUNDLING.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking “or” at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting “; or”; and

(3) by inserting after paragraph (22) the following new paragraph:

“(23) where such expenses are for renal dialysis services (as defined in subparagraph (B) of section 1881(b)(14)) for which payment is made under such section (other than under subparagraph (E) of such section) unless such payment is made under such section to a provider of services or a renal dialysis facility for such services.”.

(c) QUALITY INCENTIVE PAYMENTS.—Section 1881 of such Act is amended by adding at the end the following new subsection:

“(i) QUALITY INCENTIVE PAYMENTS IN THE END-STAGE RENAL DISEASE PROGRAM.—

“(1) QUALITY INCENTIVE PAYMENTS FOR SERVICES FURNISHED IN 2008, 2009, AND 2010.—

“(A) IN GENERAL.—With respect to renal dialysis services furnished during a performance period (as defined in subparagraph (B)) by a provider of services or renal dialysis facility that the Secretary determines meets the applicable performance standard for the period under subparagraph (C) and reports on measures for 2009 and 2010 under subparagraph (D) for such services, in addition to the amount otherwise paid under this section, subject to subparagraph (G), there also shall be paid to the provider or facility an amount equal to the applicable percentage (specified in subparagraph (E) for the period) of the Secretary’s estimate (based on claims submitted not later than two months after the end of the performance period) of the amount specified in subparagraph (F) for such period.

“(B) PERFORMANCE PERIOD.—In this paragraph, the term ‘performance period’ means each of the following:

“(i) The period beginning on July 1, 2008, and ending on December 31, 2008.

“(ii) 2009.

“(iii) 2010.

“(C) PERFORMANCE STANDARD.—

“(i) 2008.—For the performance period occurring in 2008, the applicable performance standards for a provider or facility under this subparagraph are—

“(I) 92 percent or more of individuals with end stage renal disease receiving erythropoietin stimulating agents who have an average hematocrit of 33.0 percent or more; and

“(II) less than a percentage, specified by the Secretary, of individuals with end stage renal disease receiving erythropoietin stimulating agents who have an average hematocrit of 39.0 percent or more.

“(ii) 2009 AND 2010.—For the 2009 and 2010 performance periods, the applicable performance standard for a provider or facility under this subparagraph is successful performance (relative to national average) on—

“(I) such measures of anemia management as the Secretary shall specify, including measures of hemoglobin levels or hematocrit levels for erythropoietin stimulating agents that are consistent with the labeling for dosage of erythropoietin stimulating agents approved by the Food and Drug Administration for treatment of anemia in patients with end stage renal disease, taking into account variations in hemoglobin ranges or hematocrit levels of patients; and

“(II) such other measures, relating to subjects described in subparagraph (D)(i), as the Secretary may specify.

“(D) REPORTING PERFORMANCE MEASURES.—The performance measures under this subparagraph to be reported shall include—

“(i) such measures as the Secretary specifies, before the beginning of the performance period involved and taking into account measures endorsed by the National Quality Forum, including, to the extent feasible measures on—

“(I) iron management;

“(II) dialysis adequacy; and

“(III) vascular access, including for maximizing the placement of arterial venous fistula; and

“(ii) to the extent feasible, such measure (or measures) of patient satisfaction as the Secretary shall specify.

The provider or facility submitting information on such measures shall attest to the completeness and accuracy of such information.

“(E) APPLICABLE PERCENTAGE.—The applicable percentage specified in this subparagraph for—

“(i) the performance period occurring in 2008, is 1.0 percent;

“(ii) the 2009 performance period, is 2.0 percent; and

“(iii) the 2010 performance period, is 3.0 percent.

In the case of any performance period which is less than an entire year, the applicable percentage specified in this subparagraph shall be multiplied by the ratio of the number of months in the year to the number of months in such performance period. In the case of 2010, the applicable percentage specified in this subparagraph shall be multiplied by the Secretary’s estimate of the ratio of the aggregate payment amount described in subparagraph (F)(i) that would apply in 2010 if paragraph (14) did not apply, to the aggregate payment base under subparagraph (F)(ii) for 2010.

“(F) PAYMENT BASE.—The payment base described in this subparagraph for a provider or facility is—

“(i) for performance periods before 2010, the payment amount determined under paragraph (12) for services furnished by the provider or facility during the performance period, including the drug payment adjustment described in subparagraph (B)(ii) of such paragraph; and

“(ii) for the 2010 performance period is the amount determined under paragraph (14) for services furnished by the provider or facility during the period.

**“(G) LIMITATION ON FUNDING.—**

“(i) **IN GENERAL.**—If the Secretary determines that the total payments under this paragraph for a performance period is projected to exceed the dollar amount specified in clause (ii) for such period, the Secretary shall reduce, in a pro rata manner, the amount of such payments for each provider or facility for such period to eliminate any such projected excess for the period.

“(ii) **DOLLAR AMOUNT.**—The dollar amount specified in this clause—

“(I) for the performance period occurring in 2008, is \$50,000,000;

“(II) for the 2009 performance period is \$100,000,000; and

“(III) for the 2010 performance period is \$150,000,000.

“(H) **FORM OF PAYMENT.**—The payment under this paragraph shall be in the form of a single consolidated payment.

**“(2) QUALITY INCENTIVE PAYMENTS FOR FACILITIES AND PROVIDERS FOR 2011.—**

“(A) **INCREASED PAYMENT.**—For 2011, in the case of a provider or facility that, for the performance period (as defined in subparagraph (B))—

“(i) meets (or exceeds) the performance standard for anemia management specified in paragraph (1)(C)(ii)(I);

“(ii) has substantially improved performance or exceeds a performance standard (as determined under subparagraph (E)); and

“(iii) reports measures specified in paragraph (1)(D),

with respect to renal dialysis services furnished by the provider or facility during the quality bonus payment period (as specified in subparagraph (C)) the payment amount otherwise made to such provider or facility under subsection (b)(14) shall be increased, subject to subparagraph (F), by the applicable percentage specified in subparagraph (D). Payment amounts under paragraph (1) shall not be counted for purposes of applying the previous sentence.

“(B) **PERFORMANCE PERIOD.**—In this paragraph, the term ‘performance period’ means a multi-month period specified by the Secretary.

“(C) **QUALITY BONUS PAYMENT PERIOD.**—In this paragraph, the term ‘quality bonus payment period’ means, with respect to a performance period, a multi-month period beginning on January 1, 2011, specified by the Secretary that begins at least 3 months (but not more than 9 months) after the end of the performance period.

“(D) **APPLICABLE PERCENTAGE.**—The applicable percentage specified in this subparagraph is a percentage, not to exceed the 4.0 percent, specified by the Secretary consistent with subparagraph (F). Such percentage may vary based on the level of performance and improvement. The applicable percentage specified in this subparagraph shall be multiplied by the ratio applied under the third sentence of paragraph (1)(E) for 2010.

“(E) **PERFORMANCE STANDARD.**—Based on performance of a provider of services or a renal dialysis facility on performance measures described in paragraph (1)(D) for a performance period, the Secretary shall determine a composite score for such period.

“(F) **LIMITATION ON FUNDING.**—If the Secretary determines that the total amount to be paid under this paragraph for a quality bonus payment period is projected to exceed \$200,000,000, the Secretary shall reduce, in a uniform manner, the applicable percentage otherwise applied under subparagraph (D) for services furnished during the period to eliminate any such projected excess.

**“(3) APPLICATION.—**

“(A) **IMPLEMENTATION.**—Notwithstanding any other provision of law, the Secretary may implement by program instruction or otherwise this subsection.

**“(B) LIMITATIONS ON REVIEW.—**

“(i) **IN GENERAL.**—There shall be no administrative or judicial review under section 1869 or 1878 or otherwise of—

“(I) the determination of performance measures and standards under this subsection;

“(II) the determination of successful reporting, including a determination of composite scores; and

“(III) the determination of the quality incentive payments made under this subsection.

“(ii) **TREATMENT OF DETERMINATIONS.**—A determination under this subparagraph shall not be treated as a determination for purposes of section 1869.

“(4) **TECHNICAL ASSISTANCE.**—The Secretary shall identify or establish an appropriately skilled group or organization, such as the ESRD Networks, to provide technical assistance to consistently low-performing facilities or providers that are in the bottom quintile.

**“(5) PUBLIC REPORTING.—**

“(A) **ANNUAL NOTICE.**—The Secretary shall provide an annual written notification to each individual who is receiving renal dialysis services from a provider of services or renal dialysis facility that—

“(i) informs such individual of the composite scores described in subparagraph (A) and other relevant quality measures with respect to providers of services or renal dialysis facilities in the local area;

“(ii) compares such scores and measures to the average local and national scores and measures; and

“(iii) provides information on how to access additional information on quality of such services furnished and options for alternative providers and facilities.

“(B) **CERTIFICATES.**—The Secretary shall provide certificates to facilities and providers who provide services to individuals with end-stage renal disease under this title to display in patient areas. The certificate shall indicate the composite score obtained by the facility or provider under the quality initiative.

“(C) **WEB-BASED QUALITY LIST.**—The Secretary shall establish a web-based list of facilities and providers who furnish renal dialysis services under this section that indicates their composite score of each provider and facility.

“(6) **RECOMMENDATIONS FOR REPORTING AND QUALITY INCENTIVE INITIATIVE FOR PHYSICIANS.**—The Secretary shall develop recommendations for applying quality incentive payments under this subsection to physicians who receive the monthly capitated payment under this title. Such recommendations shall include the following:

“(A) Recommendations to include pediatric specific measures for physicians with at least 50 percent of their patients with end stage renal disease being individuals under 18 years of age.

“(B) Recommendations on how to structure quality incentive payments for physicians who demonstrate improvements in quality or who attain quality standards, as specified by the Secretary.

**“(7) REPORTS.—**

“(A) **INITIAL REPORT.**—Not later than January 1, 2013, the Secretary shall submit to Congress a report on the implementation of the bundled payment system under subsection (b)(14) and the quality initiative under this subsection. Such report shall include the following information:

“(i) A comparison of the aggregate payments under subsection (b)(14) for items and services to the cost of such items and services.

“(ii) The changes in utilization rates for erythropoietin stimulating agents.

“(iii) The mode of administering such agents, including information on the proportion of such individuals receiving such agents intravenously as compared to subcutaneously.

“(iv) The frequency of dialysis.

“(v) Other differences in practice patterns, such as the adoption of new technology, different modes of practice, and variations in use of drugs other than drugs described in clause (iii).

“(vi) The performance of facilities and providers under paragraph (2).

“(vii) Other recommendations for legislative and administrative actions determined appropriate by the Secretary.

“(B) **SUBSEQUENT REPORT.**—Not later than January 1, 2015, the Secretary shall submit to Congress a report that contains the information described in each of clauses (ii) through (vii) of subparagraph (A) and a comparison of the results of the payment system under subsection (b)(14) for renal dialysis services furnished during the 2-year period beginning on January 1, 2013, and the results of such payment system for such services furnished during the previous two-year period.”

**SEC. 638. MEDPAC REPORT ON ESRD BUNDLING SYSTEM.**

Not later than March 1, 2012, the Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act) shall submit to Congress a report on the implementation of the payment system under section 1881(b)(14) of the Social Security Act (as added by section 7) for renal dialysis services and related services (defined in subparagraph (B) of such section). Such report shall include, with respect to such payment system for such services, an analysis of each of the following:

(1) An analysis of the overall adequacy of payment under such system for all such services.

(2) An analysis that compares the adequacy of payment under such system for services furnished by—

(A) a provider of services or renal dialysis facility that is described in section 1881(b)(13)(C)(iv) of the Social Security Act;

(B) a provider of services or renal dialysis facility not described in such section;

(C) a hospital-based facility;

(D) a freestanding renal dialysis facility;

(E) a renal dialysis facility located in an urban area; and

(F) a renal dialysis facility located in a rural area.

(3) An analysis of the financial status of providers of such services and renal dialysis facilities, including access to capital, return on equity, and return on capital.

(4) An analysis of the adequacy of payment under such method and the adequacy of the quality improvement payments under section 1881(i) of the Social Security Act in ensuring that payments for such services under the Medicare program are consistent with costs for such services.

(5) Recommendations, if appropriate, for modifications to such payment system.

**SEC. 639. OIG STUDY AND REPORT ON ERYTHROPOIETIN.**

(a) **STUDY.**—The Inspector General of the Department of Health and Human Services shall conduct a study on the following:

(1) The dosing guidelines, standards, protocols, and algorithms for erythropoietin stimulating agents recommended or used by providers of services and renal dialysis facilities that are described in section 1881(b)(13)(C)(iv) of the Social Security Act and providers and facilities that are not described in such section.

(2) The extent to which such guidelines, standards, protocols, and algorithms are consistent with the labeling of the Food and Drug Administration for such agents.

(3) The extent to which physicians sign standing orders for such agents that are consistent with such guidelines, standards, protocols, and algorithms recommended or used by the provider or facility involved.

(4) The extent to which the prescribing decisions of physicians, with respect to such agents, are independent of—

(A) such relevant guidelines, standards, protocols, and algorithms; or

(B) recommendations of an anemia management nurse or other appropriate employee of the provider or facility involved.

(5) The role of medical directors of providers of services and renal dialysis facilities and the

financial relationships between such providers and facilities and the physicians hired as medical directors of such providers and facilities, respectively.

(b) REPORT.—Not later than January 1, 2009, the Inspector General of the Department of Health and Human Services shall submit to Congress a report on the study conducted under subsection (a), together with such recommendations as the Inspector General determines appropriate.

#### Subtitle D—Miscellaneous

#### SEC. 651. LIMITATION ON EXCEPTION TO THE PROHIBITION ON CERTAIN PHYSICIAN REFERRALS FOR HOSPITALS.

(a) IN GENERAL.—Section 1877 of the Social Security Act (42 U.S.C. 1395) is amended—

(1) in subsection (d)(2)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

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

“(C) if the entity is a hospital, the hospital meets the requirements of paragraph (3)(D).”;

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

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

“(D) the hospital meets the requirements described in subsection (i)(1) not later than 18 months after the date of the enactment of this subparagraph.”; and

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

“(i) REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR HOSPITAL EXCEPTION TO OWNERSHIP OR INVESTMENT PROHIBITION.—

“(1) REQUIREMENTS DESCRIBED.—For purposes of paragraphs subsection (d)(3)(D), the requirements described in this paragraph for a hospital are as follows:

“(A) PROVIDER AGREEMENT.—The hospital had a provider agreement under section 1866 in effect on July 24, 2007.

“(B) PROHIBITION OF EXPANSION OF FACILITY CAPACITY.—The number of operating rooms and beds of the hospital at any time on or after the date of the enactment of this subsection are no greater than the number of operating rooms and beds as of such date.

“(C) PREVENTING CONFLICTS OF INTEREST.—

“(i) The hospital submits to the Secretary an annual report containing a detailed description of—

“(I) the identity of each physician owner and any other owners of the hospital; and

“(II) the nature and extent of all ownership interests in the hospital.

“(ii) The hospital has procedures in place to require that any referring physician owner discloses to the patient being referred, by a time that permits the patient to make a meaningful decision regarding the receipt of care, as determined by the Secretary—

“(I) the ownership interest of such referring physician in the hospital; and

“(II) if applicable, any such ownership interest of the treating physician.

“(iii) The hospital does not condition any physician ownership interests either directly or indirectly on the physician owner making or influencing referrals to the hospital or otherwise generating business for the hospital.

“(D) ENSURING BONA FIDE INVESTMENT.—

“(i) Physician owners in the aggregate do not own more than 40 percent of the total value of the investment interests held in the hospital or in an entity whose assets include the hospital.

“(ii) The investment interest of any individual physician owner does not exceed 2 percent of the total value of the investment interests held in the hospital or in an entity whose assets include the hospital.

“(iii) Any ownership or investment interests that the hospital offers to a physician owner are not offered on more favorable terms than the terms offered to a person who is not a physician owner.

“(iv) The hospital does not directly or indirectly provide loans or financing for any physician owner investments in the hospital.

“(v) The hospital does not directly or indirectly guarantee a loan, make a payment toward a loan, or otherwise subsidize a loan, for any individual physician owner or group of physician owners that is related to acquiring any ownership interest in the hospital.

“(vi) Investment returns are distributed to investors in the hospital in an amount that is directly proportional to the investment of capital by the physician owner in the hospital.

“(vii) Physician owners do not receive, directly or indirectly, any guaranteed receipt of or right to purchase other business interests related to the hospital, including the purchase or lease of any property under the control of other investors in the hospital or located near the premises of the hospital.

“(viii) The hospital does not offer a physician owner the opportunity to purchase or lease any property under the control of the hospital or any other investor in the hospital on more favorable terms than the terms offered to an individual who is not a physician owner.

“(E) PATIENT SAFETY.—

“(i) Insofar as the hospital admits a patient and does not have any physician available on the premises to provide services during all hours in which the hospital is providing services to such patient, before admitting the patient—

“(I) the hospital discloses such fact to a patient; and

“(II) following such disclosure, the hospital receives from the patient a signed acknowledgment that the patient understands such fact.

“(ii) The hospital has the capacity to—

“(I) provide assessment and initial treatment for patients; and

“(II) refer and transfer patients to hospitals with the capability to treat the needs of the patient involved.

“(2) PUBLICATION OF INFORMATION REPORTED.—The Secretary shall publish, and update on an annual basis, the information submitted by hospitals under paragraph (1)(C)(i) on the public Internet website of the Centers for Medicare & Medicaid Services.

“(3) COLLECTION OF OWNERSHIP AND INVESTMENT INFORMATION.—For purposes of clauses (i) and (ii) of paragraph (1)(D), the Secretary shall collect physician ownership and investment information for each hospital as it existed on the date of the enactment of this subsection.

“(4) PHYSICIAN OWNER DEFINED.—For purposes of this subsection, the term ‘physician owner’ means a physician (or an immediate family member of such physician) with a direct or an indirect ownership interest in the hospital.”

(b) ENFORCEMENT.—

(1) ENSURING COMPLIANCE.—The Secretary of Health and Human Services shall establish policies and procedures to ensure compliance with the requirements described in such section 1877(i)(1) of the Social Security Act, as added by subsection (a)(3), beginning on the date such requirements first apply. Such policies and procedures may include unannounced site reviews of hospitals.

(2) AUDITS.—Beginning not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct audits to determine if hospitals violate the requirements referred to in paragraph (1).

#### TITLE VII—PROVISIONS RELATING TO MEDICARE PARTS A AND B

#### SEC. 701. HOME HEALTH PAYMENT UPDATE FOR 2008.

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 (IV) at the end, by striking “and”;

(2) by redesignating subclause (V) as subclause (VII); and

(3) by inserting after subclause (IV) the following new subclauses:

“(V) 2007, subject to clause (v), the home health market basket percentage increase;

“(VI) 2008, subject to clause (v), 0 percent; and”.

#### SEC. 702. 2-YEAR EXTENSION OF TEMPORARY MEDICARE PAYMENT INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

Section 421 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2283; 42 U.S.C. 1395fff note), as amended by section 5201(b) of the Deficit Reduction Act of 2005, is amended—

(1) in the heading, by striking “ONE-YEAR” and inserting “TEMPORARY”; and

(2) in subsection (a), by striking “and episodes and visits beginning on or after January 1, 2006, and before January 1, 2007” and inserting “episodes and visits beginning on or after January 1, 2006, and before January 1, 2007, and episodes and visits beginning on or after January 1, 2008, and before January 1, 2010”.

#### SEC. 703. EXTENSION OF MEDICARE SECONDARY PAYER FOR BENEFICIARIES WITH END STAGE RENAL DISEASE FOR LARGE GROUP PLANS.

(a) IN GENERAL.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and indenting accordingly;

(2) by amending the text preceding subclause (I), as so redesignated, to read as follows:

“(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—

“(i) IN GENERAL.—A group health plan (as defined in subparagraph (A)(v))—”;

(3) in the matter following subclause (II), as so redesignated—

(A) by striking “clause (i)” and inserting “subclause (I)”;

(B) by striking “clause (ii)” and inserting “subclause (II)”;

(C) by striking “clauses (i) and (ii)” and inserting “subclauses (I) and (II)”;

(D) in the last sentence, by striking “Effective for items” and inserting “Subject to clause (ii), effective for items”;

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

“(ii) SPECIAL RULE FOR LARGE GROUP PLANS.—In applying clause (i) to a large group health plan (as defined in subparagraph (B)(iii)), effective for items and services furnished on or after January 1, 2008, (with respect to periods beginning on or after the date that is 30 months prior to January 1, 2008), subclauses (I) and (II) of such clause shall be applied by substituting ‘42-month’ for ‘12-month’ each place it appears.”

#### SEC. 704. PLAN FOR MEDICARE PAYMENT ADJUSTMENTS FOR NEVER EVENTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall develop a plan (in this section referred to as the “never events plan”) to implement, beginning in fiscal year 2010, a policy to reduce or eliminate payments under title XVIII of the Social Security Act for never events.

(b) NEVER EVENT DEFINED.—For purposes of this section, the term “never event” means an event involving the delivery of (or failure to deliver) physicians’ services, inpatient or outpatient hospital services, or facility services furnished in an ambulatory surgical facility in which there is an error in medical care that is clearly identifiable, usually preventable, and serious in consequences to patients, and that indicates a deficiency in the safety and process controls of the services furnished with respect to the

physician, hospital, or ambulatory surgical center involved.

(c) **PLAN DETAILS.**—

(1) **DEFINING NEVER EVENTS.**—With respect to criteria for identifying never events under the never events plan, the Secretary should consider whether the event meets the following characteristics:

(A) **CLEARLY IDENTIFIABLE.**—The event is clearly identifiable and measurable and feasible to include in a reporting system for never events.

(B) **USUALLY PREVENTABLE.**—The event is usually preventable taking into consideration that, because of the complexity of medical care, certain medical events are not always avoidable.

(C) **SERIOUS.**—The event is serious and could result in death or loss of a body part, disability, or more than transient loss of a body function.

(D) **DEFICIENCY IN SAFETY AND PROCESS CONTROLS.**—The event is indicative of a problem in safety systems and process controls used by the physician, hospital, or ambulatory surgical center involved and is indicative of the reliability of the quality of services provided by the physician, hospital, or ambulatory surgical center, respectively.

(2) **IDENTIFICATION AND PAYMENT ISSUES.**—With respect to policies under the never events plan for identifying and reducing (or eliminating) payment for never events, the Secretary shall consider—

(A) mechanisms used by hospitals and physicians in reporting and coding of services that would reliably identify never events; and

(B) modifications in billing and payment mechanisms that would enable the Secretary to efficiently and accurately reduce or eliminate payments for never events.

(3) **PRIORITIES.**—Under the never events plan the Secretary shall identify priorities regarding the services to focus on and, among those, the never events for which payments should be reduced or eliminated.

(4) **CONSULTATION.**—In developing the never events plan, the Secretary shall consult with affected parties that are relevant to payment reductions in response to never events.

(d) **CONGRESSIONAL REPORT.**—By not later than June 1, 2008, the Secretary shall submit a report to Congress on the never events plan developed under this subsection and shall include in the report recommendations on specific methods for implementation of the plan on a timely basis.

**SEC. 705. REINSTATEMENT OF RESIDENCY SLOTS.**

(a) **IN GENERAL.**—Section 1886(h) of the Social Security Act (42 U.S.C. 1395wv(h)) is amended—

(1) in paragraph (4)(H), by adding at the end the following new clauses:

“(v) **INCREASE IN RESIDENT LIMIT DUE TO CLOSURE OF OTHER HOSPITALS.**—If one or more hospitals with approved medical residency training programs, which are located within the same metropolitan statistical area as of January 1, 2001, closed, the Secretary shall increase by not more than 10 (subject to the limitation set forth in the last sentence of this clause) the otherwise applicable resident limit under subparagraph (F) for each hospital within the same metropolitan statistical area that meets all the following criteria:

“(I) The hospital is described in subsection (d)(5)(F)(i).

“(II) The hospital instituted a medical residency training program in internal medicine that was accredited by the American Osteopathic Association on or after January 1, 2004.

“(III) The hospital had a provider number and a resident limit as of January 1, 2000, and remained open as of October 1, 2007.

“(IV) The hospital did not receive an increase in its resident limit under paragraph (7)(B).

“(V) The hospital maintains no more than 400 beds.

In no event may the resident limit for any hospital be increased above 50 through application

of this clause and in no event may the total of the residency positions added by this clause for all hospitals exceed 10.

“(vi) **INCREASE IN RESIDENCY SLOTS.**—In the case of a hospital located in Peoria County, Illinois, that has more than 500 beds, the Secretary shall increase by two the otherwise applicable resident limit under subparagraph (F) for such hospital.”

(2) in paragraph (7)—

(A) by redesignating subparagraph (D) as subparagraph (E); and

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

“(D) **ADJUSTMENT BASED ON SETTLED COST REPORT.**—In the case of a hospital with a dual accredited osteopathic and allopathic family practice program for which—

“(i) the otherwise applicable resident limit was reduced under subparagraph (A)(i)(I); and

“(ii) such reduction was based on a reference resident level that was determined using a cost report and where a revised or corrected notice of program reimbursement was issued between September 1, 2006 and September 15, 2006, whether as a result of an appeal or otherwise, and the reference resident level under such settled cost report is higher than the level used for the reduction under subparagraph (A)(i)(I); the Secretary shall apply subparagraph (A)(i)(I) using the higher resident reference level and make any necessary adjustments to such reduction. Any such necessary adjustments shall be effective for portions of cost reporting periods occurring on or after July 1, 2005.”

(b) **EFFECTIVE DATES.**—The amendment made by paragraph (1) shall be effective for cost reporting periods beginning on or after October 1, 2007, and the amendments made by paragraph (2) shall take effect as if included in the enactment of section 422 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173).

**SEC. 706. STUDIES RELATING TO HOME HEALTH.**

(a) **IN GENERAL.**—The Medicare Payment Advisory Commission shall conduct a study of Medicare beneficiaries utilizing home health care services to determine—

(1) the impact that remote monitoring equipment and related services have on improving health care outcomes in the home health care setting for beneficiaries with chronic conditions;

(2) the differences in the percentage of inpatient hospital admissions and emergency room visits for beneficiaries with a similar health care risk profile who utilize remote monitoring equipment and services compared to those who do not use such equipment and services;

(3) the percentage of Medicare beneficiaries currently utilizing remote monitoring equipment and related services;

(4) the estimated reduction in aggregate expenditures under parts A and B of title XVIII of the Social Security Act expenditures if home health agencies increased their utilization of remote monitoring equipment and related services for patients with chronic disease conditions; and

(5) the variation of utilization of remote monitoring equipment and related services within geographic regions and by size of home health agency.

(b) **DATA COLLECTION.**—As a condition of a home health agency's participation in the program under title XVIII of the Social Security Act, beginning no later than January 1, 2008, the Secretary of Health and Human Services shall require such agencies to collect, in a form and manner determined by the Secretary, the following data:

(1) The extent of home health agency's usage of remote monitoring equipment and related services for beneficiaries with chronic conditions.

(2) Whether such equipment and services are used to monitor patients' with chronic conditions vital signs on a daily basis.

(3) Whether standing physician orders accompany the use of remote monitoring equipment and services.

(4) The costs of remote monitoring equipment and related services.

(c) **REPORT TO CONGRESS.**—Not later than June 1, 2010, the Commission shall report to Congress on its findings on the study conducted under subsection (a). Such report shall include recommendations regarding how Congress may enact reimbursement policies that increase the appropriate utilization of remote monitoring equipment and services under the home health program for Medicare beneficiaries with chronic conditions in a manner that facilitates health care outcomes and leads to the long-term reduction of aggregate expenditures under the Medicare program.

**SEC. 707. RURAL HOME HEALTH QUALITY DEMONSTRATION PROJECTS.**

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall make grants to eligible entities for demonstration projects to assist home health agencies to better serve their Medicare populations while aiming to reduce costs to the Medicare program through utilization of technologies, including telemonitoring and other telehealth technologies, health information technologies, and telecommunications technologies that—

(1) implement procedures and standards that reduce the need for inpatient hospital services and health center visits; and

(2) address the aims of safety, effectiveness, patient- or community-centeredness, timeliness, efficiency, and equity identified by the Institute of Medicine of the National Academies in its report entitled “Crossing the Quality Chasm: A New Health System for the 21st Century” released on March 1, 2001, when determining when and what care is needed.

(b) **ELIGIBLE ENTITIES.**—In this section, the term “eligible entity” means a State that includes—

(1) a rural academic medical center;

(2) no urban regional medical center; and

(3) a Medicare population whose enrollees in the Medicare Part C program is less than 3 percent.

(c) **CONSULTATION.**—In developing the program for awarding grants under this section, the Secretary shall consult with the Administrator of the Centers for Medicare & Medicaid Services, home health agencies, rural health care researchers, and private and non-profit groups (including national associations) which are undertaking similar efforts.

(d) **DURATION.**—Each demonstration project under this section shall be for a period of 2 years.

(e) **REPORT.**—Not later than one year after the conclusion of all of the demonstration projects funded under this section, the Secretary shall submit a report to the Congress on the results of such projects. The report shall include—

(1) an evaluation of technologies utilized and effects on patient access to home health care, patient outcomes, and an analysis of the cost effectiveness of each such project; and

(2) recommendations on Federal legislation, regulations, or administrative policies to enhance rural home health quality and outcomes.

(f) **FUNDING.**—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2008, \$3,000,000 to carry out this section. Funds appropriated under this subsection shall remain available until expended.

**TITLE VIII—MEDICAID**

**Subtitle A—Protecting Existing Coverage**

**SEC. 801. MODERNIZING TRANSITIONAL MEDICAID.**

(a) **FOUR-YEAR EXTENSION.**—

(1) **IN GENERAL.**—Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C.

1396a(e)(1)(B), 1396r-6(f)) are each amended by striking “September 30, 2003” and inserting “September 30, 2011”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2007.

(b) STATE OPTION OF INITIAL 12-MONTH ELIGIBILITY.—Section 1925 of the Social Security Act (42 U.S.C. 1396r-6) is amended—

(1) in subsection (a)(1), by inserting “but subject to paragraph (5)” after “Notwithstanding any other provision of this title”;

(2) by adding at the end of subsection (a) the following:

“(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY PERIOD.—A State may elect to treat any reference in this subsection to a 6-month period (or 6 months) as a reference to a 12-month period (or 12 months). In the case of such an election, subsection (b) shall not apply.”; and

(3) in subsection (b)(1), by inserting “but subject to subsection (a)(5)” after “Notwithstanding any other provision of this title”.

(c) REMOVAL OF REQUIREMENT FOR PREVIOUS RECEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of such Act (42 U.S.C. 1396r-6(a)(1)), as amended by subsection (b)(1), is further amended—

(1) by inserting “subparagraph (B) and” before “paragraph (5)”;

(2) by redesignating the matter after “REQUIREMENT.—” as a subparagraph (A) with the heading “IN GENERAL.—” and with the same indentation as subparagraph (B) (as added by paragraph (3)); and

(3) by adding at the end the following:

“(B) STATE OPTION TO WAIVE REQUIREMENT FOR 3 MONTHS BEFORE RECEIPT OF MEDICAL ASSISTANCE.—A State may, at its option, elect also to apply subparagraph (A) in the case of a family that was receiving such aid for fewer than three months or that had applied for and was eligible for such aid for fewer than 3 months during the 6 immediately preceding months described in such subparagraph.”.

(d) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 of such Act (42 U.S.C. 1396r-6), as amended by this section, is further amended by adding at the end the following new subsection:

“(g) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—

“(1) COLLECTION OF INFORMATION FROM STATES.—Each State shall collect and submit to the Secretary (and make publicly available), in a format specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section and of the number and percentage of children who become ineligible for medical assistance under this section whose medical assistance is continued under another eligibility category or who are enrolled under the State’s child health plan under title XXI. Such information shall be submitted at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

“(2) ANNUAL REPORTS TO CONGRESS.—Using the information submitted under paragraph (1), the Secretary shall submit to Congress annual reports concerning enrollment and participation rates described in such paragraph.”.

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on the date of the enactment of this Act.

#### SEC. 802. FAMILY PLANNING SERVICES.

(a) COVERAGE AS OPTIONAL CATEGORICALLY NEEDEY GROUP.—

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

(A) in subclause (XVIII), by striking “or” at the end;

(B) in subclause (XIX), by adding “or” at the end; and

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

“(XX) who are described in subsection (ee) (relating to individuals who meet certain income standards);”.

(2) GROUP DESCRIBED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 112(c), is amended by adding at the end the following new subsection:

“(ee)(1) Individuals described in this subsection are individuals—

“(A) whose income does not exceed an income eligibility level established by the State that does not exceed the highest income eligibility level established under the State plan under this title (or under its State child health plan under title XXI) for pregnant women; and

“(B) who are not pregnant.

“(2) At the option of a State, individuals described in this subsection may include individuals who are determined to meet the eligibility requirements referred to in paragraph (1) under the terms, conditions, and procedures applicable to making eligibility determinations for medical assistance under this title under a waiver to provide the benefits described in clause (XV) of the matter following subparagraph (G) of section 1902(a)(10) granted to the State under section 1115 as of January 1, 2007.”.

(3) LIMITATION ON BENEFITS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(A) by striking “and (XIV)” and inserting “(XIV)”; and

(B) by inserting “, and (XV) the medical assistance made available to an individual described in subsection (ee) shall be limited to family planning services and supplies described in section 1905(a)(4)(C) including medical diagnosis or treatment services that are provided pursuant to a family planning service in a family planning setting provided during the period in which such an individual is eligible” after “cervical cancer”.

(4) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(A) in clause (xii), by striking “or” at the end;

(B) in clause (xiii), by adding “or” at the end; and

(C) by inserting after clause (xiii) the following:

“(xiv) individuals described in section 1902(ee).”.

(b) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920B the following:

“PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING SERVICES

“SEC. 1920C. (a) STATE OPTION.—State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(ee) (relating to individuals who meet certain income eligibility standard) during a presumptive eligibility period. In the case of an individual described in section 1902(ee), such medical assistance shall be limited to family planning services and supplies described in 1905(a)(4)(C) and, at the State’s option, medical diagnosis or treatment services that are provided in conjunction with a family planning service in a family planning setting provided during the period in which such an individual is eligible.

“(b) DEFINITIONS.—For purposes of this section:

“(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The term ‘presumptive eligibility period’ means, with respect to an individual described in subsection (a), the period that—

“(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(ee); and

“(B) ends with (and includes) the earlier of—

“(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

“(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

“(2) QUALIFIED ENTITY.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘qualified entity’ means any entity that—

“(i) is eligible for payments under a State plan approved under this title; and

“(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

“(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities in order to prevent fraud and abuse.

“(C) ADMINISTRATION.—

“(1) IN GENERAL.—The State agency shall provide qualified entities with—

“(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

“(B) information on how to assist such individuals in completing and filing such forms.

“(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

“(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

“(B) inform such individual at the time the determination is made that an application for medical assistance is required to be made by not later than the last day of the month following the month during which the determination is made.

“(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance by not later than the last day of the month following the month during which the determination is made.

“(d) PAYMENT.—Notwithstanding any other provision of this title, medical assistance that—

“(1) is furnished to an individual described in subsection (a)—

“(A) during a presumptive eligibility period;

“(B) by an entity that is eligible for payments under the State plan; and

“(2) is included in the care and services covered by the State plan, shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: “and provide for making medical assistance available to individuals described in subsection (a) of section 1920C during a presumptive eligibility period in accordance with such section”.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking “or for” and inserting “for”; and

(ii) by inserting before the period the following: “, or for medical assistance provided to an individual described in subsection (a) of section 1920C during a presumptive eligibility period under such section”.

(e) CLARIFICATION OF COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Section 1937(b) of the Social Security Act (42 U.S.C. 1396u-7(b)) is amended by adding at the end the following:

“(5) COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—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 such coverage includes for any individual described in section 1905(a)(4)(C), medical assistance for family planning services and supplies in accordance with such section.”.

(f) **EFFECTIVE DATE.**—The amendments made by this section take effect on October 1, 2007.

**SEC. 803. AUTHORITY TO CONTINUE PROVIDING ADULT DAY HEALTH SERVICES APPROVED UNDER A STATE MEDICAID PLAN.**

(a) **IN GENERAL.**—During the period described in subsection (b), the Secretary of Health and Human Services shall not—

(1) withhold, suspend, disallow, or otherwise deny Federal financial participation under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) for the provision of adult day health care services, day activity and health services, or adult medical day care services, as defined under a State Medicaid plan approved during or before 1994, during such period if such services are provided consistent with such definition and the requirements of such plan; or

(2) withdraw Federal approval of any such State plan or part thereof regarding the provision of such services (by regulation or otherwise).

(b) **PERIOD DESCRIBED.**—The period described in this subsection is the period that begins on November 3, 2005, and ends on March 1, 2009.

**SEC. 804. STATE OPTION TO PROTECT COMMUNITY SPOUSES OF INDIVIDUALS WITH DISABILITIES.**

Section 1924(h)(1)(A) of the Social Security Act (42 U.S.C. 1396r–5(h)(1)(A)) is amended by striking “is described in section 1902(a)(10)(A)(ii)(VI)” and inserting “is being provided medical assistance for home and community-based services under subsection (c), (d), (e), (i), or (j) of section 1915 or pursuant to section 1115”.

**SEC. 805. COUNTY MEDICAID HEALTH INSURING ORGANIZATIONS.**

(a) **IN GENERAL.**—Section 9517(c)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 1396b note), as added by section 4734 of the Omnibus Budget Reconciliation Act of 1990 and as amended by section 704 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, is amended—

(1) in subparagraph (A), by inserting “, in the case of any health insuring organization described in such subparagraph that is operated by a public entity established by Ventura County, and in the case of any health insuring organization described in such subparagraph that is operated by a public entity established by Merced County” after “described in subparagraph (B)”;

(2) in subparagraph (C), by striking “14 percent” and inserting “16 percent”.

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

**Subtitle B—Payments**

**SEC. 811. PAYMENTS FOR PUERTO RICO AND TERRITORIES.**

(a) **PAYMENT CEILING.**—Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended—

(1) in paragraph (2), by striking “paragraph (3)” and inserting “paragraphs (3) and (4)”;

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

“(4) **FISCAL YEARS 2009 THROUGH 2012 FOR CERTAIN INSULAR AREAS.**—The amounts otherwise determined under this subsection for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa for fiscal years 2009 through 2012 shall be increased by the following amounts:

“(A) **PUERTO RICO.**—For Puerto Rico, \$250,000,000 for fiscal year 2009, \$350,000,000 for

fiscal year 2010, \$500,000,000 for fiscal year 2011, and \$600,000,000 for fiscal year 2012.

“(B) **VIRGIN ISLANDS.**—For the Virgin Islands, \$5,000,000 for each of fiscal years 2009 through 2012.

“(C) **GUAM.**—For Guam, \$5,000,000 for each of fiscal years 2009 through 2012.

“(D) **NORTHERN MARIANA ISLANDS.**—For the Northern Mariana Islands, \$4,000,000 for each of fiscal years 2009 through 2012.

“(E) **AMERICAN SAMOA.**—For American Samoa, \$4,000,000 for each of fiscal years 2009 through 2012.

Such amounts shall not be taken into account in applying paragraph (2) for fiscal years 2009 through 2012 but shall be taken into account in applying such paragraph for fiscal year 2013 and subsequent fiscal years.”.

(b) **REMOVAL OF FEDERAL MATCHING PAYMENTS FOR IMPROVING DATA REPORTING SYSTEMS FROM THE OVERALL LIMIT ON PAYMENTS TO TERRITORIES UNDER TITLE XIX.**—Such section is further amended by adding at the end the following new paragraph:

“(5) **EXCLUSION OF CERTAIN EXPENDITURES FROM PAYMENT LIMITS.**—With respect to fiscal year 2008 and each fiscal year thereafter, if Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa qualify for a payment under subparagraph (A)(i) or (B) of section 1903(a)(3) for a calendar quarter of such fiscal year with respect to expenditures for improvements in data reporting systems described in such subparagraph, the limitation on expenditures under title XIX for such commonwealth or territory otherwise determined under subsection (f) and this subsection for such fiscal year shall be determined without regard to payment for such expenditures.”.

**SEC. 812. MEDICAID DRUG REBATE.**

Paragraph (1)(B)(i) of section 1927(c) of the Social Security Act (42 U.S.C. 1396r–8(c)) is amended—

(1) by striking “and” at the end of subclause (IV);

(2) in subclause (V)—

(A) by inserting “and before January 1, 2008,” after “December 31, 1995,”; and

(B) by striking the period at the end and inserting “; and”;

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

“(VI) after December 31, 2007, is 22.1 percent.”.

(1) **IN GENERAL.**—Section 1927(c)(1)(C)(ii)(I) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)(ii)(I)) is amended—

(A) by striking “and” before “rebates”;

(B) by inserting before the semicolon at the end the following: “, and rebates, discounts, and other price concessions to pharmaceutical benefit managers (PBMs)”.

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall apply to calendar quarters beginning on or after January 1, 2008.

**SEC. 813. ADJUSTMENT IN COMPUTATION OF MEDICAID FMAP TO DISREGARD AN EXTRAORDINARY EMPLOYER PENSION CONTRIBUTION.**

(a) **IN GENERAL.**—Only for purposes of computing the Federal medical assistance percentage under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) for a State for a fiscal year (beginning with fiscal year 2006), any significantly disproportionate employer pension contribution described in subsection (b) shall be disregarded in computing the per capita income of such State, but shall not be disregarded in computing the per capita income for the continental United States (and Alaska) and Hawaii.

(b) **SIGNIFICANTLY DISPROPORTIONATE EMPLOYER PENSION CONTRIBUTION.**—For purposes of subsection (a), a significantly disproportionate employer pension contribution described in this subsection with respect to a State for a fiscal year is an employer contribution towards pensions that is allocated to such State for a pe-

riod if the aggregate amount so allocated exceeds 25 percent of the total increase in personal income in that State for the period involved.

**SEC. 814. MORATORIUM ON CERTAIN PAYMENT RESTRICTIONS.**

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to the date that is 1 year after the date of enactment of this Act, take any action (through promulgation of regulation, issuance of regulatory guidance, use of federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to restrict coverage or payment under title XIX of the Social Security Act for rehabilitation services, or school-based administration, transportation, or medical services if such restrictions are more restrictive in any aspect than those applied to such coverage or payment as of July 1, 2007.

**SEC. 815. TENNESSEE DSH.**

The DSH allotments for Tennessee for each fiscal year beginning with fiscal year 2008 under subsection (f)(3) of section 1923 of the Social Security Act (42 U.S.C. 1396i396r–4) are deemed to be \$30,000,000. The Secretary of Health and Human Services may impose a limitation on the total amount of payments made to hospitals under the TennCare Section 1115 waiver only to the extent that such limitation is necessary to ensure that a hospital does not receive payment in excess of the amounts described in subsection (f) of such section or as necessary to ensure that the waiver remains budget neutral.

**SEC. 816. CLARIFICATION TREATMENT OF REGIONAL MEDICAL CENTER.**

(a) **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 subsection (b), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(b) **CENTER DESCRIBED.**—A center described in this subsection is a publicly-owned regional medical center that—

(1) provides level 1 trauma and burn care services;

(2) provides level 3 neonatal care services;

(3) is obligated to serve all patients, regardless of ability to pay;

(4) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States;

(5) provides services as a tertiary care provider for patients residing within a 125-mile radius; and

(6) meets the criteria for a disproportionate share hospital under section 1923 of such Act (42 U.S.C. 1396r–4) in at least one State other than the State in which the center is located.

**SEC. 817. EXTENSION OF SSI WEB-BASED ASSET DEMONSTRATION PROJECT TO THE MEDICAID PROGRAM.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services shall provide for the application to asset eligibility determinations under the Medicaid program under title XIX of the Social Security Act of the automated, secure, web-based asset verification request and response process being applied for determining eligibility for benefits under the Supplemental Security Income (SSI) program under title XVI of such Act under a demonstration project conducted under the authority of section 1631(e)(1)(B)(ii) of such Act (42 U.S.C. 1383(e)(1)(B)(ii)).

(b) **LIMITATION.**—Such application shall only extend to those States in which such demonstration project is operating and only for the period in which such project is otherwise provided.

(c) **RULES OF APPLICATION.**—For purposes of carrying out subsection (a), notwithstanding

any other provision of law, information obtained from a financial institution that is used for purposes of eligibility determinations under such demonstration project with respect to the Secretary of Health and Human Services under the SSI program may also be shared and used by States for purposes of eligibility determinations under the Medicaid program. In applying section 1631(e)(1)(B)(ii) of the Social Security Act under this subsection, references to the Commissioner of Social Security and benefits under title XVI of such Act shall be treated as including a reference to a State described in subsection (b) and medical assistance under title XIX of such Act provided by such a State.

#### Subtitle C—Miscellaneous

##### SEC. 821. DEMONSTRATION PROJECT FOR EMPLOYER BUY-IN.

Title XXI of the Social Security Act, as amended by section 133(a)(1), is further amended by adding at the end the following new section:

##### “SEC. 2112. DEMONSTRATION PROJECT FOR EMPLOYER BUY-IN.

“(a) AUTHORITY.—

“(1) IN GENERAL.—The Secretary shall establish a demonstration project under which up to 10 States (each referred to in this section as a ‘participating State’) that meets the conditions of paragraph (2) may provide, under its State child health plan (notwithstanding section 2102(b)(3)(C)) for a period of 5 years, for child health assistance in relation to family coverage described in subsection (d) for children who would be targeted low-income children but for coverage as beneficiaries under a group health plan as the children of participants by virtue of a qualifying employer’s contribution under subsection (b)(2). :

“(2) CONDITIONS.—The conditions described in this paragraph for a State are as follows:

“(A) NO WAITING LISTS.—The State does not impose any waiting list, enrollment cap, or similar limitation on enrollment of targeted low-income children under the State child health plan.

“(B) ELIGIBILITY OF ALL CHILDREN UNDER 200 PERCENT OF POVERTY LINE.—The State is applying an income eligibility level under section 2110(b)(1)(B)(ii)(I) that is at least 200 percent of the poverty line.

“(3) QUALIFYING EMPLOYER DEFINED.—In this section, the term ‘qualifying employer’ means an employer that has a majority of its workforce composed of full-time workers with family incomes reasonably estimated by the employer (based on wage information available to the employer) at or below 200 percent of the poverty line. In applying the previous sentence, two part-time workers shall be treated as a single full-time worker.

“(b) FUNDING.—A demonstration project under this section in a participating State shall be funded, with respect to assistance provided to children described in subsection (a)(1), consistent with the following:

“(1) LIMITED FAMILY CONTRIBUTION.—The family involved shall be responsible for providing payment towards the premium for such assistance of such amount as the State may specify, except that the limitations on cost-sharing (including premiums) under paragraphs (2) and (3) of section 2103(e) shall apply to all cost-sharing of such family under this section.

“(2) MINIMUM EMPLOYER CONTRIBUTION.—The qualifying employer involved shall be responsible for providing payment to the State child health plan in the State of at least 50 percent of the portion of the cost (as determined by the State) of the family coverage in which the employer is enrolling the family that exceeds the amount of the family contribution under paragraph (1) applied towards such coverage.

“(3) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—In no case shall the Federal financial participation under section 2105 with respect to a demonstration project under this section be made for any portion of the costs of fam-

ily coverage described in subsection (d) (including the costs of administration of such coverage) that are not attributable to children described in subsection (a)(1).

“(c) UNIFORM ELIGIBILITY RULES.—In providing assistance under a demonstration project under this section—

“(1) a State shall establish uniform rules of eligibility for families to participate; and

“(2) a State shall not permit a qualifying employer to select, within those families that meet such eligibility rules, which families may participate.

“(d) TERMS AND CONDITIONS.—The family coverage offered to families of qualifying employers under a demonstration project under this section in a State shall be the same as the coverage and benefits provided under the State child health plan in the State for targeted low-income children with the highest family income level permitted.”

##### SEC. 822. DIABETES GRANTS.

Section 2104 of the Social Security Act (42 U.S.C. 1397dd), as amended by section 101, is further amended—

(1) in subsection (a)(11), by inserting before the period at the end the following: “plus for fiscal year 2009 the total of the amount specified in subsection (j)”; and

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

“(j) FUNDING FOR DIABETES GRANTS.—From the amounts appropriated under subsection (a)(11), for fiscal year 2009 from the amounts—

“(1) \$150,000,000 is hereby transferred and made available in such fiscal year for grants under section 330B of the Public Health Service Act; and

“(2) \$150,000,000 is hereby transferred and made available in such fiscal year for grants under section 330C of such Act.”

##### SEC. 823. TECHNICAL CORRECTION.

(a) CORRECTION OF REFERENCE TO CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—Section 1937(a)(2)(B)(viii) of the Social Security Act (42 U.S.C. 1396u-7(a)(2)(B)) is amended by striking “aid or assistance is made available under part B of title IV to children in foster care” and inserting “child welfare services are made available under part B of title IV on the basis of being a child in foster care”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 6044(a) of the Deficit Reduction Act of 2005.

#### TITLE IX—MISCELLANEOUS

##### SEC. 901. MEDICARE PAYMENT ADVISORY COMMISSION STATUS.

Section 1805(a) of the Social Security Act (42 U.S.C. 1395b-6(a)) is amended by inserting “as an agency of Congress” after “established”.

##### SEC. 902. REPEAL OF TRIGGER PROVISION.

Subtitle A of title VIII of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) is repealed and the provisions of law amended by such subtitle are restored as if such subtitle had never been enacted.

##### SEC. 903. REPEAL OF COMPARATIVE COST ADJUSTMENT (CCA) PROGRAM.

Section 1860C-1 of the Social Security Act (42 U.S.C. 1395w-29), as added by section 241(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), is repealed.

##### SEC. 904. COMPARATIVE EFFECTIVENESS RESEARCH.

(a) IN GENERAL.—Part A of title XVIII of the Social Security Act is amended by adding at the end the following new section:

“COMPARATIVE EFFECTIVENESS RESEARCH

“SEC. 1822. (a) CENTER FOR COMPARATIVE EFFECTIVENESS RESEARCH ESTABLISHED.—

“(1) IN GENERAL.—The Secretary shall establish within the Agency of Healthcare Research and Quality a Center for Comparative Effective-

ness Research (in this section referred to as the ‘Center’) to conduct, support, and synthesize research (including research conducted or supported under section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) with respect to the outcomes, effectiveness, and appropriateness of health care services and procedures in order to identify the manner in which diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

“(2) DUTIES.—The Center shall—

“(A) conduct, support, and synthesize research relevant to the comparative clinical effectiveness of the full spectrum of health care treatments, including pharmaceuticals, medical devices, medical and surgical procedures, and other medical interventions;

“(B) conduct and support systematic reviews of clinical research, including original research conducted subsequent to the date of the enactment of this section;

“(C) use methodologies such as randomized controlled clinical trials as well as other various types of clinical research, such as observational studies;

“(D) submit to the Comparative Effectiveness Research Commission, the Secretary, and Congress appropriate relevant reports described in subsection (d)(2);

“(E) encourage, as appropriate, the development and use of clinical registries and the development of clinical effectiveness research data networks from electronic health records, post marketing drug and medical device surveillance efforts, and other forms of electronic health data; and

“(F) not later than 180 days after the date of the enactment of this section, develop methodological standards to be used when conducting studies of comparative clinical effectiveness and value (and procedures for use of such standards) in order to help ensure accurate and effective comparisons and update such standards at least biennially.

“(b) OVERSIGHT BY COMPARATIVE EFFECTIVENESS RESEARCH COMMISSION.—

“(1) IN GENERAL.—The Secretary shall establish an independent Comparative Effectiveness Research Commission (in this section referred to as the ‘Commission’) to oversee and evaluate the activities carried out by the Center under subsection (a) to ensure such activities result in highly credible research and information resulting from such research.

“(2) DUTIES.—The Commission shall—

“(A) determine national priorities for research described in subsection (a) and in making such determinations consult with patients and health care providers and payers;

“(B) monitor the appropriateness of use of the CERTF described in subsection (f) with respect to the timely production of comparative effectiveness research determined to be a national priority under subparagraph (A);

“(C) identify highly credible research methods and standards of evidence for such research to be considered by the Center;

“(D) review and approve the methodological standards (and updates to such standards) developed by the Center under subsection (a)(2)(F);

“(E) enter into an arrangement under which the Institute of Medicine of the National Academy of Sciences shall conduct an evaluation and report on standards of evidence for such research;

“(F) support forums to increase stakeholder awareness and permit stakeholder feedback on the efforts of the Agency of Healthcare Research and Quality to advance methods and standards that promote highly credible research;

“(G) make recommendations for public data access policies of the Center that would allow for access of such data by the public while ensuring the information produced from research involved is timely and credible;

“(H) appoint a clinical perspective advisory panel for each research priority determined under subparagraph (A), which shall frame the specific research inquiry to be examined with respect to such priority to ensure that the information produced from such research is clinically relevant to decisions made by clinicians and patients at the point of care;

“(I) make recommendations for the priority for periodic reviews of previous comparative effectiveness research and studies conducted by the Center under subsection (a);

“(J) routinely review processes of the Center with respect to such research to confirm that the information produced by such research is objective, credible, consistent with standards of evidence established under this section, and developed through a transparent process that includes consultations with appropriate stakeholders;

“(K) at least annually, provide guidance or recommendations to health care providers and consumers for the use of information on the comparative effectiveness of health care services by consumers, providers (as defined for purposes of regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996) and public and private purchasers;

“(L) make recommendations for a strategy to disseminate the findings of research conducted and supported under this section that enables clinicians to improve performance, consumers to make more informed health care decisions, and payers to set medical policies that improve quality and value;

“(M) provide for the public disclosure of relevant reports described in subsection (d)(2); and

“(N) submit to Congress an annual report on the progress of the Center in achieving national priorities determined under subparagraph (A) for the provision of credible comparative effectiveness information produced from such research to all interested parties.

“(3) COMPOSITION OF COMMISSION.—

“(A) IN GENERAL.—The members of the Commission shall consist of—

“(i) the Director of the Agency for Healthcare Research and Quality;

“(ii) the Chief Medical Officer of the Centers for Medicare & Medicaid Services; and

“(iii) 15 additional members who shall represent broad constituencies of stakeholders including clinicians, patients, researchers, third-party payers, consumers of Federal and State beneficiary programs.

“(B) QUALIFICATIONS.—

“(i) DIVERSE REPRESENTATION OF PERSPECTIVES.—The members of the Commission shall represent a broad range of perspectives and shall collectively have experience in the following areas:

“(I) Epidemiology.

“(II) Health services research.

“(III) Bioethics.

“(IV) Decision sciences.

“(V) Economics.

“(ii) DIVERSE REPRESENTATION OF HEALTH CARE COMMUNITY.—At least one member shall represent each of the following health care communities:

“(I) Consumers.

“(II) Practicing physicians, including surgeons.

“(III) Employers.

“(IV) Public payers.

“(V) Insurance plans.

“(VI) Clinical researchers who conduct research on behalf of pharmaceutical or device manufacturers.

“(4) APPOINTMENT.—The Comptroller General of the United States, in consultation with the chairs of the committees of jurisdiction of the House of Representatives and the Senate, shall appoint the members of the Commission.

“(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General of the United States shall designate a member of the Commission, at the time

of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment, except that in the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General may designate another member for the remainder of that member's term.

“(6) TERMS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each member of the Commission shall be appointed for a term of 4 years.

“(B) TERMS OF INITIAL APPOINTEES.—Of the members first appointed—

“(i) 8 shall be appointed for a term of 4 years; and

“(ii) 7 shall be appointed for a term of 3 years.

“(7) COORDINATION.—To enhance effectiveness and coordination, the Comptroller General is encouraged, to the greatest extent possible, to seek coordination between the Commission and the National Advisory Council of the Agency for Healthcare Research and Quality.

“(8) CONFLICTS OF INTEREST.—In appointing the members of the Commission or a clinical perspective advisory panel described in paragraph (2)(H), the Comptroller General of the United States or the Commission, respectively, shall take into consideration any financial conflicts of interest.

“(9) COMPENSATION.—While serving on the business of the Commission (including travel-time), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Director of the Commission.

“(10) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted under this subsection and shall make such reports available to the public.

“(11) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Secretary, in consultation with the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

“(A) employ and fix the compensation of an Executive Director (subject to the approval of the Secretary, in consultation with the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

“(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

“(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

“(D) make advance, progress, and other payments which relate to the work of the Commission;

“(E) provide transportation and subsistence for persons serving without compensation; and

“(F) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

“(12) POWERS.—

“(A) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Executive Director, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

“(B) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

“(i) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

“(ii) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

“(iii) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

“(C) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

“(D) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General.

“(c) RESEARCH REQUIREMENTS.—Any research conducted, supported, or synthesized under this section shall meet the following requirements:

“(1) ENSURING TRANSPARENCY, CREDIBILITY, AND ACCESS.—

“(A) The establishment of the agenda and conduct of the research shall be insulated from inappropriate political or stakeholder influence.

“(B) Methods of conducting such research shall be scientifically based.

“(C) All aspects of the prioritization of research, conduct of the research, and development of conclusions based on the research shall be transparent to all stakeholders.

“(D) The process and methods for conducting such research shall be publicly documented and available to all stakeholders.

“(E) Throughout the process of such research, the Center shall provide opportunities for all stakeholders involved to review and provide comment on the methods and findings of such research.

“(2) USE OF CLINICAL PERSPECTIVE ADVISORY PANELS.—The research shall meet a national research priority determined under subsection (b)(2)(A) and shall examine the specific research inquiry framed by the clinical perspective advisory panel for the national research priority.

“(3) STAKEHOLDER INPUT.—The priorities of the research, the research, and the dissemination of the research shall involve the consultation of patients, health care providers, and health care consumer representatives through transparent mechanisms recommended by the Commission.

“(d) PUBLIC ACCESS TO COMPARATIVE EFFECTIVENESS INFORMATION.—

“(1) IN GENERAL.—Not later than 90 days after receipt by the Center or Commission, as applicable, of a relevant report described in paragraph (2) made by the Center, Commission, or clinical perspective advisory panel under this section, appropriate information contained in such report shall be posted on the official public Internet site of the Center and of the Commission, as applicable.

“(2) RELEVANT REPORTS DESCRIBED.—For purposes of this section, a relevant report is each of the following submitted by a grantee or contractor of the Center:

“(A) An interim progress report.

“(B) A draft final comparative effectiveness review.

“(C) A final progress report on new research submitted for publication by a peer review journal.

“(D) Stakeholder comments.

“(E) A final report.

“(3) ACCESS BY CONGRESS AND THE COMMISSION TO THE CENTER'S INFORMATION.—Congress and the Commission shall each have unrestricted access to all deliberations, records, and nonproprietary data of the Center, immediately upon request.

“(e) DISSEMINATION AND INCORPORATION OF COMPARATIVE EFFECTIVENESS INFORMATION.—

“(1) DISSEMINATION.—The Center shall provide for the dissemination of appropriate findings produced by research supported, conducted, or synthesized under this section to health care providers, patients, vendors of health information technology focused on clinical decision support, appropriate professional

associations, and Federal and private health plans.

“(2) INCORPORATION.—The Center shall assist users of health information technology focused on clinical decision support to promote the timely incorporation of the findings described in paragraph (1) into clinical practices and to promote the ease of use of such incorporation.

“(f) REPORTS TO CONGRESS.—

“(1) ANNUAL REPORTS.—Beginning not later than one year after the date of the enactment of this section, the Director of the Agency of Healthcare Research and Quality and the Commission shall submit to Congress an annual report on the activities of the Center and the Commission, as well as the research, conducted under this section.

“(2) RECOMMENDATION FOR FAIR SHARE PER CAPITA AMOUNT FOR ALL-PAYER FINANCING.—Beginning not later than December 31, 2009, the Secretary shall submit to Congress an annual recommendation for a fair share per capita amount described in subsection (c)(1) of section 9511 of the Internal Revenue Code of 1986 for purposes of funding the CERTF under such section.

“(3) ANALYSIS AND REVIEW.—Not later than December 31, 2011, the Secretary, in consultation with the Commission, shall submit to Congress a report on all activities conducted or supported under this section as of such date. Such report shall include an evaluation of the return on investment resulting from such activities, the overall costs of such activities, and an analysis of the backlog of any research proposals approved by the Commission but not funded. Such report shall also address whether Congress should expand the responsibilities of the Center and of the Commission to include studies of the effectiveness of various aspects of the health care delivery system, including health plans and delivery models, such as health plan features, benefit designs and performance, and the ways in which health services are organized, managed, and delivered.

“(g) COORDINATING COUNCIL FOR HEALTH SERVICES RESEARCH.—

“(1) ESTABLISHMENT.—The Secretary shall establish a permanent council (in this section referred to as the ‘Council’) for the purpose of—

“(A) assisting the offices and agencies of the Department of Health and Human Services, the Department of Veterans Affairs, the Department of Defense, and any other Federal department or agency to coordinate the conduct or support of health services research; and

“(B) advising the President and Congress on—

“(i) the national health services research agenda;

“(ii) strategies with respect to infrastructure needs of health services research; and

“(iii) appropriate organizational expenditures in health services research by relevant Federal departments and agencies.

“(2) MEMBERSHIP.—

“(A) NUMBER AND APPOINTMENT.—The Council shall be composed of 20 members. One member shall be the Director of the Agency for Healthcare Research and Quality. The Director shall appoint the other members not later than 30 days after the enactment of this Act.

“(B) TERMS.—

“(i) IN GENERAL.—Except as provided in clause (ii), each member of the Council shall be appointed for a term of 4 years.

“(ii) TERMS OF INITIAL APPOINTEES.—Of the members first appointed—

“(I) 10 shall be appointed for a term of 4 years; and

“(II) 9 shall be appointed for a term of 3 years.

“(iii) VACANCIES.—Any vacancies shall not affect the power and duties of the Council and shall be filled in the same manner as the original appointment.

“(C) QUALIFICATIONS.—

“(i) IN GENERAL.—The members of the Council shall include one senior official from each of the following agencies:

“(I) The Veterans Health Administration.

“(II) The Department of Defense Military Health Care System.

“(III) The Centers for Disease Control and Prevention.

“(IV) The National Center for Health Statistics.

“(V) The National Institutes of Health.

“(VI) The Center for Medicare & Medicaid Services.

“(VII) The Federal Employees Health Benefits Program.

“(ii) NATIONAL, PHILANTHROPIC FOUNDATIONS.—The members of the Council shall include 4 senior leaders from major national, philanthropic foundations that fund and use health services research.

“(iii) STAKEHOLDERS.—The remaining members of the Council shall be representatives of other stakeholders in health services research, including private purchasers, health plans, hospitals and other health facilities, and health consumer groups.

“(3) ANNUAL REPORT.—The Council shall submit to Congress an annual report on the progress of the implementation of the national health services research agenda.

“(h) FUNDING OF COMPARATIVE EFFECTIVENESS RESEARCH.—For fiscal year 2008 and each subsequent fiscal year, amounts in the Comparative Effectiveness Research Trust Fund (referred to in this section as the ‘CERTF’) under section 9511 of the Internal Revenue Code of 1986 shall be available to the Secretary to carry out this section.”

(b) COMPARATIVE EFFECTIVENESS RESEARCH TRUST FUND; FINANCING FOR TRUST FUND.—

(1) ESTABLISHMENT OF TRUST FUND.—

(A) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

“SEC. 9511. HEALTH CARE COMPARATIVE EFFECTIVENESS RESEARCH TRUST FUND.

“(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ‘Health Care Comparative Effectiveness Research Trust Fund’ (hereinafter in this section referred to as the ‘CERTF’), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section and section 9602(b).

“(b) TRANSFERS TO FUND.—There are hereby appropriated to the Trust Fund the following:

“(1) For fiscal year 2008, \$90,000,000.

“(2) For fiscal year 2009, \$100,000,000.

“(3) For fiscal year 2010, \$110,000,000.

“(4) For each fiscal year beginning with fiscal year 2011—

“(A) an amount equivalent to the net revenues received in the Treasury from the fees imposed under subchapter B of chapter 34 (relating to fees on health insurance and self-insured plans) for such fiscal year; and

“(B) subject to subsection (c)(2), amounts determined by the Secretary of Health and Human Services to be equivalent to the fair share per capita amount computed under subsection (c)(1) for the fiscal year multiplied by the average number of individuals entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act during such fiscal year.

The amounts appropriated under paragraphs (1), (2), (3), and (4)(B) shall be transferred from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund (established under section 1841 of such Act), and from the Medicare Prescription Drug Account within such Trust Fund, in proportion (as estimated by the Secretary) to the total expenditures during such fiscal year that are made under title XVIII of such Act from the respective trust fund or account.

“(c) FAIR SHARE PER CAPITA AMOUNT.—

“(1) COMPUTATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the fair share per capita amount under this paragraph for a fiscal year (beginning with fiscal year 2011) is an amount computed by the Secretary of Health and Human Services for such fiscal year that, when applied under this section and subchapter B of chapter 34 of the Internal Revenue Code of 1986, will result in revenues to the CERTF of \$375,000,000 for the fiscal year.

“(B) ALTERNATIVE COMPUTATION.—

“(i) IN GENERAL.—If the Secretary is unable to compute the fair share per capita amount under subparagraph (A) for a fiscal year, the fair share per capita amount under this paragraph for the fiscal year shall be the default amount determined under clause (ii) for the fiscal year.

“(ii) DEFAULT AMOUNT.—The default amount under this clause for—

“(I) fiscal year 2011 is equal to \$2; or

“(II) a subsequent year is equal to the default amount under this clause for the preceding fiscal year increased by the annual percentage increase in the medical care component of the consumer price index (United States city average) for the 12-month period ending with April of the preceding fiscal year.

Any amount determined under subclause (II) shall be rounded to the nearest penny.

“(2) LIMITATION ON MEDICARE FUNDING.—In no case shall the amount transferred under subsection (b)(4)(B) for any fiscal year exceed \$90,000,000.

“(d) EXPENDITURES FROM FUND.—

“(1) IN GENERAL.—Subject to paragraph (2), amounts in the CERTF are available to the Secretary of Health and Human Services for carrying out section 1822 of the Social Security Act.

“(2) ALLOCATION FOR COMMISSION.—Not less than the following amounts in the CERTF for a fiscal year shall be available to carry out the activities of the Comparative Effectiveness Research Commission established under section 1822(b) of the Social Security Act for such fiscal year:

“(A) For fiscal year 2008, \$7,000,000.

“(B) For fiscal year 2009, \$9,000,000.

“(C) For each fiscal year beginning with 2010, \$10,000,000.

Nothing in this paragraph shall be construed as preventing additional amounts in the CERTF from being made available to the Comparative Effectiveness Research Commission for such activities.

“(e) NET REVENUES.—For purposes of this section, the term ‘net revenues’ means the amount estimated by the Secretary based on the excess of—

“(1) the fees received in the Treasury under subchapter B of chapter 34, over

“(2) the decrease in the tax imposed by chapter 1 resulting from the fees imposed by such subchapter.”

(B) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

“Sec. 9511. Health Care Comparative Effectiveness Research Trust Fund.”

(2) FINANCING FOR FUND FROM FEES ON INSURED AND SELF-INSURED HEALTH PLANS.—

(A) GENERAL RULE.—Chapter 34 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

“Subchapter B—Insured and Self-Insured Health Plans

“Sec. 4375. Health insurance.

“Sec. 4376. Self-insured health plans

“Sec. 4377. Definitions and special rules

“SEC. 4375. HEALTH INSURANCE.

“(a) IMPOSITION OF FEE.—There is hereby imposed on each specified health insurance policy for each policy year a fee equal to the fair share per capita amount determined under section 9511(c)(1) multiplied by the average number of lives covered under the policy.

“(b) LIABILITY FOR FEE.—The fee imposed by subsection (a) shall be paid by the issuer of the policy.

“(c) SPECIFIED HEALTH INSURANCE POLICY.—For purposes of this section—

“(1) IN GENERAL.—Except as otherwise provided in this section, the term ‘specified health insurance policy’ means any accident or health insurance policy issued with respect to individuals residing in the United States.

“(2) EXEMPTION OF CERTAIN POLICIES.—The term ‘specified health insurance policy’ does not include any insurance policy if substantially all of its coverage is of excepted benefits described in section 9832(c).

“(A) liabilities incurred under workers’ compensation laws,

“(B) tort liabilities,

“(C) liabilities relating to ownership or use of property,

“(D) credit insurance,

“(E) medicare supplemental coverage, or

“(F) such other similar liabilities as the Secretary may specify by regulations.

“(3) TREATMENT OF PREPAID HEALTH COVERAGE ARRANGEMENTS.—

“(A) IN GENERAL.—In the case of any arrangement described in subparagraph (B)—

“(i) such arrangement shall be treated as a specified health insurance policy, and

“(ii) the person referred to in such subparagraph shall be treated as the issuer.

“(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement is described in this subparagraph if under such arrangement fixed payments or premiums are received as consideration for any person’s agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided.

**“SEC. 4376. SELF-INSURED HEALTH PLANS.**

“(a) IMPOSITION OF FEE.—In the case of any applicable self-insured health plan for each plan year, there is hereby imposed a fee equal to the fair share per capita amount determined under section 9511(c)(1) multiplied by the average number of lives covered under the plan.

“(b) LIABILITY FOR FEE.—

“(1) IN GENERAL.—The fee imposed by subsection (a) shall be paid by the plan sponsor.

“(2) PLAN SPONSOR.—For purposes of paragraph (1) the term ‘plan sponsor’ means—

“(A) the employer in the case of a plan established or maintained by a single employer,

“(B) the employee organization in the case of a plan established or maintained by an employee organization,

“(C) in the case of—

“(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

“(ii) a multiple employer welfare arrangement, or

“(iii) a voluntary employees’ beneficiary association described in section 501(c)(9),

the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, or

“(D) the cooperative or association described in subsection (c)(2)(F) in the case of a plan established or maintained by such a cooperative or association.

“(c) APPLICABLE SELF-INSURED HEALTH PLAN.—For purposes of this section, the term ‘applicable self-insured health plan’ means any plan for providing accident or health coverage if—

“(1) any portion of such coverage is provided other than through an insurance policy, and

“(2) such plan is established or maintained—

“(A) by one or more employers for the benefit of their employees or former employees,

“(B) by one or more employee organizations for the benefit of their members or former members,

“(C) jointly by 1 or more employers and 1 or more employee organizations for the benefit of employees or former employees,

“(D) by a voluntary employees’ beneficiary association described in section 501(c)(9),

“(E) by any organization described in section 501(c)(6), or

“(F) in the case of a plan not described in the preceding subparagraphs, by a multiple employer welfare arrangement (as defined in section 3(40) of Employee Retirement Income Security Act of 1974), a rural electric cooperative (as defined in section 3(40)(B)(iv) of such Act), or a rural telephone cooperative association (as defined in section 3(40)(B)(v) of such Act).

**“SEC. 4377. DEFINITIONS AND SPECIAL RULES.**

“(a) DEFINITIONS.—For purposes of this subchapter—

“(1) ACCIDENT AND HEALTH COVERAGE.—The term ‘accident and health coverage’ means any coverage which, if provided by an insurance policy, would cause such policy to be a specified health insurance policy (as defined in section 4375(c)).

“(2) INSURANCE POLICY.—The term ‘insurance policy’ means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

“(3) UNITED STATES.—The term ‘United States’ includes any possession of the United States.

“(b) TREATMENT OF GOVERNMENTAL ENTITIES.—

“(1) IN GENERAL.—For purposes of this subchapter—

“(A) the term ‘person’ includes any governmental entity, and

“(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the fees imposed by this subchapter except as provided in paragraph (2).

“(2) TREATMENT OF EXEMPT GOVERNMENTAL PROGRAMS.—In the case of an exempt governmental program, no fee shall be imposed under section 4375 or section 4376 on any covered life under such program.

“(3) EXEMPT GOVERNMENTAL PROGRAM DEFINED.—For purposes of this subchapter, the term ‘exempt governmental program’ means—

“(A) any insurance program established under title XVIII of the Social Security Act,

“(B) the medical assistance program established by title XIX or XXI of the Social Security Act,

“(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

“(i) members of the Armed Forces of the United States, or

“(ii) veterans, and

“(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

“(c) TREATMENT AS TAX.—For purposes of subtitle F, the fees imposed by this subchapter shall be treated as if they were taxes.

“(d) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.”

(B) CLERICAL AMENDMENTS.—

(i) Chapter 34 of such Code is amended by striking the chapter heading and inserting the following:

**“CHAPTER 34—TAXES ON CERTAIN INSURANCE POLICIES**

**“SUBCHAPTER A. POLICIES ISSUED BY FOREIGN INSURERS**

**“SUBCHAPTER B. INSURED AND SELF-INSURED HEALTH PLANS**

**“Subchapter A—Policies Issued By Foreign Insurers”.**

(ii) The table of chapters for subtitle D of such Code is amended by striking the item relating to chapter 34 and inserting the following new item:

**“CHAPTER 34—TAXES ON CERTAIN INSURANCE POLICIES”.**

(C) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to policies and plans for portions of policy or plan years beginning on or after October 1, 2010.

**SEC. 905. IMPLEMENTATION OF HEALTH INFORMATION TECHNOLOGY (IT) UNDER MEDICARE.**

(a) IN GENERAL.—Not later than January 1, 2010, the Secretary of Health and Human Services shall submit to Congress a report that includes—

(1) a plan to develop and implement a health information technology (health IT) system for all health care providers under the Medicare program that meets the specifications described in subsection (b); and

(2) an analysis of the impact, feasibility, and costs associated with the use of health information technology in medically underserved communities.

(b) PLAN SPECIFICATION.—The specifications described in this subsection, with respect to a health information technology system described in subsection (a), are the following:

(1) The system protects the privacy and security of individually identifiable health information.

(2) The system maintains and provides permitted access to health information in an electronic format (such as through computerized patient records or a clinical data repository).

(3) The system utilizes interface software that allows for interoperability.

(4) The system includes clinical decision support.

(5) The system incorporates e-prescribing and computerized physician order entry.

(6) The system incorporates patient tracking and reminders.

(7) The system utilizes technology that is open source (if available) or technology that has been developed by the government.

The report shall include an analysis of the financial and administrative resources necessary to develop such system and recommendations regarding the level of subsidies needed for all such health care providers to adopt the system.

**SEC. 906. DEVELOPMENT, REPORTING, AND USE OF HEALTH CARE MEASURES.**

(a) IN GENERAL.—Part E of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by inserting after section 1889 the following:

**“DEVELOPMENT, REPORTING, AND USE OF HEALTH CARE MEASURES**

**“SEC. 1890. (a) FOSTERING DEVELOPMENT OF HEALTH CARE MEASURES.—The Secretary shall designate, and have in effect an arrangement with, a single organization (such as the National Quality Forum) that meets the requirements described in subsection (c), under which such organization provides the Secretary with advice on, and recommendations with respect to, the key elements and priorities of a national system for establishing health care measures. The arrangement shall be effective beginning no sooner than January 1, 2008, and no later than September 30, 2008.**

**“(b) DUTIES.—The duties of the organization designated under subsection (a) (in this title referred to as the ‘designated organization’) shall, in accordance with subsection (d), include—**

**“(1) establishing and managing an integrated national strategy and process for setting priorities and goals in establishing health care measures;**

**“(2) coordinating the development and specifications of such measures;**

**“(3) establishing standards for the development and testing of such measures;**

**“(4) endorsing national consensus health care measures; and**

**“(5) advancing the use of electronic health records for automating the collection, aggregation, and transmission of measurement information.**

“(c) REQUIREMENTS DESCRIBED.—For purposes of subsection (a), the requirements described in this subsection, with respect to an organization, are the following:

“(1) PRIVATE NONPROFIT.—The organization is a private nonprofit entity governed by a board and an individual designated as president and chief executive officer.

“(2) BOARD MEMBERSHIP.—The members of the board of the organization include representatives of—

“(A) health care providers or groups representing such providers;

“(B) health plans or groups representing health plans;

“(C) groups representing health care consumers;

“(D) health care purchasers and employers or groups representing such purchasers or employers; and

“(E) health care practitioners or groups representing practitioners.

“(3) OTHER MEMBERSHIP REQUIREMENTS.—The membership of the organization is representative of individuals with experience with—

“(A) urban health care issues;

“(B) safety net health care issues;

“(C) rural and frontier health care issues; and

“(D) health care quality and safety issues.

“(4) OPEN AND TRANSPARENT.—With respect to matters related to the arrangement described in subsection (a), the organization conducts its business in an open and transparent manner and provides the opportunity for public comment.

“(5) VOLUNTARY CONSENSUS STANDARDS SETTING ORGANIZATION.—The organization operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).

“(6) EXPERIENCE.—The organization has at least 7 years experience in establishing national consensus standards.

“(d) REQUIREMENTS FOR HEALTH CARE MEASURES.—In carrying out its duties under subsection (b), the designated organization shall ensure the following:

“(1) MEASURES.—The designated organization shall ensure that the measures established or endorsed under subsection (b) are evidence-based, reliable, and valid; and include—

“(A) measures of clinical processes and outcomes, patient experience, efficiency, and equity;

“(B) measures to assess effectiveness, timeliness, patient self-management, patient centeredness, and safety; and

“(C) measures of under use and over use.

“(2) PRIORITIES.—

“(A) IN GENERAL.—The designated organization shall ensure that priority is given to establishing and endorsing—

“(i) measures with the greatest potential impact for improving the effectiveness and efficiency of health care;

“(ii) measures that may be rapidly implemented by group health plans, health insurance issuers, physicians, hospitals, nursing homes, long-term care providers, and other providers;

“(iii) measures which may inform health care decisions made by consumers and patients; and

“(iv) measures that apply to multiple services furnished by different providers during an episode of care.

“(B) ANNUAL REPORT ON PRIORITIES; SECRETARIAL PUBLICATION AND COMMENT.—

“(i) ANNUAL REPORT.—The designated organization shall issue and submit to the Secretary a report by March 31 of each year (beginning with 2009) on the organization’s recommendations for priorities and goals in establishing and endorsing health care measures under this section over the next five years.

“(ii) SECRETARIAL REVIEW AND COMMENT.—After receipt of the report under clause (i) for a

year, the Secretary shall publish the report in the Federal Register, including any comments of the Secretary on the priorities and goals set forth in the report.

“(3) RISK ADJUSTMENT.—The designated organization, in consultation with health care measure developers and other stakeholders, shall establish procedures to assure that health care measures established and endorsed under this section account for differences in patient health status, patient characteristics, and geographic location, as appropriate.

“(4) MAINTENANCE.—The designated organization, in consultation with owners and developers of health care measures, shall require the owners or developers of such measures to update and enhance such measures, including the development of more accurate and precise specifications, and retire existing outdated measures. Such updating shall occur not more often than once during each 12-month period, except in the case of emergent circumstances requiring a more immediate update to a measure.

“(e) USE OF HEALTH CARE MEASURES; REPORTING.—

“(1) USE OF MEASURES.—For purposes of activities authorized or required under this title, the Secretary shall select from health care measures—

“(A) recommended by multi-stakeholder groups; and

“(B) endorsed by the designated organization under subsection (b)(4).

“(2) REPORTING.—The Secretary shall implement procedures, consistent with generally accepted standards, to enable the Department of Health and Human Services to accept the electronic submission of data for purposes of—

“(A) effectiveness measurement using the health care measures developed pursuant to this section; and

“(B) reporting to the Secretary measures used to make value-based payments under this title.

“(f) CONTRACTS.—The Secretary, acting through the Agency for Healthcare Research and Quality, may contract with organizations to support the development and testing of health care measures meeting the standards established by the designated organization.

“(g) DISSEMINATION OF INFORMATION.—In order to make information on health care measures available to health care consumers, health professionals, public health officials, oversight organizations, researchers, and other appropriate individuals and entities, the Secretary shall work with multi-stakeholder groups to provide for the dissemination of information developed pursuant to this title.

“(h) FUNDING.—For purposes of carrying out subsections (a), (b), (c), and (d), including for expenses incurred for the arrangement under subsection (a) with the designated organization, there is payable from the Federal Hospital Insurance Trust Fund (established under section 1817) and the Federal Supplementary Medical Insurance Trust Fund (established under section 1841)—

“(1) for fiscal year 2008, \$15,000,000, multiplied by the ratio of the total number of months in the year to the number of months (and portions of months) of such year during which the arrangement under subsection (a) is effective; and

“(2) for each of the fiscal years, 2009 through 2012, \$15,000,000.”

**SEC. 907. IMPROVEMENTS TO THE MEDIGAP PROGRAM.**

(a) IMPLEMENTATION OF NAIC RECOMMENDATIONS.—The Secretary of Health and Human Services shall provide, under subsections (p)(1)(E) of section 1882 of the Social Security Act (42 U.S.C. 1395s), for implementation of the changes in the NAIC model law and regulations recommended by the National Association of Insurance Commissioners in its Model #651 (“Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act”) on March 11, 2007, as modified to reflect the changes made under this

Act. In carrying out the previous sentence, the benefit packages classified as “K” and “L” shall be eliminated and such NAIC recommendations shall be treated as having been adopted by such Association as of January 1, 2008.

(b) REQUIRED OFFERING OF A RANGE OF POLICIES.—

(1) IN GENERAL.—Subsection (o) of such section is amended by adding at the end the following new paragraph:

“(4) In addition to the requirement of paragraph (2), the issuer of the policy must make available to the individual at least medicare supplemental policies with benefit packages classified as ‘C’ or ‘F.’.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to medicare supplemental policies issued on or after January 1, 2008.

(c) REMOVAL OF NEW BENEFIT PACKAGES.—Such section is further amended—

(1) in subsection (o)(1), by striking “(p), (v), and (w)” and inserting “(p) and (v)”;

(2) in subsection (v)(3)(A)(i), by striking “or a benefit package described in subparagraph (A) or (B) of subsection (w)(2)”;

(3) in subsection (w)—

(A) by striking “POLICIES” and all that follows through “The Secretary” and inserting “POLICIES.—The Secretary”;

(B) by striking the second sentence; and

(C) by striking paragraph (2).

**SEC. 908. IMPLEMENTATION FUNDING.**

For purposes of implementing the provisions of this Act (other than title X), the Secretary of Health and Human Services shall provide for the transfer, from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t), of \$40,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2008.

**SEC. 909. ACCESS TO DATA ON PRESCRIPTION DRUG PLANS AND MEDICARE ADVANTAGE PLANS.**

(a) IN GENERAL.—Section 1875 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in the heading, by inserting “TO CONGRESS; PROVIDING INFORMATION TO CONGRESSIONAL SUPPORT AGENCIES” after “AND RECOMMENDATIONS”; and

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

“(c) PROVIDING INFORMATION TO CONGRESSIONAL SUPPORT AGENCIES.—

“(1) IN GENERAL.—Notwithstanding any provision under part D that limits the use of prescription drug data collected under such part, upon the request of a Congressional support agency, the Secretary shall provide such agency with information submitted to, or compiled by, the Secretary under part D (subject to the restriction on disclosure under paragraph (2)), including—

“(A) only with respect to Congressional support agencies that make official baseline spending projections, conduct oversight studies mandated by Congress, or make official recommendations on the program under this title to Congress—

“(i) aggregate negotiated prices for drugs covered under prescription drug plans and MA-PD plans;

“(ii) negotiated rebates, discounts, and other price concessions by drug and by contract or plan (as reported under section 1860D–2(d)(2));

“(iii) bid information (described in section 1860D–11(b)(2)(C)) submitted by such plans;

“(iv) data or a representative sample of data regarding drug claims and other data submitted under section 1860D–15(c)(1)(C) (as determined necessary and appropriate by the Congressional support agency to carry out the legislatively mandated duties of the agency);

“(v) the amount of reinsurance payments paid under section 1860D–15(a)(2), provided at the plan level; and

“(vi) the amount of any adjustments of payments made under subparagraph (B) or (C) of section 1860D-15(e)(2), provided at the plan level aggregate negotiated prices for drugs covered under prescription drug plans and MA-PD plans; and

“(B) access to drug event data submitted by such plans under section 1860D-15(d)(2)(A), except, with respect to data that reveals prices negotiated with drug manufacturers, such data shall only be available to Congressional support agencies that make official baseline spending projections, conduct oversight studies mandated by Congress, or make official recommendations on the program under this title to Congress.

“(2) RESTRICTION ON DATA DISCLOSURE.—

“(A) IN GENERAL.—Data provided to a Congressional support agency under this subsection shall not be disclosed, reported, or released in identifiable form.

“(B) IDENTIFIABLE FORM.—For purposes of subparagraph (A), the term ‘identifiable form’ means any representation of information that permits identification of a specific prescription drug plan, MA-PD plan, pharmacy benefit manager, drug manufacturer, drug wholesaler, or individual enrolled in a prescription drug plan or an MA-PD plan under part D.

“(3) TIMING.—The Secretary shall release data under this subsection in a timeframe that enables Congressional support agencies to complete congressional requests.

“(4) USE OF THE DATA PROVIDED.—Data provided to a Congressional support agency under this subsection shall only be used by such agency for carrying out the functions and activities of the agency mandated by Congress.

“(5) CONFIDENTIALITY.—The Secretary shall establish safeguards to protect the confidentiality of data released under this subsection. Such safeguards shall not provide for greater disclosure than is permitted under any of the following:

“(A) The Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

“(B) Sections 552 or 552a of title 5, United States Code, with regard to the privacy of individually identifiable beneficiary health information.

“(6) DEFINITIONS.—In this subsection:

“(A) CONGRESSIONAL SUPPORT AGENCY.—The term ‘Congressional support agency’ means—

“(i) the Medicare Payment Advisory Commission;

“(ii) the Government Accountability Office; and

“(iii) the Congressional Budget Office.

“(B) MA-PD PLAN.—The term ‘MA-PD plan’ has the meaning given such term in section 1860D-1(a)(3)(C).

“(C) PRESCRIPTION DRUG PLAN.—The term ‘prescription drug plan’ has the meaning given such term in section 1860D-41(a)(14).”

(b) CONFORMING AMENDMENT.—Section 1805(b)(2) of the Social Security Act (42 U.S.C. 1395b-6(b)(2)) is amended by adding at the end the following new subparagraph:

“(D) PART D.—Specifically, the Commission shall review payment policies with respect to the Voluntary Prescription Drug Benefit Program under part D, including—

“(i) the factors affecting expenditures;

“(ii) payment methodologies; and

“(iii) their relationship to access and quality of care for Medicare beneficiaries.”

#### SEC. 910. ABSTINENCE EDUCATION.

Section 510 of the Social Security Act (42 U.S.C. 710) is amended to read as follows:

#### “SEC. 510. SEPARATE PROGRAM FOR ABSTINENCE EDUCATION.

“(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary shall, for fiscal year 2008 and fiscal year 2009, allot to each State which has transmitted an application for

the fiscal year under section 505(a) an amount equal to the product of—

“(1) the amount appropriated in subsection (d) for the fiscal year; and

“(2) the percentage determined for the State under section 502(c)(1)(B)(ii).

“(b) PURPOSE OF ALLOTMENT.—

“(1) PURPOSE.—The purpose of an allotment under subsection (a) to a State is to enable the State to provide abstinence education, and where appropriate, mentoring, counseling, and adult supervision to promote abstinence from sexual activity, with a focus on those groups which are most likely to bear children out-of-wedlock.

“(2) DEFINITION; STATE OPTION.—For purposes of this section, the term ‘abstinence education’ has, at the option of each State receiving an allotment under subsection (a), the meaning given such term in subparagraph (A), or the meaning given such term in subparagraph (B), as follows:

“(A) Such term means a medically and scientifically accurate educational or motivational program which—

“(i) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

“(ii) teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;

“(iii) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

“(iv) teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;

“(v) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

“(vi) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child’s parents, and society;

“(vii) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and

“(viii) teaches the importance of attaining self-sufficiency before engaging in sexual activity.

“(B) Such term means a medically and scientifically accurate educational or motivational program which promotes abstinence and educates those who are currently sexually active or at risk of sexual activity about additional methods to prevent unintended pregnancy or reduce other health risks.

“(3) CERTAIN REQUIREMENTS.—

“(A) LIMITATION REGARDING INACCURATE INFORMATION.—None of the funds made available under this section may be used to provide abstinence education that includes information that is medically and scientifically inaccurate. For purposes of this section, the term ‘medically and scientifically inaccurate’ means information that is unsupported or contradicted by a preponderance of peer-reviewed research by leading medical, psychological, psychiatric, and public health publications, organizations and agencies.

“(B) EFFECTIVENESS REGARDING CERTAIN MATTERS.—None of the funds made available under this section may be used for a program unless the program is based on a model that has been demonstrated to be effective in preventing unintended pregnancy, or in reducing the transmission of a sexually transmitted disease, including the human immunodeficiency virus. The preceding sentence does not apply to any program that was approved and funded under this section on or before September 30, 2007.

“(c) APPLICABILITY OF CERTAIN SECTIONS.—

“(1) REQUIREMENTS.—Sections 503, 507, and 508 apply to allotments under subsection (a) to the same extent and in the same manner as such sections apply to allotments under section 502(c).

“(2) DISCRETION OF SECRETARY.—Sections 505 and 506 apply to allotments under subsection (a)

to the extent determined by the Secretary to be appropriate.

“(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of allotments under subsection (a), there is authorized to be appropriated \$50,000,000 for each of fiscal years 2008 and 2009.”

### TITLE X—REVENUES

#### SEC. 1001. INCREASE IN RATE OF EXCISE TAXES ON TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES.

(a) SMALL CIGARETTES.—Paragraph (1) of section 5701(b) of the Internal Revenue Code of 1986 is amended by striking “\$19.50 per thousand (\$17 per thousand on cigarettes removed during 2000 or 2001)” and inserting “\$42 per thousand”.

(b) LARGE CIGARETTES.—Paragraph (2) of section 5701(b) of such Code is amended by striking “\$40.95 per thousand (\$35.70 per thousand on cigarettes removed during 2000 or 2001)” and inserting “\$88.20 per thousand”.

(c) SMALL CIGARS.—Paragraph (1) of section 5701(a) of such Code is amended by striking “\$1.828 cents per thousand (\$1.594 cents per thousand on cigars removed during 2000 or 2001)” and inserting “\$42 per thousand”.

(d) LARGE CIGARS.—Paragraph (2) of section 5701(a) of such Code is amended—

(1) by striking “20.719 percent (18.063 percent on cigars removed during 2000 or 2001)” and inserting 40 percent (33 percent on cigars removed after December 31, 2007, and before October 1, 2013).

(2) by striking “\$48.75 per thousand (\$42.50 per thousand on cigars removed during 2000 or 2001)” and inserting “\$1 per cigar”.

(e) CIGARETTE PAPERS.—Subsection (c) of section 5701 of such Code is amended by striking “1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)” and inserting “2.63 cents”.

(f) CIGARETTE TUBES.—Subsection (d) of section 5701 of such Code is amended by striking “2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)” and inserting “5.26 cents”.

(g) SNUFF.—Paragraph (1) of section 5701(e) of such Code is amended by striking “58.5 cents (51 cents on snuff removed during 2000 or 2001)” and inserting “\$1.26”.

(h) CHEWING TOBACCO.—Paragraph (2) of section 5701(e) of such Code is amended by striking “19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)” and inserting “42 cents”.

(i) PIPE TOBACCO.—Subsection (f) of section 5701 of such Code is amended by striking “\$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)” and inserting “\$2.36”.

(j) ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Subsection (g) of section 5701 of such Code is amended by striking “\$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001)” and inserting “\$7.4667”.

(2) INCLUSION OF CIGAR TOBACCO.—Subsection (o) of section 5702 of such Code is amended by inserting “or cigars, or for use as wrappers for making cigars” before the period at the end.

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed after December 31, 2007.

(l) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before January 1, 2008, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) **AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.**—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on January 1, 2008, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the \$500 amount in paragraph (3) with respect to such person.

(3) **CREDIT AGAINST TAX.**—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to \$500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) **LIABILITY FOR TAX AND METHOD OF PAYMENT.**—

(A) **LIABILITY FOR TAX.**—A person holding cigarettes on January 1, 2008, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) **METHOD OF PAYMENT.**—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) **TIME FOR PAYMENT.**—The tax imposed by paragraph (1) shall be paid on or before April 14, 2008.

(5) **ARTICLES IN FOREIGN TRADE ZONES.**—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on January 1, 2008, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) **DEFINITIONS.**—For purposes of this subsection—

(A) **IN GENERAL.**—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(B) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

(7) **CONTROLLED GROUPS.**—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) **OTHER LAWS APPLICABLE.**—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

**SEC. 1002. EXEMPTION FOR EMERGENCY MEDICAL SERVICES TRANSPORTATION.**

(a) **IN GENERAL.**—Subsection (l) of section 4041 of the Internal Revenue Code of 1986 is amended to read as follows:

“(l) **EXEMPTION FOR CERTAIN USES.**—

“(1) **CERTAIN AIRCRAFT.**—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter or a fixed-wing aircraft for purposes of providing transportation with respect to which the requirements of subsection (f) or (g) of section 4261 are met.

“(2) **EMERGENCY MEDICAL SERVICES.**—No tax shall be imposed under this section on any liquid sold for use in, or used in, any ambulance for purposes of providing transportation for emergency medical services. The preceding sentence shall not apply to any liquid used after December 31, 2012.”

(b) **FUELS NOT USED FOR TAXABLE PURPOSES.**—Section 6427 of such Code is amended by inserting after subsection (e) the following new subsection:

“(f) **USE TO PROVIDE EMERGENCY MEDICAL SERVICES.**—Except as provided in subsection (k), if any fuel on which tax was imposed by section 4081 or 4041 is used in an ambulance for a purpose described in section 4041(l)(2), the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of the tax imposed on such fuel. The preceding sentence shall not apply to any liquid used after December 31, 2012.”

(c) **TIME FOR FILING CLAIMS; PERIOD COVERED.**—Paragraphs (1) and (2)(A) of section 6427(i) of such Code are each amended by inserting “(f),” after “(d),”.

(d) **CONFORMING AMENDMENT.**—Section 6427(d) of such Code is amended by striking “4041(l)” and inserting “4041(l)(1)”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fuel used in transportation provided in quarters beginning after the date of the enactment of this Act.

The SPEAKER pro tempore. Debate shall not exceed 2 hours, with 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

The gentleman from New York (Mr. RANGEL), the gentleman from Louisiana (Mr. MCCRERY), the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. BARTON) each will control 30 minutes.

The Chair recognizes the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I rise in support of this great piece of legislation that this august body has the privilege of supporting.

There may be some concerns in the House, some with merit, about procedure, but we on the Ways and Means Committee are so proud of the work that has been done by the subcommittee, led by Mr. STARK, working with Mr. CAMP, that we had 15 hearings on what was involved in this bill and a half a dozen sessions where we just talked with the professionals to make certain that not only did we support the great work that had been done by the Dean of our House in terms of education, in terms of Energy and Commerce and the SCHIP bill, but so at the same time we could preserve the benefits that are provided to our senior citizens through medical programs.

Mr. STARK did one great job at making certain that we worked with the administration, tried to find out where the abuses were and, where we could, we were able to raise \$15 billion so that the poorest of our seniors would have the ability to receive health care enhanced.

□ 1415

Of course, those who live in rural areas and who for years have not been able to receive the type of access to health care, we found \$5 billion to do it.

I am not thoroughly convinced as to what PAYGO is going to mean in the future, but it is the rules of our party. It seems now that it makes some sense. But when you say that you have to en-

large this program so that an additional 6 million people, kids, that are already on the program, adding 5 million people to it, nobody, Republican or Democrat, liberal or conservative, does not believe that these children should be entitled to health care.

It is not just the right and moral thing to do. But in terms of being fiscally responsible, everyone would tell you that having a kid in the family exposed to preventive care actually costs less money than just ignoring the care of our children. I could go even further in saying that, even kids that go to school, if they are not well, they can't learn. And God knows we have millions of people in the street that had health impediments, that they thought they were educational impediments, and they are out there. I personally believe that a stronger country is a healthier country and a well-educated country.

Now, it is true when you have these PAYGO rules and you don't want to raise taxes that you have to find the money. And so it is a great deal of empathy that I have for our poor cigarette smokers, because I used to be one; and, two, I just don't like the idea of regressive taxes where the poor are penalized. But I am learning to live with it in such a sense that these cigarette smokers, these addicts, they hate themselves for smoking. And I have stretched it to the point that when I talk with them and tell them what we are about to do, after they finish coughing and spitting, they said, “I have got to stop this smoking.” Then, when you look at the little kids, this is the one thing that an increase in prices sharply reduces, it is kids going to smoke.

So, I am trying to get myself to think that maybe I am doing it for the tobacco companies, because they advertise they don't want kids to smoke, and we are going to help them by increasing the price of cigarettes, which one thing is abundantly clear, it will stop a lot of children from smoking.

Mr. Speaker, I am going to yield the rest of my time to the gentleman from California, PETE STARK, who has done such a fantastic job in finding out where the problems were and bringing to this floor not only a great child insurance bill, but also improving Medicare, increasing the benefits of our seniors who are poor and help into rural areas.

While we may have a lot of procedural differences, and I understand that, I just hope that whether you are Republican or Democrat that you feel comfortable being able to say that there may be some pain for cigarette smokers who really are costing us a lot of money with these lung transplants and whatnot. But that is painful enough.

So you may have some problem with your smokers. But just think about 11 million children and their families that love them so much and a country that wants them healthy, and I am certain that at the end of the day that the kids

are going to win, we will have a better health care delivery system, and you will feel very, very comfortable in talking about the procedural differences that you differed with. But, in your heart, you would know that every major advocate for children and health and hospitals and doctors have signed up saying, "do the right thing." I personally believe that that is what you are going to do today.

Mr. Speaker, I yield the balance of my time to the gentleman from California, PETE STARK, the chairman of the Subcommittee on Health, and I thank him publicly, and the staff, for the fantastic job that they have done in having hearings and letting all Members have a better understanding of the problem, but, better than that, in being able to bring a solution to this floor today.

The SPEAKER pro tempore. Without objection, the gentleman from California will manage the remainder of the time for the Ways and Means Committee majority.

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that there be one hour of additional debate, equally divided between the majority and the minority, and within each of those subsegments, equally divided between the Ways and Means Committee and the Energy and Commerce Committee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. STARK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The time will remain the same.

Mr. DINGELL. Mr. Speaker, I hope that my good friend from California will not object.

Mr. BARTON of Texas. Mr. Speaker, I would repeat that unanimous consent request.

Mr. DINGELL. Mr. Speaker, I would hope my good friend would not object.

Mr. STARK. Mr. Speaker, I reserve the right to object. I may discuss it at a later point, but at this time, I must object.

The SPEAKER pro tempore. The gentleman from California reserves the right to object.

Mr. BARTON of Texas. Mr. Speaker, does that mean we discuss the reservation now?

Mr. DINGELL. Mr. Speaker, reserve the right to object.

Mr. STARK. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from California has reserved the right to object.

Mr. STARK. Mr. Speaker, I object.

The SPEAKER pro tempore. Now he objects. The gentleman from California objects.

Does the gentleman from California rise to object?

Mr. STARK. Yes, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. RANGEL. Mr. Speaker, may I be recognized to respond?

The SPEAKER pro tempore. For what purpose does the gentleman from New York rise?

Mr. RANGEL. Mr. Speaker, it appears as though the decision for extra time should be one that our leadership should have decided on. It just seems to me that since our leader has not been conferred with, that if you just reserve the opportunity, that in a very short while we will be able to discuss this.

Mr. BARTON of Texas. Mr. Speaker, if the gentleman will yield, we have, just from the Energy and Commerce Committee on the minority side, a request for 25 speakers, plus several of our leadership. So if this unanimous consent request were to be agreed to, it would give each committee on both sides of the aisle an additional 15 minutes. I am sure there are many Members on the majority side, as on the minority, that wish to speak. I will offer it later on if you want to check on it.

Mr. RANGEL. Well, Mr. Speaker, the minority somehow manages to find time to speak on this and many other subjects. But I am saying that under normal conditions, you would think that your leadership would have discussed this issue with ours so that at some times the Members would know exactly what to expect.

Now, I don't see any reason why this should not be agreed upon, but I just don't think Members can come to the floor by unanimous consent and ask for an hour or 2 hours or 3 hours. We don't even know whether or not the minority intends to follow any other procedures that could kind of take away floor time in terms of debates and exchanges. Just based on some of the things that I've seen from your committee, it appears to me that we have to find out what you want to do with that hour.

Mr. BARTON of Texas. Mr. Speaker, if the gentleman will yield, the gentleman has every right to be suspicious of the ranking member of the Energy and Commerce Committee. I am a devilish fellow and I reserve all my options. But on this one, we were shooting straight and dealing off the top of the deck.

The SPEAKER pro tempore. The gentleman from California has objected. Does the gentleman stand to object, or does he withdraw his objection?

Mr. STARK. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. DINGELL. Mr. Speaker, I am going to make the same unanimous consent request, and then I will withdraw it. But first I want to make an observation here for the benefit of all of my colleagues and friends.

This is a very important piece of legislation. I am not going to defend the behavior of any Member here, and I am not going to criticize the behavior of any Member, but I am going to make an observation that I think is important.

This is a very important piece of legislation. Twelve million of our kids are

going to have their health insurance increased or not depending on how we conduct ourselves today. I want to have a broad exposition. If you look at the time that we have to give to Members who wish to be heard on this, we are talking about a minute or 30 seconds, hardly enough time for any Member to adequately make a position on something which is important to him and to the kids.

I think that we have a chance to do a great deal of good for our young people. I don't think that it is excessive to say we are going to give enough time so that this matter can be properly discussed, nor do I think there is any benefit in denying our Members the time to do this and denying the Members a chance to be heard.

Now, I am going to withdraw this.

The SPEAKER pro tempore. The gentleman withdraws his request. Members may engage in debate by using their time.

Mr. DINGELL. Mr. Speaker, I have asked unanimous consent and I reserved the right to object.

The SPEAKER pro tempore. The gentleman cannot reserve the right to object on his own request. The gentleman reiterates a unanimous consent request.

Is there objection?

Mr. WAXMAN. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from California.

Mr. WAXMAN. Mr. Speaker and my colleagues, for goodwill, I would see it a wise course of action to give additional time, since the minority requests it, but I wouldn't be prepared to give them that time now.

The reason we are starting so late today on this bill is because we have been interrupted with procedural votes to delay us from debating this issue. In our own committee, the Energy and Commerce Committee, the gentleman from Texas said he had a lot of people from our committee who wanted to speak on the issue. They wouldn't let us debate any single issue of merit. They made us read the bill, to frustrate the committee from meeting at all.

Let's renew this request for additional time later as a reward for good behavior, if we can see some good behavior. But right now, to this point, I haven't seen a lot of good behavior from the other side.

The SPEAKER pro tempore. Does the gentleman object or does he withdraw his reservation of the right to object?

Mr. WAXMAN. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. BARTON of Texas. Mr. Speaker, I proudly stand for the First Amendment rights of even the Members of the minority, and I also stand for honoring the rules and the procedures developed over 200 years in the most Democratic body the free world has ever known, the House of Representatives.

With that, I yield 1 minute to the distinguished minority leader from the great State of Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, let me thank my colleague for yielding.

Mr. Speaker and my colleagues, the State Children's Health Insurance Program was created 10 years ago by a Republican Congress, along with our Democrat colleagues and a Democrat President. It clearly was a very bipartisan process from the beginning, and as we reauthorize this important program that Republicans, Democrats, the White House, everyone supports, I am saddened that we are here today with a very partisan bill done in a very partisan way.

I thought in this reauthorization process, I know on our side, Mr. BARTON, Mr. MCCRERY, their respective committees, wanted to work with our Democrat colleagues to develop a bill that we could all vote for. But that process never even got started. While there may have been some hearings in the Ways and Means Committee on this bill, there were no hearings in the Energy and Commerce Committee. We were presented with a 488-page bill the night before the markup. Now we have brought this to the floor without a markup in committee, no amendments allowed to be offered by the minority and a limited time for debate. This saddens me and disappoints me. It did not have to be this way.

The result of this flawed process is a bill that expands government-run health care beyond anything that any one of us could have imagined over the last 10 years. I really do believe that Republicans and Democrats can work together to reauthorize this program in a way that will receive bipartisan support.

Last November, the American people sent us a message here in Congress, but I don't think that message was, "I want you to cut my Medicare and I want you to raise taxes. I did not want you to raise my taxes."

When you look at the bill that we have before us, we have \$193 billion worth of cuts to Medicare, a program to provide health insurance for our seniors. We are going to cut this \$193 billion over 10 years, and we are going to raise tobacco taxes, which affects the poorest of America's citizens, and lay more of this tax burden on their backs.

□ 1430

In my district alone, some 14,267 seniors are going to have their Medicare costs increased, and about 73 percent of that number are likely to lose their Medicare Advantage Program altogether.

That is not what the voters sent us here to do; and, believe me, the seniors in my district who take advantage of this very valuable program don't want to lose their benefits which will result from the passage of this bill.

And so I say to my colleagues, we have a flawed bill on the floor today; and the flawed bill is the result of a flawed process. As I said last night to all of my colleagues, we represent nearly half of the American people. We

have a right to be heard. We have a right to participate. And through the process over the last couple of weeks we have been denied the right to be involved in the process, denied the right today to be involved in trying to amend the bill to a point where we can have a bipartisan product to send to the other body. I am disappointed by that.

Later today, Republicans will offer a motion to recommit this bill, the only option that we have. And that motion to recommit will do this: It will reauthorize the SCHIP program for 1 year. There will be no Medicare cuts involved in this program, no benefits will go to illegal immigrants, and we will see to that in the motion to recommit.

Fourthly, it will have a sense of the Congress that this bill should go back to the committee and, over the course of the next year, have the Republicans and Democrats on the respective committees work together to produce a bipartisan product that the President can sign into law. I think that is a responsible course of action, given what we have dealt with here over the last couple of weeks.

I would ask my colleagues to reject the underlying bill and vote for the motion to recommit.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, the Children's Health and Medicare Protection Act, the CHAMP Act, is a good piece of legislation. It expands and improves a most successful program, bipartisan in character, created in 1997. That program has cut the rate of uninsured children by a full third. Some States have been able to ensure as many as 60 percent of the children who previously had no health insurance.

This bill is about taking care of our kids. It is about taking care of the future of the country. Today, 6 million of our youngsters get their health care through the program. With this legislation, an additional 5 million previously uninsured children will be able to see doctors, receive immunizations, and get dental and mental health coverage.

The bill requires that children receive priority in coverage. It allows States to cover pregnant women, recognizing that healthy moms make for healthy babies. I am certain my Republican colleagues on Energy and Commerce understood this point, because our clerk read this bill to them. As I am sure all of us there will recall, all some 486 pages were to be read.

The CHAMP Act does not allow one thin dime to be spent on illegal aliens. You will find this prohibition in section 135 of the bill. Nor does it create a government-run health insurance system. Coverage under CHIP and Medicaid are provided primarily through private health insurance. All but two States use some form of managed care for their programs. Nothing here will

change that, and the newly covered children will be exactly the same kind of child in the same situation that every one of the children now covered happens to be.

The CHAMP Act also covers and secures Medicare for the future. This past Monday marked the 42nd anniversary of President Johnson signing that wonderful piece of legislation into law. I was there.

The CHAMP Act shores up the Medicare trust fund, improves benefits for seniors, protects their ability to choose their own doctors, and these reforms effectively provide low-income seniors on Medicare with an additional \$1,200 in benefits.

The CHAMP Act is an act of fiscal responsibility. Seniors in traditional Medicare will pay approximately three-quarters of a billion dollars in excess premiums to cover the overpayments now being made to HMOs, a great injustice. The things that my Republican colleagues are complaining about are that we stop that evil practice. The CHAMP Act also adds 3 years to the life of the trust fund by stopping these overpayments which are accelerating the insolvency of the Medicare trust fund.

I know that President Bush has pledged to veto counterpart legislation in the Senate that is much more modest in its ambitions.

I include the rest of my speech for the RECORD and urge my Republican colleagues to read it. It is an excellent speech.

The legislation before us accomplishes two critical goals. It will provide health care to as many as 12 million children. And it will allow our elderly to continue seeing their own doctors.

The CHAMP Act—the Children's Health and Medicare Protection Act—improves a most successful program created with bipartisan support in 1997. That program has cut the rate of low-income uninsured children by one-third. Some States have been able to insure as many as 60 percent of their children who previously had no health insurance.

Today, six million children get their health care through this program. With this legislation, five million previously uninsured children will be able to see doctors, receive immunizations, get dental care, and other coverage.

This legislation requires that children receive priority in coverage. It allows States to cover pregnant women, recognizing that healthy moms make for healthy babies.

While I am certain that my Republican colleagues on the Committee on Energy and Commerce understand this point—because our wonderful clerk read the bill to them—I will restate it for others listening:

The CHAMP Act does not allow one Federal dime to be spent on illegal aliens. You will find this prohibition in section 135 of the bill.

Nor does the bill create a "government run" health care system. Coverage under CHIP and Medicaid are provided primarily through private insurance—all but two States use some form of managed care for their programs. Nothing here would change that. And the newly covered children are exactly the same as those now covered.

The CHAMP Act also secures Medicare for the future. This past Monday marked the 42nd anniversary of President Johnson signing Medicare into law. The CHAMP Act shores up the Medicare trust fund, improves benefits for seniors, and protects their ability to choose their own doctors. These reforms will effectively provide low-income seniors on Medicare with an additional \$1,200 in their pockets.

The CHAMP Act is an act of fiscal responsibility. This year, seniors in traditional Medicare will pay nearly three-quarters of a billion dollars in excess premiums to finance overpayments to HMOs. Those overpayments will accelerate the insolvency of the Medicare trust fund. The CHAMP Act adds three years to the life of the Trust Fund.

I am well aware that President Bush has pledged to veto counterpart legislation in the Senate that is much more modest in its ambitions, and I have received my own veto letter from the Secretary of the Department of Health and Human Services. They stand on one side of the debate.

Let's look at who stands on the other side: 12 million children. The American Medical Association. The American Academy of Pediatrics. The National Rural Health Association. The National Council on Aging. The AARP. The Federation of American Hospitals. The March of Dimes. The Children's Defense Fund. The NAACP. The National Governors Association, including the Governors of New York, Michigan, California, Illinois, and Maryland, and the Catholic Health Association—which notes that "the most important pro-life thing the Congress can do right now is ensure that the State Children's Health Insurance Program is reauthorized."

A vote against this bill is a vote to deprive six million children of healthcare. A vote against this bill is a vote to continue the plunder of the Medicare Trust Fund by bloated private interests. A vote against this bill is a vote to deny seniors in Medicare additional benefits.

I urge all of my colleagues to stand up for what's right for children, seniors, people with disabilities, and taxpayers: support the speedy passage of the CHAMP Act.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 2 minutes.

To follow up on our distinguished minority leader, I want to say what the Republicans are for in this debate before we talk about some of the flaws in the pending bill.

We are for authorization of the SCHIP legislation. We are for covering low-income and near-low-income children so they have health care benefits.

We are for making sure that the States that are out of funding receive additional funds beginning October, 2007.

So we want to reauthorize the SCHIP program. We do believe that it should be maintained as a block grant program and not become an entitlement program. We believe it should be reauthorized for a specific period of time, not become an open-ended entitlement.

We believe that SCHIP payments should be restricted to citizens of the United States and legal residents who have been here at least 5 years. We do not believe SCHIP payments should be allowed for illegal aliens who have

come into this country without the proper documentation. So we are for reauthorization of SCHIP. We are for covering our low-income and near-low-income children.

We disagree with our friends on the majority side on the number of individuals that we are talking about. We believe that children below 200 percent of poverty that do not have health insurance or health coverage today are in the neighborhood of 700,000, not 7 million.

But we do understand that if you raise the level to 400 percent, if you allow States to self-certify above that level so there really is no income test, we do understand if you do that, almost every child in America, 78 million children, could be eligible for some sort of SCHIP assistance under the majority Democratic plan. But if you restrict it to low-income and near-low-income children below 200 percent of poverty, we believe that the Republican substitute, which was not made in order by the Rules Committee at 2 a.m. this morning, solves that.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Much has been said by the distinguished chairman of the Energy and Commerce Committee, by the distinguished chairman of the Ways and Means Committee on how this bill helps Americans. Five million kids will receive medical coverage insurance that they don't now have. Seniors will receive preventative care with no co-payments. They will receive mental health care at parity. Rural benefits will be extended to the rural communities that need assistance for access to their population. Low-income seniors will receive assistance in paying for their co-pays and their premiums.

This bill is fully funded over 10 years, something my Republican colleagues never did in the past. I want to remind my colleagues that there are many myths being floated around here today. It is important to note that 83 of my Republican friends in 1997 voted for an identical bill. The bill that they voted on has the exact same income eligibility that was passed in 1997. The minority leader, the ranking member of the Ways and Means Committee, the ranking member of the Health Subcommittee on the Ways and Means Committee, all voted for this and included a cigarette tax to pay for it.

And I might added that the reductions that they put in their Medicare bill were five times greater than the adjustments we made in the bill today. It included an increase in the Federal tobacco tax.

Now I don't know what has changed. Maybe they have learned to hate children in the interim, but nothing has changed in the eligibility. It is the same bill. If it was good for you, then it is better now. And it does a fair thing.

The public is sick of radical ranting. They want health care for kids and seniors, and the way to get that is to support the bill before us today.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the ranking member of the Health Subcommittee on the Energy and Commerce Committee, the gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Mr. Speaker, this is a program that started 10 years ago with a \$40 billion Federal authorization of expenditures. The current bill before us would spend \$128.7 billion over the next 10 years. When added with the State money, that is over \$255 billion in taxpayer money over the next 10 years. That is over a quarter of a trillion dollars. And what do you get for it?

CBO says you will cover 600,000 more eligible children, 600,000 children. You would be better off to give each one of them \$80,000 in cash, and they would probably get better results.

In 1996, we had an immigration bill that provided that if you wanted to bring somebody and sponsor somebody to come into this country legally, you would have to say they would not go on the public rolls of Medicaid and other programs for 5 years. This bill removes that. CBO says that alone will cost \$2.2 billion, and we let sponsors off the hook and we put them on the public payroll.

If we have a bill like the Senate was considering that would make 20 million illegals legal, that cost alone would be \$140 billion a year. What it does, too, is it says, in the area of immigration, we are going to spend \$400 billion paying for translators, not just to serve people but to enroll them in the program. That is \$400 million.

Now they can say this does not open it up to illegal immigrants just by saying that. CBO says it will cost \$2 billion because they think that is the cost that it is. What they are saying is just sign an affidavit that says you are legally in this country. I have speeders who would just like to sign an affidavit saying they have a driver's license. I have taxpayers who would like on April 15 to sign an affidavit saying they didn't have any taxable income; just take my word for it. And if you believe just signing an affidavit is a deterrent to people illegally in the country, then you also believe we can just put a sign at the Mexican border saying, if you don't have permission, just don't come in.

This is a ridiculous piece of legislation. It will undermine the purposes of the original bill.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I want to congratulate Mr. DINGELL and Mr. PALLONE on crafting a well-balanced bill and for all of the hard work you and your staff have spent on the CHAMP Act.

The State Children's Health Initiative Program was enacted with bipartisan support a decade ago to reduce the number of low-income, uninsured

children by expanding eligibility levels and simplifying application procedures.

In 2006, SCHIP provided insurance to 6.7 million children. In Michigan, roughly 118,000 children are enrolled in SCHIP. Eighty-six percent of these SCHIP children are of working parents who are unable to afford private health insurance for their children.

SCHIP is vitally important to children living in our country's rural areas. Of the 50 counties with the highest rates of uninsured children, 44 are rural counties.

This legislation commits \$50 billion to reauthorize and improve the SCHIP program to protect and continue coverage for 6 million children. In addition, this legislation ensures coverage for an additional 5 million children that are eligible but currently uninsured.

I am also very pleased to see the rural investments in the CHAMP Act which maintains Congress's commitment to rural America by extending a number of provisions that, if left to expire, would negatively affect rural beneficiaries' access to Medicare health services.

The CHAMP Act provides health care for children, expands preventive Medicare medicine for our seniors and helps make health care more affordable, available and accessible in rural America.

Mr. Speaker, I urge my colleagues to vote in favor of this legislation.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished former Speaker of the House and currently the ranking member of the Energy and Air Quality Subcommittee of the Energy and Commerce Committee, the gentleman from the great State of Illinois (Mr. HASTERT).

Mr. HASTERT. Mr. Speaker, I stand somewhat chagrined that we bring this bill to the floor of this great House, the floor that deliberates on the issues that take care of the needs of people, but this bill comes under a charade, a charade that we are going to help the poorest and most disadvantaged children.

□ 1445

The SCHIP program that we put in place 10 years ago started to do that, and we can't expand that, but this bill covers people up to four times of poverty. That is a family of four earning \$82,000 a year.

What it does is say if you go out into the private sector and you continue to buy health care for you and your family, you're going to pay a tax, and that tax will fund other people, not just children, but expand the amount of adults covered by SCHIP, which is supposed to be for children.

In the State of Illinois, my State, 60 percent of the people on SCHIP are adults, not children; 40 percent are covered by children. If we want to cover children, let's change it so we cover children. This bill doesn't do that. This bill expands what we do for adults,

adults that should be able to be paying their own way in American society.

What this bill does is open the doors for all other types of people to be able to be involved in government-paid health care, and that's the bottom line. It's government-paid health care. It's Hillary care all over again.

And what we do is take, at the cost of seniors who get Medicare Advantage, who get choices of their own health care plans, we take it away. We wipe it out, and we give it to people who are illegal aliens and aliens. And don't kid yourself, it's going to happen.

So, if we want to take health care on the backs and take it away from seniors and give it to people who haven't made their way in this country, who haven't got their citizenship, then this bill does it. It's a bad bill for a bad time, and it's coming under the false pretences of trying to do something for children.

Vote "no."

Mr. Speaker, it's unfortunate that today we are considering legislation which was rushed through the House without proper consideration in the Energy and Commerce Committee. There were no legislative hearings held by the Subcommittee or full committee on a bill that could cost taxpayers over \$300 billion. That is simply unacceptable and the American people have the right to know what this bill is really about.

This Congress has the opportunity to correct flaws in SCHIP and bring spending in the program under control. Rather than return the focus back to our most vulnerable children, the CHAMP Act would greatly expand coverage.

First, it changes law to now define a child as someone as old as 21. It also expands coverage to more adults, and families with incomes upwards of 400 percent of the poverty line. This equates to an annual salary of over \$82,000.

We are sending the message to families across the country—drop your children from your private insurance—the American taxpayer will foot the bill.

Furthermore, at a time when Americans look to Congress to secure our borders and enforce our existing immigration laws, the Democrat leadership, through the CHAMP Act, is taking leaps in the opposite direction by opening the door to free health insurance for illegal aliens.

It does so by removing language from the Deficit Reduction Act requiring proof of citizenship to receive SCHIP and Medicaid. This will make it nearly impossible for the Federal Government to prevent illegal immigrants from accessing these programs.

The American people are getting a clear message today from the new majority. They want your tax dollars to provide incentives to those who choose to break our laws and enter this country illegally.

And our Democrat colleagues would pay for this reckless expansion of SCHIP by cutting Medicare Advantage plans and significantly raising premiums on seniors.

Millions of seniors depend on Medicare Advantage plans to provide the benefits they need and services they can't otherwise get with traditional Medicare. Especially our seniors in rural and underserved communities.

The CHAMP Act will immediately eliminate these enhanced benefits and choices so many have come to rely on.

Our Democrat friends are once again attempting to empower the Government to ration healthcare in this country. This will take choices out of every American's hands when it comes to their well-being and leaves the decisions to a government-run managed care system.

Instead, we should be encouraging the participation of private plans regardless if it is for children, families, or seniors. This creates competition in the marketplace, which we know lowers out-of-pocket costs while expanding benefits for the insured.

I believe, given the opportunity to properly debate and offer amendments, we could ensure coverage to our most vulnerable children in a fiscally responsible way without raising taxes and sacrificing Medicare services for our seniors. Unfortunately Republicans were denied that right today. I urge my colleagues to vote "no" on the CHAMP Act.

Mr. STARK. Mr. Speaker, I just remind the former Speaker that he voted for the same benefits in 1997, and nothing has changed since then.

I yield 1 minute to the gentleman from Michigan (Mr. LEVIN), who remembers what happened in 1997.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, some issues are complicated. This one is quite simple. It's kids and more benefits for seniors.

Five million more kids. I just wonder how many on the minority side are going to stand up and say no to 5 million kids, including kids where you live. Benefits for seniors are improved. And then we hear there will be benefits for illegal aliens, illegal immigrants? It's false. It's a lie.

This does not go to illegal immigrants. I did read the bill, and I also read the minds of the American people.

I also read the minds of the American people. They want the children of America covered by health insurance, and the Republicans have failed to do it in their years here.

We're going to do it today for the 5 million kids in the United States of America. That's what this is all about.

I rise in strong support of the Children's Health and Medicare Improvement Act of 2007. This legislation re-authorizes the State Children's Health Insurance Program and improves Medicare for all beneficiaries.

Some of the issues we debate in Congress are complicated. This issue is quite simple. It is about kids getting health care and seniors getting better Medicare benefits. The American people want the children of America covered by health insurance.

The current health insurance program covers 6 million children nationwide, including 55,000 kids in my home State of Michigan. But when two-thirds of the 9 million uninsured kids in America are eligible, but not participating, we need to extend the reach of the program. Extending this program means giving States the resources they need to reach out and cover these 6 million kids.

This important legislation not only allows more kids to have health insurance, but it also

makes long-needed improvements to the Medicare program. Improvements include ensuring physician access for Medicare beneficiaries, lowering the cost of mental health care for seniors, eliminating co-pays and deductibles for preventative services like mammograms and colonoscopy screenings, and expanding programs that help low-income seniors pay for their health care and prescriptions.

The Republicans reject this bill because it does not fit their rigid ideology. This bill is about a program that works and kids that need health care.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Nashville, Tennessee (Mrs. BLACKBURN), a member of the committee.

Mrs. BLACKBURN. Mr. Speaker, I support the original intent of SCHIP to cover our low-income children at 200 percent of the Federal poverty level; yet the bill before us really strays from that, and we all know it.

And we're debating this under a lockdown rule because the Rules Committee refused to allow Republican amendments to this bill, and I will tell you, I found that 1 a.m. meeting for the Rules Committee informative and entertaining in an unfortunate sense.

The debate on this, as my colleague said, is pretty simple: Who will manage and control the health care sector that comprises one-seventh of our Nation's economy. That's what this is about today. Are individual Americans going to have the freedom to make those choices or are those Americans going to be relegated to being a faceless file on a bureaucrat's desk with that bureaucrat making those life-and-death decisions? Our future health care system is going to be shaped by the way we answer those questions on this floor today.

Under this Democrat bill, there will be billions spent to enroll children into SCHIP.

I encourage my colleagues to oppose this bill.

Mr. DINGELL. Mr. Speaker, my good Republican friends will be discussing process, and we want to discuss kids and the future of the country.

For that purpose, I yield 2 minutes to the distinguished chairman of the subcommittee, my friend, Mr. PALLONE of New Jersey.

Mr. PALLONE. Mr. Speaker, there shouldn't be any doubt here today about what the Republicans are trying to do. They are trying to destroy the SCHIP program.

We spent 18 hours in our committee where they wouldn't let the bill come up. The substitute that they had in the committee would put so many barriers in the program that, in effect, the program would die.

Don't believe them. They don't want to provide the additional funds. They know that this expires on September 30, and it will if we don't do something today; that there will be a million kids that will automatically not have their health insurance.

We're not changing any of the eligibility today. It's they that want to change the eligibility.

The fact of the matter is CBO tells us, and I have it right here, that this bill would cover another 5 million children who are currently uninsured.

Now, my colleagues on the other side know that the States have run out of money. Georgia ran out of money in March. They came to us and begged us for more money. States ran out each month of money. We had to put money in the supplemental appropriations bill because the States ran out of money.

We need a lot more money to make sure that these 5 million kids are covered. They want to stop that. They're not proposing to cover any additional kids. They want to cut that.

There's no illegal aliens covered in this bill. There never were. There's no language in here that says that.

This is not an entitlement. It's a block grant set up by Newt Gingrich. Newt Gingrich was the guy who set it up as a block grant, giving the States flexibility. The States want flexibility. Some of them want to go a little higher. Well, it's George Bush, the President of the United States, that granted the waiver so they could have some adults or kids at higher incomes.

Who are you kidding? This is a Republican program, but you are now walking away from it. You don't want to fund it. You want to deny eligibility. You want to kill the program. That's what you're all about here today.

And don't let anybody kid you. Eighteen hours we had to listen while the bill was being read. Today, they want to delay. They're kidding no one saying that they want an SCHIP program. Don't believe what they say. It's simply not true.

You vote for this bill today to expand this program to provide more kids, not more eligibility. And if you don't, this will die and those kids are not going to have health insurance.

We have health insurance for our kids as Members of Congress. That's okay for our own kids but not for the rest of these poor kids.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. All Members are reminded to direct their comments to the Chair.

Mr. BARTON of Texas. Mr. Speaker, page 76 and 77, section 143 of the original committee print repeals the requirement for documentation presentation for children covered under SCHIP.

With that, I yield 1 minute to the gentleman from Michigan, a member of the committee, Mr. ROGERS.

Mr. ROGERS of Michigan. Mr. Speaker, a letter recently from the NAACP says: We strongly support maintaining adequate funding for the Medicare Advantage program that serves as a critical funding for accessing health care services, particularly for low-income and minority Medicare beneficiaries.

Talk about what's in the bill. Don't use children as your shield. This is the single largest cut to Medicare in the program's history. Absolutely, it is, and let me tell you what you are cutting. Read the bill.

You're cutting stroke victims from inpatient rehab. You're cutting doctors. You're cutting oxygen equipment and wheelchair services to seniors. You're cutting seniors' home health care, cutting hospital payments, cutting skilled nursing care for the sickest seniors in nursing homes. You're cutting dialysis services for kidney cancer patients. You're cutting imaging services for cancer and cardiac patients.

The list goes on. You're telling seniors once we slash the Medicare Advantage payments, we're going to push you on to part B, and guess what, your premiums are going up. We can work this out.

This was a Republican-generated idea when it started, SCHIP, to include those 200 percent or below of children in poverty, and I will tell you that there's not one thing that helps those kids under 200 percent of poverty, and you will get more of illegal immigrants at the expense of seniors. This is a bad bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The time has expired. Would the gentleman please refrain from talking on.

The gentleman from California.

Mr. STARK. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. McDERMOTT), a member of the Ways and Means Committee. Pending that, I would like to point out that he understands that in 1997 the Republican bill had five times greater reduction in Medicare spending than this bill does today, which 83 Members of the Republican party who are still in Congress voted for at that time.

(Mr. McDERMOTT asked and was given permission to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the debate comes down to this: Do you favor big tobacco or children? Do you favor big tobacco and insurance company profits or seniors? We come down on the side of children and seniors, and that's what this bill is all about.

You've heard over and over and over again there is no change of eligibility, but you insist on saying the same untruth because you want to make a point in the press. That is wrong. There are not any illegal aliens going to get in here. What we took out was what you put in. The fact is that we took out your requirement that people bring in papers when their kid is sick and dying, and you're saying to a parent, now you've got to prove you're a citizen before we'll take care of your kid. That's what you're doing. You've taken your clothes off in public. You don't want to take care of children.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. All Members are reminded to please address their remarks to the Chair.

The gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I'd like to point out CBO scores this as \$1.9 billion. So somebody is not telling the truth on the floor.

I yield 1 minute to a distinguished member of the committee, Mr. BURGESS of Texas.

Mr. BURGESS. Mr. Speaker, I thank the chairman. One minute is scarcely enough time to discuss what we need to discuss today. So I would, just like the chairman of the full committee, put my entire statement into the RECORD.

Mr. Speaker, I want to confine my comments today to issues that surround issues for physician reimbursement. I had two amendments last night in Rules Committee that were not made in order that would have vastly improved physician reimbursement. Instead, we have language in the Democratic underlying bill that provides a small uptick for the next 2 years, then you fall off the cliff, and then you're frozen for the next 10 years. Hardly measures that will encourage people to go into the practice of medicine in the future.

I also want to reference section 651, the whole hospital exemption. Mr. Speaker, I would just point out that in the Rules Committee it was made in order that several hospitals would actually be grandfathered out or carved out of that exemption, and most of these hospitals lie in Democratic districts. I have a letter from 75 constituents, physicians back in my home State of Texas, who strongly object to the whole hospital exemption in this bill, and I will submit that for the RECORD as well.

The Democratic party is prepared to take its first step toward cradle to grave government involvement in the lives of all Americans. The 40-plus page SCHIP bill that was unveiled to this committee in the wee hours of last Wednesday represents legislative malpractice. We shouldn't be surprised because we've been here before. A handful of Democratic staff, working behind closed doors, without any input from the real world have produced just what we should expect: a bloated and complicated proposal that grows the size of government, diminishes state fiscal accountability and an individual's personal responsibility, and likely erodes the independent practice of medicine.

I doubt anybody in this body, Republican or Democrat, really understands what is in this proposal. We've not had one legislative hearing on this bill and haven't even taken this bill through regular order in the Energy and Commerce Committee. As a member of the Health Subcommittee of that panel, I'm disappointed in that fact because the subcommittee has shown an ability to come together and work out partisan differences. I haven't spoken with Chairman PALLONE, but I imagine he shares that sentiment to some degree.

Just recently, Republicans and Democrats came together to report out a bill that improves drug safety and FDA review of new drugs and devices. We worked through our differences and produced superior legislation. But all that bipartisan comity has been thrown out the window. Any rationalization of how we

can vote on this bill and report to our constituents that we conducted an in-depth review of this legislation would be farcical at best, especially when we have learned that the Rules Committee plans to report out a completely different measure in the dark and early hours this coming Wednesday.

Kids need a safety net, but the safety net shouldn't apply to those that can and should help themselves. Taking money from taxpayers to give it to families that have the resources to purchase health insurance for their children is irresponsible. And if affordable options don't exist for these families, well forget it, because this bill doesn't lift a finger to reform an insurance market burdened by regulation and lack of choice.

On immigration, this bill all but ensures that states like mine and other border states will be saddled with more cost as it rewards those that illegally enter our country. The debate on illegal immigration is often ruled by emotion but the provisions in this bill relating to immigrant health care are equally suited—this bill makes little to no effort to understand this dynamic and only serves to pour gasoline on an inferno.

On Medicare, this bill misses the mark widely. This bill would make a bad investment in an attempt to fix Medicare physician payment and in doing so, members will find themselves in the position of spending billions more in the future to fix the problem again.

We shouldn't fool ourselves that this is realistic policy making. For those members about to head home and face their constituents at coffees, lunches, and town halls they should be wary of what Speaker PELOSI is force feeding this body.

BAYLOR MEDICAL CENTER AT FRISCO,  
Frisco, TX, August 1, 2007.

Hon. MICHAEL C. BURGESS, MD,  
U.S. Congressman,  
Washington, DC.

DEAR CONGRESSMAN BURGESS: We are physicians that practice at Baylor Medical Center at Frisco. Today, we are writing to express our deep concern about the language in the S-CHIP bill (CHAMP Act) once again attempting to prohibit physicians from owning or investing in any hospital. While this legislation contains many important and generous provisions, such as the reauthorization of SCHIP and the SGR fix, Section 651 virtually eliminates physician owned hospitals for no reason other than the enmity of certain competitors.

Much has been written about the negative effect this ownership has had on our community hospitals where we also practice. Many of the large hospital systems claim they are being harmed by physician-owned specialty hospitals in their communities. Yet none of them has provided any factual data to support their claim that they are unable to provide "essential services" as a result of specialty hospitals. In fact each of the last 6 years the American Hospital Association has reported a 6% increase in profits in their member hospitals. And many of their arguments (e.g. "specialty hospitals typically do not provide emergency care") simply is not accurate.

The benefits of the physician ownership model are so convincing that a growing number of not-for-profit healthcare systems, including some of the largest members of the American Hospital Association, have embraced the concept of physician ownership.

MedPAC, CMS, and GAO have all studied this issue. Not one of them has concluded that physician owned hospitals represent a threat to the community hospitals where

they exist. To the contrary, some have concluded that the overall increase in quality of care greatly benefits the communities in which they exist.

We believe that a major part of our success is due to the fact that individual physicians are partners in the ownership in the facility. As any business owner, we take pride in our facility and have worked hard to make sure the quality of medical care remains high. And frankly, we are much more aware of the costs and how to better deliver care more cost effectively. Through disclosure policies our patients are aware of the physician ownership and our surveys reveal very high patient satisfaction.

The best way to manage health care costs is to encourage physicians to become involved in the development of new models for the delivery of surgical and other health services. Maintaining the status quo by giving acute care hospitals protection from market forces will only lead to higher health care costs for us all.

When voting, please consider carefully the decision you will be asked to make regarding physician ownership, it will not only affect your constituents' rights as a patient to have the most convenient cost effective care, it will affect the delivery of health care for generations to come.

Sincere regards,

Benton Ellis, MD; James Gill, MD; David Layden, MD; James Montgomery, MD; Mark Allen, MD; Dawn Bankston, MD; F. Alan Barber, MD; Richard Bowman, MD; Dale Burlison, MD; Cameron Carmody, MD; John Schweers, MD; William Cobb, MD; Stephen Courtney, MD; A. Joe Cribbins, MD; Bruce Douthit, MD; Dennis Eisenberg, MD; Berry Fleming, MD; Richard Guyer, MD; Lloyd Haggard, MD; Stephen Hamn, MD; Andrea Ku, MD; Briant Herzog, MD; Stephen Hochschuler, MD; James Hudgins, MD; Fawzia Jaffee, MD; Warrett Kennard, MD; Adam Kouyoumjian, DO; Jimmy Laferney, MD; Stephen Lieman, MD; Samuel Lifshitz, MD; Earl Lund, MD; Gary Mashigian, DPM; Mark McQuaid, MD; William Mitchell, MD; Dr. Keith Matheny; William Montgomery, MD; John Moore, MD; Mickey Morgan, MD; William Mulchin, MD; John Peloza, MD; Ralph Rashbaum, MD; Jon Ricks, MD; Alfred Rodriguez, MD; Vince Rogenes, MD; David Rogers, MD; Ivan Rovner, MD; Michael Schwartz, MD; James Smrekar, MD; Robert Taylor, DPM; Ewen Tseng, MD; Gary Webb, MD; Stanley Whisenant, MD; Michael Wierschem, MD; Kathryn White, MD; Kathryn Wood, MD; Idriss Yusufali, MD; Roger Skiles, MD; Scott Fitzgerald, MD; Leonard Bays, MD; Donald Mackenzie, MD; Lloyd Haggard, MD; David Holder, MD; Joe Hughes, MD; David Perkins; Robert Purnell, MD; Eddie Pybatt, MD; Elaine Allen, MD; Steven Michelsen, DO.

AMENDMENT TO H.R. 3162

This amendment would modify Title III of H.R. 3162 that addresses Medicare physician reimbursement. While H.R. 3162 provides temporary relief to address scheduled Medicare physician payment cuts, it does nothing to address the problem in the long-term, and would in fact exacerbate the problem in the long-term. The amendment does the following:

1. Reset to 2007 the base year for application of the Sustainable Growth Rate (SGR), and eliminates the Sustainable Growth Rate in 2010. The practical effect of this on Medicare physician payment would provide physicians with over a 1 percentage increase in 2008 and

2009, and stable and sustainable growth rate in payment from 2010 and into the future.

2. Makes available incentive payments for increased quality reporting and implementation of health information technology.

3. Provides annual reports to physicians on billing patterns under Medicare.

4. Provides an annual report to Medicare beneficiaries on annual Medicare expenditures.

5. Mandates a study on whether quality reporting requirements on health care disparities.

AMENDMENT TO H.R. 3162, AS REPORTED [BY THE COMMITTEE ON WAYS AND MEANS] OFFERED BY MR. BURGESS OF TEXAS  
(CHAMP amendment)

Strike sections 301, 302, 303, 304, and 307, and insert the following sections (and redesignate sections 305 and 306 accordingly):

**SEC. 301. RESETTling TO 2007 THE BASE YEAR FOR APPLICATION OF SUSTAINABLE GROWTH RATE FORMULA; ELIMINATION OF SUSTAINABLE GROWTH RATE FORMULA IN 2010.**

(a) IN GENERAL.—Section 1848(d)(4) of the Social Security Act (42 U.S.C. 1395w-4(d)(4)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (B), by striking “subparagraph (D)” and inserting “subparagraphs (D) and (G)”; and

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

“(G) REBASING TO 2007 FOR UPDATE ADJUSTMENTS BEGINNING WITH 2008.—In determining the update adjustment factor under subparagraph (B) for 2008 and 2009—

“(i) the allowed expenditures for 2007 shall be equal to the amount of the actual expenditures for physicians’ services during 2007;

“(ii) subparagraph (B)(ii) shall not apply to 2008; and

“(iii) the reference in subparagraph (B)(ii)(I) to ‘April 1, 1996’ shall be treated, beginning with 2009, as a reference to ‘January 1, 2007.’”; and

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

“(8) UPDATING BEGINNING WITH 2010.—The update to the single conversion factor for each year beginning with 2010 shall be the percentage increase in the MEI (as defined in section 1842(i)(3)) for that year.”.

(b) CONFORMING SUNSET.—Section 1848(f)(1)(B) of such Act is amended by inserting “(ending with 2008)” after “each succeeding year”.

**SEC. 302. QUALITY INCENTIVES.**

(a) EXTENSION OF CURRENT QUALITY REPORTING SYSTEM AND TRANSITIONAL BONUS INCENTIVE PAYMENTS FOR 2008 AND 2009.—

(1) EXTENSION OF QUALITY REPORTING SYSTEM THROUGH 2009.—Section 1848(k) of the Social Security Act (42 U.S.C. 1395w(k)) is amended—

(A) in the heading of paragraph (2)(B), by inserting “AND 2009” after “2008”; and

(B) in paragraphs (2)(B) and (4), by inserting “and 2009” after “2008” each place it appears.

(2) EXTENSION OF AND INCREASE IN BONUS PAYMENTS FOR 2008 AND 2009.—Section 101(c) of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432) is amended—

(A) in the heading, by inserting “, 2008, AND 2009” after “2007”; and

(B) in paragraph (1), by inserting “(or 3 percent in the case of reporting periods beginning after December 31, 2007)” after “1.5 percent”;

(C) in paragraph (4), by striking “single consolidated payment.” and inserting “single consolidated payment for each reporting

period. Such payment shall be made for a reporting period within 30 days after the date that required information has been submitted with respect to claims for such period.”; and

(D) in paragraph (6)(C), by striking “the period beginning on July 1, 2007, and ending on December 31, 2007” and inserting “each of the five consecutive 6-month periods beginning on July 1, 2007, and ending on December 31, 2009”.

(b) ESTABLISHMENT OF NEW QUALITY INCENTIVE SYSTEM EFFECTIVE IN 2010.—

(1) IN GENERAL.—Section 1848 of the Social Security Act (42 U.S.C. 1395w) is amended by striking subsection (k) and inserting the following:

“(k) PHYSICIAN QUALITY INCENTIVE SYSTEM.—

“(1) IN GENERAL.—The Secretary shall establish a reporting system (in this subsection referred to as the ‘Physician Quality Incentive System’ or ‘System’) for quality measures relating to physicians’ services that focuses on disease-specific high cost conditions. Not later than January 1, 2010, the Secretary shall—

“(A) identify the 10 health conditions that have the highest proportion of spending under this part, due in part to a gap in patient care, and for which reporting measures are feasible; and

“(B) adopt reporting measures on these conditions, based on measures developed by the Physician Consortium of the American Medical Association.

“(2) ADD-ON PAYMENT.—

“(A) IN GENERAL.—The Secretary shall provide, in a form and manner specified by the Secretary, for a bonus or other add-on payment for physicians that submit information required on the conditions identified under paragraph (1).

“(B) AMOUNT.—Such a bonus or add-on payment shall be equal to 1.0 percent of the payment amount otherwise computed under this section.

“(C) TIMELY PAYMENTS.—Such a payment shall be made, with respect to information submitted for a month, by not later than 30 days after the date the information is submitted for such month.

“(D) DEDUCTIBLE AND COINSURANCE NOT APPLICABLE.—Such payment shall not be subject to the deductible or coinsurance otherwise applicable to physicians’ services under this part.

“(E) USE OF REGISTRY.—In carrying out subparagraph (A), the Secretary shall allow the submission of the required information through an appropriate medical registry identified by the Secretary.

“(3) MONITORING.—The Secretary shall monitor and report to Congress on an annual basis physician participation in the Physician Quality Incentive System, administrative burden encountered by participants, barriers to participation, as well as savings accrued to the Medicare program due to quality care improvements based on measures established under the Physician Quality Incentive System.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payment for physicians’ services for services furnished in years beginning with 2010.

**SEC. 303. HEALTH INFORMATION TECHNOLOGY (HIT) PAYMENT INCENTIVE.**

Section 1848 of the Social Security Act is amended by adding at the end the following new subsection:

“(m) HEALTH INFORMATION TECHNOLOGY PAYMENT INCENTIVES.—

“(1) STANDARDS.—Not later than January 1, 2008, the Secretary shall create standards for the certification of health information technology used in the furnishing of physicians’ services.

“(2) ADD-ON PAYMENT.—The Secretary shall provide for a bonus or other add-on payment for physicians that implement a health information technology system that is certified under paragraph (1). Such a bonus shall be equal to 3.0 percent of the payment amount otherwise computed under this section, except that—

“(A) in no case may total of such bonus and the bonus provided under subsection (k)(2) exceed 6 percent of such payment amount; and

“(B) such payments with respect to a physician shall only apply to physicians’ services furnished during a period of 36 consecutive months beginning with the first day of the first month after the date of such certification.

The bonus payment under this paragraph shall not be subject to the deductible or coinsurance otherwise applicable to physicians’ services under this part.”.

**SEC. 304. INFORMATION FOR PHYSICIANS ON MEDICARE BILLINGS.**

(a) IN GENERAL.—Section 1848 of the Social Security Act, as amended by section 201, is further amended by adding at the end the following new subsection:

“(n) ANNUAL REPORTING OF INFORMATION TO PHYSICIANS.—

“(1) IN GENERAL.—The Secretary shall annually report to each physician information on total billings by the physician (including laboratory tests and other items and services ordered by the physician) under this title. Such information shall be provided in a comparative format by code, weighting for practice size, number of Medicare patients treated, and relative number of Medicare beneficiaries in the geographical area.

“(2) CONFIDENTIALITY.—Information reported under paragraph (1) is confidential and shall not be disclosed to other than the physician to whom the information relates.”.

(b) EFFECTIVE DATE.—The Secretary of Health and Human Services shall first provide for reporting of information under the amendment made by subsection (a) for billings during 2007.

**SEC. 305. INFORMATION FOR BENEFICIARIES ON MEDICARE EXPENDITURES.**

(a) IN GENERAL.—Section 1804 of the Social Security Act is amended by adding at the end the following new subsection:

“(d) ANNUAL REPORT ON INDIVIDUAL RESOURCE UTILIZATION.—The Secretary shall provide for the reporting, on an annual basis, to each individual entitled to benefits under part A or enrolled under part B, on the amount of payments made to or on behalf of the individual under this title during the year involved. Such information shall be provided in a format that compares such amount with the average per capita expenditures in the region or area involved.”.

(b) EFFECTIVE DATE.—The Secretary of Health and Human Services shall first provide for reporting of information under the amendment made by subsection (a) for payments made during 2007.

**SEC. 306. COLLECTION OF DATA ON MEDICARE SAVINGS FROM PHYSICIANS’ SERVICES DIVERSION.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall collect data on annual savings in expenditures in the Medicare program due to physicians’ services that resulted in hospital or in-patient diversion.

(b) REPORT.—The Secretary shall transmit to Congress annually a summary of the data collected under subsection (a).

**SEC. 307. STUDY OF REPORTING REQUIREMENTS ON HEALTH CARE DISPARITIES.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide for a study of health care disparities in high-risk health

condition areas and minority communities about the impact reporting requirements may have on physician penetration in such communities.

(b) REPORT.—The Secretary shall provide for the completion of the study by not later than January 1, 2011, and shall submit to Congress a report on the study upon its completion.

“(m) HEALTH INFORMATION TECHNOLOGY PAYMENT INCENTIVES.—

“(1) STANDARDS.—Not later than January 1, 2008, the Secretary shall create standards for the certification of health information technology used in the furnishing of physicians’ services.

“(2) ADD-ON PAYMENT.—The Secretary shall provide for a bonus or other add-on payment for physicians that implement a health information technology system that is certified under paragraph (1). Such a bonus shall be equal to 3.0 percent of the payment amount otherwise computed under this section, except that—

“(A) in no case may total of such bonus and the bonus provided under subsection (k)(2) exceed 6 percent of such payment amount; and

“(B) such payments with respect to a physician shall only apply to physicians’ services furnished during a period of 36 consecutive months beginning with the first day of the first month after the date of such certification.

The bonus payment under this paragraph shall not be subject to the deductible or coinsurance otherwise applicable to physicians’ services under this part.”.

#### AMENDMENT TO H.R. 3162

This amendment would modify section 704 of H.R. 3162 that would require the Secretary of HHS to develop a plan to implement for never events. Never events, pursuant to H.R. 3162, are defined as an event involving the delivery of (or failure to deliver) physician services in which there is an error in medical care that is clearly identifiable, usually preventable, and serious in consequences to patients and that indicates a deficiency in the safety and process controls of the services furnished with respect to the physician, hospital, or ambulatory surgical center involved. This amendment would ensure that the identification of a never event is confidential in nature, as it applies to patient work product under Section 922 of the Public Health Service Act.

#### NEVER EVENTS

This amendment would ensure that the identification of never events as required by CHAMP does not lead to frivolous lawsuits against physicians.

While I may not agree with how “never events” are defined by this bill, I agree that physicians should be able to operate in an environment that supports improvement of processes and outcomes and not a punitive legal environment.

Under the bill, “never events” are defined as an event involving the delivery of (or failure to deliver) physician services in which there is an error in medical care that is clearly identifiable, usually preventable, and serious in consequences to patients and that indicates a deficiency in the safety and process controls of the services furnished with respect to the physician, hospital, or ambulatory surgical center involved.

This simple amendment ensures that identification of these “never events” would not be used in a legal proceeding and would be considered patient work product as they are under other areas of federal law.

AMENDMENT TO H.R. 3162, AS REPORTED [BY THE COMMITTEE ON WAYS AND MEANS]

OFFERED BY MR. BURGESS OF TEXAS  
(CHAMP Amendment)

Amend section 704 (relating to never events plan) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following:

(d) LIABILITY PROTECTION.—

(1) IN GENERAL.—Section 922 of the Public Health Service Act (42 U.S.C. 299b–22) (relating to liability and confidentiality protections) shall apply to never event information under this section in the same manner as it applies to patient work product under such section 922.

(2) NEVER EVENT INFORMATION DEFINED.—For purposes of this subsection the term “never event information” means information required to be provided by a hospital, ambulatory surgical center, or physician under the never events plan with respect to a determination to reduce or deny payment under title XVIII of the Social Security Act for services furnished by the hospital, ambulatory surgical center, or physician, respectively, on the basis of the finding of a never event.

#### AMENDMENT TO H.R. 3162

This amendment would prohibit the Secretary of Health and Human Services from approving future State waivers that would cover adults other than pregnant adults under the State Children’s Health Insurance Program. This amendment would also terminate existing State waivers that cover adults other than pregnant adults under a State’s Children’s Health Insurance Program. SCHIP is designed to cover uninsured children, and taxpayer funds used to cover adults cannot achieve that goal. This amendment would save State and Federal Governments hundreds of millions of dollars that could be used to cover more uninsured children.

#### ADULTS

Since Congress enacted SCHIP in 1997, States have been successful in making affordable health insurance available to millions of low-income children.

Prior to the enactment of SCHIP, low-income families that made too much money to be eligible for Medicaid coverage found it difficult to find affordable coverage for their children. Several million children were left without health coverage for important preventative health services, forcing their families to seek care in emergency departments and lacking vital continuity of care.

With the Federal and State partnership that is the cornerstone of SCHIP, needy families were able to obtain health coverage for their children that was previously just out of reach.

Unfortunately some States have extended coverage to adults under their SCHIP program, taking limited dollars away from the needs of the children the program was intended to meet. One dollar a State spends on an adult is \$1 not spent on a needy child. This amendment would eliminate this inequitable development that needs to be stopped dead in its tracks.

My bill would prohibit States from spending even a single SCHIP dollar on anyone but a child or a pregnant woman. Currently, 14 States extend SCHIP coverage to adults and four of those States cover more adults than children in their programs.

We can debate coverage of adults and affordable options and States can take this responsibility upon their shoulders as well. But

we shouldn’t spend a dollar dedicated to a child on an adult. It does a disservice to the very needy children we’re trying to provide coverage to.

AMENDMENT TO H.R. 3162, AS REPORTED [BY THE COMMITTEE ON WAYS AND MEANS]

OFFERED BY MR. BURGESS OF TEXAS  
(CHAMP amendment)

At the end of subtitle D of title I add the following new section:

SEC. \_\_\_\_ . PROHIBITION OF SECTION 1115 WAIVERS FOR COVERAGE OF NONPREGNANT ADULTS UNDER SCHIP.

(a) IN GENERAL.—Section 2107(f) of the Social Security Act (42 U.S.C. 1397gg) is amended, as added by section 6102(a) of the Deficit Reduction Act of 2005 (Public law 109–171) is amended—

(1) in the first sentence, by striking “childless”; and

(2) by striking the second sentence.

(b) CONFORMING AMENDMENTS.—Section 2105(c)(1) of the Social Security Act (42 U.S.C. 1397ee(c)(1)) is amended—

(1) in the first sentence, by striking “childless”; and

(2) by striking the second sentence.

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

(d) TERMINATION OF FUNDING OF COVERAGE UNDER CURRENT WAIVERS.—In the case of 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 an adult (other than pregnant adult) that is approved as of the date of the enactment of this Act, on and after such date the Secretary of Health and Human Services shall not extend or renew such a waiver or project in a manner that permits funds under the waiver or project to be used for such purpose and shall otherwise take such action as is necessary to prevent the use of funds under the waiver or project to be used for such purpose on and after January 1, 2008.

#### AMENDMENT TO H.R. 3162

This amendment would require a State submitting a SCHIP waiver request to the Secretary of Health and Human Services to certify that children in that state have access to an adequate level of pediatricians, pediatric specialists and pediatric sub-specialists for targeted low-income children covered under the State’s child health plan.

The State must include a survey conducted by the American Academy of Pediatrics, a state professional medical society, or other qualified organization and the Secretary may not approve a waiver application unless the survey is included in the State’s submission.

#### ACCESS

This amendment would ensure that as states seek to expand their CHIP programs, that an adequate number of pediatricians, pediatric specialists and sub-specialists are available to meet increased demand by new patients.

To quote the American Academy of Pediatrics Workforce Committee, “an appropriate pediatrician workforce is essential to attain the optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults. To fully realize such a workforce requires careful examination of the needs of children and the consequences of policies that influence the pediatrician workforce.”

This amendment would attempt to achieve this goal, by requiring adequate access to

these medical professionals as a condition approval of a waiver submission.

The amendment would require the American Academy of Pediatrics or other state medical society to survey and certify that the state's children have access to a sufficient number of pediatricians and specialists, should a state request a waiver from federal SCHIP requirements.

States have a variety of policy options to ensure that an adequate physician workforce is available in the state and this amendment would encourage those states to exercise those options.

The growth of the number of pediatricians per child has been positive over the past decade.

We should ensure that this momentum is sustained and this amendment will do just that.

I think this is an amendment that should have broad bipartisan support because its goal is ensuring access to needed medical professionals for our children.

More broadly, in the coming years this country will face a physician workforce shortage and this committee and this Congress needs to begin addressing this now.

I look forward to working with the members of this committee on this very broad and complicated issue, but this amendment would be a good first step.

AMENDMENT TO H.R. 3162, AS REPORTED [BY THE COMMITTEE ON WAYS AND MEANS]

Offered by Mr. Burgess of Texas  
(CHAMP amendment)

Adding at the end of subtitle E of title I the following new section:

**SEC. \_\_\_\_ . LIMITATION ON APPROVAL OF SCHIP WAIVERS.**

The Secretary of Health and Human Services shall not approve any application submitted by a State for a waiver of any provision of title XXI of the Social Security Act unless—

(1) the State has certified that there is access to an adequate level of pediatricians, pediatric specialists and pediatric sub-specialists for targeted low-income children covered under the State child health plan under such title; and

(2) the State includes in such application the results of a survey, that may be conducted by the American Academy of Pediatrics, a State professional medical society, or other qualified organization, that establishes that such an adequate level exists on a per capita child basis.

Mr. DINGELL. Mr. Speaker, I yield to the distinguished gentleman from Virginia (Mr. MORAN) for purposes of a unanimous consent request.

Mr. MORAN of Virginia. Mr. Speaker, I ask unanimous consent to insert a statement for the RECORD refuting the fact that this has anything to do with undocumented children. The fact is that the current provision prohibits undocumented children from getting health care, but if we don't pass it, it will deny tens of thousands of children who are legally eligible.

Mr. BURGESS. I object.

The SPEAKER pro tempore. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Speaker, parliamentary inquiry, where are we?

The SPEAKER pro tempore. Objection has been heard. The gentleman ob-

jected. It's for the gentleman from Michigan to yield time.

Mr. BARTON of Texas. So Mr. DINGELL controls the time?

The SPEAKER pro tempore. That's correct.

Mr. DINGELL. Mr. Speaker, I yield to the distinguished gentlewoman from California (Ms. ESHOO) 1 minute.

Ms. ESHOO. Mr. Speaker, I thank the distinguished chairman of the Energy and Commerce Committee.

Mr. Speaker, today is one of the most exciting days since I've come to the Congress, having been elected first in 1992. I think today is a day of history, a day of history for the children of our country, because the fact is that there are nearly 9 million American children without guaranteed access to health care in our Nation today. I think that is a national shame.

Today, we correct that. We build on a successful bipartisan program of Republican and Democratic Governors, of leaders in the Congress past, of a program that has worked.

It has not been riddled by fraud, and what we do today very simply is add 5 million American children in the rolls of health care. It is private insurance for almost all of the States.

We also strengthen Medicare. I would suggest that my friends on this side of the aisle are on the wrong side of history.

□ 1500

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman of the committee from the great State of Florida (Mr. STEARNS).

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I would say to the gentlelady from California who said this is a great day in history, it was a great day in history when, in 1997, the Republicans, who had the majority, initiated and started this program. The Democrats are saying this is a great day, what a great day, when the Republicans started the SCHIP program.

Now, this bill, you have heard it all before. Obviously, it creates a new entitlement, crowds out private insurance with government coverage, offers perverse incentives to States; and, my friends, it contains a huge tax increase, with more on the way. Lastly, it punishes Medicare beneficiaries. This is very troubling, particularly in Florida. We have so many seniors that actually use Medicare Advantage.

The fact that they are going to eliminate this program to pay for this is really outrageous. It will disproportionately harm racial minorities and rural senior citizens by taking funds away from Medicare Advantage, a successful, lower-cost option for health care for seniors and use it to enroll and federally insure adult men and women who have the ability to work and receive health care from their employers in the open market.

Mr. STARK. Mr. Speaker, I yield to the distinguished member of the Ways and Means Committee, a member of the Health Subcommittee, the gentleman from Georgia (Mr. LEWIS).

Pending that, I would explain that he knows that the NAACP, in a letter of endorsement, has said that this legislation fills a much-needed gap that currently exists in health care services for some of the most vulnerable citizens, low-income children, seniors and the disabled.

Mr. LEWIS of Georgia. Mr. Speaker, health care is a basic human right. It is unacceptable to see a young child die because his family could not afford for him to see a dentist. This should never, ever, happen in the United States of America. It is wrong. It must not be tolerated any longer, and today we said "no more".

This bill would give 6 million children access to health care. For our seniors who rely on Medicare, this bill helps our low-income seniors and makes prevention more affordable.

I applaud the work of Chairman RANGEL and Chairman STARK for making these important improvements. I am proud to have worked on this bill to help those who suffer from chronic kidney disease and end-stage renal disease receive the highest quality care and to take the first of many steps towards preventing these terrible diseases.

Until we can make health care right for every American, we have a moral mission, a mission and a mandate to start with the most vulnerable among us, our children and our seniors. We can do no less. Vote "yes" on the CHAMP Act. Do it now. Do it today.

Mr. BARTON of Texas. Mr. Speaker, could I inquire of the time remaining on each side on this part of the bill?

The SPEAKER pro tempore. The gentleman from Texas has 18 minutes remaining, and the gentleman from Michigan has 22½ minutes remaining.

The gentleman from California has 19 minutes remaining, and the gentleman from Louisiana has 30 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to a distinguished member of the committee from the great State of Illinois (Mr. SHIMKUS), the winning pitcher on the congressional baseball team.

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, under the current Illinois SCHIP program, it covers up to 200 percent of poverty, \$41,300 in annual income for a family of four; 26,830, or 31 percent of all families with children under the age of 18, in my district are already eligible for either Medicaid or SCHIP.

In this bill, Democrats have opposed cutting at least \$194 billion in Medicare spending. Specifically, the Democrats have proposed cutting Medicare spending for 6,070 seniors in my district who

are currently enrolled in Medicare Advantage. Payments for hospital inpatient care will be cut \$2.7 billion; inpatient rehabilitation services, \$6.6 billion; skilled nursing facilities, a \$6.5 billion cut; certain drugs, \$1.9 billion in cuts; home health care, \$7.2 billion; end-stage renal disease cut by \$3.6 billion; motorized wheelchair and oxygen cuts.

Mr. STARK. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. GENE GREEN).

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in strong support of the Children's Health and Medicare Protection Act.

This is the best piece of legislation since 1997 when the children's health care was created, but this time we will cover 5 million more children if we vote "yes" today for this bill.

I want to particularly thank the committee, although we didn't get to have a markup in ours because the Republican minority refused to let us even have votes on our amendments, so we have to have it on the floor today. We have to have that discussion. I am just glad they included that it would cover 12 months of insurability for our children, because some States have made 6 months the way to cut children off of health care.

Let me say one other thing. I have heard, particularly last night, I think it was insulting to say that this bill takes money away from seniors to give to illegal alien children. You ought to be ashamed of yourself. That's just outrageous. When you look at the bill and actually current law that we don't change, it prohibits undocumented children from getting any assistance.

Now the States are going to be the ones that have to prove that. If the States can't do it, they have to pay for it. It is just outrageous that you throw out the "illegals" every time you don't have any other argument.

I am particularly proud of the SCHIP provisions in this legislation, which would provide much-needed health insurance coverage to low-income children in need.

Currently, the SCHIP program provides coverage to 6 million low-income American children.

Unfortunately, an additional 6 million children are eligible for SCHIP benefits, yet remain uninsured.

This legislation would reach about 5 million of those children by putting in place a more efficient funding formula based on projected enrollment and providing states with incentives to find eligible children and get them enrolled.

I am particularly thankful for the committee's support of our language to ensure that children in SCHIP get 12 months of continuous eligibility.

This provision is critical to ensuring that eligible SCHIP children remain in the program and are not dropped due to cumbersome bureaucratic requirements imposed on families whose primary focus is on making ends meet.

A recent Health Affairs article underscores the importance of continuous eligibility in addressing retention problems in SCHIP.

Of the policy options suggested, the authors state that "[f]irst and foremost, the renewal process should be simplified as much as possible, by reducing the frequency of renewal to once a year."

This bill does just that.

For many states, this bill reaffirms the compassionate and effective policies currently in place.

But for a state like mine, this bill will ensure that the State of Texas does right by Texas children and doesn't use the flexibility inherent in the program to kick them off the rolls on a budgetary whim.

I encourage my colleagues to stand up for low-income children and pass this important legislation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. All Members are reminded to please address their remarks through the Chair.

Mr. BARTON of Texas. Mr. Speaker, the CBO baseline score shows that Medicare cuts total \$157 billion over the 10-year period.

Mr. Speaker, I yield 1 minute to the gentleman from Staten Island, a member of the committee, Mr. FOSSELLA.

Mr. FOSSELLA. Mr. Speaker, Mr. Addison Good is an 80 year-old retired cook from Staten Island. He survives on a very limited income of Social Security and a small pension. Through every step of his hip operations, his Medicare Advantage plan paid for the services and drugs that he needed. He switched to a new plan that provides even better benefits at lower cost. He says he does not know how he would get the care he needs without his Medicare Advantage.

Let me say up front, we will consider Mr. Addison Good as we consider the legislation; and I support the SCHIP program, I support its reauthorization, I support expanding access to health care for low-income children.

I do not support this ill-conceived plan that pits parents against their grandchildren. Make no mistake, the bill cuts Medicare by more than \$190 billion. In my district alone, it will reduce funds for Medicare Advantage by \$58 million for the 38,000 enrollees in just the first year.

The real-world impact of slashing \$58 million in Medicare in Staten Island, Brooklyn, for seniors enrolled in this program could result in the following: either denied access to the program altogether, to lose health care benefits like hearing, vision and dental services or have to pay more out of pocket. We should not gut Medicare or punish seniors to achieve a Democratic goal.

Mr. STARK. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, we reserve the balance of our time.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to another member of the committee, Mr. SULLIVAN of Oklahoma.

Mr. SULLIVAN. Mr. Speaker, it's really astounding that there is nothing

in this bill that stops States from covering illegal immigrations in this bill. People have come up to me and said, you know, the Democrats, the people in the Senate wanted to allow illegal aliens to get free Social Security benefits. Now they want to give free health care, and that's wrong.

There is nothing in this bill that prevents adults, States from covering adults, giving them health care. There's nothing in this bill that prevents States from even covering the children of the Members of Congress in this bill.

I think this is a bill that should not happen. I rise today in strong opposition to it.

One of my problems is that it eliminates the 5-year waiting period for immigrants who deserve to be eligible for Medicare and SCHIP. Congress wisely created this waiting period, and eliminating this waiting period will exacerbate our current immigration problems and further endanger government health care programs. By repealing this current law, millions of citizens will be eligible for Medicaid and SCHIP immediately.

Had this bill been brought to the committee, the proper thing, I had an amendment that would have saved taxpayers \$2.2 billion having this waiting period.

I urge my colleagues to vote "no."

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to another distinguished member of the Energy and Commerce Committee, the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. I thought I would use my time to talk about the Ag approps bill. Just kidding.

Mr. Speaker, we must ensure that all children who qualify for the SCHIP program are taken care of, but I have grave concerns about the SCHIP reauthorization bill, which doesn't target low-income kids but does increase mandatory spending by almost \$130 billion over 10 years. This is not the way to provide coverage for anybody.

I am particularly concerned that the CHAMP bill defines children as up to the age of 25. I am not aware of any other Federal program that defines the term "children" this broadly, and I certainly don't think that my constituents could agree that governments should be using health care funds intended for low-income children to cover a 25-year-old.

This is not what SCHIP is supposed to be about. I don't believe that the creation of a new entitlement program costing hundreds of billions of dollars is in the best interests of our children. Are we going to encourage people and make it easier for them to take advantage of the private health care market, or are we going to have the government grabbing for control of all health care services?

This legislation certainly indicates where our majority is trying to go. These are not procedural differences but major philosophical differences.

Under this bill, Donald Trump's daughter, Ivanka, will be enrolled in the SCHIP program.

Mr. BARTON of Texas. Mr. Speaker, might I inquire as to the time?

The SPEAKER pro tempore. The gentleman from Texas has 14 minutes remaining, the gentleman from Michigan has 21½ minutes remaining, the gentleman from California has 19 minutes remaining, and the gentleman from Louisiana has 30 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, our problem is a simple one, and I say this with respect and affection to my colleague. Our Republican colleagues have chosen to allocate time with two committees on this side and one committee on that side. The end result is that there is one committee on the Republican side which is not using its time. In order to balance out the time use, Mr. STARK and I are reserving our time at this time.

Mr. BARTON of Texas. Mr. Speaker, the gentleman from Texas is in a quandary. I am not aware we were able to determine anything for the other side. I don't know why they are allocating their time.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, it was just my intent to accommodate my friends in the minority who have been asking for all this extra time, but I guess if they have lost their speakers, they really don't need any.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. THOMPSON), a member of the Health Subcommittee of the Ways and Means Committee, who recognizes that the American Medical Association has, in their endorsement, has said that this legislation addresses two of the AMA's highest priorities, providing health insurance coverage for low-income coverage and protecting seniors' access to care by preventing drastic cuts in the Medicare funding for physician services.

Mr. THOMPSON of California. Mr. Speaker, keeping kids healthy today means that the government will inherit a healthier Medicare population tomorrow. Investing in our children is both common sense and it's cost-effective.

It was very difficult to watch the former majority allow the national debt to grow to record heights. Today, I am proud that the new Democratic leadership has said no to deficit spending.

The CHAMP Act is emblematic of that shift. It is completely paid for. The CHAMP Act guarantees that both eligible children and Medicare seniors can access qualify health care.

Make no mistake. Without this legislation, 5 million new kids won't be able to get health care, and millions more already in the program will see their benefits cut.

Without this legislation, physicians will take the biggest rate cut in the history of the Medicare program.

Without this legislation, Medicare benefits that are critical to rural communities will expire.

Today, with the passage of the CHAMP Act, Congress has taken an historic step. So be a champion for kids, be a champion for seniors and be a champion for common sense.

Vote "aye" on the CHAMP Act.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished leader of the Republican Study Committee, Mr. HENSARLING of Texas.

□ 1515

Mr. HENSARLING. Mr. Speaker, today the Democrat majority in Congress will no doubt ram through a bill representing the single largest step in Washington-controlled, bureaucratized, rationed, socialized health care, and they will do this under the guise of insuring needy children who are already insured under Medicaid or are already insured under the SCHIP program, which we could reauthorize. And they do this by turning SCHIP into a new entitlement, threatening to bankrupt the very children they claim to be helping. They do this by cutting Medicare, hastening the bankruptcy of the Medicare trust fund. They do this by cutting Medicare Advantage plan, threatening the health care choices of millions of our seniors. They do this by increasing taxes on working Americans.

This is a threat to our children's fiscal health, it is a threat to our Nation's and children's physical health. It should be rejected.

Mr. BARTON of Texas. Mr. Speaker, I renew my unanimous consent for 1 additional hour of time equally divided between the majority and the minority.

Ms. DEGETTE. I object.

The SPEAKER pro tempore. Objection is heard.

Does the gentleman from Texas wish to yield time?

Mr. BARTON of Texas. Who objected, Mr. Speaker?

The gentleman has to be on his feet to object.

The SPEAKER pro tempore. The gentleman from Colorado has objected. She is on her feet.

Mr. BARTON of Texas. I reserve the balance of my time.

Mr. STARK. I reserve the balance of my time.

Mr. DINGELL. I reserve the balance of my time.

Mr. Speaker, it would appear at this time that many of the difficulties that confront us could be addressed by the appearance of our good friends on the minority side of the Ways and Means.

Mr. BARTON of Texas. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. Pursuant to House Resolution 594, the previous question is ordered to final passage without such an intervening motion.

A motion to adjourn may not be entertained.

Mr. BARTON of Texas. Parliamentary inquiry. I thought a motion to adjourn was in order at any time.

The SPEAKER pro tempore. Pursuant to House Resolution 594, the previous question is ordered to final passage without intervening motion other than recommittal. As such, a motion to adjourn may not be entertained.

Mr. BARTON of Texas. Parliamentary inquiry. What is House Resolution 594? Is that the closed rule?

The SPEAKER pro tempore. The rule for consideration of this bill.

Mr. BARTON of Texas. Then I suggest the absence of a quorum, Mr. Speaker.

The SPEAKER pro tempore. That may not be entertained unless the Chair is putting the question, in accord with clause 7 of rule XX.

Mr. BARTON of Texas. Then I yield 1 minute to a member of the committee, Mr. TERRY of Nebraska.

Mr. TERRY. Mr. Speaker, first of all, I want to state that I believe that we should cover our low-income uninsured children, and I do believe we should make efforts to get them all in. If it was just that, we would be all in agreement. But that is not before us today. And I do believe that part of this attacks health insurance as we know it today.

Number one, they defund Medicare Advantage, which is where people can opt out of Medicare and actually go into a managed program by a health insurance company. So they defund that, attacking that.

Next is, for the first time, they are going to place a tax on health insurance policies, driving up the costs, so making it more unaffordable so more people drop out.

Then probably just as egregious as the other, an amendment that was denied, a Republican amendment, that says if there is a child that is eligible by the requirements but already insured can't drop that insurance or their insurer can't drop them, forcing them to go into the State-run free health insurance. That was denied.

So what we see here is a step-by-step process of making health insurance companies less effective and nationalizing health care.

Mr. BARTON of Texas. I reserve the balance of my time.

Mr. STARK. I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield to the distinguished gentlewoman from California (Ms. HARMAN) for purposes of a unanimous consent request.

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, I rise in strong support of this bill and commend Chairman DINGELL for his enormous work.

Regardless of the business before the House, for the past two weeks, a drumbeat of dire predictions has been maintained on this floor about the so-called terrorism gap—the failure of Democrats to fix the Foreign Intelligence Surveillance Act, or FISA, to permit

our intelligence agencies to intercept foreign-to-foreign communications related to international terrorism. The argument is specious on its face. Democrats are just as committed as our colleagues on the other side of the aisle to preventing another terrorist attack on the United States.

As a member of the Gang of Eight from 2002–2006, I am very familiar with FISA and our Terrorist Surveillance Program. While I agree that some technical adjustments are appropriate, the core principle of FISA and the 4th Amendment—that individualized court warrants are required if the communications of a U.S. person are involved—must be preserved.

But my question is, in the context of the CHAMP Act now before us: where is the outrage for the 5 million American kids who have no health insurance and no prospect of getting it unless we pass this bill?

What is the real objective of Members who continue to clutter an essential debate on improving health outcomes for our neediest children with alarmist exchanges on the surveillance of potential terrorists? Perhaps it is to jam Democrats and score partisan points before the August recess instead of reaching out to the most vulnerable among us.

The CHAMP Act reaches out by providing insurance to 11 million children, covering mental health and dental benefits, and by allowing States to cover pregnant women and family planning.

It reauthorizes Title V abstinence education, but requires that it be medically and scientifically accurate, as well as proven effective. I expect every Member agrees that no Federal program should use taxpayer dollars to give inaccurate information to young people.

The CHAMP Act makes improvements to the Medicare program, too, providing our most vulnerable seniors with better coverage for cost-saving preventive care and by making it easier to apply for benefits.

Let me bring the issue close to home. The Venice Family Clinic, located in my congressional district, is the largest free clinic in the Nation. They know something about reaching out to the most vulnerable in our communities.

Clinic staff told me today about an 8-year-old boy and his younger brother. Both of them are on the waiting list for SCHIP because the program is maxed-out—and their working mother doesn't earn enough to buy health insurance.

This child suffers epileptic seizures every couple of weeks. He worries constantly about when the next one will occur, when and if he will be able to see a doctor or have access to medication that could help him. These are not things an 8-year-old in a country as rich as ours should be worrying about.

Expanding SCHIP will cover these children. It will change their lives, and the lives of 11 million other low income American kids.

FISA can, should and will be fixed—and we can fix health insurance for kids, too. Every child deserves the health insurance that my four children and one grandchild have. And I have two more grandchildren on the way. Hopefully, the CHAMP Act will be law before they are born early next year.

Mr. DINGELL. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to another distinguished member of the Energy and Commerce Committee, Mr. PITTS of Pennsylvania.

Mr. PITTS. Mr. Speaker, I would like to focus on one important failure of this legislation that I think the proliferators on the other side of the aisle would be interested in.

Since 2002, the present administration has granted the States the option of providing SCHIP coverage to the child before birth, the unborn child, prenatal care and other health services for the unborn child and the pregnant mother. Unfortunately, the bill offered today would override current regulation and extend coverage in the name of the pregnant woman only. My amendment to codify the words “unborn child” was disallowed, not made in order last night.

Protecting only the pregnant woman could lead to a greater number of abortions. It would make the woman eligible for all publicly-funded services, including State-funded elective abortions. In States with Medicaid expansion programs, this could increase the number of women eligible for free abortions, thus promoting more abortions of unborn children in the name of children's health. This bill's language essentially classifies the pregnant woman herself. It does not make sense.

Mr. BARTON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I ask unanimous consent that the time allotted to the minority members of the Ways and Means Committee be forfeited.

Mr. BARTON of Texas. I object to that.

The SPEAKER pro tempore. Objection is heard.

Mr. STARK. I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Michigan? Does anybody wish to yield time?

Mr. DOGGETT. Mr. Speaker, could you give us a time report? How much time remains for each?

The SPEAKER pro tempore. The gentleman from Louisiana has 30 minutes; the gentleman from California has 17½ minutes; the gentleman from Texas has 11 minutes; the gentleman from Michigan has 21½ minutes.

Mr. DOGGETT. How much does the gentleman from Louisiana have?

The SPEAKER pro tempore. 30 minutes.

Mr. DOGGETT. None of it has been used.

#### PARLIAMENTARY INQUIRY

Mr. LINDER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. LINDER. Would you tell us how much time they have combined, the two committees and our two committees combined, left?

The SPEAKER pro tempore. The gentleman from Michigan has 21½ minutes remaining; the gentleman from California has 17½ minutes remaining; the gentleman from Louisiana has 30 minutes remaining; and the gentleman from Texas has 11 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent to proceed

out of order and engage in a colloquy with Mr. STARK and Mr. DINGELL for purposes of trying to understand what is going on.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. STARK. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. STARK. Mr. Speaker, I ask unanimous consent to insert in the RECORD a letter from the Catholic Health Association of the United States, which in part states that: We believe the most important pro-life thing that Congress can do right now is to ensure that the State Children's Health Insurance Program is reauthorized.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BARTON of Texas. Reserving the right to object, Mr. Speaker, I will not object if the gentleman from California will explain to me why we are fighting over what was in a pre-agreed-upon time arrangement. We have got six or seven speakers from the Energy and Commerce Committee. We are simply trying to do it in a balanced way. The gentleman from California has 17 minutes; the gentleman from Michigan has, I believe, 21 minutes. We just wish that the time go down in a balanced way. I don't understand why that should be a problem.

The SPEAKER pro tempore. The gentleman from Texas will suspend.

The Chair will clarify. The gentleman from Michigan has 21½ minutes remaining; the gentleman from California has 17½ minutes remaining; the gentleman from Louisiana has 30 minutes remaining; and the gentleman from Texas has 11 minutes remaining.

Mr. BARTON of Texas. I yield to my friend from California to explain to me why they don't want to use some of their time right now.

Mr. STARK. I am happy to respond. You are a couple minutes ahead of us, and of course I am dying to hear what my colleagues on the Republican side of the Ways and Means have to say.

Mr. BARTON of Texas. Reclaiming my reservation, my understanding was that the Energy and Commerce Committee was going to go first, and then the Ways and Means Committee was going to go in the second hour. That is why Mr. McCRERY is reserving his 30 minutes.

Mr. STARK. If the gentleman would yield.

Mr. BARTON of Texas. I would be happy to yield.

Mr. STARK. I think you have just touched on a misunderstanding. We had been led to believe that we would be rotating around among the various committees, and so that now we are kind of out of balance. Our understanding is that we would rotate back and forth between Energy and Commerce and Ways and Means for the full time. I apologize to the gentleman if we misled. Our concern was that we

would be out of balance in the time between the two committees.

The SPEAKER pro tempore. The Chair will clarify that the gentlemen from California and from Michigan have a combined total of 39 minutes remaining; the gentlemen from Louisiana and from Texas have a total of 41 minutes remaining.

Mr. BARTON of Texas. I withdraw my reservation on the gentleman's unanimous consent request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. PRICE of Georgia. Reserving the right to object, Mr. Speaker, it is apparent that that was the letter that was requested to be inserted earlier, and the gentleman himself objected to it.

Mr. STARK. Mr. Speaker, I withdraw my unanimous consent request.

The SPEAKER pro tempore. The request is withdrawn.

Does the gentleman from Texas wish to yield time?

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona, a distinguished member of the committee, Mr. SHADEGG.

Mr. SHADEGG. I thank the gentleman for yielding, and I really wish this debate was about what my colleagues on the other side want to make it about. I wish this bill was a debate about the uninsured children of the near poor or the working poor. I wish it was a debate like we had 10 years ago about insuring children too well off to get Medicaid but not well enough to buy insurance. But that is not what it is about. It is about cutting Medicare to provide health care services to middle- and upper middle-income children and to provide health care services to adults.

And when you hear SCHIP, children, you don't expect that. When you think it is to go to the uninsured, you don't expect that.

The median income in America, listen carefully, is \$45,000. This bill will extend SCHIP benefits to families earning \$60,000 and up to \$80,000. That means it does not provide money for health insurance to the poor or the near poor or the working poor. We are all for that. That is why we initiated the program. We just don't think it ought to go to upper middle-income Americans.

And let's see what the program has done. Sixty-one percent of the children who are in the SCHIP program today had private health insurance before the program was created. They dropped their private health insurance to take SCHIP. Is that what generous, compassionate Americans want to do for the poor? I don't think so. They dropped their private insurance to take SCHIP.

CBO says that the Democrats' billions of dollars larger program will produce one person dropping private insurance for every one person who gets SCHIP insurance. Speaker after speaker on the other side has said this will insure 5 million more children.

□ 1530

What they don't tell you is that 5 million children, according to SCHIP, will drop their private insurance. Obviously, what they want is to take people off of private insurance and put them on SCHIP. That's not what the American people understand when they understand that that is supposed to be a bill about the children of the working poor.

I urge my colleagues to oppose this bill. It's a fraud.

Mr. STARK. Mr. Speaker, I yield to the gentleman from Rhode Island (Mr. KENNEDY) for a unanimous consent request.

(Mr. KENNEDY asked and was given permission to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, I rise in support of this legislation that raises parity for mental health for Medicare enrollees from 50 percent to 80 percent and for SCHIP from 75 percent to 100 percent, an additional \$3 billion in this bill for mental health care. That's why we ought to support it.

Mr. STARK. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to another distinguished member of the committee, the ranking member of the Veterans Affairs Committee, the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I don't consider this a high-water mark for Congress in the 15 years I've been here. I don't consider it a high-water mark because I'm very disappointed in us, in how we have conducted ourselves with regard to our process, in how we have treated ourselves to each other, the lack of intolerance with regard to how we view each others' opinions. I don't think this is a high-water mark. A lot of this is taking place at the committee levels, and I have to reiterate my disappointment.

We can battle it out. The democratic process is never meant to be pretty and easy. It's a difficult process, but it's exactly what it was meant to do so we wouldn't have capricious actions, that we wouldn't have power centralized and imperialistic from the top down. And that's what kind of happened here, and I'm very bothered by it.

There is no "time of the essence." Yes, this is a program that we came together in a bipartisan fashion and passed almost 10 years ago to care for children, poor and impoverished and to take care of them; and we've done that.

We can extend that existing program and work together in a bipartisan fashion, if that's what this was really about. But it's not.

Mr. BARTON of Texas. Mr. Speaker, in addition to myself, I only have one additional speaker that's currently on the floor. I would encourage my friend from Michigan, if he has any speakers, to use some of his time at this point in time.

The SPEAKER pro tempore. The gentleman from Michigan has 21½ minutes

remaining. Does he wish to yield any time?

Mr. DINGELL. The gentleman from Michigan will continue to reserve.

Mr. STARK. I continue to reserve, Mr. Speaker.

Mr. BARTON of Texas. I reserve.

The SPEAKER pro tempore. The gentleman from Louisiana has 30 minutes remaining. The gentleman from Texas has 8 minutes remaining. So 38 minutes total on the minority side, 39 minutes total on the majority side.

Mr. DINGELL. Mr. Speaker, out of a surcease of good will for my Republican colleagues, at this time I yield 1 minute to the distinguished gentleman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, children who receive well-child care begin their lives healthy and ready to learn in school; and this care is cheaper and more humane than reliance on the emergency room.

Because of SCHIP, 6 million children of the working poor get the care they need for a healthy start to their lives. Despite the success, our work is not complete. Six million uninsured children are still eligible for SCHIP but not currently enrolled. The CHAMP Act will build on the strong bipartisan foundation of SCHIP and insure these remaining children.

Those on the other side of the aisle will put forth a proposal in the motion to recommit that not only fails to cover these 6 million remaining children, but it will result in current beneficiaries losing coverage.

We are halfway to covering the uninsured children in this country, and the Republicans want to pack up and go home. Thank goodness they weren't in charge of the mission to the moon. Neil Armstrong would have gone halfway to the moon and been ordered back to earth. Mission accomplished.

Mr. Speaker, halfway is not mission accomplished. Vote "yes" for kids, vote "yes" on this bill.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to a distinguished member of the committee, Mr. WALDEN of the great State of Oregon.

Mr. WALDEN of Oregon. Mr. Speaker, I agree that the SCHIP program is a good program, as it was created in a bipartisan manner many years ago. Its extension would be a good thing. But what we have before us today on the floor is not, because it robs from senior citizens in my district and elsewhere to provide extraordinary and expanded coverage of health care to people who may already have it, as well as much higher income levels. Eighty to one hundred thousand dollars you could be making, your kids could be eligible for your current health insurance from your employer, and this program, as proposed by the Democrats, would actually take those off, or potentially could take those kids off, as well as take away the Medicare choice that seniors in my district, some 31,798 seniors in my district run the potential of losing the choice they have for Medicare.

I was at a town meeting in the eastern part of my district about 2 weeks ago; and a woman said, please, Congressman, don't let them take away my Medicare. And that's what's happening today. And it's unfortunate the process has been so usurped that we didn't have time other than 1 minute to talk about it.

The SPEAKER pro tempore. The gentleman from Michigan has 20½ minutes remaining. The gentleman from California has 17½ minutes remaining, for a total of 38 minutes. The gentleman from Louisiana has a total of 30 minutes remaining. The gentleman from Texas has 7 minutes remaining.

Mr. DINGELL. Mr. Speaker, I would yield 1 minute at this time to the distinguished gentlewoman from California, my dear friend, Mrs. CAPPS.

Mrs. CAPPS. Mr. Speaker, this bill is the reason I came to Congress, to continue my work for children's health. It's a blight on our Nation that millions of children in hardworking families still have no access to health care, and today we can undo that wrong. Through this fiscally responsible bill we ensure that millions more eligible children will be able to get primary care, manage life-threatening illnesses, improve their school attendance and grow into healthy, productive adults. And how fitting that at the same time we will improve Medicare for seniors.

I wish to submit for the RECORD the piece by Ron Brownstein in today's L.A. Times where he calls the Bush and Republican arguments against this bill as not much more than stealing health care from babies.

We do have a choice today. We can continue to ignore the health of millions of babies and children, or we can take the high moral ground and pass this bill which will provide health care to those who need it most.

I want to commend Chairmen DINGELL, PALLONE, RANGEL, AND STARK for all the hard work they and the committee staff have done. I urge my colleagues to vote "yes" on the CHAMP Act. Do something positive today for America's children.

[From the Los Angeles Times, Aug. 1, 2007]

#### STEALING HEALTHCARE FROM BABIES

(By Ronald Brownstein)

Does President Bush really believe what he's saying about the effort from congressional Democrats and some leading Senate Republicans to provide health coverage for millions of uninsured children? He's portraying it as the first step on a slippery slope toward "government-run healthcare," as if senior senators in both parties were conspiring with Michael Moore to import Cuban doctors to inoculate and indoctrinate American children.

In fact, Congress is moving responsibly to remove a blot on the nation: the 8 million children without health insurance. It is doing so by expanding the State Children's Health Insurance Program, or SCHIP, a state-federal partnership that the Republican Congress and President Clinton created in 1997 to cover kids in working-poor families. Final votes on the House and Senate floors could come this week.

Bush, seemingly determined to provoke every possible confrontation with congress-

sional Democrats, has pledged to veto the bills. And with the GOP congressional leadership, he is fighting the proposals with a swarm of misleading and hypocritical arguments.

Bush complains that expanding the program costs too much. But cost was no object when Bush and congressional Republicans sought to court seniors by creating the Medicare prescription drug benefit in 2003.

Under the bipartisan Senate bill, Washington would spend about \$56 billion over the next five years to cover almost half of the nation's uninsured children. Over the same period, the Medicare entitlement that Bush signed (after more than four-fifths of House and Senate Republicans voted for it) will cost nearly \$330 billion. Is social spending affordable only when it benefits constituencies Republicans prize in elections?

Next, Bush complains that the SCHIP expansion would require "a huge tax increase." Actually, both the House and Senate plans would raise taxes just on tobacco. And the sponsors are increasing taxes only because they have committed to the novel notion of paying for their program. When Bush and the Republican Congress created the expensive Medicare drug benefit, they did not provide any new revenue to fund it. They just billed the cost to the next generation through higher federal deficits. Now Bush is condemning Democrats for displaying more responsibility.

Bush also disparages the SCHIP expansion as an attempt "to encourage people to transfer from the private sector to government healthcare plans." But studies have found that three-fourths of children covered under the current program receive their care through private insurance plans that contract with the states, notes Edwin Park of the liberal Center on Budget and Policy Priorities. In that way, the program is no different than Bush's prescription drug plan: The government pays for services delivered by private insurance companies.

Bush's argument that the SCHIP changes will unacceptably "crowd out" private insurance is misleading in another respect. It's true, as Bush charges, that if the program is expanded, some eligible families would shift their children into it from private coverage, hoping to save money or improve care. The Congressional Budget Office estimates that children making such a switch would account for about one-third of the 6 million kids expected to enroll in the expanded SCHIP program under the Senate plan, and hence one-third of the added cost.

But as CBO Director Peter Orszag notes, all efforts to expand coverage for the uninsured inevitably spill some benefits on those who already have insurance. And the Senate SCHIP plan, by limiting that spillover to one-third of its cost, is actually more efficient than most alternatives for expanding coverage.

Bush, for instance, wants to reduce the number of uninsured by providing new tax incentives for buying coverage. But the Lewin Group, an independent consulting firm, recently calculated that 80 percent of the benefits from Bush's plan would flow to people who already have insurance. Such numbers help explain why Orszag recently said that, dollar for dollar, expanding SCHIP "is pretty much as efficient as you can possibly get" to insure more kids.

Bush's most outrageous argument is that expanding SCHIP "empower[s] bureaucrats." In reality, covering more children would empower parents like Sheila Miguel of Sun Valley, Calif.

Miguel used to spend hours in emergency rooms trying to obtain asthma medicine for her daughter, Chelsea, but since enrolling her in a SCHIP-funded program, Miguel can take her to reliably scheduled clinic visits.

Bush says he wants "to put more power" over healthcare "in the hands of individuals." By freeing Miguel's family from the worry and drudgery of repeated emergency room visits, that's exactly what SCHIP does.

Few of the lower-income working families that rely on this program have the time to follow this week's legislative struggle, much less analyze how it serves the White House's apparent strategy of embroiling congressional Democrats in unrelenting conflicts with Bush that alienate swing voters. In that political skirmishing, these families have been reduced to collateral damage. They deserve something better from a president who once called himself a "compassionate conservative."

Mr. BARTON of Texas. I would like to yield 2 minutes to the distinguished Republican whip and a member of the committee who is on leave, Mr. BLUNT of Missouri.

Mr. BLUNT. Mr. Speaker, I'm thankful to the former chairman and the ranking member for yielding to me on this bill.

It seems to me that what we have here is a bill that has not benefited from the process of hearings. Most of our friends in the majority today, I assume, will vote for this bill. Most of our friends on our side are going to vote against this bill, and I believe that during the month of August the voters will have the hearings that we should have had in advance. I believe what we'll find out is this bill has needless problems in it in the name of expanding SCHIP.

My good friend, Ms. DEGETTE, mentioned the moon mission. It does seem to me that, in this bill now, the moon is the limit. The original bill said 200 percent of poverty, with some flexibility to the States. We're in favor of extending these guidelines.

The original proposal, as we understood it from the majority, was 400 percent of poverty. Families who made 80, \$85,000 would get free health insurance for their children. I don't think that limit is there any more. I believe it's up to the States under this bill. If you made 1,000 times the poverty rate and your State wanted to insure you, they could do that and your initial payment from the Federal Government would be 95 cents on every dollar.

We're going to offer a recommitment today that extends the current SCHIP program; that gives us the time to talk about it and ways that make it better; that reinstates the current law on immigrants, where, if you come to this country, you have to have a sponsor, and you can't participate in programs like this for the first 5 years. That's been one of the workable parts of our immigration policy.

We would propose we don't have self-verification, where people who are here illegally just can walk up and sign up and say I'm legally here.

We'll have a doctor fix. We'll do something about the therapy caps. And, in my district, 21,033 people who would lose their choice of Medicare don't lose their choice of Medicare. Restricting Medicare benefits to pay for children's health care is not the right thing.

Mr. STARK. I reserve the balance of my time.

Mr. BARTON of Texas. I'm going to try one more time here.

Mr. Speaker, I ask unanimous consent that there be 1 hour of additional time allotted on the pending legislation, equally divided between the majority and the minority, and, within that, equally divided between the Ways and Means Committee and the Energy and Commerce Committee.

Mr. STARK. Reserving the right to object.

The SPEAKER pro tempore. The gentleman reserves the right to object.

Mr. DINGELL. And I make a similar reservation.

Mr. STARK. If I could inquire of the distinguished gentleman from Texas, it's my understanding that this unanimous consent request has been negotiated between the majority and minority leadership.

Mr. BARTON of Texas. We share the same understanding.

Mr. STARK. And as part of it that we would proceed expeditiously to use the debate, move to passage, and without intervening stalling motions.

Mr. BARTON of Texas. We have the same understanding.

Mr. STARK. Then I withdraw my reservation.

Mr. DINGELL. I have no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Hallelujah.

Mr. Speaker, at this point in time, I reserve my time.

Mr. STARK. Mr. Speaker, with this new-found wealth of time, I'm happy to yield 1 minute to the senior member of the Health Ways and Means Subcommittee, the gentleman from Texas (Mr. DOGGETT), who understands that the Lance Armstrong Foundation has urged a vote in favor of 3162, a legislation scored as a key vote for people affected by cancer; and Mr. Armstrong is a constituent of Mr. DOGGETT.

Mr. DOGGETT. Surely if Lance Armstrong can overcome mountains in France, we can overcome the mountains of obstructionism and of excuses to provide our children and our seniors the health coverage that they need.

By including significant portions of two Medicare bills that I filed, today's legislation supports grandparents as well as grandchildren. All seniors would get preventive care, and many of the 3.3 million poor seniors not receiving any help today would get the extra help for which they qualify.

Today, those seniors most in need are often least aware that help exists. We must identify and notify those entitled to extra help with prescription drugs and simplify the application process.

We also ensure that drug coverage is not lost by our seniors who saved a small nest egg or receive help and groceries from their children—behavior that we ought to encourage, not punish.

□ 1545

Importantly, we mandate that patients suffering from cancer, AIDS, and mental illness receive access to life-saving medications. Without this protection, vulnerable patients are held hostage by "cost cutting decisions" by private insurance companies.

While Lance inspires us to live strong, we can "vote strong" and improve the lives of children, seniors, and Americans fighting to get well again. Approve this important legislation.

Mr. BARTON of Texas. Mr. Speaker, could I inquire as to how much time there is remaining?

The SPEAKER pro tempore. The gentleman from Michigan has 34½ minutes remaining; the gentleman from California has 31½ minutes remaining; the gentleman from Texas has 20 minutes remaining; and the gentleman from Louisiana has 45 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield 2½ minutes to a distinguished member from the great State of Georgia, Dr. GINGREY.

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to talk about policy and process.

This is a situation where in the process the voices on both sides of the aisle have literally been shut down by bringing forward one of the most important pieces of legislation, I think, that I have had to discuss in the 4½ years that I have been a Member of this Congress. To say to the 11 position Members, almost equally divided between the Democrats and the Republicans, that we don't want to hear your voice, we don't want to hear some amendments that you might want to proffer because you have spent maybe 30 years, in my case maybe 25 years, 250 years in the aggregate of these 11 physicians' practicing medicine, no one being able to bring meaningful amendments to this issue.

The other side has talked many times about the Republican former majority running up this massive debt and borrowing money from the Chinese. I am going to tell you something. This might be a time, Mr. Speaker, where the new majority should borrow this \$75 billion massive expansion of the SCHIP program from the Chinese rather than getting the money off the backs of our Medicare recipients under Medicare Advantage, 8 million of whom choose that option, and many of those are the lowest income; and also encouraging 22 million people to become addicted to smoking so they could raise this revenue. The chairman says it is a modest increase in tax on a pack of cigarettes. Indeed, Mr. Speaker, it doubles the tax on a pack of cigarettes.

So we have a better idea. I am opposed to this bill in its present form, and I support the Republican motion to recommit, which is the Barton-Deal bill, which says, look, we will cover children that are slipping through the cracks. The CBO estimates, Mr. Speaker, that 600,000 children have fallen through the cracks. They are in that

group 100 to 200 percent of the Federal poverty level. Under the Barton-Deal plan, we can cover them and we will do that. We don't need to increase the funding by \$50 billion and start covering children who already have health insurance because their families make more than \$100,000 a year.

Mr. DINGELL. Mr. Speaker, at this time, I yield 2 minutes to the distinguished gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, there are 11 million reasons to vote for this bill, and each is a child in a working-class family who will grow up healthier and stronger as a result of its passage.

Every dollar we invest in the SCHIP program saves money over time. The children we cover are far less likely to require more expensive health care later on, far more likely to be better achievers in school and much better prepared to become productive adults.

SCHIP today provides health care to 6 million children. This bill will cover an additional 5 million children who qualify for SCHIP but today lack coverage.

Maine has developed one of the best SCHIP programs in the Nation. This bill offers States the flexibility to tailor outreach efforts to their specific needs and capacities. Failure to pass this legislation would mean the loss of health coverage for millions of children. But every child should have access to quality, affordable health care.

I am proud of the comparative effectiveness research provision in this bill. It will reduce health care costs and improve quality for all Americans. It does that by providing doctors and their patients with valid evidence-based information on how different treatments for particular medical conditions compare to one another. This data can help doctors and their patients determine whether or not new or high-priced drugs, devices, and other medical treatments provide better clinical outcomes.

This is a critically important piece of legislation. It helps our kids. It preserves Medicare for our seniors. It makes sure our physicians and other providers are adequately reimbursed. I urge my colleagues to support this legislation.

Mr. BARTON of Texas. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia, Dr. PRICE.

(Mr. PRICE of Georgia asked and was given permission to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, I appreciate the opportunity.

I have in my hand here a letter from the American Association for Homecare, Coalition for Pulmonary Fibrosis, the COPD Alert, the Council for Quality Respiratory Care, and the National Emphysema/COPD Association asking us not to vote for this bill that would enact cuts in their programs.

As a physician, I understand the negative consequences of greater governmental involvement in health care.

This bill will cut Medicare benefits. It will tax every single American with private health insurance.

Now, why would they do this? Why would they pass a bill like this? The answer, Mr. Speaker, is because they can. But their motives are laid bare. Their motives are laid today.

The true desire of those on the left is to gradually and enticingly move all Americans to Washington-controlled bureaucratic health care. Read the bill. Read the bill. It's right there.

It's not what we ought to be doing. It's not what Americans want. I urge my colleagues to oppose this bill.

Mr. STARK. Mr. Speaker, I would like to yield 1 minute to the distinguished gentleman from California, a member of the Ways and Means Committee (Mr. BECERRA). Pending that, I would point out that he is well aware that the National Hispanic Medical Association has endorsed the bill, and I would like to submit their endorsing letter into the RECORD.

NHMA, NATIONAL HISPANIC  
MEDICAL ASSOCIATION,  
Washington, DC, July 25, 2007.

Hon. JOHN DINGELL,  
Chairman, House Committee on Energy and  
Commerce, House of Representatives, Wash-  
ington, DC.

DEAR CHAIRMAN DINGELL: On behalf of the National Hispanic Medical Association (NHMA), a non-profit association representing 36,000 licensed Hispanic physicians in the United States, we write to express our strong support for the Children's Health and Medicare Protection Act, H.R. 3162, which will allow the State Children's Health Insurance Program (SCHIP), Medicare, and Medicaid to expand enrollment of Hispanic children and elderly. Since one in five Hispanic children are currently uninsured and only 10 percent of Hispanics eligible for Medicare are enrolled, these programs are vital to increasing access to health care.

The mission of NHMA is to improve the health of Hispanics and other underserved populations. We support the SCHIP section that allows states to cover legal immigrant children and legal immigrant pregnant women, covers dental care and mental health care, provides state performance bonuses if they can demonstrate that they have enrolled new children who are currently eligible, but not enrolled, and creates the Children's Access, Payment and Equity Commission, that will examine issues of health disparities. We support the Medicare section that calls for reducing health disparities through demonstrations for language services reimbursement and targeted outreach, new quality data relating to disparities, expands the Low Income Subsidy and Medicare Savings Programs, and mandates a report on Culturally and Linguistically Appropriate Standards use by providers. We do not support total elimination of Medicare Advantage with a Hispanic enrollment of 21 percent receiving comprehensive care management and with Puerto Rico covering dual eligibles. Finally, we support the Medicaid section that increases funds for transition to work, disabilities, family planning, adult day care and Puerto Rico.

In summary, the National Hispanic Medical Association supports the Children's Health and Medicare Protection Act, H.R. 3161, because it will increase access to health insurance for Hispanics and will, thus, improve the health of all Americans.

Sincerely,

ELENA RIOS, M.D., M.S.P.H.,  
President and CEO.

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding.

The CHAMP Act is a victory for children's health, it is a victory for seniors' health, and it is a victory for American taxpayers who expect us to be fiscally responsible.

Why shouldn't 11 million American children from working families in this country have the same access to health care that the children of every single Member of Congress has? The taxpayers pay our salary and they make it possible for us to get health care benefits. Why shouldn't 11 million American children who live with parents who are working day to day have the same access?

Like our victory this year in increasing the minimum wage for America's workers, expanding health care coverage to 5 million children is long overdue.

My colleagues on the Republican side of the aisle voted a few years ago to add a prescription drug benefit under Medicare that costs about eight times as much as the benefit we would offer to the 11 million children would cost. Why not do it for our kids?

We are doing this in a way that is fiscally responsible. The CHAMP Act will not add a single cent to the Federal deficit that the Bush administration has created.

This is sound policy. Let's vote for the CHAMP Act for our kids and our seniors.

Mr. BARTON of Texas. Mr. Speaker, I would like to yield 1 minute to the distinguished gentleman from the great State of Nebraska (Mr. FORTENBERRY).

Mr. FORTENBERRY. Mr. Speaker, everyone agrees that children deserve proper health care. The SCHIP program is an important program that provides health insurance for over 6.6 million of America's neediest children. I supported its renewal, but I believe it must be done responsibly.

This legislation overreaches. It cuts Medicare and also allows some adults to claim health care coverage meant for children. Good public policy should not pit the children against their grandparents.

This 465-page bill makes sweeping changes to American health care and tax policies. It needs thorough, thoughtful, and deliberate analysis, and time has not been provided for adequate examination. The SCHIP bill could have clear bipartisan support, I believe, but instead it contains a labyrinth of provisions, some of which hurts seniors. Mr. Speaker, I believe this Congress can do better.

Mr. DINGELL. Mr. Speaker, I yield at this time 1 minute to my very dear friend, the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, somewhere in America right now an 8-year-old girl comes home to her mother and

father and says she has a numbness and ache in her right arm, and they worry about it, wondering whether it is just a strain from playing on the playground or whether she has a serious disease of her nervous system. But they can't send her to the pediatrician because they do not have enough money left in the family budget this week and they have no health insurance.

The question before the House is whether or not to provide health insurance for that family and that little girl. Yes or no?

The bill says "yes." It pays for it responsibly by a modest increase in the cigarette tax and by eliminating subsidies to health insurance companies. You can say whatever you want, but the question comes down to that: yes or no? It is time we voted "yes" for that little girl and her family, voted "yes" on this bill.

Mr. BARTON of Texas. Mr. Speaker, I want to yield 1 minute to the Member of Congress with the largest number of Social Security recipients, the gentlewoman from the great State of Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today on behalf of the 43,000 senior citizens living in my congressional district who will lose their Medicare benefits if the bill before us today becomes law.

Everyone in this Chamber wants to extend SCHIP because it has helped many children, but not at the expense of their grandparents. Let me repeat: 43,000 of my constituents, 693,000 Floridians, and 8.3 million seniors nationwide will be pushed off of Medicare plans in favor of other priorities.

Today we are seeing the biggest raid on the Medicare trust fund seniors have ever seen, with no regard to those who rely on Medicare Advantage for their only access in many rural areas to health care benefits.

Some of the specific cuts that are in this bill are a 43 percent cut to patients who rent lifesaving oxygen equipment, a \$7.2 billion cut for home health services, a \$6.5 billion cut for skilled nursing facilities.

Mr. Speaker, cutting the only health care program many of my constituents use would be unconscionable.

The SPEAKER pro tempore. The gentleman from Michigan has a total of 31½ minutes remaining, and the gentleman from California has 30 minutes remaining, for an aggregate total of 61½ minutes. The gentleman from Texas has 14 minutes, and the gentleman from Louisiana has 45 minutes, for an aggregate total of 59 minutes.

Mr. DINGELL. Mr. Speaker, I continue to reserve the balance of my time.

Mr. STARK. Mr. Speaker, I continue to reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I respectfully reserve the balance of my time at this time.

□ 1600

Mr. DINGELL. Mr. Speaker, I note that Mr. MCCREY has time remaining.

He is a very valuable Member of this body, and I'm sure he would make very good use of the time that's available to him, and I would suggest that the business of the House could be expedited by having Mr. McCrery proceed to yield time to members of the Ways and Means Committee on the minority side.

Mr. BARTON of Texas. Mr. Speaker, I just wish to make an observation that the tradition of normal procedure is to alternate between majority and minority. We just had a minority speaker. It should be the opportunity of the majority to tell their side of the story.

The SPEAKER pro tempore. The Chair notes that it was an alternation between two committees on one side and two committees on the other side of the House.

The gentleman from Michigan has 31½ minutes remaining, the gentleman from California has 30½ minutes remaining, for an aggregate of 61½ minutes.

The gentleman from Texas has 14 minutes remaining, the gentleman from Louisiana continues to have his full 45 minutes remaining, for an aggregate of 59 minutes.

Mr. DINGELL. Mr. Speaker, I would then yield, with the understanding that the Democrats want to give the choice of the doctor, while our good Republican friends want to give a choice of HMOs.

With that, I yield 2 minutes to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. I thank the gentleman.

Mr. Speaker, the reauthorization of State Children's Health Insurance is unquestionably one of the most important bills we will pass this year. This bill will protect six million kids currently covered by SCHIP and provide coverage for an additional five million children.

This bill provides aggressive outreach to enroll children by simplifying enrollment procedures and awarding States bonuses for finding more children. This is important since two-thirds of the uninsured children in our Nation are actually eligible but not enrolled in Medicaid or SCHIP.

What is the response of our Republican friends? Block the bill from coming up in our committee; create phony issues because they're against insuring children. Illegal amnesty? Give me a break. No hearings? We've had seven hearings on this bill. Eligible for private insurance? 93.5 percent of the children we cover in this bill would have no private insurance without this bill.

What is the President's response? Under the President's plan, this program would see its funding cut from last year; and, worse, the amount allocated for its reauthorization would be less than half of the amount required to maintain coverage for current beneficiaries.

He says he will veto this bill because it covers too many children. This is un-

conscionable. Sixty-one national advocacy groups devoted to improving children's health request that we fund the SCHIP program at 60 billion additional dollars. The President countered with \$4.8 billion. Clearly, there is a disconnect.

We are proud that, despite budgetary constraints, we will be able to reauthorize our SCHIP program at \$50 billion. I am proud that we will be covering 11 million low-income children under this reauthorization, and I know our Nation will be better off for it.

This is an amazing feat. Passing bills like this is why we should all feel honored to be Members of Congress. I'm sorry that my Republican friends just continue to say no. We say yes, yes to 11 million children, yes to saying that our children ought to be insured, yes to saying that America's children need our help. Pass this bill. It is good for all our children.

Mr. BARTON of Texas. Mr. Speaker, I wish to yield 2 minutes to the distinguished gentleman from Georgia (Mr. DEAL), ranking member of the Health Subcommittee.

Mr. DEAL of Georgia. I thank the gentleman for yielding.

Mr. Speaker, we've heard a lot of opinions today about the effects of this bill; and opinions are, of course, of different perspectives on the bill. But there is an agency that we all rely on, supposedly, to give us the facts, and that is the Congressional Budget Office.

Now, there has been an argument about whether or not this bill, in its reforms, will go back to a system that would allow illegal immigrants to be covered. Now, we can say that it doesn't, but CBO says that, by changing that provision back to the way it used to be, that over the next 5 years it will cost \$800 million and over the next 10 years it will cost \$1.9 billion.

Now, CBO is simply saying that if you make it easier for illegals to enter the program, that's the price tag. They wouldn't say that if they didn't have some basis for coming up with those numbers. They didn't just pull them out of the air.

The other part deals with legal immigrants. We have had a policy in this country that if someone wants to bring a family member, a friend, or sponsor somebody to come in and we give that person coming in legal status, that they are not eligible to participate in our social programs, such as Medicaid, for the first 5 years. Their sponsor signs an affidavit that they will be personally responsible for that.

This bill removes that waiting time. So when you bring someone in, they can immediately sign up for the Medicaid rolls. Now, CBO says that that will cost \$900 million over the next 5 years and \$2.2 billion over the next 10 years. Now, the truth of the matter is that this bill gives incentives to States to allow this to happen.

I urge a "no" vote.

## CONFERENCE REPORT ON H.R. 2272, AMERICA COMPETES ACT

Mr. GORDON of Tennessee submitted the following conference report and statement on the bill (H.R. 2272) to invest in innovation through research and development, and to improve the competitiveness of the United States:

CONFERENCE REPORT (H. REPT. 110-289)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2272), to invest in innovation through research and development, and to improve the competitiveness of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

### SECTION 1. SHORT TITLE.

*This Act may be cited as the "America COMPETES Act" or the "America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act".*

### SEC. 2. TABLE OF CONTENTS.

*The table of contents of this Act is as follows:*

*Sec. 1. Short title.*

*Sec. 2. Table of contents.*

#### TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY; GOVERNMENT-WIDE SCIENCE

*Sec. 1001. National Science and Technology Summit.*

*Sec. 1002. Study on barriers to innovation.*

*Sec. 1003. National Technology and Innovation Medal.*

*Sec. 1004. Semiannual Science, Technology, Engineering, and Mathematics Days.*

*Sec. 1005. Study of service science.*

*Sec. 1006. President's Council on Innovation and Competitiveness.*

*Sec. 1007. National coordination of research infrastructure.*

*Sec. 1008. Sense of Congress on innovation acceleration research.*

*Sec. 1009. Release of scientific research results.*

#### TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

*Sec. 2001. NASA's contribution to innovation.*

*Sec. 2002. Aeronautics.*

*Sec. 2003. Basic research enhancement.*

*Sec. 2004. Aging workforce issues program.*

*Sec. 2005. Sense of Congress regarding NASA's undergraduate student research program.*

*Sec. 2006. Use of International Space Station National Laboratory to support math and science education and competitiveness.*

#### TITLE III—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

*Sec. 3001. Authorization of appropriations.*

*Sec. 3002. Amendments to the Stevenson-Wydler Technology Innovation Act of 1980.*

*Sec. 3003. Manufacturing Extension Partnership.*

*Sec. 3004. Institute-wide planning report.*

*Sec. 3005. Report by Visiting Committee.*

*Sec. 3006. Meetings of Visiting Committee on Advanced Technology.*

*Sec. 3007. Collaborative manufacturing research pilot grants.*

*Sec. 3008. Manufacturing Fellowship Program.*

*Sec. 3009. Procurement of temporary and intermittent services.*

*Sec. 3010. Malcolm Baldrige awards.*

- Sec. 3011. Report on National Institute of Standards and Technology efforts to recruit and retain early career science and engineering researchers.
- Sec. 3012. Technology Innovation Program.
- Sec. 3013. Technical amendments to the National Institute of Standards and Technology Act and other technical amendments.
- Sec. 3014. Retention of depreciation surcharge.
- Sec. 3015. Post-doctoral fellows.
- TITLE IV—OCEAN AND ATMOSPHERIC PROGRAMS**
- Sec. 4001. Ocean and atmospheric Research and development Program.
- Sec. 4002. NOAA ocean and atmospheric Science education Programs.
- Sec. 4003. NOAA's contribution to innovation.
- TITLE V—DEPARTMENT OF ENERGY**
- Sec. 5001. Short title.
- Sec. 5002. Definitions.
- Sec. 5003. Science, engineering, and mathematics education at the Department of Energy.
- Sec. 5004. Nuclear science talent expansion program for institutions of higher education.
- Sec. 5005. Hydrocarbon systems science talent expansion program for institutions of higher education.
- Sec. 5006. Department of Energy early career awards for science, engineering, and mathematics researchers.
- Sec. 5007. Authorization of appropriations for Department of Energy for basic research.
- Sec. 5008. Discovery science and engineering innovation institutes.
- Sec. 5009. Protecting America's Competitive Edge (PACE) graduate fellowship program.
- Sec. 5010. Sense of Congress regarding certain recommendations and reviews.
- Sec. 5011. Distinguished scientist program.
- Sec. 5012. Advanced Research Projects Agency—Energy.
- TITLE VI—EDUCATION**
- Sec. 6001. Findings.
- Sec. 6002. Definitions.
- Subtitle A—Teacher Assistance**
- PART I—TEACHERS FOR A COMPETITIVE TOMORROW**
- Sec. 6111. Purpose.
- Sec. 6112. Definitions.
- Sec. 6113. Programs for baccalaureate degrees in science, technology, engineering, mathematics, or critical foreign languages, with concurrent teacher certification.
- Sec. 6114. Programs for master's degrees in science, technology, engineering, mathematics, or critical foreign language education.
- Sec. 6115. General provisions.
- Sec. 6116. Authorization of appropriations.
- PART II—ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS**
- Sec. 6121. Purpose.
- Sec. 6122. Definitions.
- Sec. 6123. Advanced Placement and International Baccalaureate Programs.
- PART III—PROMISING PRACTICES IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TEACHING**
- Sec. 6131. Promising practices.
- Subtitle B—Mathematics**
- Sec. 6201. Math Now for elementary school and middle school students program.
- Sec. 6202. Summer term education programs.
- Sec. 6203. Math skills for secondary school students.
- Sec. 6204. Peer review of State applications.
- Subtitle C—Foreign Language Partnership Program**
- Sec. 6301. Findings and purpose.
- Sec. 6302. Definitions.
- Sec. 6303. Program authorized.
- Sec. 6304. Authorization of appropriations.
- Subtitle D—Alignment of Education Programs**
- Sec. 6401. Alignment of secondary school graduation requirements with the demands of 21st century postsecondary endeavors and support for P-16 education data systems.
- Subtitle E—Mathematics and Science Partnership Bonus Grants**
- Sec. 6501. Mathematics and science partnership bonus grants.
- Sec. 6502. Authorization of appropriations.
- TITLE VII—NATIONAL SCIENCE FOUNDATION**
- Sec. 7001. Definitions.
- Sec. 7002. Authorization of appropriations.
- Sec. 7003. Reaffirmation of the merit-review process of the National Science Foundation.
- Sec. 7004. Sense of the Congress regarding the mathematics and science partnership programs of the Department of Education and the National Science Foundation.
- Sec. 7005. Curricula.
- Sec. 7006. Centers for research on learning and education improvement.
- Sec. 7007. Interdisciplinary research.
- Sec. 7008. Postdoctoral research fellows.
- Sec. 7009. Responsible conduct of research.
- Sec. 7010. Reporting of research results.
- Sec. 7011. Sharing research results.
- Sec. 7012. Funding for successful science, technology, engineering, and mathematics education programs.
- Sec. 7013. Cost sharing.
- Sec. 7014. Additional reports.
- Sec. 7015. Administrative amendments.
- Sec. 7016. National Science Board reports.
- Sec. 7017. Program Fraud Civil Remedies Act of 1986 amendment.
- Sec. 7018. Meeting critical national science needs.
- Sec. 7019. Research on innovation and inventiveness.
- Sec. 7020. Cyberinfrastructure.
- Sec. 7021. Pilot program of grants for new investigators.
- Sec. 7022. Broader impacts merit review criterion.
- Sec. 7023. Donations.
- Sec. 7024. High-performance computing and networking.
- Sec. 7025. Science, technology, engineering, and mathematics talent expansion program.
- Sec. 7026. Laboratory science pilot program.
- Sec. 7027. Study on laboratory equipment donations for schools.
- Sec. 7028. Mathematics and Science Education Partnerships amendments.
- Sec. 7029. National Science Foundation teacher institutes for the 21st century.
- Sec. 7030. Robert Noyce Teacher Scholarship Program.
- Sec. 7031. Encouraging participation.
- Sec. 7032. National Academy of Sciences report on diversity in science, technology, engineering, and mathematics fields.
- Sec. 7033. Hispanic-serving institutions undergraduate program.
- Sec. 7034. Professional science master's degree programs.
- Sec. 7035. Sense of Congress on communications training for scientists.
- Sec. 7036. Major research instrumentation.
- Sec. 7037. Limit on proposals.
- TITLE VIII—GENERAL PROVISIONS**
- Sec. 8001. Collection of data relating to trade in services.
- Sec. 8002. Sense of the Senate regarding small business growth and capital markets.
- Sec. 8003. Government Accountability Office review of activities, grants, and programs.
- Sec. 8004. Sense of the Senate regarding anti-competitive tax policy.
- Sec. 8005. Study of the provision of online degree programs.
- Sec. 8006. Sense of the Senate regarding deemed exports.
- Sec. 8007. Sense of the Senate regarding capital markets.
- Sec. 8008. Accountability and transparency of activities authorized by this Act.
- TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY; GOVERNMENT-WIDE SCIENCE**
- SEC. 1001. NATIONAL SCIENCE AND TECHNOLOGY SUMMIT.**
- (a) *IN GENERAL.*—Not later than 180 days after the date of the enactment of this Act, the President shall convene a National Science and Technology Summit to examine the health and direction of the United States' science, technology, engineering, and mathematics enterprises. The Summit shall include representatives of industry, small business, labor, academia, State government, Federal research and development agencies, non-profit environmental and energy policy groups concerned with science and technology issues, and other nongovernmental organizations, including representatives of science, technology, and engineering organizations and associations that represent individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).
- (b) *REPORT.*—Not later than 90 days after the date of the conclusion of the Summit, the President shall submit to Congress a report on the results of the Summit. The report shall identify key research and technology challenges and recommendations, including recommendations to increase the representation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in science, engineering, and technology enterprises, for areas of investment for Federal research and technology programs to be carried out during the 5-year period beginning on the date the report is issued.
- (c) *ANNUAL EVALUATION.*—Beginning with the President's budget submission for the fiscal year following the conclusion of the National Science and Technology Summit and for each of the following 4 budget submissions, the Analytical Perspectives component of the budget document that describes the Research and Development budget priorities shall include a description of how those priorities relate to the conclusions and recommendations of the Summit contained in the report required under subsection (b).
- SEC. 1002. STUDY ON BARRIERS TO INNOVATION.**
- (a) *IN GENERAL.*—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall enter into a contract with the National Academy of Sciences to conduct and complete a study to identify, and to review methods to mitigate, new forms of risk for businesses beyond conventional operational and financial risk that affect the ability to innovate, including studying and reviewing—
- (1) incentive and compensation structures that could effectively encourage long-term value creation and innovation;
- (2) methods of voluntary and supplemental disclosure by industry of intellectual capital, innovation performance, and indicators of future valuation;
- (3) means by which government could work with industry to enhance the legal and regulatory framework to encourage the disclosures described in paragraph (2);
- (4) practices that may be significant deterrents to United States businesses engaging in innovation risk-taking compared to foreign competitors;

(5) costs faced by United States businesses engaging in innovation compared to foreign competitors, including the burden placed on businesses by high and rising health care costs;

(6) means by which industry, trade associations, and universities could collaborate to support research on management practices and methodologies for assessing the value and risks of longer term innovation strategies;

(7) means to encourage new, open, and collaborative dialogue between industry associations, regulatory authorities, management, shareholders, labor, and other concerned interests to encourage appropriate approaches to innovation risk-taking;

(8) incentives to encourage participation among institutions of higher education, especially those in rural and underserved areas, to engage in innovation;

(9) relevant Federal regulations that may discourage or encourage innovation;

(10) all provisions of the Internal Revenue Code of 1986, including tax provisions, compliance costs, and reporting requirements, that discourage innovation;

(11) the extent to which Federal funding promotes or hinders innovation; and

(12) the extent to which individuals are being equipped with the knowledge and skills necessary for success in the 21st century workforce, as measured by—

(A) elementary school and secondary school student academic achievement on the State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 (b)(3)), especially in mathematics, science, and reading, identified by ethnicity, race, and gender;

(B) the rate of student entrance into institutions of higher education, identified by ethnicity, race, and gender, by type of institution, and barriers to access to institutions of higher education;

(C) the rates of—

(i) students successfully completing postsecondary education programs, identified by ethnicity, race, and gender; and

(ii) certificates, associate degrees, and baccalaureate degrees awarded in the fields of science, technology, engineering, and mathematics, identified by ethnicity, race, and gender; and

(D) access to, and availability of, high quality job training programs.

(b) **REPORT REQUIRED.**—Not later than 1 year after entering into the contract required by subsection (a) and 4 years after entering into such contract, the National Academy of Sciences shall submit to Congress a report on the study conducted under such subsection.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Office of Science and Technology Policy \$1,000,000 for fiscal year 2008 for the purpose of carrying out the study required under this section.

#### **SEC. 1003. NATIONAL TECHNOLOGY AND INNOVATION MEDAL.**

Section 16 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3711) is amended—

(1) in the section heading, by striking “**NATIONAL MEDAL**” and inserting “**NATIONAL TECHNOLOGY AND INNOVATION MEDAL**”; and

(2) in subsection (a), by striking “**Technology Medal**” and inserting “**Technology and Innovation Medal**”.

#### **SEC. 1004. SEMI-ANNUAL SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS DAYS.**

It is the sense of Congress that the Director of the Office of Science and Technology Policy should—

(1) encourage all elementary and middle schools to observe a Science, Technology, Engineering, and Mathematics Day twice in every school year for the purpose of bringing in

science, technology, engineering, and mathematics mentors to provide hands-on lessons to excite and inspire students to pursue the science, technology, engineering, and mathematics fields (including continuing education and career paths);

(2) initiate a program, in consultation with Federal agencies and departments, to provide support systems, tools (from existing outreach offices), and mechanisms to allow and encourage Federal employees with scientific, technological, engineering, or mathematical responsibilities to reach out to local classrooms on such Science, Technology, Engineering, and Mathematics Days to instruct and inspire school children, focusing on real life science, technology, engineering, and mathematics-related applicable experiences along with hands-on demonstrations in order to demonstrate the advantages and direct applications of studying the science, technology, engineering, and mathematics fields; and

(3) promote Science, Technology, Engineering, and Mathematics Days involvement by private sector and institutions of higher education employees, including partnerships with scientific, engineering, and mathematical professional organizations representing individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b), in a manner similar to the Federal employee involvement described in paragraph (2).

#### **SEC. 1005. STUDY OF SERVICE SCIENCE.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that, in order to strengthen the competitiveness of United States enterprises and institutions and to prepare the people of the United States for high-wage, high-skill employment, the Federal Government should better understand and respond strategically to the emerging management and learning discipline known as service science.

(b) **STUDY.**—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall, through the National Academy of Sciences, conduct a study and report to Congress on how the Federal Government should support, through research, education, and training, the emerging management and learning discipline known as service science.

(c) **OUTSIDE RESOURCES.**—In conducting the study under subsection (b), the National Academy of Sciences shall consult with leaders from 2- and 4-year institutions of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), leaders from corporations, and other relevant parties.

(d) **SERVICE SCIENCE DEFINED.**—In this section, the term “service science” means curricula, training, and research programs that are designed to teach individuals to apply scientific, engineering, and management disciplines that integrate elements of computer science, operations research, industrial engineering, business strategy, management sciences, and social and legal sciences, in order to encourage innovation in how organizations create value for customers and shareholders that could not be achieved through such disciplines working in isolation.

#### **SEC. 1006. PRESIDENT'S COUNCIL ON INNOVATION AND COMPETITIVENESS.**

(a) **IN GENERAL.**—The President shall establish a President's Council on Innovation and Competitiveness.

(b) **DUTIES.**—The duties of the Council shall include—

(1) monitoring implementation of public laws and initiatives for promoting innovation, including policies related to research funding, taxation, immigration, trade, and education that are proposed in this Act or in any other Act;

(2) providing advice to the President with respect to global trends in competitiveness and innovation and allocation of Federal resources in education, job training, and technology research and development considering such global trends in competitiveness and innovation;

(3) in consultation with the Director of the Office of Management and Budget, developing a process for using metrics to assess the impact of existing and proposed policies and rules that affect innovation capabilities in the United States;

(4) identifying opportunities and making recommendations for the heads of executive agencies to improve innovation, monitoring, and reporting on the implementation of such recommendations;

(5) developing metrics for measuring the progress of the Federal Government with respect to improving conditions for innovation, including through talent development, investment, and infrastructure improvements; and

(6) submitting to the President and Congress an annual report on such progress.

(c) **MEMBERSHIP AND COORDINATION.**—

(1) **MEMBERSHIP.**—The Council shall be composed of the Secretary or head of each of the following:

(A) The Department of Commerce.

(B) The Department of Defense.

(C) The Department of Education.

(D) The Department of Energy.

(E) The Department of Health and Human Services.

(F) The Department of Homeland Security.

(G) The Department of Labor.

(H) The Department of the Treasury.

(I) The National Aeronautics and Space Administration.

(J) The Securities and Exchange Commission.

(K) The National Science Foundation.

(L) The Office of the United States Trade Representative.

(M) The Office of Management and Budget.

(N) The Office of Science and Technology Policy.

(O) The Environmental Protection Agency.

(P) The Small Business Administration.

(Q) Any other department or agency designated by the President.

(2) **CHAIRPERSON.**—The Secretary of Commerce shall serve as Chairperson of the Council.

(3) **COORDINATION.**—The Chairperson of the Council shall ensure appropriate coordination between the Council and the National Economic Council, the National Security Council, and the National Science and Technology Council.

(4) **MEETINGS.**—The Council shall meet on a semi-annual basis at the call of the Chairperson and the initial meeting of the Council shall occur not later than 6 months after the date of the enactment of this Act.

(d) **DEVELOPMENT OF INNOVATION AGENDA.**—

(1) **IN GENERAL.**—The Council shall develop a comprehensive agenda for strengthening the innovation and competitiveness capabilities of the Federal Government, State governments, academia, and the private sector in the United States.

(2) **CONTENTS.**—The comprehensive agenda required by paragraph (1) shall include the following:

(A) An assessment of current strengths and weaknesses of the United States investment in research and development.

(B) Recommendations for addressing weaknesses and maintaining the United States as a world leader in research and development and technological innovation, including strategies for increasing the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in science, technology, engineering, and mathematics fields.

(C) Recommendations for strengthening the innovation and competitiveness capabilities of the Federal Government, State governments, academia, and the private sector in the United States.

(3) **ADVISORS.**—

(A) **RECOMMENDATION.**—Not later than 30 days after the date of the enactment of this Act, the National Academy of Sciences, in consultation with the National Academy of Engineering, the Institute of Medicine, and the National Research Council, shall develop and submit to the

President a list of 50 individuals that are recommended to serve as advisors to the Council during the development of the comprehensive agenda required by paragraph (1). The list of advisors shall include appropriate representatives from the following:

- (i) The private sector of the economy.
- (ii) Labor.
- (iii) Various fields including information technology, energy, engineering, high-technology manufacturing, health care, and education.
- (iv) Scientific organizations.
- (v) Academic organizations and other non-governmental organizations working in the area of science or technology.
- (vi) Nongovernmental organizations, such as professional organizations, that represent individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in the areas of science, engineering, technology, and mathematics.

(B) DESIGNATION.—Not later than 30 days after the date that the National Academy of Sciences submits the list of recommended individuals to serve as advisors, the President shall designate 50 individuals to serve as advisors to the Council.

(C) REQUIREMENT TO CONSULT.—The Council shall develop the comprehensive agenda required by paragraph (1) in consultation with the advisors.

(4) INITIAL SUBMISSION AND UPDATES.—

(A) INITIAL SUBMISSION.—Not later than 1 year after the date of the enactment of this Act, the Council shall submit to Congress and the President the comprehensive agenda required by paragraph (1).

(B) UPDATES.—At least once every 2 years, the Council shall update the comprehensive agenda required by paragraph (1) and submit each such update to Congress and the President.

(e) OPTIONAL ASSIGNMENT.—Notwithstanding subsection (a) and paragraphs (1) and (2) of subsection (c), the President may designate an existing council to carry out the requirements of this section.

#### SEC. 1007. NATIONAL COORDINATION OF RESEARCH INFRASTRUCTURE.

(a) IDENTIFICATION AND PRIORITIZATION OF DEFICIENCIES IN FEDERAL RESEARCH FACILITIES.—Each year the Director of the Office of Science and Technology Policy shall, through the National Science and Technology Council, identify and prioritize the deficiencies in research facilities and major instrumentation located at Federal laboratories and national user facilities at academic institutions that are widely accessible for use by researchers in the United States. In prioritizing such deficiencies, the Director shall consider research needs in areas relevant to the specific mission requirements of Federal agencies.

(b) PLANNING FOR ACQUISITION, REFURBISHMENT, AND MAINTENANCE OF RESEARCH FACILITIES AND MAJOR INSTRUMENTATION.—The Director shall, through the National Science and Technology Council, coordinate the planning by Federal agencies for the acquisition, refurbishment, and maintenance of research facilities and major instrumentation to address the deficiencies identified under subsection (a).

(c) REPORT.—The Director shall submit to Congress each year, together with documents submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31, United States Code), a report, current as of the fiscal year ending in the year before such report is submitted, setting forth the following:

(1) A description of the deficiencies in research infrastructure identified in accordance with subsection (a).

(2) A list of projects and budget proposals of Federal research facilities, set forth by agency, for major instrumentation acquisitions that are included in the budget proposal of the President.

(3) An explanation of how the projects and instrumentation acquisitions described in paragraph (2) relate to the deficiencies and priorities identified pursuant to subsection (a).

#### SEC. 1008. SENSE OF CONGRESS ON INNOVATION ACCELERATION RESEARCH.

(a) SENSE OF CONGRESS ON SUPPORT AND PROMOTION OF INNOVATION IN THE UNITED STATES.—It is the sense of Congress that each Federal research agency should strive to support and promote innovation in the United States through high-risk, high-reward basic research projects that—

(1) meet fundamental technological or scientific challenges;

(2) involve multidisciplinary work; and

(3) involve a high degree of novelty.

(b) SENSE OF CONGRESS ON SETTING ANNUAL FUNDING GOALS FOR BASIC RESEARCH.—It is the sense of Congress that each Executive agency that funds research in science, technology, engineering, or mathematics should set a goal of allocating an appropriate percentage of the annual basic research budget of such agency to funding high-risk, high-reward basic research projects described in subsection (a).

(c) REPORT.—Each Executive agency described in subsection (b) shall submit to Congress each year, together with documents submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31, United States Code), a report describing whether a funding goal as described in subsection (b) has been established, and if such a goal has been established, the following:

(1) A description of such funding goal.

(2) Whether such funding goal is being met by the agency.

(3) A description of activities supported by amounts allocated in accordance with such funding goal.

(d) DEFINITIONS.—In this section:

(1) BASIC RESEARCH.—The term “basic research” has the meaning given such term in the Office of Management and Budget Circular No. A-11.

(2) EXECUTIVE AGENCY.—The term “Executive agency” has the meaning given such term in section 105 of title 5, United States Code.

#### SEC. 1009. RELEASE OF SCIENTIFIC RESEARCH RESULTS.

(a) PRINCIPLES.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy, in consultation with the Director of the Office of Management and Budget and the heads of all Federal civilian agencies that conduct scientific research, shall develop and issue an overarching set of principles to ensure the communication and open exchange of data and results to other agencies, policymakers, and the public of research conducted by a scientist employed by a Federal civilian agency and to prevent the intentional or unintentional suppression or distortion of such research findings. The principles shall encourage the open exchange of data and results of research undertaken by a scientist employed by such an agency and shall be consistent with existing Federal laws, including chapter 18 of title 35, United States Code (commonly known as the “Bayh-Dole Act”). The principles shall also take into consideration the policies of peer-reviewed scientific journals in which Federal scientists may currently publish results.

(b) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall ensure that all civilian Federal agencies that conduct scientific research develop specific policies and procedures regarding the public release of data and results of research conducted by a scientist employed by such an agency consistent with the principles established under subsection (a). Such policies and procedures shall—

(1) specifically address what is and what is not permitted or recommended under such policies and procedures;

(2) be specifically designed for each such agency;

(3) be applied uniformly throughout each such agency; and

(4) be widely communicated and readily accessible to all employees of each such agency and the public.

#### TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

##### SEC. 2001. NASA'S CONTRIBUTION TO INNOVATION.

(a) PARTICIPATION IN INTERAGENCY ACTIVITIES.—The National Aeronautics and Space Administration shall be a full participant in any interagency effort to promote innovation and economic competitiveness through near-term and long-term basic scientific research and development and the promotion of science, technology, engineering, and mathematics education, consistent with the National Aeronautics and Space Administration's mission, including authorized activities.

(b) HISTORIC FOUNDATION.—In order to carry out the participation described in subsection (a), the Administrator of the National Aeronautics and Space Administration shall build on the historic role of the National Aeronautics and Space Administration in stimulating excellence in the advancement of physical science and engineering disciplines and in providing opportunities and incentives for the pursuit of academic studies in science, technology, engineering, and mathematics.

(c) BALANCED SCIENCE PROGRAM AND ROBUST AUTHORIZATION LEVELS.—The balanced science program authorized by section 101(d) of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16611) shall be an element of the contribution by the National Aeronautics and Space Administration to such interagency programs.

(d) SENSE OF CONGRESS ON CONTRIBUTION OF APPROPRIATELY FUNDED NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—It is the sense of Congress that a robust National Aeronautics and Space Administration, funded at the levels authorized for fiscal years 2007 and 2008 under sections 202 and 203 of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16631 and 16632) and at appropriate levels in subsequent fiscal years—

(1) can contribute significantly to innovation in, and the competitiveness of, the United States;

(2) would enable a fair balance among science, aeronautics, education, exploration, and human space flight programs; and

(3) would allow full participation in any interagency efforts to promote innovation and economic competitiveness.

(e) ANNUAL REPORT.—

(1) REQUIREMENT.—The Administrator shall submit to Congress and the President an annual report describing the activities conducted pursuant to this section, including a description of the goals and the objective metrics upon which funding decisions were made.

(2) CONTENT.—Each report submitted pursuant to paragraph (1) shall include, with regard to science, technology, engineering, and mathematics education programs, at a minimum, the following:

(A) A description of each program.

(B) The amount spent on each program.

(C) The number of students or teachers served by each program.

(f) ASSESSMENT PLAN.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to Congress a report on its plan for instituting assessments of the effectiveness of the National Aeronautics and Space Administration's science, technology, engineering, and mathematics education programs

in improving student achievement, including with regard to challenging State achievement standards.

**SEC. 2002. AERONAUTICS.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the aeronautics research and development program of the National Aeronautics and Space Administration has been an important contributor to innovation and to the competitiveness of the United States and the National Aeronautics and Space Administration should maintain its capabilities to advance the state of aeronautics.

(b) **COOPERATION WITH OTHER AGENCIES ON AERONAUTICS ACTIVITIES.**—The Administrator shall coordinate, as appropriate, the National Aeronautics and Space Administration's aeronautics activities with relevant programs in the Department of Transportation, the Department of Defense, the Department of Commerce, and the Department of Homeland Security, including the activities of the Joint Planning and Development Office established under section 709 of the Vision 100—Century of Aviation Reauthorization Act (Public Law 108-176; 117 Stat. 2582).

**SEC. 2003. BASIC RESEARCH ENHANCEMENT.**

(a) **IN GENERAL.**—The Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, the Secretary of Energy, the Secretary of Defense, and Secretary of Commerce shall, to the extent practicable, coordinate basic research activities related to physical sciences, technology, engineering, and mathematics.

(b) **BASIC RESEARCH DEFINED.**—In this section, the term "basic research" has the meaning given such term in Office of Management and Budget Circular No. A-11.

**SEC. 2004. AGING WORKFORCE ISSUES PROGRAM.**

It is the sense of Congress that the Administrator of the National Aeronautics and Space Administration should implement a program to address aging work force issues in aerospace that—

(1) documents technical and management experiences before senior people leave the National Aeronautics and Space Administration, including—

(A) documenting lessons learned;

(B) briefing organizations;

(C) providing opportunities for archiving lessons in a database; and

(D) providing opportunities for near-term retirees to transition out early from their primary assignment in order to document their career lessons learned and brief new employees prior to their separation from the National Aeronautics and Space Administration;

(2) provides incentives for retirees to return and teach new employees about their career lessons and experiences; and

(3) provides for the development of an award to recognize and reward outstanding senior employees for their contributions to knowledge sharing.

**SEC. 2005. SENSE OF CONGRESS REGARDING NASA'S UNDERGRADUATE STUDENT RESEARCH PROGRAM.**

It is the sense of Congress that in order to generate interest in careers in science, technology, engineering, and mathematics and to help train the next generation of space and aeronautical scientists, technologists, engineers, and mathematicians the Administrator of the National Aeronautics and Space Administration should utilize the existing Undergraduate Student Research Program of the National Aeronautics and Space Administration to support basic research projects on subjects of relevance to the National Aeronautics and Space Administration that—

(1) are to be carried out primarily by undergraduate students; and

(2) combine undergraduate research with other research supported by the National Aeronautics and Space Administration.

**SEC. 2006. USE OF INTERNATIONAL SPACE STATION NATIONAL LABORATORY TO SUPPORT MATH AND SCIENCE EDUCATION AND COMPETITIVENESS.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the International Space Station National Laboratory offers unique opportunities for educational activities and provides a unique resource for research and development in science, technology, and engineering, which can enhance the global competitiveness of the United States.

(b) **DEVELOPMENT OF EDUCATIONAL PROJECTS.**—The Administrator of the National Aeronautics and Space Administration shall develop a detailed plan for implementation of 1 or more education projects that utilize the resources offered by the International Space Station. In developing any detailed plan according to this paragraph, the Administrator shall make use of the findings and recommendations of the International Space Station National Laboratory Education Concept Development Task Force.

(c) **DEVELOPMENT OF RESEARCH PLANS FOR COMPETITIVENESS ENHANCEMENT.**—The Administrator shall develop a detailed plan for identification and support of research to be conducted aboard the International Space Station, which offers the potential for enhancement of United States competitiveness in science, technology, and engineering. In developing any detailed plan pursuant to this subsection, the Administrator shall consult with agencies and entities with which cooperative agreements have been reached regarding utilization of International Space Station National Laboratory facilities.

**TITLE III—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY**

**SEC. 3001. AUTHORIZATION OF APPROPRIATIONS.**

(a) **SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.**—

(1) **LABORATORY ACTIVITIES.**—There are authorized to be appropriated to the Secretary of Commerce for the scientific and technical research and services laboratory activities of the National Institute of Standards and Technology—

(A) \$502,100,000 for fiscal year 2008;

(B) \$541,900,000 for fiscal year 2009; and

(C) \$584,800,000 for fiscal year 2010.

(2) **CONSTRUCTION AND MAINTENANCE.**—There are authorized to be appropriated to the Secretary of Commerce for construction and maintenance of facilities of the National Institute of Standards and Technology—

(A) \$150,900,000 for fiscal year 2008;

(B) \$86,400,000 for fiscal year 2009; and

(C) \$49,700,000 for fiscal year 2010.

(b) **INDUSTRIAL TECHNOLOGY SERVICES.**—There are authorized to be appropriated to the Secretary of Commerce for Industrial Technology Services activities of the National Institute of Standards and Technology—

(1) \$210,000,000 for fiscal year 2008, of which—

(A) \$100,000,000 shall be for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), of which at least \$40,000,000 shall be for new awards; and

(B) \$110,000,000 shall be for the Manufacturing Extension Partnership program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l), of which not more than \$1,000,000 shall be for the competitive grant program under section 25(f) of such Act;

(2) \$253,500,000 for fiscal year 2009, of which—

(A) \$131,500,000 shall be for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), of which at least \$40,000,000 shall be for new awards; and

(B) \$122,000,000 shall be for the Manufacturing Extension Partnership Program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k

and 278l), of which not more than \$4,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(3) \$272,300,000 for fiscal year 2010, of which—

(A) \$140,500,000 shall be for the Technology Innovation Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), of which at least \$40,000,000 shall be for new awards; and

(B) \$131,800,000 shall be for the Manufacturing Extension Partnership Program under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l), of which not more than \$4,000,000 shall be for the competitive grant program under section 25(f) of such Act.

**SEC. 3002. AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.**

(a) **IN GENERAL.**—Section 5 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended—

(1) by striking subsections (a) through (e);

(2) by redesignating subsection (f) as subsection (a);

(3) in subsection (a), as redesignated by paragraph (2)—

(A) in paragraph (1), by striking "The Secretary, acting through the Under Secretary, shall establish for fiscal year 1999" and inserting "Beginning in fiscal year 1999, the Secretary shall establish";

(B) by striking " , acting through the Under Secretary," each place it appears;

(C) by redesignating paragraph (6) as subsection (b);

(D) by striking paragraph (7); and

(E) in the subsection heading, by striking "EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY" and inserting "PROGRAM ESTABLISHMENT";

(4) in subsection (b), as redesignated by paragraph (3)(C), by striking "this subsection" and inserting "subsection (a)"; and

(5) in the section heading by striking "COMMERCE AND TECHNOLOGICAL INNOVATION" and inserting "EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY".

(b) **CONSTRUCTION.**—The amendments made by subsection (a) shall not be construed to eliminate the National Institute of Standards and Technology or the National Technical Information Service.

(c) **CONFORMING AMENDMENTS.**—

(1) **TITLE 5, UNITED STATES CODE.**—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Commerce for Technology."

(2) **NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.**—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(A) in section 2 of such Act (15 U.S.C. 272)—

(i) in subsection (b), by striking "and, if appropriate, through other officials,"; and

(ii) in subsection (c), by striking "and, if appropriate, through other appropriate officials,"; and

(B) in section 5 of such Act (15 U.S.C. 274), by striking "The Director shall have the general" and inserting "The Director shall report directly to the Secretary and shall have the general".

(3) **DEFINITIONS.**—Section 4 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended—

(A) by striking paragraphs (1) and (3); and

(B) by redesignating paragraphs (2) through (13) as paragraphs (1) through (11), respectively.

(4) **FUNCTIONS OF SECRETARY.**—Section 11(g)(1) of such Act (15 U.S.C. 3710(g)(1)) is amended by striking "through the Under Secretary, and".

(5) **REPEAL OF AUTHORIZATION.**—Section 21(a) of such Act (15 U.S.C. 3713(a)) is amended—

(A) in paragraph (1), by striking "sections 5, 11(g), and 16" and inserting "sections 11(g) and 16"; and

(B) in paragraph (2), by striking "\$500,000 is authorized only for the purpose of carrying out the requirements of the Japanese technical literature program established under section 5(d) of this Act;"

(6) HIGH-PERFORMANCE COMPUTING ACT OF 1991.—Section 208 of the High-Performance Computing Act of 1991 (15 U.S.C. 5528) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(7) ASSISTIVE TECHNOLOGY ACT OF 1998.—Section 6(b)(4)(B)(v) of the Assistive Technology Act of 1998 (29 U.S.C. 3005(b)(4)(B)(v)) is amended by striking "the Technology Administration of the Department of Commerce," and inserting "the National Institute of Standards and Technology,"

**SEC. 3003. MANUFACTURING EXTENSION PARTNERSHIP.**

(a) CLARIFICATION OF ELIGIBLE CONTRIBUTIONS IN CONNECTION WITH REGIONAL CENTERS RESPONSIBLE FOR IMPLEMENTING THE OBJECTIVES OF THE PROGRAM.—Paragraph (3) of section 25(c) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(3)) is amended to read as follows:

"(3)(A) Any nonprofit institution, or group thereof, or consortia of nonprofit institutions, including entities existing on August 23, 1988, may submit to the Secretary an application for financial support under this subsection, in accordance with the procedures established by the Secretary and published in the Federal Register under paragraph (2).

"(B) In order to receive assistance under this section, an applicant for financial assistance under subparagraph (A) shall provide adequate assurances that non-Federal assets obtained from the applicant and the applicant's partnering organizations will be used as a funding source to meet not less than 50 percent of the costs incurred for the first 3 years and an increasing share for each of the last 3 years. For purposes of the preceding sentence, the costs incurred means the costs incurred in connection with the activities undertaken to improve the management, productivity, and technological performance of small- and medium-sized manufacturing companies.

"(C) In meeting the 50 percent requirement, it is anticipated that a Center will enter into agreements with other entities such as private industry, universities, and State governments to accomplish programmatic objectives and access new and existing resources that will further the impact of the Federal investment made on behalf of small- and medium-sized manufacturing companies. All non-Federal costs, contributed by such entities and determined by a Center as programmatically reasonable and allocable under MEP program procedures are includable as a portion of the Center's contribution.

"(D) Each applicant under subparagraph (A) shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center's activities."

(b) MANUFACTURING CENTER EVALUATION.—Paragraph (5) of section 25(c) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(5)) is amended by inserting "A Center that has not received a positive evaluation by the evaluation panel shall be notified by the panel of the deficiencies in its performance and shall be placed on probation for one year, after which time the panel shall reevaluate the Center. If the Center has not addressed the deficiencies identified by the panel, or shown a significant improvement in its performance, the Director shall conduct a new competition to select an operator for the Center or may close the Center." after "at declining levels."

(c) FEDERAL SHARE.—Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) is amended by striking subsection (d) and inserting the following:

"(d) ACCEPTANCE OF FUNDS.—

"(1) IN GENERAL.—In addition to such sums as may be appropriated to the Secretary and Direc-

tor to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies and under section 2(c)(7) from the private sector for the purpose of strengthening United States manufacturing.

"(2) ALLOCATION OF FUNDS.—

"(A) FUNDS ACCEPTED FROM OTHER FEDERAL DEPARTMENTS OR AGENCIES.—The Director shall determine whether funds accepted from other Federal departments or agencies shall be counted in the calculation of the Federal share of capital and annual operating and maintenance costs under subsection (c).

"(B) FUNDS ACCEPTED FROM THE PRIVATE SECTOR.—Funds accepted from the private sector under section 2(c)(7), if allocated to a Center, shall not be considered in the calculation of the Federal share under subsection (c) of this section."

(d) MEP ADVISORY BOARD.—Such section 25 is further amended by adding at the end the following:

"(e) MEP ADVISORY BOARD.—

"(1) ESTABLISHMENT.—There is established within the Institute a Manufacturing Extension Partnership Advisory Board (in this subsection referred to as the 'MEP Advisory Board').

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The MEP Advisory Board shall consist of 10 members broadly representative of stakeholders, to be appointed by the Director. At least 2 members shall be employed by or on an advisory board for the Centers, and at least 5 other members shall be from United States small businesses in the manufacturing sector. No member shall be an employee of the Federal Government.

"(B) TERM.—Except as provided in subparagraph (C) or (D), the term of office of each member of the MEP Advisory Board shall be 3 years.

"(C) CLASSES.—The original members of the MEP Advisory Board shall be appointed to 3 classes. One class of 3 members shall have an initial term of 1 year, one class of 3 members shall have an initial term of 2 years, and one class of 4 members shall have an initial term of 3 years.

"(D) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(E) SERVING CONSECUTIVE TERMS.—Any person who has completed two consecutive full terms of service on the MEP Advisory Board shall thereafter be ineligible for appointment during the one-year period following the expiration of the second such term.

"(3) MEETINGS.—The MEP Advisory Board shall meet not less than 2 times annually, and provide to the Director—

"(A) advice on Manufacturing Extension Partnership programs, plans, and policies;

"(B) assessments of the soundness of Manufacturing Extension Partnership plans and strategies; and

"(C) assessments of current performance against Manufacturing Extension Partnership program plans.

"(4) FEDERAL ADVISORY COMMITTEE ACT.—In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

"(5) REPORT.—The MEP Advisory Board shall transmit an annual report to the Secretary for transmittal to Congress within 30 days after the submission to Congress of the President's annual budget request in each year. Such report shall address the status of the program established pursuant to this section and comment on the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under subsections (c) and (d) of section 23."

(e) MANUFACTURING EXTENSION CENTER COMPETITIVE GRANT PROGRAM.—Such section 25 is

further amended by adding at the end the following:

"(f) COMPETITIVE GRANT PROGRAM.—

"(1) ESTABLISHMENT.—The Director shall establish, within the Centers program under this section and section 26 of this Act, a program of competitive awards among participants described in paragraph (2) for the purposes described in paragraph (3).

"(2) PARTICIPANTS.—Participants receiving awards under this subsection shall be the Centers, or a consortium of such Centers.

"(3) PURPOSE.—The purpose of the program under this subsection is to develop projects to solve new or emerging manufacturing problems as determined by the Director, in consultation with the Director of the Centers program, the Manufacturing Extension Partnership Advisory Board, and small and medium-sized manufacturers. One or more themes for the competition may be identified, which may vary from year to year, depending on the needs of manufacturers and the success of previous competitions. These themes shall be related to projects associated with manufacturing extension activities, including supply chain integration and quality management, and including the transfer of technology based on the technological needs of manufacturers and available technologies from institutions of higher education, laboratories, and other technology producing entities, or extend beyond these traditional areas.

"(4) APPLICATIONS.—Applications for awards under this subsection shall be submitted in such manner, at such time, and containing such information as the Director shall require, in consultation with the Manufacturing Extension Partnership Advisory Board.

"(5) SELECTION.—Awards under this subsection shall be peer reviewed and competitively awarded. The Director shall select proposals to receive awards—

"(A) that utilize innovative or collaborative approaches to solving the problem described in the competition;

"(B) that will improve the competitiveness of industries in the region in which the Center or Centers are located; and

"(C) that will contribute to the long-term economic stability of that region.

"(6) PROGRAM CONTRIBUTION.—Recipients of awards under this subsection shall not be required to provide a matching contribution."

**SEC. 3004. INSTITUTE-WIDE PLANNING REPORT.**

Section 23 of the National Institute of Standards and Technology Act (15 U.S.C. 278i) is amended by adding at the end the following:

"(c) THREE-YEAR PROGRAMMATIC PLANNING DOCUMENT.—Concurrent with the submission to Congress of the President's annual budget request in the first year after the date of enactment of this subsection, the Director shall submit to Congress a 3-year programmatic planning document for the Institute, including programs under the Scientific and Technical Research and Services, Industrial Technology Services, and Construction of Research Facilities functions.

"(d) ANNUAL UPDATE ON THREE-YEAR PROGRAMMATIC PLANNING DOCUMENT.—Concurrent with the submission to the Congress of the President's annual budget request in each year after the date of enactment of this subsection, the Director shall submit to Congress an update to the 3-year programmatic planning document submitted under subsection (c), revised to cover the first 3 fiscal years after the date of that update."

**SEC. 3005. REPORT BY VISITING COMMITTEE.**

Section 10(h)(1) of the National Institute of Standards and Technology Act (15 U.S.C. 278(h)(1)) is amended—

(1) by striking "on or before January 31 in each year" and inserting "not later than 30 days after the submittal to Congress of the President's annual budget request in each year"; and

(2) by adding to the end the following: “Such report also shall comment on the programmatic planning document and updates thereto submitted to Congress by the Director under subsections (c) and (d) of section 23.”.

**SEC. 3006. MEETINGS OF VISITING COMMITTEE ON ADVANCED TECHNOLOGY.**

Section 10(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278(d)) is amended by striking “quarterly” and inserting “twice each year”.

**SEC. 3007. COLLABORATIVE MANUFACTURING RESEARCH PILOT GRANTS.**

The National Institute of Standards and Technology Act is amended—

(1) by redesignating the first section 32 (15 U.S.C. 271 note) as section 34 and moving it to the end of the Act; and

(2) by inserting before the section moved by paragraph (1) the following new section:

**“SEC. 33. COLLABORATIVE MANUFACTURING RESEARCH PILOT GRANTS.**

“(a) **AUTHORITY.**—

“(1) **ESTABLISHMENT.**—The Director shall establish a pilot program of awards to partnerships among participants described in paragraph (2) for the purposes described in paragraph (3). Awards shall be made on a peer-reviewed, competitive basis.

“(2) **PARTICIPANTS.**—Such partnerships shall include at least—

“(A) 1 manufacturing industry partner; and

“(B) 1 nonindustry partner.

“(3) **PURPOSE.**—The purpose of the program under this section is to foster cost-shared collaborations among firms, educational institutions, research institutions, State agencies, and nonprofit organizations to encourage the development of innovative, multidisciplinary manufacturing technologies. Partnerships receiving awards under this section shall conduct applied research to develop new manufacturing processes, techniques, or materials that would contribute to improved performance, productivity, and competitiveness of United States manufacturing, and build lasting alliances among collaborators.

“(b) **PROGRAM CONTRIBUTION.**—Awards under this section shall provide for not more than one-third of the costs of a partnership. Not more than an additional one-third of such costs may be obtained directly or indirectly from other Federal sources.

“(c) **APPLICATIONS.**—Applications for awards under this section shall be submitted in such manner, at such time, and containing such information as the Director shall require. Such applications shall describe at a minimum—

“(1) how each partner will participate in developing and carrying out the research agenda of the partnership;

“(2) the research that the grant would fund; and

“(3) how the research to be funded with the award would contribute to improved performance, productivity, and competitiveness of the United States manufacturing industry.

“(d) **SELECTION CRITERIA.**—In selecting applications for awards under this section, the Director shall consider at a minimum—

“(1) the degree to which projects will have a broad impact on manufacturing;

“(2) the novelty and scientific and technical merit of the proposed projects; and

“(3) the demonstrated capabilities of the applicants to successfully carry out the proposed research.

“(e) **DISTRIBUTION.**—In selecting applications under this section the Director shall ensure, to the extent practicable, a distribution of overall awards among a variety of manufacturing industry sectors and a range of firm sizes.

“(f) **DURATION.**—In carrying out this section, the Director shall run a single pilot competition to solicit and make awards. Each award shall be for a 3-year period.”.

**SEC. 3008. MANUFACTURING FELLOWSHIP PROGRAM.**

Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-1) is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “The Director is authorized”; and

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

“(b) **MANUFACTURING FELLOWSHIP PROGRAM.**—

“(1) **ESTABLISHMENT.**—To promote the development of a robust research community working at the leading edge of manufacturing sciences, the Director shall establish a program to award—

“(A) postdoctoral research fellowships at the Institute for research activities related to manufacturing sciences; and

“(B) senior research fellowships to established researchers in industry or at institutions of higher education who wish to pursue studies related to the manufacturing sciences at the Institute.

“(2) **APPLICATIONS.**—To be eligible for an award under this subsection, an individual shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(3) **STIPEND LEVELS.**—Under this subsection, the Director shall provide stipends for postdoctoral research fellowships at a level consistent with the National Institute of Standards and Technology Postdoctoral Research Fellowship Program, and senior research fellowships at levels consistent with support for a faculty member in a sabbatical position.”.

**SEC. 3009. PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**

(a) **IN GENERAL.**—The Director of the National Institute of Standards and Technology may procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code, to assist with urgent or short-term research projects.

(b) **EXTENT OF AUTHORITY.**—A procurement under this section may not exceed 1 year in duration, and the Director shall procure no more than 200 experts and consultants per year.

(c) **SUNSET.**—This section shall cease to be effective after September 30, 2010.

(d) **REPORT TO CONGRESS.**—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on whether additional safeguards would be needed with respect to the use of authorities granted under this section if such authorities were to be made permanent.

**SEC. 3010. MALCOLM BALDRIGE AWARDS.**

Section 17(c)(3) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(3)) is amended to read as follows:

“(3) In any year, not more than 18 awards may be made under this section to recipients who have not previously received an award under this section, and no award shall be made within any category described in paragraph (1) if there are no qualifying enterprises in that category.”.

**SEC. 3011. REPORT ON NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY EFFORTS TO RECRUIT AND RETAIN EARLY CAREER SCIENCE AND ENGINEERING RESEARCHERS.**

Not later than 3 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall submit to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report on efforts to recruit and retain young scientists and engineers at the early stages of their careers at the National Institute of Standards and Technology

laboratories and joint institutes. The report shall include—

(1) a description of National Institute of Standards and Technology policies and procedures, including financial incentives, awards, promotions, time set aside for independent research, access to equipment or facilities, and other forms of recognition, designed to attract and retain young scientists and engineers;

(2) an evaluation of the impact of these incentives on the careers of young scientists and engineers at the National Institute of Standards and Technology, and also on the quality of the research at the National Institute of Standards and Technology’s laboratories and in the National Institute of Standards and Technology’s programs;

(3) a description of what barriers, if any, exist to efforts to recruit and retain young scientists and engineers, including limited availability of full time equivalent positions, legal and procedural requirements, and pay grading systems; and

(4) the amount of funding devoted to efforts to recruit and retain young researchers and the source of such funds.

**SEC. 3012. TECHNOLOGY INNOVATION PROGRAM.**

(a) **REPEAL OF ADVANCED TECHNOLOGY PROGRAM.**—Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is repealed.

(b) **ESTABLISHMENT OF TECHNOLOGY INNOVATION PROGRAM.**—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 27 the following:

**“SEC. 28. TECHNOLOGY INNOVATION PROGRAM.**

“(a) **ESTABLISHMENT.**—There is established within the Institute a program linked to the purpose and functions of the Institute, to be known as the ‘Technology Innovation Program’ for the purpose of assisting United States businesses and institutions of higher education or other organizations, such as national laboratories and nonprofit research institutions, to support, promote, and accelerate innovation in the United States through high-risk, high-reward research in areas of critical national need.

“(b) **EXTERNAL FUNDING.**—

“(1) **IN GENERAL.**—The Director shall award competitive, merit-reviewed grants, cooperative agreements, or contracts to—

“(A) eligible companies that are small-sized businesses or medium-sized businesses; or

“(B) joint ventures.

“(2) **SINGLE COMPANY AWARDS.**—No award given to a single company shall exceed \$3,000,000 over 3 years.

“(3) **JOINT VENTURE AWARDS.**—No award given to a joint venture shall exceed \$9,000,000 over 5 years.

“(4) **FEDERAL COST SHARE.**—The Federal share of a project funded by an award under the program shall not be more than 50 percent of total project costs.

“(5) **PROHIBITIONS.**—Federal funds awarded under this program may be used only for direct costs and not for indirect costs, profits, or management fees of a contractor. Any business that is not a small-sized or medium-sized business may not receive any funding under this program.

“(c) **AWARD CRITERIA.**—The Director shall only provide assistance under this section to an entity—

“(1) whose proposal has scientific and technical merit and may result in intellectual property vesting in a United States entity that can commercialize the technology in a timely manner;

“(2) whose application establishes that the proposed technology has strong potential to address critical national needs through transforming the Nation’s capacity to deal with major societal challenges that are not currently being addressed, and generate substantial benefits to the Nation that extend significantly beyond the direct return to the applicant;”.

“(3) whose application establishes that the research has strong potential for advancing the state-of-the-art and contributing significantly to the United States science and technology knowledge base;

“(4) whose proposal explains why Technology Innovation Program support is necessary, including evidence that the research will not be conducted within a reasonable time period in the absence of financial assistance under this section;

“(5) whose application demonstrates that reasonable efforts have been made to secure funding from alternative funding sources and no other alternative funding sources are reasonably available to support the proposal; and

“(6) whose application explains the novelty of the technology and demonstrates that other entities have not already developed, commercialized, marketed, distributed, or sold similar technologies.

“(d) COMPETITIONS.—The Director shall solicit proposals at least annually to address areas of critical national need for high-risk, high-reward projects.

“(e) INTELLECTUAL PROPERTY RIGHTS OWNERSHIP.—

“(1) IN GENERAL.—Title to any intellectual property developed by a joint venture from assistance provided under this section may vest in any participant in the joint venture, as agreed by the members of the joint venture, notwithstanding section 202 (a) and (b) of title 35, United States Code. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practice for or on behalf of the United States in connection with any such intellectual property, but shall not in the exercise of such license publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a participant in the joint venture, until the expiration of the first patent obtained in connection with such intellectual property.

“(2) LICENSING.—Nothing in this subsection shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.

“(3) DEFINITION.—For purposes of this subsection, the term ‘intellectual property’ means an invention patentable under title 35, United States Code, or any patent on such an invention, or any work for which copyright protection is available under title 17, United States Code.

“(f) PROGRAM OPERATION.—Not later than 9 months after the date of the enactment of this section, the Director shall promulgate regulations—

“(1) establishing criteria for the selection of recipients of assistance under this section;

“(2) establishing procedures regarding financial reporting and auditing to ensure that awards are used for the purposes specified in this section, are in accordance with sound accounting practices, and are not funding existing or planned research programs that would be conducted within a reasonable time period in the absence of financial assistance under this section; and

“(3) providing for appropriate dissemination of Technology Innovation Program research results.

“(g) ANNUAL REPORT.—The Director shall submit annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report describing the Technology Innovation Program’s activities, including a description of the metrics upon which award funding decisions were made in the previous fiscal year, any proposed changes to those metrics, metrics for evaluating the success of ongoing and completed awards, and an evaluation of ongoing and completed awards. The first annual report shall include best practices for man-

agement of programs to stimulate high-risk, high-reward research.

“(h) CONTINUATION OF ATP GRANTS.—The Director shall, through the Technology Innovation Program, continue to provide support originally awarded under the Advanced Technology Program, in accordance with the terms of the original award and consistent with the goals of the Technology Innovation Program.

“(i) COORDINATION WITH OTHER STATE AND FEDERAL TECHNOLOGY PROGRAMS.—In carrying out this section, the Director shall, as appropriate, coordinate with other senior State and Federal officials to ensure cooperation and coordination in State and Federal technology programs and to avoid unnecessary duplication of efforts.

“(j) ACCEPTANCE OF FUNDS FROM OTHER FEDERAL AGENCIES.—In addition to amounts appropriated to carry out this section, the Secretary and the Director may accept funds from other Federal agencies to support awards under the Technology Innovation Program. Any award under this section which is supported with funds from other Federal agencies shall be selected and carried out according to the provisions of this section. Funds accepted from other Federal agencies shall be included as part of the Federal cost share of any project funded under this section.

“(k) TIP ADVISORY BOARD.—

“(1) ESTABLISHMENT.—There is established within the Institute a TIP Advisory Board.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The TIP Advisory Board shall consist of 10 members appointed by the Director, at least 7 of whom shall be from United States industry, chosen to reflect the wide diversity of technical disciplines and industrial sectors represented in Technology Innovation Program projects. No member shall be an employee of the Federal Government.

“(B) TERM.—Except as provided in subparagraph (C) or (D), the term of office of each member of the TIP Advisory Board shall be 3 years.

“(C) CLASSES.—The original members of the TIP Advisory Board shall be appointed to 3 classes. One class of 3 members shall have an initial term of 1 year, one class of 3 members shall have an initial term of 2 years, and one class of 4 members shall have an initial term of 3 years.

“(D) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

“(E) SERVING CONSECUTIVE TERMS.—Any person who has completed 2 consecutive full terms of service on the TIP Advisory Board shall thereafter be ineligible for appointment during the 1-year period following the expiration of the second such term.

“(3) PURPOSE.—The TIP Advisory Board shall meet not less than 2 times annually, and provide the Director—

“(A) advice on programs, plans, and policies of the Technology Innovation Program;

“(B) reviews of the Technology Innovation Program’s efforts to accelerate the research and development of challenging, high-risk, high-reward technologies in areas of critical national need;

“(C) reports on the general health of the program and its effectiveness in achieving its legislatively mandated mission; and

“(D) guidance on investment areas that are appropriate for Technology Innovation Program funding;

“(4) ADVISORY CAPACITY.—In discharging its duties under this subsection, the TIP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

“(5) ANNUAL REPORT.—The TIP Advisory Board shall transmit an annual report to the Secretary for transmittal to the Congress not later than 30 days after the submission to Con-

gress of the President’s annual budget request in each year. Such report shall address the status of the Technology Innovation Program and comment on the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under subsections (c) and (d) of section 23.

“(l) DEFINITIONS.—In this section—

“(1) the term ‘eligible company’ means a small-sized or medium-sized business that is incorporated in the United States and does a majority of its business in the United States, and that either—

“(A) is majority owned by citizens of the United States; or

“(B) is owned by a parent company incorporated in another country and the Director finds that—

“(i) the company’s participation in the Technology Innovation Program would be in the economic interest of the United States, as evidenced by—

“(I) investments in the United States in research and manufacturing;

“(II) significant contributions to employment in the United States; and

“(III) agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology; and

“(ii) the company is incorporated in a country which—

“(I) affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those receiving funding under this section;

“(II) affords to United States-owned companies local investment opportunities comparable to those afforded any other company; and

“(III) affords adequate and effective protection for intellectual property rights of United States-owned companies;

“(2) the term ‘high-risk, high-reward research’ means research that—

“(A) has the potential for yielding transformational results with far-ranging or wide-ranging implications;

“(B) addresses critical national needs within the National Institute of Standards and Technology’s areas of technical competence; and

“(C) is too novel or spans too diverse a range of disciplines to fare well in the traditional peer-review process;

“(3) the term ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

“(4) the term ‘joint venture’ means a joint venture that—

“(A) includes either—

“(i) at least 2 separately owned for-profit companies that are both substantially involved in the project and both of which are contributing to the cost-sharing required under this section, with the lead entity of the joint venture being one of those companies that is a small-sized or medium-sized business; or

“(ii) at least 1 small-sized or medium-sized business and 1 institution of higher education or other organization, such as a national laboratory or nonprofit research institute, that are both substantially involved in the project and both of which are contributing to the cost-sharing required under this section, with the lead entity of the joint venture being either that small-sized or medium-sized business or that institution of higher education; and

“(B) may include additional for-profit companies, institutions of higher education, and other organizations, such as national laboratories and nonprofit research institutes, that may or may not contribute non-Federal funds to the project; and

“(5) the term ‘TIP Advisory Board’ means the advisory board established under subsection (k).”

(c) **TRANSITION.**—Notwithstanding the repeal made by subsection (a), the Director shall carry out section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) as such section was in effect on the day before the date of the enactment of this Act, with respect to applications for grants under such section submitted before such date, until the earlier of—

(1) the date that the Director promulgates the regulations required under section 28(f) of the National Institute of Standards and Technology Act, as added by subsection (b); or

(2) December 31, 2007.

**SEC. 3013. TECHNICAL AMENDMENTS TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AND OTHER TECHNICAL AMENDMENTS.**

(a) **RESEARCH FELLOWSHIPS.**—Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-1) is amended by striking “up to 1 per centum of the” and inserting “up to 1.5 percent of the”.

(b) **FINANCIAL AGREEMENTS CLARIFICATION.**—Section 2(b)(4) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)(4)) is amended by inserting “and grants and cooperative agreements,” after “arrangements.”.

(c) **OUTDATED SPECIFICATIONS.**—

(1) **REDEFINITION OF THE METRIC SYSTEM.**—Section 3570 of the Revised Statutes of the United States (derived from section 2 of the Act of July 28, 1866, entitled “An Act to authorize the Use of the Metric System of Weights and Measures” (15 U.S.C. 205; 14 Stat. 339)) is amended to read as follows:

**“SEC. 3570. METRIC SYSTEM DEFINED.**

“The metric system of measurement shall be defined as the International System of Units as established in 1960, and subsequently maintained, by the General Conference of Weights and Measures, and as interpreted or modified for the United States by the Secretary of Commerce.”.

(2) **REPEAL OF REDUNDANT AND OBSOLETE AUTHORITY.**—The Act of July 21, 1950, entitled, “An Act to redefine the units and establish the standards of electrical and photometric measurements.” (15 U.S.C. 223 and 224) is hereby repealed.

(3) **STANDARD TIME.**—Section 1 of the Act of March 19, 1918, (commonly known as the “Calder Act”) (15 U.S.C. 261) is amended—

(A) by inserting “(a) IN GENERAL.—” before “For the purpose”;

(B) by striking the second sentence and the extra period after it and inserting “Except as provided in section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a), the standard time of the first zone shall be Coordinated Universal Time retarded by 4 hours; that of the second zone retarded by 5 hours; that of the third zone retarded by 6 hours; that of the fourth zone retarded by 7 hours; that of the fifth zone retarded 8 hours; that of the sixth zone retarded by 9 hours; that of the seventh zone retarded by 10 hours; that of the eighth zone retarded by 11 hours; and that of the ninth zone shall be Coordinated Universal Time advanced by 10 hours.”; and

(C) by adding at the end the following:

“(b) **COORDINATED UNIVERSAL TIME DEFINED.**—In this section, the term ‘Coordinated Universal Time’ means the time scale maintained through the General Conference of Weights and Measures and interpreted or modified for the United States by the Secretary of Commerce in coordination with the Secretary of the Navy.”.

(4) **IDAHO TIME ZONE.**—Section 3 of the Act of March 19, 1918, (commonly known as the “Calder Act”) (15 U.S.C. 264) is amended by striking “third zone” and inserting “fourth zone”.

(d) **NON-ENERGY INVENTIONS PROGRAM.**—Section 27 of the National Institute of Standards and Technology Act (15 U.S.C. 278m) is repealed.

**SEC. 3014. RETENTION OF DEPRECIATION SURCHARGE.**

Section 14 of the National Institute of Standards and Technology Act (15 U.S.C. 278d) is amended—

(1) by inserting “(a) IN GENERAL.—” before “Within”; and

(2) by adding at the end the following:

“(b) **RETENTION OF FEES.**—The Director is authorized to retain all building use and depreciation surcharge fees collected pursuant to OMB Circular A-25. Such fees shall be collected and credited to the Construction of Research Facilities Appropriation Account for use in maintenance and repair of the Institute’s existing facilities.”.

**SEC. 3015. POST-DOCTORAL FELLOWS.**

Section 19 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-2) is amended by striking “nor more than 60 new fellows” and inserting “nor more than 120 new fellows”.

**TITLE IV—OCEAN AND ATMOSPHERIC PROGRAMS**

**SEC. 4001. OCEAN AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM.**

The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Director of the National Science Foundation and the Administrator of the National Aeronautics and Space Administration, shall establish a coordinated program of ocean, coastal, Great Lakes, and atmospheric research and development, in collaboration with academic institutions and other nongovernmental entities, that shall focus on the development of advanced technologies and analytical methods that will promote United States leadership in ocean and atmospheric science and competitiveness in the applied uses of such knowledge.

**SEC. 4002. NOAA OCEAN AND ATMOSPHERIC SCIENCE EDUCATION PROGRAMS.**

(a) **IN GENERAL.**—The Administrator of the National Oceanic and Atmospheric Administration shall conduct, develop, support, promote, and coordinate formal and informal educational activities at all levels to enhance public awareness and understanding of ocean, coastal, Great Lakes, and atmospheric science and stewardship by the general public and other coastal stakeholders, including underrepresented groups in ocean and atmospheric science and policy careers. In conducting those activities, the Administrator shall build upon the educational programs and activities of the agency.

(b) **NOAA SCIENCE EDUCATION PLAN.**—The Administrator, appropriate National Oceanic and Atmospheric Administration programs, ocean atmospheric science and education experts, and interested members of the public shall develop a science education plan setting forth education goals and strategies for the Administration, as well as programmatic actions to carry out such goals and priorities over the next 20 years, and evaluate and update such plan every 5 years.

(c) **CONSTRUCTION.**—Nothing in this section may be construed to affect the application of section 438 of the General Education Provisions Act (20 U.S.C. 1232a) or sections 504 and 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794 and 794d).

**SEC. 4003. NOAA’S CONTRIBUTION TO INNOVATION.**

(a) **PARTICIPATION IN INTERAGENCY ACTIVITIES.**—The National Oceanic and Atmospheric Administration shall be a full participant in any interagency effort to promote innovation and economic competitiveness through near-term and long-term basic scientific research and development and the promotion of science, technology, engineering, and mathematics education, consistent with the agency mission, including authorized activities.

(b) **HISTORIC FOUNDATION.**—In order to carry out the participation described in subsection (a), the Administrator of the National Oceanic and

Atmospheric Administration shall build on the historic role of the National Oceanic and Atmospheric Administration in stimulating excellence in the advancement of ocean and atmospheric science and engineering disciplines and in providing opportunities and incentives for the pursuit of academic studies in science, technology, engineering, and mathematics.

**TITLE V—DEPARTMENT OF ENERGY**

**SEC. 5001. SHORT TITLE.**

This title may be cited as the “Protecting America’s Competitive Edge Through Energy Act” or the “PACE-Energy Act”.

**SEC. 5002. DEFINITIONS.**

In this title:

(1) **DEPARTMENT.**—The term “Department” means the Department of Energy.

(2) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) **NATIONAL LABORATORY.**—The term “National Laboratory” has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

**SEC. 5003. SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION AT THE DEPARTMENT OF ENERGY.**

(a) **SCIENCE EDUCATION PROGRAMS.**—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (f), respectively;

(2) by inserting after subsection (a) the following:

“(b) **ORGANIZATION OF SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.**—

“(1) **DIRECTOR OF SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION.**—Notwithstanding any other provision of law, the Secretary, acting through the Under Secretary for Science (referred to in this subsection as the ‘Under Secretary’), shall appoint a Director of Science, Engineering, and Mathematics Education (referred to in this subsection as the ‘Director’) with the principal responsibility for administering science, engineering, and mathematics education programs across all functions of the Department.

“(2) **QUALIFICATIONS.**—The Director shall be an individual, who by reason of professional background and experience, is specially qualified to advise the Under Secretary on all matters pertaining to science, engineering, and mathematics education at the Department.

“(3) **DUTIES.**—The Director shall—

“(A) oversee all science, engineering, and mathematics education programs of the Department;

“(B) represent the Department as the principal interagency liaison for all science, engineering, and mathematics education programs, unless otherwise represented by the Secretary or the Under Secretary;

“(C) prepare the annual budget and advise the Under Secretary on all budgetary issues for science, engineering, and mathematics education programs of the Department;

“(D) increase, to the maximum extent practicable, the participation and advancement of women and underrepresented minorities at every level of science, technology, engineering, and mathematics education; and

“(E) perform other such matters relating to science, engineering, and mathematics education as are required by the Secretary or the Under Secretary.

“(4) **STAFF AND OTHER RESOURCES.**—The Secretary shall assign to the Director such personnel and other resources as the Secretary considers necessary to permit the Director to carry out the duties of the Director.

“(5) **ASSESSMENT.**—

“(A) IN GENERAL.—The Secretary shall offer to enter into a contract with the National Academy of Sciences under which the National Academy, not later than 5 years after, and not later than 10 years after, the date of enactment of this paragraph, shall assess the performance of the science, engineering, and mathematics education programs of the Department.

“(B) CONSIDERATIONS.—An assessment under this paragraph shall be conducted taking into consideration, where applicable, the effect of science, engineering, and mathematics education programs of the Department on student academic achievement in science and mathematics.

“(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.”; and

(3) by striking subsection (d) (as redesignated by paragraph (1)) and inserting the following:

“(d) SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION FUND.—The Secretary shall establish a Science, Engineering, and Mathematics Education Fund, using not less than 0.3 percent of the amount made available to the Department for research, development, demonstration, and commercial application for each fiscal year, to carry out sections 3165, 3166, and 3167.

“(e) ANNUAL PLAN FOR ALLOCATION OF EDUCATION FUNDING.—The Secretary shall submit to Congress as part of the annual budget submission for a fiscal year a report describing the manner in which the Department has complied with subsection (d) for the prior fiscal year and the manner in which the Department proposes to comply with subsection (d) during the following fiscal year, including—

“(1) the total amount of funding for research, development, demonstration, and commercial application activities for the corresponding fiscal year;

“(2) the amounts set aside for the Science, Engineering, and Mathematics Education Fund under subsection (d) from funding for research activities, development activities, demonstration activities, and commercial application activities for the corresponding fiscal year; and

“(3) a description of how the funds set aside under subsection (d) were allocated for the prior fiscal year and will be allocated for the following fiscal year.”.

(b) CONSULTATION.—The Secretary shall—

(1) consult with the Secretary of Education and the Director of the National Science Foundation regarding activities authorized under subpart B of the Department of Energy Science Education Enhancement Act (as added by subsection (d)(3)) to improve science and mathematics education; and

(2) otherwise make available to the Secretary of Education reports associated with programs authorized under that section.

(c) DEFINITION.—Section 3168 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381d) is amended by adding at the end the following:

“(5) NATIONAL LABORATORY.—The term ‘National Laboratory’ has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).”.

(d) SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by inserting after section 3162 (42 U.S.C. 7381) the following:

“Subpart A—Science Education Enhancement”;

(2) in section 3169 (42 U.S.C. 7381e), by striking “part” and inserting “subpart”; and

(3) by adding at the end the following:

“Subpart B—Science, Engineering, and Mathematics Education Programs

**“SEC. 3170. DEFINITIONS.**

“In this subpart:

“(1) DIRECTOR.—The term ‘Director’ means the Director of Science, Engineering, and Mathematics Education.

“(2) NATIONAL LABORATORY.—The term ‘National Laboratory’ has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

**“CHAPTER 1—PILOT PROGRAM OF GRANTS TO SPECIALTY SCHOOLS FOR SCIENCE AND MATHEMATICS**

**“SEC. 3171. PILOT PROGRAM OF GRANTS TO SPECIALTY SCHOOLS FOR SCIENCE AND MATHEMATICS.**

“(a) PURPOSE.—The purpose of this section is to establish a pilot program of grants to States to help establish or expand public, statewide specialty secondary schools that provide comprehensive science and mathematics (including technology and engineering) education to improve the academic achievement of students in science and mathematics.

“(b) DEFINITION OF SPECIALTY SCHOOL FOR SCIENCE AND MATHEMATICS.—In this chapter, the term ‘specialty school for science and mathematics’ means a public secondary school (including a school that provides residential services to students) that—

“(1) serves students residing in the State in which the school is located; and

“(2) offers to those students a high-quality, comprehensive science and mathematics (including technology and engineering) curriculum designed to improve the academic achievement of students in science and mathematics.

“(c) PILOT PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—From the amounts authorized under subsection (i), the Secretary, acting through the Director and in consultation with the Director of the National Science Foundation, shall award grants, on a competitive basis, to States in order to provide assistance to the States for the costs of establishing or expanding public, statewide specialty schools for science and mathematics.

“(2) RESOURCES.—The Director shall ensure that appropriate resources of the Department, including the National Laboratories, are available to schools funded under this section in order to—

“(A) increase experiential, hands-on learning opportunities in science, technology, engineering, and mathematics for students attending such schools; and

“(B) provide ongoing professional development opportunities for teachers employed at such schools.

“(3) ASSISTANCE.—Consistent with sections 3165 and 3166, the Director shall make available from funds authorized in this section to carry out a program using scientific and engineering staff of the National Laboratories, during which the staff—

“(A) assists teachers in teaching courses at the schools funded under this section;

“(B) uses National Laboratory scientific equipment in teaching the courses; and

“(C) uses distance education and other technologies to provide assistance described in subparagraphs (A) and (B) to schools funded under this section that are not located near the National Laboratories.

“(4) RESTRICTIONS.—

“(A) MAXIMUM NUMBER OF FUNDED SPECIALTY SCHOOLS PER STATE.—No State shall receive funding for more than 1 specialty school for science and mathematics for a fiscal year.

“(B) MAXIMUM AMOUNT AND DURATION OF GRANTS.—A grant awarded to a State for a specialty school for science and mathematics under this section—

“(i) shall not exceed \$2,000,000 for a fiscal year; and

“(ii) shall not be provided for more than 3 fiscal years.

“(d) FEDERAL AND NON-FEDERAL SHARES.—

“(1) FEDERAL SHARE.—The Federal share of the costs described in subsection (c)(1) shall not exceed 33 percent.

“(2) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (c)(1) shall be—

“(A) not less than 67 percent; and

“(B) provided from non-Federal sources, in cash or in kind, fairly evaluated, including services.

“(e) APPLICATION.—To be eligible to receive a grant under this section, a State shall submit to the Director an application at such time, in such manner, and containing such information as the Director may require that describes—

“(1) the process by which and selection criteria with which the State will select and designate a school as a specialty school for science and mathematics in accordance with this section;

“(2) how the State will ensure that funds made available under this section are used to establish or expand a specialty school for science and mathematics—

“(A) in accordance with the activities described in subsection (g); and

“(B) that has the capacity to improve the academic achievement of all students in all core academic subjects, and particularly in science and mathematics;

“(3) how the State will measure the extent to which the school increases student academic achievement on State academic achievement standards in science, mathematics, and, to the maximum extent applicable, technology and engineering;

“(4) the curricula and materials to be used in the school;

“(5) the availability of funds from non-Federal sources for the costs of the activities authorized under this section; and

“(6) how the State will use technical assistance and support from the Department, including the National Laboratories, and other entities with experience and expertise in science, technology, engineering, and mathematics education, including institutions of higher education.

“(f) DISTRIBUTION.—In awarding grants under this section, the Director shall—

“(1) ensure a wide, equitable distribution among States that propose to serve students from urban and rural areas; and

“(2) provide equal consideration to States without National Laboratories.

“(g) USES OF FUNDS.—

“(1) REQUIREMENT.—A State that receives a grant under this section shall use the funds made available through the grant to—

“(A) employ proven strategies and methods for improving student learning and teaching in science, technology, engineering, and mathematics;

“(B) integrate into the curriculum of the school comprehensive science and mathematics education, including instruction and assessments in science, mathematics, and to the extent applicable, technology and engineering that are aligned with the academic content and student academic achievement standards of the State, within the meaning of section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311);

“(C) create opportunities for enhanced and ongoing professional development for teachers that improves the science, technology, engineering, and mathematics content knowledge of the teachers; and

“(D) design and implement hands-on laboratory experiences to help prepare students to pursue postsecondary studies in science, technology, engineering, and mathematics fields.

“(2) SPECIAL RULE.—Grant funds under this section may be used for activities described in paragraph (1) only if the activities are directly relating to improving student academic achievement in science, mathematics, and to the extent applicable, technology and engineering.

“(h) EVALUATION AND REPORT.—

“(1) STATE EVALUATION AND REPORT.—

“(A) EVALUATION.—Each State that receives a grant under this section shall develop and carry out an evaluation and accountability plan for the activities funded through the grant that

measures the impact of the activities, including measurable objectives for improved student academic achievement on State science, mathematics, and, to the maximum extent applicable, technology and engineering assessments.

“(B) REPORT.—The State shall submit to the Director a report containing the results of the evaluation and accountability plan.

“(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the PACE-Energy Act, the Director shall submit a report detailing the impact of the activities assisted with funds made available under this section to—

“(A) the Committee on Science and Technology of the House of Representatives;

“(B) the Committee on Energy and Natural Resources of the Senate; and

“(C) the Committee on Health, Education, Labor, and Pensions of the Senate.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$14,000,000 for fiscal year 2008;

“(2) \$22,500,000 for fiscal year 2009; and

“(3) \$30,000,000 for fiscal year 2010.

#### “CHAPTER 2—EXPERIENTIAL-BASED LEARNING OPPORTUNITIES

##### “SEC. 3175. EXPERIENTIAL-BASED LEARNING OPPORTUNITIES.

“(a) INTERNSHIPS AUTHORIZED.—

“(1) IN GENERAL.—From the amounts authorized under subsection (f), the Secretary, acting through the Director, shall establish a summer internship program for middle school and secondary school students that shall—

“(A) provide the students with internships at the National Laboratories;

“(B) promote experiential, hands-on learning in science, technology, engineering, or mathematics; and

“(C) be of at least 2 weeks in duration.

“(2) RESIDENTIAL SERVICES.—The Director may provide residential services to students participating in the internship program authorized under paragraph (1).

“(b) SELECTION CRITERIA.—

“(1) IN GENERAL.—The Director shall establish criteria to determine the sufficient level of academic preparedness necessary for a student to be eligible for an internship under this section.

“(2) PARTICIPATION.—The Director shall ensure the participation of students from a wide distribution of States, including States without National Laboratories.

“(3) STUDENT ACHIEVEMENT.—The Director may consider the academic achievement of middle and secondary school students in determining eligibility under this section, in accordance with paragraphs (1) and (2).

“(c) PRIORITY.—

“(1) IN GENERAL.—The Director shall give priority for an internship under this section to a student who meets the eligibility criteria described in subsection (b) and who attends a school—

“(A)(i) in which not less than 30 percent of the children enrolled in the school are from low-income families; or

“(ii) that is designated with a school locale code of 41, 42, or 43, as determined by the Secretary of Education; and

“(B) for which there is—

“(i) a high percentage of teachers who are not teaching in the academic subject areas or grade levels in which the teachers were trained to teach;

“(ii) a high teacher turnover rate; or

“(iii) a high percentage of teachers with emergency, provisional, or temporary certification or licenses.

“(2) COORDINATION.—The Director shall consult with the Secretary of Education in order to determine whether a student meets the priority requirements of this subsection.

“(d) OUTREACH AND EXPERIENTIAL-BASED PROGRAMS FOR MINORITY STUDENTS.—

“(1) IN GENERAL.—The Secretary, acting through the Director, in cooperation with Hispanic-serving institutions, historically Black colleges and universities, tribally controlled colleges and universities, Alaska Native- and Native Hawaiian-serving institutions, and other minority-serving institutions and nonprofit entities with substantial experience relating to outreach and experiential-based learning projects, shall establish outreach and experiential-based learning programs that will encourage underrepresented minority students in kindergarten through grade 12 to pursue careers in science, engineering, and mathematics.

“(2) COMMUNITY INVOLVEMENT.—The Secretary shall ensure that the programs established under paragraph (1) involve, to the maximum extent practicable—

“(A) participation by parents and educators; and

“(B) the establishment of partnerships with business organizations and appropriate Federal, State, and local agencies.

“(3) DISTRIBUTION.—The Secretary shall ensure that the programs established under paragraph (1) are located in diverse geographic regions of the United States, to the maximum extent practicable.

“(e) EVALUATION AND ACCOUNTABILITY PLAN.—The Director shall develop an evaluation and accountability plan for the activities funded under this chapter that objectively measures the impact of the activities.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$7,500,000 for each of fiscal years 2008 through 2010.

#### “CHAPTER 3—NATIONAL LABORATORIES CENTERS OF EXCELLENCE IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION

##### “SEC. 3181. NATIONAL LABORATORIES CENTERS OF EXCELLENCE IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION.

“(a) DEFINITION OF HIGH-NEED PUBLIC SECONDARY SCHOOL.—In this section, the term ‘high-need public secondary school’ means a secondary school—

“(1) with a high concentration of low-income individuals (as defined in section 1707 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537)); or

“(2) designated with a school locale code of 41, 42, or 43, as determined by the Secretary of Education.

“(b) ESTABLISHMENT.—The Secretary shall establish at each of the National Laboratories a program to support a Center of Excellence in Science, Technology, Engineering, and Mathematics (referred to in this section as a ‘Center of Excellence’) in at least 1 high-need public secondary school located in the region served by the National Laboratory to provide assistance in accordance with subsection (f).

“(c) COLLABORATION.—

“(1) IN GENERAL.—To comply with subsection (g), each high-need public secondary school selected as a Center of Excellence and the National Laboratory shall form a partnership with a school, department, or program of education at an institution of higher education.

“(2) NONPROFIT ENTITIES.—The partnership may include a nonprofit entity with demonstrated experience and effectiveness in science or mathematics, as agreed to by other members of the partnership.

“(d) SELECTION.—

“(1) IN GENERAL.—The Secretary, acting through the Director, shall establish criteria to guide the National Laboratories in selecting the sites for Centers of Excellence.

“(2) PROCESS.—A National Laboratory shall select a site for a Center of Excellence through an open, widely-publicized, and competitive process.

“(e) GOALS.—The Secretary shall establish goals and performance assessments for each

Center of Excellence authorized under subsection (b).

“(f) ASSISTANCE.—Consistent with sections 3165 and 3166, the Director shall make available necessary assistance for a program established under this section through the use of scientific and engineering staff of a National Laboratory, including the use of staff—

“(1) to assist teachers in teaching a course at a Center of Excellence in Science, Technology, Engineering, and Mathematics; and

“(2) to use National Laboratory scientific equipment in the teaching of the course.

“(g) SPECIAL RULES.—A Center of Excellence in a region shall ensure—

“(1) provision of clinical practicum, student teaching, or internship experiences for science, technology, and mathematics teacher candidates as part of the teacher preparation program of the Center of Excellence;

“(2) provision of supervision and mentoring for teacher candidates in the teacher preparation program; and

“(3) to the maximum extent practicable, provision of professional development for veteran teachers in the public secondary schools in the region.

“(h) EVALUATION.—The Secretary shall consider the results of performance assessments required under subsection (e) in determining the contract award fee of a National Laboratory management and operations contractor.

“(i) PLAN.—The Director shall—

“(1) develop an evaluation and accountability plan for the activities funded under this section that objectively measures the impact of the activities; and

“(2) disseminate information obtained from those measurements.

“(j) NO EFFECT ON SIMILAR PROGRAMS.—Nothing in this section displaces or otherwise affects any similar program being carried out as of the date of enactment of this section at any National Laboratory under any other provision of law.

#### “CHAPTER 4—SUMMER INSTITUTES

##### “SEC. 3185. SUMMER INSTITUTES.

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE PARTNER.—The term ‘eligible partner’ means—

“(A) the science, engineering, or mathematics department at an institution of higher education, acting in coordination with a school, department, or program of education at an institution of higher education that provides training for teachers and principals; or

“(B) a nonprofit entity with expertise in providing professional development for science, technology, engineering, or mathematics teachers.

“(2) SUMMER INSTITUTE.—The term ‘summer institute’ means an institute, operated during the summer, that—

“(A) is hosted by a National Laboratory or an eligible partner;

“(B) is operated for a period of not less than 2 weeks;

“(C) includes, as a component, a program that provides direct interaction between students and faculty, including personnel of 1 or more National Laboratories who have scientific expertise;

“(D) provides for follow-up training, during the academic year, that is conducted in the classroom; and

“(E) provides hands-on science, technology, engineering, or mathematics laboratory experience for not less than 2 days.

“(b) SUMMER INSTITUTE PROGRAMS AUTHORIZED.—

“(1) PROGRAMS AT THE NATIONAL LABORATORIES.—The Secretary, acting through the Director, shall establish or expand programs of summer institutes at each of the National Laboratories to provide additional training to strengthen the science, technology, engineering, and mathematics teaching skills of teachers employed at public schools for kindergarten

through grade 12, in accordance with the activities authorized under paragraphs (3) and (4).

**“(2) PROGRAMS WITH ELIGIBLE PARTNERS.—**

**“(A) IN GENERAL.—**The Secretary, acting through the Director, shall identify and provide assistance as described in subparagraph (C) to eligible partners to establish or expand programs of summer institutes that provide additional training to strengthen the science, technology, engineering, and mathematics teaching skills of teachers employed at public schools for kindergarten through grade 12, in accordance with paragraphs (3) and (4).

**“(B) SELECTION CRITERIA.—**In identifying eligible partners under subparagraph (A), the Secretary shall require that partner institutions describe—

**“(i) how the partner institution has the capability to administer the program in accordance with this section, which may include a description of any existing programs at the institution of the applicant that are targeted at education of science and mathematics teachers and the number of teachers graduated annually from the programs; and**

**“(ii) how the partner institution will assist the National Laboratory in carrying out the activities described in paragraphs (3) and (4).**

**“(C) ASSISTANCE.—**Consistent with sections 3165 and 3166, the Director shall make available funds authorized under this section to carry out a program using scientific and engineering staff of the National Laboratories, during which the staff—

**“(i) assists in providing training to teachers at summer institutes; and**

**“(ii) uses National Laboratory scientific equipment in the training.**

**“(3) REQUIRED ACTIVITIES.—**Funds authorized under this section shall be used for—

**“(A) creating opportunities for enhanced and ongoing professional development for teachers that improves the science, technology, engineering, and mathematics content knowledge of the teachers;**

**“(B) training to improve the ability of science, technology, engineering, and mathematics teachers to translate content knowledge and recent developments in pedagogy into classroom practice, including training to use curricula that are—**

**“(i) based on scientific research; and**

**“(ii) aligned with challenging State academic content standards;**

**“(C) training on the use and integration of technology in the classrooms; and**

**“(D) supplemental and follow-up professional development activities as described in subsection (a)(2)(D).**

**“(4) ADDITIONAL USES OF FUNDS.—**Funds authorized under this section may be used for—

**“(A) training and classroom materials to assist in carrying out paragraph (3);**

**“(B) expenses associated with scientific and engineering staff at the National Laboratories assisting in providing training to teachers at summer institutes;**

**“(C) instruction in the use and integration of data and assessments to inform and instruct classroom practice; and**

**“(D) stipends and travel expenses for teachers participating in the program.**

**“(c) PRIORITY.—**To the maximum extent practicable, the Director shall ensure that each summer institute program authorized under subsection (b) provides training to—

**“(1) teachers from a wide range of school districts;**

**“(2) teachers from high-need school districts; and**

**“(3) teachers from groups underrepresented in the fields of science, technology, engineering, and mathematics teaching, including women and members of minority groups.**

**“(d) COORDINATION AND CONSULTATION.—**The Director shall consult and coordinate with the Secretary of Education and the Director of the National Science Foundation regarding the im-

plementation of the programs authorized under subsection (b).

**“(e) EVALUATION AND ACCOUNTABILITY PLAN.—**

**“(1) IN GENERAL.—**The Director shall develop an evaluation and accountability plan for the activities funded under this section that measures the impact of the activities.

**“(2) CONTENTS.—**The evaluation and accountability plan shall include—

**“(A) measurable objectives to increase the number of science, technology, and mathematics teachers who participate in the summer institutes involved; and**

**“(B) measurable objectives for improved student academic achievement on State science, mathematics, and to the maximum extent applicable, technology and engineering assessments.**

**“(3) REPORT TO CONGRESS.—**The Secretary shall submit to Congress with the annual budget submission of the Secretary a report on how the activities assisted under this section improve the science, technology, engineering, and mathematics teaching skills of participating teachers.

**“(f) AUTHORIZATION OF APPROPRIATIONS.—**There are authorized to be appropriated to carry out this section—

**“(1) \$15,000,000 for fiscal year 2008;**

**“(2) \$20,000,000 for fiscal year 2009; and**

**“(3) \$25,000,000 for fiscal year 2010.**

**“CHAPTER 5—NATIONAL ENERGY EDUCATION DEVELOPMENT**

**“SEC. 3191. NATIONAL ENERGY EDUCATION DEVELOPMENT.**

**“(a) IN GENERAL.—**The Secretary, acting through the Director and in consultation with the Director of the National Science Foundation, shall establish a program to coordinate and make available to teachers and students web-based kindergarten through high school science, technology, engineering, and mathematics education resources relating to the science and energy mission of the Department, including existing instruction materials and protocols for classroom laboratory experiments.

**“(b) ENERGY EDUCATION.—**The materials and other resources required under subsection (a) shall include instruction relating to—

**“(1) the science of energy;**

**“(2) the sources of energy;**

**“(3) the uses of energy in society; and**

**“(4) the environmental consequences and benefits of all energy sources and uses.**

**“(c) DISSEMINATION.—**The Secretary, acting through the Director, shall take all steps necessary, such as through participation in education association conferences, to advertise the program authorized under this section to K-12 teachers and science education coordinators across the United States.

**“(d) AUTHORIZATION OF APPROPRIATIONS.—**There are authorized to be appropriated to carry out this section—

**“(1) \$500,000 for fiscal year 2008; and**

**“(2) such sums as necessary for each fiscal year thereafter.**

**“CHAPTER 6—ADMINISTRATION**

**“SEC. 3195. MENTORING PROGRAM.**

**“(a) IN GENERAL.—**As part of the programs established under chapters 1, 3, and 4, the Director shall establish a program to recruit and provide mentors for women and underrepresented minorities who are interested in careers in science, engineering, and mathematics.

**“(b) PAIRING.—**The program shall pair mentors with women and minorities who are in programs of study at specialty schools for science and mathematics, Centers of Excellence, and summer institutes established under chapters 1, 3, and 4, respectively.

**“(c) PROGRAM EVALUATION.—**The Secretary shall annually—

**“(1) use metrics to evaluate the success of the programs established under subsection (a); and**

**“(2) submit to Congress a report that describes the results of each evaluation.”.**

**SEC. 5004. NUCLEAR SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION.**

**(a) PURPOSES.—**The purposes of this section are—

**(1) to address the decline in the number of and resources available to nuclear science programs at institutions of higher education; and**

**(2) to increase the number of graduates with degrees in nuclear science, an area of strategic importance to the economic competitiveness and energy security of the United States.**

**(b) DEFINITION OF NUCLEAR SCIENCE.—**In this section, the term “nuclear science” includes—

**(1) nuclear science;**

**(2) nuclear engineering;**

**(3) nuclear chemistry;**

**(4) radio chemistry; and**

**(5) health physics.**

**(c) ESTABLISHMENT.—**The Secretary shall establish, in accordance with this section, a program to expand and enhance institution of higher education nuclear science educational capabilities.

**(d) NUCLEAR SCIENCE PROGRAM EXPANSION GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—**

**(1) IN GENERAL.—**The Secretary shall award up to 3 competitive grants for each fiscal year to institutions of higher education that establish new academic degree programs in nuclear science.

**(2) PRIORITY.—**In evaluating grants under this subsection, the Secretary shall give priority to proposals that involve partnerships with a National Laboratory or other eligible nuclear-related entity, as determined by the Secretary.

**(3) CRITERIA.—**Criteria for a grant awarded under this subsection shall be based on—

**(A) the potential to attract new students to the program;**

**(B) academic rigor; and**

**(C) the ability to offer hands-on learning opportunities.**

**(4) DURATION AND AMOUNT.—**

**(A) DURATION.—**A grant under this subsection may be up to 5 years in duration.

**(B) AMOUNT.—**An institution of higher education that receives a grant under this subsection shall be eligible for up to \$1,000,000 for each year of the grant period.

**(5) USE OF FUNDS.—**An institution of higher education that receives a grant under this subsection may use the grant to—

**(A) recruit and retain new faculty;**

**(B) develop core and specialized course content;**

**(C) encourage collaboration between faculty and researchers in the nuclear science field; and**

**(D) support outreach efforts to recruit students.**

**(e) NUCLEAR SCIENCE COMPETITIVENESS GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—**

**(1) IN GENERAL.—**The Secretary shall award up to 5 competitive grants for each fiscal year to institutions of higher education with existing academic degree programs that produce graduates in nuclear science.

**(2) CRITERIA.—**Criteria for a grant awarded under this subsection shall be based on the potential for increasing the number and academic quality of graduates in the nuclear sciences who enter into careers in nuclear-related fields.

**(3) DURATION AND AMOUNT.—**

**(A) DURATION.—**A grant under this subsection may be up to 5 years in duration.

**(B) AMOUNT.—**An institution of higher education that receives a grant under this subsection shall be eligible for up to \$500,000 for each year of the grant period.

**(4) USE OF FUNDS.—**An institution of higher education that receives a grant under this subsection may use the grant to—

**(A) increase the number of graduates in nuclear science that enter into careers in the nuclear science field;**

**(B) enhance the teaching of advanced nuclear technologies;**

(C) aggressively pursue collaboration opportunities with industry and National Laboratories;

(D) bolster or sustain nuclear infrastructure and research facilities of the institution of higher education, such as research and training reactors or laboratories; and

(E) provide tuition assistance and stipends to undergraduate and graduate students.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) NUCLEAR SCIENCE PROGRAM EXPANSION GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—There are authorized to be appropriated to carry out subsection (d)—

(A) \$3,500,000 for fiscal year 2008;

(B) \$6,500,000 for fiscal year 2009; and

(C) \$9,500,000 for fiscal year 2010.

(2) NUCLEAR SCIENCE COMPETITIVENESS GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—There are authorized to be appropriated to carry out subsection (e)—

(A) \$3,000,000 for fiscal year 2008;

(B) \$5,500,000 for fiscal year 2009; and

(C) \$8,000,000 for fiscal year 2010.

**SEC. 5005. HYDROCARBON SYSTEMS SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION.**

(a) PURPOSES.—The purposes of this section are—

(1) to address the decline in the number of and resources available to hydrocarbon systems science programs at institutions of higher education; and

(2) to increase the number of graduates with degrees in hydrocarbon systems science, an area of strategic importance to the economic competitiveness and energy security of the United States.

(b) DEFINITION OF HYDROCARBON SYSTEMS SCIENCE.—In this section:

(1) IN GENERAL.—The term “hydrocarbon systems science” means a science involving natural gas or other petroleum exploration, development, or production.

(2) INCLUSIONS.—The term “hydrocarbon systems science” includes—

(A) petroleum or reservoir engineering;

(B) environmental geoscience;

(C) petrophysics;

(D) geophysics;

(E) geochemistry;

(F) petroleum geology;

(G) ocean engineering;

(H) environmental engineering; and

(I) computer science, as computer science relates to a science described in this subsection.

(c) ESTABLISHMENT.—The Secretary shall establish, in accordance with this section, a program to expand and enhance institution of higher education hydrocarbon systems science educational capabilities.

(d) HYDROCARBON SYSTEMS SCIENCE PROGRAM EXPANSION GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—

(1) IN GENERAL.—The Secretary shall award up to 3 competitive grants for each fiscal year to institutions of higher education that establish new academic degree programs in hydrocarbon systems science.

(2) ELIGIBILITY.—In evaluating grants under this subsection, the Secretary shall give priority to proposals that involve partnerships with the National Laboratories, including the National Energy Technology Laboratory, or other hydrocarbon systems scientific entities, as determined by the Secretary.

(3) CRITERIA.—Criteria for a grant awarded under this subsection shall be based on—

(A) the potential to attract new students to the program;

(B) academic rigor; and

(C) the ability to offer hands-on learning opportunities.

(4) DURATION AND AMOUNT.—

(A) DURATION.—A grant under this subsection may be up to 5 years in duration.

(B) AMOUNT.—An institution of higher education that receives a grant under this sub-

section shall be eligible for up to \$1,000,000 for each year of the grant period.

(5) USE OF FUNDS.—An institution of higher education that receives a grant under this subsection may use the grant to—

(A) recruit and retain new faculty;

(B) develop core and specialized course content;

(C) encourage collaboration between faculty and researchers in the hydrocarbon systems science field; and

(D) support outreach efforts to recruit students.

(e) HYDROCARBON SYSTEMS SCIENCE COMPETITIVENESS GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—

(1) IN GENERAL.—The Secretary shall award up to 5 competitive grants for each fiscal year to institutions of higher education with existing academic degree programs that produce graduates in hydrocarbon systems science.

(2) CRITERIA.—Criteria for a grant awarded under this subsection shall be based on the potential for increasing the number and academic quality of graduates in hydrocarbon systems sciences who enter into careers in natural gas and other petroleum exploration, development, and production related fields.

(3) DURATION AND AMOUNT.—

(A) DURATION.—A grant under this subsection may be up to 5 years in duration.

(B) AMOUNT.—An institution of higher education that receives a grant under this subsection shall be eligible for up to \$500,000 for each year of the grant period.

(4) USE OF FUNDS.—An institution of higher education that receives a grant under this subsection may use the grant to—

(A) increase the number of graduates in the hydrocarbon systems sciences that enter into careers in the natural gas and other petroleum exploration, development, and production science fields;

(B) enhance the teaching of advanced natural gas and other petroleum exploration, development, and production technologies;

(C) aggressively pursue collaboration opportunities with industry and the National Laboratories, including the National Energy Technology Laboratory;

(D) bolster or sustain natural gas and other petroleum exploration, development, and production infrastructure and research facilities of the institution of higher education, such as research and training or laboratories; and

(E) provide tuition assistance and stipends to undergraduate and graduate students.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) HYDROCARBON SYSTEMS SCIENCE PROGRAM EXPANSION GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—There are authorized to be appropriated to carry out subsection (d)—

(A) \$3,500,000 for fiscal year 2008;

(B) \$6,500,000 for fiscal year 2009; and

(C) \$9,500,000 for fiscal year 2010.

(2) HYDROCARBON SYSTEMS SCIENCE COMPETITIVENESS GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—There are authorized to be appropriated to carry out subsection (e)—

(A) \$3,000,000 for fiscal year 2008;

(B) \$5,500,000 for fiscal year 2009; and

(C) \$8,000,000 for fiscal year 2010.

**SEC. 5006. DEPARTMENT OF ENERGY EARLY CAREER AWARDS FOR SCIENCE, ENGINEERING, AND MATHEMATICS RESEARCHERS.**

(a) GRANT AWARDS.—The Director of the Office of Science of the Department (referred to in this section as the “Director”) shall carry out a program to award grants to scientists and engineers at an early career stage at institutions of higher education and organizations described in subsection (c) to conduct research in fields relevant to the mission of the Department.

(b) AMOUNT AND DURATION.—

(1) AMOUNT.—The amount of a grant awarded under this section shall be—

(A) not less than \$80,000; and

(B) not more than \$125,000.

(2) DURATION.—The term of a grant awarded under this section shall be not more than 5 years.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, an individual shall, as determined by the Director—

(A) subject to paragraph (2), have completed a doctorate or other terminal degree not more than 10 years before the date on which the proposal for a grant is submitted under subsection (e)(1);

(B) have demonstrated promise in a science, engineering, or mathematics field relevant to the missions of the Department; and

(C) be employed—

(i) in a tenure track-position as an assistant professor or equivalent title at an institution of higher education in the United States;

(ii) at an organization in the United States that is a nonprofit, nondegree-granting research organization such as a museum, observatory, or research laboratory; or

(iii) as a scientist at a National Laboratory.

(2) WAIVER.—Notwithstanding paragraph (1)(A), the Director may determine that an individual who has completed a doctorate more than 10 years before the date of submission of a proposal under subsection (e)(1) is eligible to receive a grant under this section if the individual was unable to conduct research for a period of time because of extenuating circumstances, including military service or family responsibilities, as determined by the Director.

(d) SELECTION.—Grant recipients shall be selected on a competitive, merit-reviewed basis.

(e) SELECTION PROCESS AND CRITERIA.—

(1) PROPOSAL.—To be eligible to receive a grant under this section, an individual shall submit to the Director a proposal at such time, in such manner, and containing such information as the Director may require.

(2) EVALUATION.—In evaluating the proposals submitted under paragraph (1), the Director shall take into consideration, at a minimum—

(A) the intellectual merit of the proposed project;

(B) the innovative or transformative nature of the proposed research;

(C) the extent to which the proposal integrates research and education, including undergraduate education in science and engineering disciplines; and

(D) the potential of the applicant for leadership at the frontiers of knowledge.

(f) DIVERSITY REQUIREMENT.—

(1) IN GENERAL.—In awarding grants under this section, the Director shall endeavor to ensure that the grant recipients represent a variety of types of institutions of higher education and nonprofit, nondegree-granting research organizations.

(2) REQUIREMENT.—In support of the goal described in paragraph (1), the Director shall broadly disseminate information regarding the deadlines applicable to, and manner in which to submit, proposals for grants under this section, including by conducting outreach activities for—

(A) part B institutions, as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061); and

(B) minority institutions, as defined in section 365 of that Act (20 U.S.C. 1067k).

(g) REPORT ON RECRUITING AND RETAINING EARLY CAREER SCIENCE AND ENGINEERING RESEARCHERS AT NATIONAL LABORATORIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing efforts of the Director to recruit and retain young scientists and engineers at early career stages at the National Laboratories.

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) a description of applicable Department and National Laboratory policies and procedures, including policies and procedures relating to financial incentives, awards, promotions, time reserved for independent research, access to equipment or facilities, and other forms of recognition, designed to attract and retain young scientists and engineers;

(B) an evaluation of the impact of the incentives described in subparagraph (A) on—

(i) the careers of young scientists and engineers at the National Laboratories; and

(ii) the quality of the research at the National Laboratories and in Department programs;

(C) a description of barriers, if any, that exist with respect to efforts to recruit and retain young scientists and engineers, including the limited availability of full-time equivalent positions, legal and procedural requirements, and pay grading systems; and

(D) the amount of funding devoted to efforts to recruit and retain young researchers, and the source of the funds.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary, acting through the Director, to carry out this section \$25,000,000 for each of fiscal years 2008 through 2010.

**SEC. 5007. AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF ENERGY FOR BASIC RESEARCH.**

Section 971(b) of the Energy Policy Act of 2005 (42 U.S.C. 16311(b)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(4) \$5,814,000,000 for fiscal year 2010.”.

**SEC. 5008. DISCOVERY SCIENCE AND ENGINEERING INNOVATION INSTITUTES.**

(a) **IN GENERAL.**—The Secretary shall establish distributed, multidisciplinary institutes (referred to in this section as “Institutes”) centered at National Laboratories to apply fundamental science and engineering discoveries to technological innovations relating to—

(1) the missions of the Department; and

(2) the global competitiveness of the United States.

(b) **TOPICAL AREAS.**—The Institutes shall support scientific and engineering research and education activities on critical emerging technologies determined by the Secretary to be essential to global competitiveness, including activities relating to—

(1) sustainable energy technologies;

(2) multiscale materials and processes;

(3) micro- and nano-engineering;

(4) computational and information engineering; and

(5) genomics and proteomics.

(c) **PARTNERSHIPS.**—In carrying out this section, the Secretary shall establish partnerships between the Institutes and—

(1) institutions of higher education—

(A) to train undergraduate and graduate science and engineering students;

(B) to develop innovative undergraduate and graduate educational curricula; and

(C) to conduct research within the topical areas described in subsection (b); and

(2) private industry to develop innovative technologies within the topical areas described in subsection (b).

(d) **GRANTS.**—

(1) **IN GENERAL.**—For each fiscal year, the Secretary may select not more than 3 Institutes to receive a grant under this section.

(2) **MERIT-BASED SELECTION.**—The selection of Institutes under paragraph (1) shall be—

(A) merit-based; and

(B) made through an open, competitive selection process.

(3) **TERM.**—An Institute shall receive a grant under this section for not more than 3 fiscal years.

(e) **REVIEW.**—The Secretary shall offer to enter into an agreement with the National

Academy of Sciences under which the Academy shall, by not later than 3 years after the date of enactment of this Act—

(1) review the performance of the Institutes under this section; and

(2) submit to Congress and the Secretary a report describing the results of the review.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to provide grants to each Institute selected under this section \$10,000,000 for each of fiscal years 2008 through 2010.

**SEC. 5009. PROTECTING AMERICA'S COMPETITIVE EDGE (PACE) GRADUATE FELLOWSHIP PROGRAM.**

(a) **DEFINITION OF ELIGIBLE STUDENT.**—In this section, the term “eligible student” means a student who attends an institution of higher education that offers a doctoral degree in a field relevant to a mission area of the Department.

(b) **ESTABLISHMENT.**—The Secretary shall establish a graduate fellowship program for eligible students pursuing a doctoral degree in a mission area of the Department.

(c) **SELECTION.**—

(1) **IN GENERAL.**—The Secretary shall award fellowships to eligible students under this section through a competitive merit review process, involving written and oral interviews, that will result in a wide distribution of awards throughout the United States, as determined by the Secretary.

(2) **CRITERIA.**—The Secretary shall establish selection criteria for awarding fellowships under this section that require an eligible student—

(A) to pursue a field of science or engineering of importance to a mission area of the Department;

(B) to demonstrate to the Secretary—

(i) the capacity of the eligible student to understand technical topics relating to the fellowship that can be derived from the first principles of the technical topics;

(ii) imagination and creativity;

(iii) leadership skills in organizations or intellectual endeavors, demonstrated through awards and past experience; and

(iv) excellent verbal and communication skills to explain, defend, and demonstrate an understanding of technical subjects relating to the fellowship; and

(C) to be a citizen or legal permanent resident of the United States.

(d) **AWARDS.**—

(1) **AMOUNT.**—A fellowship awarded under this section shall—

(A) provide an annual living stipend; and

(B) cover—

(i) graduate tuition at an institution of higher education described in subsection (a); and

(ii) incidental expenses associated with curricula and research at the institution of higher education (including books, computers, and software).

(2) **DURATION.**—A fellowship awarded under this section shall be up to 3 years duration within a 5-year period.

(3) **PORTABILITY.**—A fellowship awarded under this section shall be portable with the eligible student.

(e) **ADMINISTRATION.**—The Secretary, acting through the Director of Science, Engineering, and Mathematics Education—

(1) shall administer the program established under this section; and

(2) may enter into a contract with a nonprofit entity to administer the program, including the selection and award of fellowships.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

(1) \$7,500,000 for fiscal year 2008;

(2) \$12,000,000 for fiscal year 2009, including nonexpiring fellowships for the preceding fiscal year; and

(3) \$20,000,000 for fiscal year 2010, including nonexpiring fellowships for preceding fiscal years.

**SEC. 5010. SENSE OF CONGRESS REGARDING CERTAIN RECOMMENDATIONS AND REVIEWS.**

It is the sense of Congress that—

(1) the Department of Energy should implement the recommendations contained in the report of the Government Accountability Office numbered 04-639; and

(2) the Secretary of Energy should annually conduct reviews in accordance with title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) of at least 2 recipients of grants provided by the Department of Energy.

**SEC. 5011. DISTINGUISHED SCIENTIST PROGRAM.**

(a) **PURPOSE.**—The purpose of this section is to promote scientific and academic excellence through collaborations between institutions of higher education and National Laboratories.

(b) **ESTABLISHMENT.**—The Secretary shall establish a program to support the joint appointment of distinguished scientists by institutions of higher education and National Laboratories.

(c) **QUALIFICATIONS.**—To be eligible for appointment as a distinguished scientist under this section, an individual, by reason of professional background and experience, shall be able to bring international recognition to the appointing institution of higher education or National Laboratory in the field of scientific endeavor of the individual.

(d) **SELECTION.**—A distinguished scientist appointed under this section shall be selected through an open, competitive process.

(e) **APPOINTMENT.**—

(1) **INSTITUTION OF HIGHER EDUCATION.**—An appointment by an institution of higher education under this section shall be filled within the tenure allotment of the institution of higher education, at a minimum rank of professor.

(2) **NATIONAL LABORATORY.**—An appointment by a National Laboratory under this section shall be at the rank of the highest grade of distinguished scientist or technical staff of the National Laboratory.

(f) **DURATION.**—An appointment under this section shall—

(1) be for a term of 6 years; and

(2) consist of 2 3-year funding allotments.

(g) **USE OF FUNDS.**—Funds made available under this section may be used for—

(1) the salary of the distinguished scientist and support staff;

(2) undergraduate, graduate, and post-doctoral appointments;

(3) research-related equipment;

(4) professional travel; and

(5) such other requirements as the Secretary determines to be necessary to carry out the purpose of the program.

(h) **REVIEW.**—

(1) **IN GENERAL.**—The appointment of a distinguished scientist under this section shall be reviewed at the end of the first 3-year allotment for the distinguished scientist through an open peer-review process to determine whether the appointment is meeting the purpose of this section under subsection (a).

(2) **FUNDING.**—Funding of the appointment of the distinguished scientist for the second 3-year allotment shall be determined based on the review conducted under paragraph (1).

(i) **COST SHARING.**—To be eligible for assistance under this section, an appointing institution of higher education shall pay at least 50 percent of the total costs of the appointment.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

(1) \$15,000,000 for fiscal year 2008;

(2) \$20,000,000 for fiscal year 2009; and

(3) \$30,000,000 for fiscal year 2010.

**SEC. 5012. ADVANCED RESEARCH PROJECTS AGENCY—ENERGY.**

(a) **DEFINITIONS.**—In this section:

(1) **ARPA-E.**—The term “ARPA-E” means the Advanced Research Projects Agency—Energy established by subsection (b).

(2) **DIRECTOR.**—The term “Director” means the Director of ARPA-E appointed under subsection (d).

(3) **FUND.**—The term “Fund” means the Energy Transformation Acceleration Fund established under subsection (m)(1).

(b) **ESTABLISHMENT.**—There is established the Advanced Research Projects Agency—Energy within the Department to overcome the long-term and high-risk technological barriers in the development of energy technologies.

(c) **GOALS.**—

(1) **IN GENERAL.**—The goals of ARPA-E shall be—

(A) to enhance the economic and energy security of the United States through the development of energy technologies that result in—

(i) reductions of imports of energy from foreign sources;

(ii) reductions of energy-related emissions, including greenhouse gases; and

(iii) improvement in the energy efficiency of all economic sectors; and

(B) to ensure that the United States maintains a technological lead in developing and deploying advanced energy technologies.

(2) **MEANS.**—ARPA-E shall achieve the goals established under paragraph (1) through energy technology projects by—

(A) identifying and promoting revolutionary advances in fundamental sciences;

(B) translating scientific discoveries and cutting-edge inventions into technological innovations; and

(C) accelerating transformational technological advances in areas that industry by itself is not likely to undertake because of technical and financial uncertainty.

(d) **DIRECTOR.**—

(1) **APPOINTMENT.**—There shall be in the Department of Energy a Director of ARPA-E, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) **QUALIFICATIONS.**—The Director shall be an individual who, by reason of professional background and experience, is especially qualified to advise the Secretary on, and manage research programs addressing, matters pertaining to long-term and high-risk technological barriers to the development of energy technologies.

(3) **RELATIONSHIP TO SECRETARY.**—The Director shall report to the Secretary.

(4) **RELATIONSHIP TO OTHER PROGRAMS.**—No other programs within the Department shall report to the Director.

(e) **RESPONSIBILITIES.**—The responsibilities of the Director shall include—

(1) approving all new programs within ARPA-E;

(2) developing funding criteria and assessing the success of programs through the establishment of technical milestones;

(3) administering the Fund through awards to institutions of higher education, companies, research foundations, trade and industry research collaborations, or consortia of such entities, which may include federally-funded research and development centers, to achieve the goals described in subsection (c) through targeted acceleration of—

(A) novel early-stage energy research with possible technology applications;

(B) development of techniques, processes, and technologies, and related testing and evaluation;

(C) research and development of manufacturing processes for novel energy technologies; and

(D) coordination with nongovernmental entities for demonstration of technologies and research applications to facilitate technology transfer; and

(4) terminating programs carried out under this section that are not achieving the goals of the programs.

(f) **PERSONNEL.**—

(1) **PROGRAM MANAGERS.**—

(A) **IN GENERAL.**—The Director shall designate employees to serve as program managers for each of the programs established pursuant to the responsibilities established for ARPA-E under subsection (e).

(B) **RESPONSIBILITIES.**—A program manager of a program shall be responsible for—

(i) establishing research and development goals for the program, including through the convening of workshops and conferring with outside experts, and publicizing the goals of the program to the public and private sectors;

(ii) soliciting applications for specific areas of particular promise, especially areas that the private sector or the Federal Government are not likely to undertake alone;

(iii) building research collaborations for carrying out the program;

(iv) selecting on the basis of merit, with advice under subsection (j) as appropriate, each of the projects to be supported under the program after considering—

(I) the novelty and scientific and technical merit of the proposed projects;

(II) the demonstrated capabilities of the applicants to successfully carry out the proposed project;

(III) the consideration by the applicant of future commercial applications of the project, including the feasibility of partnering with 1 or more commercial entities; and

(IV) such other criteria as are established by the Director;

(v) monitoring the progress of projects supported under the program; and

(vi) recommending program restructure or termination of research partnerships or whole projects.

(C) **TERM.**—The term of a program manager shall be 3 years and may be renewed.

(2) **HIRING AND MANAGEMENT.**—

(A) **IN GENERAL.**—The Director shall have the authority to—

(i) make appointments of scientific, engineering, and professional personnel without regard to the civil service laws; and

(ii) fix the compensation of such personnel at a rate to be determined by the Director.

(B) **NUMBER.**—The Director shall appoint not less than 70, and not more than 120, personnel under this section.

(C) **PRIVATE RECRUITING FIRMS.**—The Secretary, or the Director serving as an agent of the Secretary, may contract with private recruiting firms for the hiring of qualified technical staff to carry out this section.

(D) **ADDITIONAL STAFF.**—The Director may use all authorities in existence on the date of enactment of this Act that are provided to the Secretary to hire administrative, financial, and clerical staff as necessary to carry out this section.

(g) **REPORTS AND ROADMAPS.**—

(1) **ANNUAL REPORT.**—As part of the annual budget request submitted for each fiscal year, the Director shall provide to the relevant authorizing and appropriations committees of Congress a report describing projects supported by ARPA-E during the previous fiscal year.

(2) **STRATEGIC VISION ROADMAP.**—Not later than October 1, 2008, and October 1, 2011, the Director shall provide to the relevant authorizing and appropriations committees of Congress a roadmap describing the strategic vision that ARPA-E will use to guide the choices of ARPA-E for future technology investments over the following 3 fiscal years.

(h) **COORDINATION AND NONDUPLICATION.**—

(1) **IN GENERAL.**—To the maximum extent practicable, the Director shall ensure that the activities of ARPA-E are coordinated with, and do not duplicate the efforts of, programs and laboratories within the Department and other relevant research agencies.

(2) **TECHNOLOGY TRANSFER COORDINATOR.**—To the extent appropriate, the Director may coordinate technology transfer efforts with the Technology Transfer Coordinator appointed under section 1001 of the Energy Policy Act of 2005 (42 U.S.C. 16391).

(i) **FEDERAL DEMONSTRATION OF TECHNOLOGIES.**—The Secretary shall make information available to purchasing and procurement

programs of Federal agencies regarding the potential to demonstrate technologies resulting from activities funded through ARPA-E.

(j) **ADVICE.**—

(1) **ADVISORY COMMITTEES.**—The Director may seek advice on any aspect of ARPA-E from—

(A) an existing Department of Energy advisory committee; and

(B) a new advisory committee organized to support the programs of ARPA-E and to provide advice and assistance on—

(i) specific program tasks; or

(ii) overall direction of ARPA-E.

(2) **ADDITIONAL SOURCES OF ADVICE.**—In carrying out this section, the Director may seek advice and review from—

(A) the President’s Committee of Advisors on Science and Technology; and

(B) any professional or scientific organization with expertise in specific processes or technologies under development by ARPA-E.

(k) **ARPA-E EVALUATION.**—

(1) **IN GENERAL.**—After ARPA-E has been in operation for 4 years, the Secretary shall offer to enter into a contract with the National Academy of Sciences under which the National Academy shall conduct an evaluation of how well ARPA-E is achieving the goals and mission of ARPA-E.

(2) **INCLUSIONS.**—The evaluation shall include—

(A) the recommendation of the National Academy of Sciences on whether ARPA-E should be continued or terminated; and

(B) a description of lessons learned from operation of ARPA-E.

(3) **AVAILABILITY.**—On completion of the evaluation, the evaluation shall be made available to Congress and the public.

(l) **EXISTING AUTHORITIES.**—The authorities granted by this section are—

(1) in addition to existing authorities granted to the Secretary; and

(2) are not intended to supersede or modify any existing authorities.

(m) **FUNDING.**—

(1) **FUND.**—There is established in the Treasury of the United States a fund, to be known as the “Energy Transformation Acceleration Fund”, which shall be administered by the Director for the purposes of carrying out this section.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—Subject to paragraphs (4) and (5), there are authorized to be appropriated to the Director for deposit in the Fund, without fiscal year limitation—

(A) \$300,000,000 for fiscal year 2008; and

(B) such sums as are necessary for each of fiscal years 2009 and 2010.

(3) **SEPARATE BUDGET AND APPROPRIATION.**—

(A) **BUDGET REQUEST.**—The budget request for ARPA-E shall be separate from the rest of the budget of the Department.

(B) **APPROPRIATIONS.**—Appropriations to the Fund shall be separate and distinct from the rest of the budget for the Department.

(4) **LIMITATION.**—No amounts may be appropriated for ARPA-E for fiscal year 2008 unless the amount appropriated for the activities of the Office of Science of the Department for fiscal year 2008 exceeds the amount appropriated for the Office for fiscal year 2007, as adjusted for inflation in accordance with the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

(5) **ALLOCATION.**—Of the amounts appropriated for a fiscal year under paragraph (2)—

(A) not more than 50 percent of the amount shall be used to carry out subsection (e)(3)(D);

(B) at least 2.5 percent of the amount shall be used for technology transfer and outreach activities; and

(C) no funds may be used for construction of new buildings or facilities during the 5-year period beginning on the date of enactment of this Act.

## TITLE VI—EDUCATION

### SEC. 6001. FINDINGS.

Congress makes the following findings:

(1) A well-educated population is essential to retaining America's competitiveness in the global economy.

(2) The United States needs to build on and expand the impact of existing programs by taking additional, well-coordinated steps to ensure that all students are able to obtain the knowledge the students need to obtain postsecondary education and participate successfully in the workforce or the Armed Forces.

(3) The next steps must be informed by independent information on the effectiveness of current programs in science, technology, engineering, mathematics, and critical foreign language education, and by identification of best practices that can be replicated.

(4) Teacher preparation and elementary school and secondary school programs and activities must be aligned with the requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the requirements of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(5) The ever increasing knowledge and skill demands of the 21st century require that secondary school preparation and requirements be better aligned with the knowledge and skills needed to succeed in postsecondary education and the workforce, and States need better data systems to track educational achievement from prekindergarten through baccalaureate degrees.

#### SEC. 6002. DEFINITIONS.

(a) ESEA DEFINITIONS.—Unless otherwise specified in this title, the terms used in this title have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) OTHER DEFINITIONS.—In this title:

(1) CRITICAL FOREIGN LANGUAGE.—The term “critical foreign language” means a foreign language that the Secretary determines, in consultation with the heads of such Federal departments and agencies as the Secretary determines appropriate, is critical to the national security and economic competitiveness of the United States.

(2) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

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

(4) SCIENTIFICALLY VALID RESEARCH.—The term “scientifically valid research” includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with accepted principles of scientific research.

#### Subtitle A—Teacher Assistance

##### PART I—TEACHERS FOR A COMPETITIVE TOMORROW

#### SEC. 6111. PURPOSE.

The purpose of this part is—

(1) to develop and implement programs to provide integrated courses of study in science, technology, engineering, mathematics, or critical foreign languages, and teacher education, that lead to a baccalaureate degree in science, technology, engineering, mathematics, or a critical foreign language, with concurrent teacher certification;

(2) to develop and implement 2- or 3-year part-time master's degree programs in science, technology, engineering, mathematics, or critical foreign language education for teachers in order to enhance the teachers' content knowledge and pedagogical skills; and

(3) to develop programs for professionals in science, technology, engineering, mathematics, or critical foreign language education that lead to a master's degree in teaching that results in teacher certification.

#### SEC. 6112. DEFINITIONS.

In this part:

(1) CHILDREN FROM LOW-INCOME FAMILIES.—The term “children from low-income families” means children described in section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)).

(2) ELIGIBLE RECIPIENT.—The term “eligible recipient” means an institution of higher education that receives grant funds under this part on behalf of a department of science, technology, engineering, mathematics, or a critical foreign language, or on behalf of a department or school with a competency-based degree program (in science, technology, engineering, mathematics, or a critical foreign language) that includes teacher certification, for use in carrying out activities assisted under this part.

(3) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term “high-need local educational agency” means a local educational agency or educational service agency—

(A)(i) that serves not fewer than 10,000 children from low-income families;

(ii) for which not less than 20 percent of the children served by the agency are children from low-income families; or

(iii) with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools are designated with a school locale code of 41, 42, or 43, as determined by the Secretary; and

(B)(i) for which there is a high percentage of teachers providing instruction in academic subject areas or grade levels for which the teachers are not highly qualified; or

(ii) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

(4) HIGHLY QUALIFIED.—The term “highly qualified” has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) and, with respect to special education teachers, in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(5) PARTNERSHIP.—The term “partnership” means a partnership that—

(A) shall include—

(i) an eligible recipient;

(ii)(I)(aa) a department within the eligible recipient that provides a program of study in science, technology, engineering, mathematics, or a critical foreign language; and

(bb) a school, department, or program of education within the eligible recipient, or a 2-year institution of higher education that has a teacher preparation offering or a dual enrollment program with the eligible recipient; or

(II) a department or school within the eligible recipient with a competency-based degree program (in science, technology, engineering, mathematics, or a critical foreign language) that includes teacher certification; and

(iii) not less than 1 high-need local educational agency and a public school or a consortium of public schools served by the agency; and

(B) may include a nonprofit organization that has a demonstrated record of providing expertise or support to meet the purposes of this part.

(6) TEACHING SKILLS.—The term “teaching skills” means the ability to—

(A) increase student achievement and learning and increase a student's ability to apply knowledge;

(B) effectively convey and explain academic subject matter;

(C) employ strategies grounded in the disciplines of teaching and learning that—

(i) are based on scientifically valid research;

(ii) are specific to academic subject matter; and

(iii) focus on the identification of students' specific learning needs, particularly students with disabilities, students who are limited English proficient, students who are gifted and talented, and students with low literacy levels, and the tailoring of academic instruction to such needs;

(D) conduct ongoing assessment of student learning;

(E) effectively manage a classroom; and

(F) communicate and work with parents and guardians, and involve parents and guardians in their children's education.

#### SEC. 6113. PROGRAMS FOR BACCALAUREATE DEGREES IN SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, OR CRITICAL FOREIGN LANGUAGES, WITH CONCURRENT TEACHER CERTIFICATION.

(a) PROGRAM AUTHORIZED.—From the amounts made available to carry out this section under section 6116(1) and not reserved under section 6115(d) for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible recipients to enable partnerships served by the eligible recipients to develop and implement programs to provide courses of study in science, technology, engineering, mathematics, or critical foreign languages that—

(1) are integrated with teacher education; and

(2) lead to a baccalaureate degree in science, technology, engineering, mathematics, or a critical foreign language with concurrent teacher certification.

(b) APPLICATION.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall—

(1) describe the program for which assistance is sought;

(2) describe how a department of science, technology, engineering, mathematics, or a critical foreign language participating in the partnership will ensure significant collaboration with a teacher preparation program in the development of undergraduate degrees in science, technology, engineering, mathematics, or a critical foreign language, with concurrent teacher certification, including providing student teaching and other clinical classroom experiences or how a department or school participating in the partnership with a competency-based degree program has ensured, in the development of a baccalaureate degree program in science, technology, engineering, mathematics, or a critical foreign language, the provision of concurrent teacher certification, including providing student teaching and other clinical classroom experiences;

(3) describe the high-quality research, laboratory, or internship experiences, integrated with coursework, that will be provided under the program;

(4) describe how members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages will be encouraged to participate in the program;

(5) describe how program participants will be encouraged to teach in schools determined by the partnership to be most in need, and the assistance in finding employment in such schools that will be provided;

(6) describe the ongoing activities and services that will be provided to graduates of the program;

(7) describe how the activities of the partnership will be coordinated with any activities funded through other Federal grants, and how the partnership will continue the activities assisted under the program when the grant period ends;

(8) describe how the partnership will assess the content knowledge and teaching skills of the program participants; and

(9) provide any other information the Secretary may reasonably require.

(c) PRIORITY.—Priority shall be given to applications whose primary focus is on placing participants in high-need local educational agencies.

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Each eligible recipient receiving a grant under this section shall use the grant funds to enable a partnership to develop

and implement a program to provide courses of study in science, technology, engineering, mathematics, or a critical foreign language that—

(A) are integrated with teacher education programs that promote effective teaching skills; and  
(B) lead to a baccalaureate degree in science, technology, engineering, mathematics, or a critical foreign language with concurrent teacher certification.

(2) PROGRAM REQUIREMENTS.—The program shall—

(A) provide high-quality research, laboratory, or internship experiences for program participants;

(B) provide student teaching or other clinical classroom experiences that—

(i) are integrated with coursework; and  
(ii) lead to the participants' ability to demonstrate effective teaching skills;

(C) if implementing a program in which program participants are prepared to teach science, technology, engineering, mathematics, or critical foreign language courses, include strategies for improving student literacy;

(D) encourage the participation of individuals who are members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages;

(E) encourage participants to teach in schools determined by the partnership to be most in need, and actively assist the participants in finding employment in such schools;

(F) offer training in the use of and integration of educational technology;

(G) collect data regarding and evaluate, using measurable objectives and benchmarks, the extent to which the program succeeded in—

(i) increasing the percentage of highly qualified mathematics, science, or critical foreign language teachers, including increasing the percentage of such teachers teaching in those schools determined by the partnership to be most in need;

(ii) improving student academic achievement in mathematics, science, and where applicable, technology and engineering;

(iii) increasing the number of students in secondary schools enrolled in upper level mathematics, science, and, where available, technology and engineering courses; and

(iv) increasing the numbers of elementary school and secondary school students enrolled in and continuing in critical foreign language courses;

(H) collect data on the employment placement and retention of all graduates of the program, including information on how many graduates are teaching and in what kinds of schools;

(I) provide ongoing activities and services to graduates of the program who teach elementary school or secondary school, by—

(i) keeping the graduates informed of the latest developments in their respective academic fields; and

(ii) supporting the graduates of the program who are employed in schools in the local educational agency participating in the partnership during the initial years of teaching through—

(I) induction programs;

(II) promotion of effective teaching skills; and

(III) providing opportunities for regular professional development; and

(J) develop recommendations to improve the school, department, or program of education participating in the partnership.

(e) ANNUAL REPORT.—Each eligible recipient receiving a grant under this section shall collect and report to the Secretary annually such information as the Secretary may reasonably require, including—

(1) the number of participants in the program;

(2) information on the academic majors of participating students;

(3) the race, gender, income, and disability status of program participants;

(4) the placement of program participants as teachers in schools determined by the partnership to be most in need;

(5) the extent to which the program succeeded in meeting the objectives and benchmarks described in subsection (d)(2)(G); and

(6) the data collected under subparagraphs (G) and (H) of subsection (d)(2).

(f) TECHNICAL ASSISTANCE.—From the funds made available under section 6116(I), the Secretary may provide technical assistance to an eligible recipient developing a baccalaureate degree program with concurrent teacher certification, including technical assistance provided through a grant or contract awarded on a competitive basis to an institution of higher education or a technical assistance center.

(g) COMPLIANCE WITH FERPA.—Any activity under this section shall be carried out in compliance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly known as the Family Educational Rights and Privacy Act of 1974).

(h) INDUCTION PROGRAM DEFINED.—In this section, the term "induction program" means a formalized program for new teachers during not less than the teachers' first 2 years of teaching that is designed to provide support for, and improve the professional performance and advance the retention in the teaching field of, beginning teachers. Such program shall promote effective teaching skills and shall include the following components:

(1) High-quality teacher mentoring.

(2) Periodic, structured time for collaboration with teachers in the same department or field, as well as time for information-sharing among teachers, principals, administrators, and participating faculty in the partner institution.

(3) The application of empirically based practice and scientifically valid research on instructional practices.

(4) Opportunities for new teachers to draw directly upon the expertise of teacher mentors, faculty, and researchers to support the integration of empirically based practice and scientifically valid research with practice.

(5) The development of skills in instructional and behavioral interventions derived from empirically based practice and, where applicable, scientifically valid research.

(6) Faculty who—

(A) model the integration of research and practice in the classroom; and

(B) assist new teachers with the effective use and integration of technology in the classroom.

(7) Interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other staff who prepare new teachers on the learning process and the assessment of learning.

(8) Assistance with the understanding of data, particularly student achievement data, and the data's applicability in classroom instruction.

(9) Regular evaluation of the new teacher.

**SEC. 6114. PROGRAMS FOR MASTER'S DEGREES IN SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, OR CRITICAL FOREIGN LANGUAGE EDUCATION.**

(a) PROGRAM AUTHORIZED.—From the amounts made available to carry out this section under section 6116(2) and not reserved under section 6115(d) for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible recipients to enable the partnerships served by the eligible recipients to develop and implement—

(1) 2- or 3-year part-time master's degree programs in science, technology, engineering, mathematics, or critical foreign language education for teachers in order to enhance the teacher's content knowledge and teaching skills; or

(2) programs for professionals in science, technology, engineering, mathematics, or a critical foreign language that lead to a 1-year master's degree in teaching that results in teacher certification.

(b) APPLICATION.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall describe—

(1) how a department of science, technology, engineering, mathematics, or a critical foreign language will ensure significant collaboration with a school, department, or program of education in the development of the master's degree programs authorized under subsection (a), or how a department or school with a competency-based degree program has ensured, in the development of a master's degree program, the provision of rigorous studies in science, technology, engineering, mathematics, or a critical foreign language that enhance the teachers' content knowledge and teaching skills;

(2) the role of the local educational agency in the partnership in developing and administering the program and how feedback from the local educational agency, school, and participants will be used to improve the program;

(3) how the program will help increase the percentage of highly qualified mathematics, science, or critical foreign language teachers, including increasing the percentage of such teachers teaching in schools determined by the partnership to be most in need;

(4) how the program will—

(A) improve student academic achievement in mathematics, science, and, where applicable, technology and engineering and increase the number of students taking upper-level courses in such subjects; or

(B) increase the numbers of elementary school and secondary school students enrolled and continuing in critical foreign language courses;

(5) how the program will prepare participants to become more effective science, technology, engineering, mathematics, or critical foreign language teachers;

(6) how the program will prepare participants to assume leadership roles in their schools;

(7) how teachers (or science, technology, engineering, mathematics, or critical foreign language professionals) who are members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages and teachers from schools determined by the partnership to be most in need will be encouraged to apply for and participate in the program;

(8) the ongoing activities and services that will be provided to graduates of the program;

(9) how the partnership will continue the activities assisted under the grant when the grant period ends;

(10) how the partnership will assess, during the program, the content knowledge and teaching skills of the program participants; and

(11) methods to ensure applicants to the master's degree program for professionals in science, technology, engineering, mathematics, or a critical foreign language demonstrate advanced knowledge in the relevant subject.

(c) AUTHORIZED ACTIVITIES.—Each eligible recipient receiving a grant under this section shall use the grant funds to develop and implement a 2- or 3-year part-time master's degree program in science, technology, engineering, mathematics, or critical foreign language education for teachers in order to enhance the teachers' content knowledge and teaching skills, or programs for professionals in science, technology, engineering, mathematics, or a critical foreign language that lead to a 1-year master's degree in teaching that results in teacher certification. The program shall—

(1) promote effective teaching skills so that program participants become more effective science, technology, engineering, mathematics, or critical foreign language teachers;

(2) prepare teachers to assume leadership roles in their schools by participating in activities such as teacher mentoring, development of curricula that integrate state of the art applications of science, technology, engineering, mathematics, or critical foreign language into the classroom, working with school administrators in establishing in-service professional development of teachers, and assisting in evaluating data and assessments to improve student academic achievement;

(3) use high-quality research, laboratory, or internship experiences for program participants that are integrated with coursework;

(4) provide student teaching or clinical classroom experience;

(5) if implementing a program in which participants are prepared to teach science, technology, engineering, mathematics, or critical foreign language courses, provide strategies for improving student literacy;

(6) align the content knowledge in the master's degree program with challenging student academic achievement standards and challenging academic content standards established by the State in which the program is conducted;

(7) encourage the participation of—

(A) individuals who are members of groups that are underrepresented in the teaching of science, technology, engineering, mathematics, or critical foreign languages;

(B) members of the Armed Forces who are transitioning to civilian life; and

(C) teachers teaching in schools determined by the partnership to be most in need;

(8) offer tuition assistance, based on need, as appropriate;

(9) create opportunities for enhanced and ongoing professional development for teachers that improves the science, technology, engineering, mathematics, and critical foreign language content knowledge and teaching skills of such teachers; and

(10) evaluate and report on the impact of the program, in accordance with subsection (d).

(d) **EVALUATION AND REPORT.**—Each eligible recipient receiving a grant under this section shall evaluate, using measurable objectives and benchmarks, and provide an annual report to the Secretary regarding, the extent to which the program assisted under this section succeeded in the following:

(1) Increasing the number and percentage of science, technology, engineering, mathematics, or critical foreign language teachers who have a master's degree and meet 1 or more of the following requirements:

(A) Are teaching in schools determined by the partnership to be most in need, and taught in such schools prior to participation in the program.

(B) Are teaching in schools determined by the partnership to be most in need, and did not teach in such schools prior to participation in the program.

(C) Are members of a group underrepresented in the teaching of science, technology, engineering, mathematics, or a critical foreign language.

(2) Bringing professionals in science, technology, engineering, mathematics, or a critical foreign language into the field of teaching.

(3) Retaining teachers who participate in the program.

#### SEC. 6115. GENERAL PROVISIONS.

(a) **DURATION OF GRANTS.**—The Secretary shall award each grant under this part for a period of not more than 5 years.

(b) **MATCHING REQUIREMENT.**—Each eligible recipient that receives a grant under this part shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (which may be provided in cash or in kind) to carry out the activities supported by the grant.

(c) **SUPPLEMENT, NOT SUPPLANT.**—Grant funds provided under this part shall be used to supplement, and not supplant, other Federal or State funds.

(d) **EVALUATION.**—From amounts made available for any fiscal year under section 6116, the Secretary shall reserve such sums as may be necessary—

(1) to provide for the conduct of an annual independent evaluation, by grant or by contract, of the activities assisted under this part, which shall include an assessment of the impact of the activities on student academic achievement; and

(2) to prepare and submit an annual report on the results of the evaluation described in paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives.

#### SEC. 6116. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this section \$276,200,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years, of which—

(1) \$151,200,000 shall be available to carry out section 6113 for fiscal year 2008 and each succeeding fiscal year; and

(2) \$125,000,000 shall be available to carry out section 6114 for fiscal year 2008 and each succeeding fiscal year.

#### PART II—ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS

##### SEC. 6121. PURPOSE.

It is the purpose of this part—

(1) to raise academic achievement through Advanced Placement and International Baccalaureate programs by increasing, by 70,000, over a 4-year period beginning in 2008, the number of teachers serving high-need schools who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages;

(2) to increase, to 700,000 per year, the number of students attending high-need schools who—

(A) take and score a 3, 4, or 5 on an Advanced Placement examination in mathematics, science, or a critical foreign language administered by the College Board; or

(B) achieve a passing score on an examination administered by the International Baccalaureate Organization in such a subject;

(3) to increase the availability of, and enrollment in, Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools; and

(4) to support statewide efforts to increase the availability of, and enrollment in, Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools.

##### SEC. 6122. DEFINITIONS.

In this part:

(1) **ADVANCED PLACEMENT OR INTERNATIONAL BACCALAUREATE COURSE.**—The term “Advanced Placement or International Baccalaureate course” means—

(A) a course of college-level instruction provided to secondary school students, terminating in an examination administered by the College Board or the International Baccalaureate Organization, or another such examination approved by the Secretary; or

(B) another highly rigorous, evidence-based, postsecondary preparatory program terminating in an examination administered by another nationally recognized educational organization that has a demonstrated record of effectiveness in assessing secondary school students, or another such examination approved by the Secretary.

(2) **ELIGIBLE ENTITY.**—The term “eligible entity” means—

(A) a State educational agency;

(B) a local educational agency; or

(C) a partnership consisting of—

(i) a national, regional, or statewide nonprofit organization, with expertise and experience in providing Advanced Placement or International Baccalaureate services; and

(ii) a State educational agency or local educational agency.

(3) **LOW-INCOME STUDENT.**—The term “low-income student” has the meaning given the term

“low-income individual” in section 1707(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(3)).

(4) **HIGH CONCENTRATION OF LOW-INCOME STUDENTS.**—The term “high concentration of low-income students” has the meaning given the term in section 1707(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(2)).

(5) **HIGH-NEED LOCAL EDUCATIONAL AGENCY.**—The term “high-need local educational agency” means a local educational agency or educational service agency described in 6112(3)(A).

(6) **HIGH-NEED SCHOOL.**—The term “high-need school” means a secondary school—

(A) with a pervasive need for Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages, or for additional Advanced Placement or International Baccalaureate courses in such a subject; and

(B)(i) with a high concentration of low-income students; or

(ii) designated with a school locale code of 41, 42, or 43, as determined by the Secretary.

##### SEC. 6123. ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS.

(a) **PROGRAM AUTHORIZED.**—From the amounts appropriated under subsection (1), the Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable the eligible entities to carry out the authorized activities described in subsection (g).

(b) **DURATION OF GRANTS.**—The Secretary may award grants under this section for a period of not more than 5 years.

(c) **COORDINATION.**—The Secretary shall coordinate the activities carried out under this section with the activities carried out under section 1705 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6535).

(d) **PRIORITY.**—In awarding grants under this section, the Secretary shall give priority to eligible entities that are part of a statewide strategy for increasing—

(1) the availability of Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools; and

(2) the number of students who participate in Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign language in high-need schools, and take and score a 3, 4, or 5 on an Advanced Placement examination in such a subject, or pass an examination administered by the International Baccalaureate Organization in such a subject in such schools.

(e) **EQUITABLE DISTRIBUTION.**—The Secretary, to the extent practicable, shall—

(1) ensure an equitable geographic distribution of grants under this section among the States; and

(2) promote an increase in participation in Advanced Placement or International Baccalaureate mathematics, science, and critical foreign language courses and examinations in all States.

(f) **APPLICATION.**—

(1) **IN GENERAL.**—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) **CONTENTS.**—The application shall, at a minimum, include a description of—

(A) the goals and objectives for the project, including—

(i) increasing the number of teachers serving high-need schools who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(ii) increasing the number of qualified teachers serving high-need schools who are teaching

Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages to students in the high-need schools;

(iii) increasing the number of Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages that are available to students attending high-need schools; and

(iv) increasing the number of students attending a high-need school, particularly low-income students, who enroll in and pass—

(I) Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages; and

(II) pre-Advanced Placement or pre-International Baccalaureate courses in such a subject (where provided in accordance with subparagraph (B));

(B) how the eligible entity will ensure that students have access to courses, including pre-Advanced Placement and pre-International Baccalaureate courses, that will prepare the students to enroll and succeed in Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(C) how the eligible entity will provide professional development for teachers assisted under this section;

(D) how the eligible entity will ensure that teachers serving high-need schools are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(E) how the eligible entity will provide for the involvement of business and community organizations and other entities, including institutions of higher education, in the activities to be assisted; and

(F) how the eligible entity will use funds received under this section, including how the eligible entity will evaluate the success of its project.

(g) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Each eligible entity that receives a grant under this section shall use the grant funds to carry out activities designed to increase—

(A) the number of qualified teachers serving high-need schools who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages; and

(B) the number of students attending high-need schools who enroll in, and pass, the examinations for such Advanced Placement or International Baccalaureate courses.

(2) PERMISSIVE ACTIVITIES.—The activities described in paragraph (1) may include—

(A) teacher professional development, in order to expand the pool of teachers in the participating State, local educational agency, or high-need school who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(B) pre-Advanced Placement or pre-International Baccalaureate course development and professional development;

(C) coordination and articulation between grade levels to prepare students to enroll and succeed in Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(D) purchase of instructional materials;

(E) activities to increase the availability of, and participation in, online Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages;

(F) reimbursing low-income students attending high-need schools for part or all of the cost of Advanced Placement or International Baccalaureate examination fees;

(G) carrying out subsection (j), relating to collecting and reporting data;

(H) in the case of a State educational agency that receives a grant under this section, award-

ing subgrants to local educational agencies to enable the local educational agencies to carry out authorized activities described in subparagraphs (A) through (G); and

(I) providing salary increments or bonuses to teachers serving high-need schools who—

(i) become qualified to teach, and teach, Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language; or

(ii) increase the number of low-income students, who take Advanced Placement or International Baccalaureate examinations in mathematics, science, or a critical foreign language with the goal of successfully passing such examinations.

(h) MATCHING REQUIREMENT.—

(1) IN GENERAL.—Subject to paragraph (2), each eligible entity that receives a grant under this section shall provide, toward the cost of the activities assisted under the grant, from non-Federal sources, an amount equal to 200 percent of the amount of the grant, except that an eligible entity that is a high-need local educational agency shall provide an amount equal to not more than 100 percent of the amount of the grant.

(2) WAIVER.—The Secretary may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible entity described in subparagraph (A) or (B) of section 6122(2), if the Secretary determines that applying the matching requirement to such eligible entity would result in serious hardship or an inability to carry out the authorized activities described in subsection (g).

(i) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this section shall be used to supplement, not supplant, other Federal and non-Federal funds available to carry out the activities described in subsection (g).

(j) COLLECTING AND REPORTING REQUIREMENTS.—

(1) REPORT.—Each eligible entity receiving a grant under this section shall collect and report to the Secretary annually such data on the results of the grant as the Secretary may reasonably require, including data regarding—

(A) the number of students enrolling in Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language, and pre-Advanced Placement or pre-International Baccalaureate courses in such a subject, by the grade the student is enrolled in, and the distribution of grades those students receive;

(B) the number of students taking Advanced Placement or International Baccalaureate examinations in mathematics, science, or a critical foreign language, and the distribution of scores on those examinations by the grade the student is enrolled in at the time of the examination;

(C) the number of teachers receiving training in teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language who will be teaching such courses in the next school year;

(D) the number of teachers becoming qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language; and

(E) the number of qualified teachers who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages to students in a high-need school.

(2) REPORTING OF DATA.—Each eligible entity receiving a grant under this section shall report data required under paragraph (1)—

(A) disaggregated by subject area;

(B) in the case of student data, disaggregated in the same manner as information is disaggregated under section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i)); and

(C) to the extent feasible, in a manner that allows comparison of conditions before, during, and after the project.

(k) EVALUATION AND REPORT.—From the amount made available for any fiscal year under subsection (l), the Secretary shall reserve such sums as may be necessary—

(1) to conduct an annual independent evaluation, by grant or by contract, of the program carried out under this section, which shall include an assessment of the impact of the program on student academic achievement; and

(2) to prepare and submit an annual report on the results of the evaluation described in paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$75,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years.

### PART III—PROMISING PRACTICES IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TEACHING

#### SEC. 6131. PROMISING PRACTICES.

(a) PURPOSE.—The purpose of this section is to establish an expert panel to provide information on promising practices for strengthening teaching and learning in science, technology, engineering, and mathematics at the elementary school and secondary school levels. The panel shall build on prior Federal efforts, such as efforts by the National Mathematics Advisory Panel, and shall synthesize scientific evidence pertaining to the improvement of science, technology, engineering, and mathematics teaching and learning.

(b) NATIONAL PANEL ON PROMISING PRACTICES IN K-12 STEM TEACHING AND LEARNING.—

(1) IN GENERAL.—The Secretary shall enter into a contract with the Center for Education of the National Academy of Sciences to establish and convene, not later than 1 year after the date of enactment of this Act, an expert panel to—

(A) identify promising practices for improving teaching and student achievement in science, technology, engineering, and mathematics in kindergarten through grade 12; and

(B) examine and synthesize the scientific evidence pertaining to the improvement of science, technology, engineering, and mathematics teaching and learning.

(2) COMPOSITION OF NATIONAL PANEL.—The National Academy of Sciences shall ensure that the panel established under paragraph (1) represents scientists, engineers, mathematicians, technologists, computer and information technology experts, educators, principals, researchers with expertise in teaching and learning (including experts in cognitive science), and others with relevant expertise. The National Academy of Sciences shall ensure that the panel includes the following:

(A) Representation of teachers and principals directly involved in teaching science, technology, engineering, and mathematics in kindergarten through grade 12.

(B) Representation of teachers and principals from diverse demographic groups and geographic areas, including urban, suburban, and rural schools.

(C) Representation of teachers and principals from public and private schools.

(3) QUALIFICATION OF MEMBERS.—The members of the panel established under paragraph (1) shall be individuals who have expertise and experience relating to—

(A) existing science, technology, engineering, and mathematics education programs;

(B) developing and improving science, technology, engineering, and mathematics curricula content;

(C) improving the academic achievement of students who are below grade level in science, technology, engineering, and mathematics fields; and

(D) research on teaching or learning.

(c) AUTHORIZED ACTIVITIES OF NATIONAL PANEL.—The panel established under subsection (b) shall identify—

(1) promising practices in the effective teaching and learning of science, technology, engineering, and mathematics topics in kindergarten through grade 12;

(2) promising training and professional development techniques designed to help teachers increase their skills and expertise in improving student achievement in science, technology, engineering, and mathematics in kindergarten through grade 12;

(3) critical skills and skills progressions needed to enable students to acquire competence in science, technology, engineering, and mathematics and readiness for advanced secondary school and college level science, technology, engineering, and mathematics coursework;

(4) processes by which students with varying degrees of prior academic achievement and backgrounds learn effectively in the science, technology, engineering, and mathematics fields; and

(5) areas in which existing data about promising practices in science, technology, engineering, and mathematics education are insufficient.

(d) REPORT.—The panel established under subsection (b) shall prepare a written report for the Secretary that presents the findings of the panel pursuant to this section and includes recommendations, based on the findings of the panel, to strengthen science, technology, engineering, and mathematics teaching and learning in kindergarten through grade 12.

(e) DISSEMINATION.—The Secretary shall disseminate the report under subsection (d) to the public, State educational agencies, and local educational agencies, and shall make the information in such report available, in an easy to understand format, on the website of the Department.

(f) SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS PROMISING PRACTICES.—

(1) RELIABILITY AND MEASUREMENT.—The promising practices in the teaching of science, technology, engineering, and mathematics in elementary schools and secondary schools collected under this section shall be—

(A) reliable, valid, and grounded in scientifically valid research;

(B) inclusive of the critical skills and skill progressions needed for students to acquire competence in science, technology, engineering, and mathematics;

(C) reviewed regularly to assess effectiveness; and

(D) reviewed in the context of State academic assessments and student academic achievement standards.

(2) STUDENTS WITH DIVERSE LEARNING NEEDS.—In identifying promising practices under this section, the panel established under subsection (b) shall take into account the needs of students with diverse learning needs, particularly students with disabilities and students who are limited English proficient.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$1,200,000 for fiscal year 2008.

#### Subtitle B—Mathematics

### SEC. 6201. MATH NOW FOR ELEMENTARY SCHOOL AND MIDDLE SCHOOL STUDENTS PROGRAM.

(a) PURPOSE.—The purpose of this section is to enable all students to reach or exceed grade-level academic achievement standards and to prepare the students to enroll in and pass algebra courses by—

(1) improving instruction in mathematics for students in kindergarten through grade 9 through the implementation of mathematics programs and the support of comprehensive mathematics initiatives that are research-based and reflect a demonstrated record of effectiveness; and

(2) providing targeted help to low-income students who are struggling with mathematics and whose achievement is significantly below grade level.

(b) DEFINITION OF ELIGIBLE LOCAL EDUCATIONAL AGENCY.—In this section, the term “eligible local educational agency” means a high-need local educational agency (as defined in section 6112(3)) serving 1 or more schools—

(1) with significant numbers or percentages of students whose mathematics skills are below grade level;

(2) that are not making adequate yearly progress in mathematics under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)); or

(3) in which students are receiving instruction in mathematics from teachers who do not have mathematical content knowledge or expertise in the teaching of mathematics.

(c) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From the amounts appropriated under subsection (k) for any fiscal year, the Secretary is authorized to award grants, on a competitive basis, for a period of 3 years, to State educational agencies to enable the State educational agencies to award grants to eligible local educational agencies to carry out the activities described in subsection (e) for students in any of the grades kindergarten through grade 9.

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications for projects that will implement statewide strategies for improving mathematics instruction and raising the mathematics achievement of students, particularly students in grades 4 through 8.

(d) STATE USES OF FUNDS.—

(1) IN GENERAL.—Each State educational agency that receives a grant under this section for a fiscal year—

(A) shall expend not more than a total of 10 percent of the grant funds to carry out the activities described in paragraphs (2) or (3) for the fiscal year; and

(B) shall use not less than 90 percent of the grant funds to award grants, on a competitive basis, to eligible local educational agencies to enable the eligible local educational agencies to carry out the activities described in subsection (e) for the fiscal year.

(2) MANDATORY USES OF FUNDS.—A State educational agency shall use the grant funds made available under paragraph (1)(A) to carry out each of the following activities:

(A) PLANNING AND ADMINISTRATION.—Planning and administration, including—

(i) evaluating applications from eligible local educational agencies using peer review teams described in subsection (f)(1)(D);

(ii) administering the distribution of grants to eligible local educational agencies; and

(iii) assessing and evaluating, on a regular basis, eligible local educational agency activities assisted under this section, with respect to whether the activities have been effective in increasing the number of students—

(I) making progress toward meeting grade-level mathematics achievement; and

(II) meeting or exceeding grade-level mathematics achievement.

(B) REPORTING.—Annually providing the Secretary with a report on the implementation of this section as described in subsection (i).

(3) PERMISSIVE USES OF FUNDS; TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—A State educational agency may use the grant funds made available under paragraph (1)(A) for 1 or more of the following technical assistance activities that assist an eligible local educational agency, upon request by the eligible local educational agency, in accomplishing the tasks required to design and implement a project under this section, including assistance in—

(i) implementing mathematics programs or comprehensive mathematics initiatives that are

research-based and reflect a demonstrated record of effectiveness;

(ii) evaluating and selecting diagnostic and classroom based instructional mathematics assessments; and

(iii) identifying eligible professional development providers to conduct the professional development activities described in subsection (e)(1)(B).

(B) GUIDANCE.—The technical assistance described in subparagraph (A) shall be guided by researchers with expertise in the pedagogy of mathematics, mathematicians, and mathematics educators from high-risk, high-achievement schools and eligible local educational agencies.

(e) LOCAL USES OF FUNDS.—

(1) MANDATORY USES OF FUNDS.—Each eligible local educational agency receiving a grant under this section shall use the grant funds to carry out each of the following activities for students in any of the grades kindergarten through grade 9:

(A) To implement mathematics programs or comprehensive mathematics initiatives—

(i) for students in the grades of a participating school as identified in the application submitted under subsection (f)(2)(B); and

(ii) that are research-based and reflect a demonstrated record of effectiveness.

(B) To provide professional development and instructional leadership activities for teachers and, if appropriate, for administrators and other school staff, on the implementation of comprehensive mathematics initiatives designed—

(i) to improve the achievement of students performing significantly below grade level;

(ii) to improve the mathematical content knowledge of the teachers, administrators, and other school staff;

(iii) to increase the use of effective instructional practices; and

(iv) to monitor student progress.

(C) To conduct continuous progress monitoring, which may include the adoption and use of assessments that—

(i) measure student progress and identify areas in which students need help in learning mathematics; and

(ii) reflect mathematics content that is consistent with State academic achievement standards in mathematics described in section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)).

(2) PERMISSIVE USES OF FUNDS.—An eligible local educational agency may use grant funds under this section to—

(A) adopt and use mathematics instructional materials and assessments;

(B) implement classroom-based assessments, including diagnostic or formative assessments;

(C) provide remedial coursework and interventions for students, which may be provided before or after school;

(D) provide small groups with individualized instruction in mathematics;

(E) conduct activities designed to improve the content knowledge and expertise of teachers, such as the use of a mathematics coach, enrichment activities, and interdisciplinary methods of mathematics instruction; and

(F) collect and report performance data.

(f) APPLICATIONS.—

(1) STATE EDUCATIONAL AGENCY.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall include—

(A) an assurance that the core mathematics instructional program, supplemental instructional materials, and intervention programs used by the eligible local educational agencies for the project, are research-based and reflect a demonstrated record of effectiveness and are aligned with State academic achievement standards;

(B) an assurance that eligible local educational agencies will meet the requirements described in paragraph (2);

(C) an assurance that local applications will be evaluated using a peer review process;

(D) a description of the qualifications of the peer review teams, which shall consist of—

(i) researchers with expertise in the pedagogy of mathematics;

(ii) mathematicians; and

(iii) mathematics educators serving high-risk, high-achievement schools and eligible local educational agencies; and

(E) an assurance that the State has a process to safeguard against conflicts of interest consistent with subsection (j)(2) and section 6204 for individuals providing technical assistance on behalf of the State educational agency or participating in the State peer review process under this subtitle.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—Each eligible local educational agency desiring a grant under this section shall submit an application to the State educational agency at such time and in such manner as the State educational agency may require. Each application shall include—

(A) an assurance that the eligible local educational agency will provide assistance to 1 or more schools that are—

(i) served by the eligible local educational agency; and

(ii) described in section 6201(b);

(B) a description of the grades, and of the schools, that will be served;

(C) information, on an aggregate basis, on each school to be served by the project, including such demographic, socioeconomic, and mathematics achievement data as the State educational agency may request;

(D) a description of the core mathematics instructional program, supplemental instructional materials, and intervention programs or strategies that will be used for the project, including an assurance that the programs or strategies are research-based and reflect a demonstrated record of effectiveness and are aligned with State academic achievement standards;

(E) a description of the activities that will be carried out under the grant, including a description of the professional development that will be provided to teachers, and, if appropriate, administrators and other school staff, and a description of how the activities will support achievement of the purpose of this section;

(F) an assurance that the eligible local educational agency will report to the State educational agency all data on student academic achievement that is necessary for the State educational agency's report under subsection (i);

(G) a description of the eligible entity's plans for evaluating the impact of professional development and leadership activities in mathematics on the content knowledge and expertise of teachers, administrators, or other school staff; and

(H) any other information the State educational agency may reasonably require.

(g) PROHIBITIONS.—

(1) IN GENERAL.—In implementing this section, the Secretary shall not—

(A) endorse, approve, or sanction any mathematics curriculum designed for use in any school; or

(B) engage in oversight, technical assistance, or activities that will require the adoption of a specific mathematics program or instructional materials by a State, local educational agency, or school.

(2) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to authorize or permit the Department of Education, or a Department of Education contractor, to mandate, direct, control, or suggest the selection of a mathematics curriculum, supplemental instructional materials, or program of instruction by a State, local educational agency, or school.

(h) MATCHING REQUIREMENTS.—

(1) STATE EDUCATIONAL AGENCY.—A State educational agency that receives a grant under this section shall provide, from non-Federal sources,

an amount equal to 50 percent of the amount of the grant, in cash or in kind, to carry out the activities supported by the grant, of which not more than 20 percent of such 50 percent may be provided by local educational agencies within the State.

(2) WAIVER.—The Secretary may waive all of or a portion of the matching requirement described in paragraph (1) for any fiscal year, if the Secretary determines that—

(A) the application of the matching requirement will result in serious hardship for the State educational agency; or

(B) providing a waiver best serves the purpose of the program assisted under this section.

(i) PROGRAM PERFORMANCE AND ACCOUNTABILITY.—

(1) INFORMATION.—Each State educational agency receiving a grant under this section shall collect and report to the Secretary annually such information on the results of the grant as the Secretary may reasonably require, including information on—

(A) mathematics achievement data that show the progress of students participating in projects under this section (including, to the extent practicable, comparable data from students not participating in such projects), based primarily on the results of State, school district wide, or classroom-based, assessments, including—

(i) specific identification of those schools and eligible local educational agencies that report the largest gains in mathematics achievement; and

(ii) evidence on whether the State educational agency and eligible local educational agencies within the State have—

(I) significantly increased the number of students achieving at grade level or above in mathematics;

(II) significantly increased the percentages of students described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)) who are achieving at grade level or above in mathematics;

(III) significantly increased the number of students making significant progress toward meeting grade-level mathematics achievement standards; and

(IV) successfully implemented this section;

(B) the percentage of students in the schools served by the eligible local educational agency who enroll in algebra courses and the percentage of such students who pass algebra courses; and

(C) the progress made in increasing the quality and accessibility of professional development and leadership activities in mathematics, especially activities resulting in greater content knowledge and expertise of teachers, administrators, and other school staff, except that the Secretary shall not require such information until after the third year of a grant awarded under this section.

(2) REPORTING AND DISAGGREGATION.—The information required under paragraph (1) shall be—

(A) reported in a manner that allows for a comparison of aggregated score differentials of student academic achievement before (to the extent feasible) and after implementation of the project assisted under this section; and

(B) disaggregated in the same manner as information is disaggregated under section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i)).

(3) PRIVACY PROTECTION.—The data in the report shall be reported in a manner that—

(A) protects the privacy of individuals; and

(B) complies with the requirements of section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly known as the Family Educational Rights and Privacy Act of 1974).

(j) EVALUATION AND TECHNICAL ASSISTANCE.—

(1) EVALUATION.—

(A) IN GENERAL.—The Secretary shall conduct an annual independent evaluation, by grant or

by contract, of the program assisted under this section, which shall include an assessment of the impact of the program on student academic achievement and teacher performance, and may use funds available to carry out this section to conduct the evaluation.

(B) REPORT.—The Secretary shall annually submit, to the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives, and to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, a report on the results of the evaluation.

(C) LIMITATIONS.—

(i) IN GENERAL.—The Secretary shall ensure that the organization selected to carry out the independent evaluation under subparagraph (A) does not hold a contract or subcontract to implement any aspect of the program under this section.

(ii) SUBCONTRACTORS.—Any contract entered into under subparagraph (A) shall prohibit the organization conducting the evaluation from subcontracting with any entity that holds a contract or subcontract for any aspect of the implementation of this section.

(iii) WAIVER.—Subject to clause (iv), the Secretary may waive the application of clause (i) or (ii), or both, in accordance with the requirements under section 9.503 of title 48, Code of Federal Regulations, if the Secretary determines that their application in a particular situation would not be in the Federal Government's interest.

(iv) SPECIAL RULE REGARDING WAIVERS.—No organization or subcontractor under this paragraph shall receive a waiver that allows the organization or subcontractor to evaluate any aspect of the program under this section that the organization or subcontractor was involved in implementing.

(2) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may use funds made available under paragraph (3) to provide technical assistance to prospective applicants and to eligible local educational agencies receiving a grant under this section.

(B) CONFLICTS OF INTEREST.—If the Secretary carries out subparagraph (A) through any contracts, the Secretary, in consultation with the Office of the General Counsel of the Department, shall ensure that each contract requires the contractor to—

(i) screen for conflicts of interest when hiring individuals to carry out the responsibilities under the contract;

(ii) include the requirement of clause (i) in any subcontracts the contractor enters into under the contract; and

(iii) establish and follow a schedule for carrying out clause (i) and subparagraph (C) and reporting to the Secretary on the contractor's actions under those provisions.

(C) SCREENING PROCESS.—Subject to subparagraph (D), the screening process described in subparagraph (B)(i) shall—

(i) include, at a minimum, a review of—

(I) each individual performing duties under the contract or subcontract for connections to any State's program under this section;

(II) such individual's potential financial interests in, or other connection to, products, activities, or services that might be purchased by a State educational agency or local educational agency in the course of the agency's implementation of the program under this section; and

(III) such individual's connections to teaching methodologies that might require the use of specific products, activities, or services; and

(ii) ensure that individuals performing duties under the contract do not maintain significant financial interests in products, activities, or services supported under this section.

(D) WAIVER.—

(i) IN GENERAL.—The Secretary may, in consultation with the Office of the General Counsel of the Department, waive the requirements of subparagraph (C).

(ii) REPORT.—The Secretary shall—

(I) establish criteria for the waivers under clause (i); and

(II) report any waivers under clause (i), and the criteria under which such waivers are allowed, to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(E) INFORMATION DISSEMINATION.—

(i) IN GENERAL.—If the Secretary enters into contracts to provide technical assistance under subparagraph (A), and if a contractor enters into subcontracts for that purpose, each such contract and subcontract shall require the provider of technical assistance to clearly separate technical assistance provided under the contract or subcontract from information provided, or activities engaged in, as part of the normal operations of the contractor or subcontractor.

(ii) METHODS OF COMPLIANCE.—Efforts to comply with clause (i) may include the creation of separate webpages for the purpose of fulfilling a contract or subcontract entered into under subparagraph (A).

(3) RESERVATION OF FUNDS.—The Secretary may reserve not more than 2.5 percent of funds appropriated under subsection (k) for a fiscal year to carry out this subsection.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$95,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years.

#### SEC. 6202. SUMMER TERM EDUCATION PROGRAMS.

(a) PURPOSE.—The purpose of this section is to create opportunities for summer learning by providing students with access to summer learning in mathematics, technology, and problem-solving to ensure that students do not experience learning losses over the summer and to remedy, reinforce, and accelerate the learning of mathematics and problem-solving.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means an entity that—

(A) desires to participate in a summer learning grant program under this section by providing summer learning opportunities described in subsection (d)(4)(A)(ii) to eligible students; and

(B) is—

(i) a high-need local educational agency; or

(ii) a consortium consisting of a high-need local educational agency and 1 or more of the following entities:

(I) Another local educational agency.

(II) A community-based youth development organization with a demonstrated record of effectiveness in helping students learn.

(III) An institution of higher education.

(IV) An educational service agency.

(V) A for-profit educational provider, non-profit organization, science center, museum, or summer enrichment camp, that has been approved by the State educational agency to provide the summer learning opportunity described in subsection (d)(4)(A)(ii).

(2) ELIGIBLE STUDENT.—The term “eligible student” means a student who—

(A) is eligible for a free lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(B) is served by a local educational agency identified by the State educational agency in the application described in subsection (c)(2).

(3) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term “high-need local educational agency” has the meaning given the term in section 6112.

(C) DEMONSTRATION GRANT PROGRAM.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—From the funds appropriated under subsection (f) for a fiscal year, the Secretary shall carry out a demonstration grant program in which the Secretary awards grants, on a competitive basis, to State educational agencies to enable the State educational agencies to pay the Federal share of summer learning grants for eligible students.

(B) NUMBER OF GRANTS.—For each fiscal year, the Secretary shall award not more than 5 grants under this section.

(2) APPLICATION.—A State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall identify the areas in the State where the summer learning grant program will be offered and the local educational agencies that serve such areas.

(3) AWARD BASIS.—

(A) SPECIAL CONSIDERATION.—In awarding grants under this section, the Secretary shall give special consideration to a State educational agency that agrees, to the extent possible, to enter into agreements with eligible entities that are consortia described in subsection (b)(1)(B)(ii) and that proposes to target services to children in grades kindergarten through grade 8.

(B) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this section, the Secretary shall take into consideration an equitable geographic distribution of the grants.

(d) SUMMER LEARNING GRANTS.—

(1) USE OF GRANTS FOR SUMMER LEARNING GRANTS.—

(A) IN GENERAL.—Each State educational agency that receives a grant under subsection (c) for a fiscal year shall use the grant funds to provide summer learning grants for the fiscal year to eligible students in the State who desire to attend a summer learning opportunity offered by an eligible entity that enters into an agreement with the State educational agency under paragraph (4)(A).

(B) AMOUNT; FEDERAL AND NON-FEDERAL SHARES.—

(i) AMOUNT.—The amount of a summer learning grant provided under this section shall be—

(I) for each of the fiscal years 2008 through 2011, \$1,600; and

(II) for fiscal year 2012, \$1,800.

(ii) FEDERAL SHARE.—The Federal share of each summer learning grant shall be not more than 50 percent of the amount of the summer learning grant determined under clause (i).

(iii) NON-FEDERAL SHARE.—The non-Federal share of each summer learning grant shall be not less than 50 percent of the amount of the summer learning grant determined under clause (i), and shall be provided from non-Federal sources.

(2) DESIGNATION OF SUMMER SCHOLARS.—Eligible students who receive summer learning grants under this section shall be known as “summer scholars”.

(3) SELECTION OF SUMMER LEARNING OPPORTUNITY.—

(A) DISSEMINATION OF INFORMATION.—A State educational agency that receives a grant under subsection (c) shall disseminate information about summer learning opportunities and summer learning grants to the families of eligible students in the State.

(B) APPLICATION.—The parents of an eligible student who are interested in having their child participate in a summer learning opportunity and receive a summer learning grant shall submit an application to the State educational agency that includes a ranked list of preferred summer learning opportunities.

(C) PROCESS.—A State educational agency that receives an application under subparagraph (B) shall—

(i) process such application;

(ii) determine whether the eligible student shall receive a summer learning grant;

(iii) coordinate the assignment of eligible students receiving summer learning grants with summer learning opportunities; and

(iv) if demand for a summer learning opportunity exceeds capacity, the State educational agency shall prioritize applications to low-achieving eligible students.

(D) FLEXIBILITY.—A State educational agency may assign a summer scholar to a summer learn-

ing opportunity program that is offered in an area served by a local educational agency that is not the local educational agency serving the area where such scholar resides.

(E) REQUIREMENT OF ACCEPTANCE.—An eligible entity shall accept, enroll, and provide the summer learning opportunity of such entity to, any summer scholar assigned to such summer learning opportunity by a State educational agency pursuant to this subsection.

(4) AGREEMENT WITH ELIGIBLE ENTITY.—

(A) IN GENERAL.—A State educational agency shall enter into an agreement with one or more eligible entities offering a summer learning opportunity, under which—

(i) the State educational agency shall agree to make payments to the eligible entity, in accordance with subparagraph (B), for a summer scholar; and

(ii) the eligible entity shall agree to provide the summer scholar with a summer learning opportunity that—

(I) provides a total of not less than the equivalent of 30 full days of instruction (or not less than the equivalent of 25 full days of instruction, if the equivalent of an additional 5 days is devoted to field trips or other enrichment opportunities) to the summer scholar;

(II) employs small-group, research-based educational programs, materials, curricula, and practices;

(III) provides a curriculum that—

(aa) emphasizes mathematics, technology, engineering, and problem-solving through experiential learning opportunities;

(bb) is primarily designed to increase the numeracy and problem-solving skills of the summer scholar; and

(cc) is aligned with State academic content standards and goals of the local educational agency serving the summer scholar;

(IV) measures student progress to determine the gains made by summer scholars in the summer learning opportunity, and disaggregates the results of such progress for summer scholars by race and ethnicity, economic status, limited English proficiency status, and disability status, in order to determine the opportunity's impact on each subgroup of summer scholars;

(V) collects daily attendance data on each summer scholar;

(VI) provides professional development opportunities for teachers to improve their practice in teaching numeracy, and in integrating problem-solving techniques into the curriculum; and

(VII) meets all applicable Federal, State, and local civil rights laws.

(B) AMOUNT OF PAYMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), a State educational agency shall make a payment to an eligible entity for a summer scholar in the amount determined under paragraph (1)(B)(i).

(ii) ADJUSTMENT.—In the case in which a summer scholar does not attend the full summer learning opportunity, the State educational agency shall reduce the amount provided to the eligible entity pursuant to clause (i) by a percentage that is equal to the percentage of the summer learning opportunity not attended by such scholar.

(5) ADMINISTRATIVE COSTS.—A State educational agency or eligible entity receiving funding under this section may use not more than 5 percent of such funding for administrative costs associated with carrying out this section.

(e) EVALUATIONS; REPORT; WEBSITE.—

(1) EVALUATION AND ASSESSMENT.—For each year that an eligible entity enters into an agreement under subsection (d)(4), the eligible entity shall prepare and submit to the Secretary a report on the activities and outcomes of each summer learning opportunity that enrolled a summer scholar, including—

(A) information on the design of the summer learning opportunity;

(B) the alignment of the summer learning opportunity with State standards; and

(C) data from assessments of student mathematics and problem-solving skills for the summer scholars and on the attendance of the scholars, disaggregated by the subgroups described in subsection (d)(4)(A)(ii)(IV).

(2) REPORT.—For each year funds are appropriated under subsection (f) for this section, the Secretary shall prepare and submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives on the summer learning grant programs, including the effectiveness of the summer learning opportunities in improving student achievement and learning.

(3) SUMMER LEARNING GRANTS WEBSITE.—The Secretary shall make accessible, on the Department of Education website, information for parents and school personnel on successful programs and curricula, and best practices, for summer learning opportunities.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2008 and each of the 2 succeeding fiscal years.

**SEC. 6203. MATH SKILLS FOR SECONDARY SCHOOL STUDENTS.**

(a) PURPOSES.—The purposes of this section are—

(1) to provide assistance to State educational agencies and local educational agencies in implementing effective research-based mathematics programs for students in secondary schools, including students with disabilities and students with limited English proficiency;

(2) to improve instruction in mathematics for students in secondary school through the implementation of mathematics programs and the support of comprehensive mathematics initiatives that are based on the best available evidence of effectiveness;

(3) to provide targeted help to low-income students who are struggling with mathematics and whose achievement is significantly below grade level; and

(4) to provide in-service training for mathematics coaches who can assist secondary school teachers to utilize research-based mathematics instruction to develop and improve students' mathematical abilities and knowledge, and assist teachers in assessing and improving student academic achievement.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term "eligible local educational agency" means a local educational agency that is eligible to receive funds, and that is receiving funds, under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(2) MATHEMATICS COACH.—The term "mathematics coach" means a certified or licensed teacher, with a demonstrated effectiveness in teaching mathematics to students with specialized needs in mathematics and improving student academic achievement in mathematics, a command of mathematical content knowledge, and the ability to work with classroom teachers to improve the teachers' instructional techniques to support mathematics improvement, who works on site at a school—

(A) to train teachers to better assess student learning in mathematics;

(B) to train teachers to assess students' mathematics skills and identify students who need remediation; and

(C) to provide or assess remedial mathematics instruction, including for—

(i) students in after-school and summer school programs;

(ii) students requiring additional instruction;

(iii) students with disabilities; and

(iv) students with limited English proficiency.

(c) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From funds appropriated under subsection (o) for a fiscal year, the Secretary shall establish a program, in accordance

with the requirements of this section, that will provide grants on a competitive basis to State educational agencies to award grants and subgrants to eligible local educational agencies for the purpose of establishing mathematics programs to improve the overall mathematics performance of secondary school students in the State.

(2) LENGTH OF GRANT.—A grant to a State educational agency under this section shall be awarded for a period of 3 years.

(d) RESERVATION OF FUNDS BY THE SECRETARY.—From amounts appropriated under subsection (o) for a fiscal year, the Secretary may reserve—

(1) not more than 3 percent of such amounts to fund national activities in support of the programs assisted under this section, such as research and dissemination of best practices, except that the Secretary may not use the reserved funds to award grants directly to local educational agencies; and

(2) not more than 1/2 of 1 percent of such amounts for the Bureau of Indian Education of the Department of the Interior to carry out the services and activities described in subsection (k)(3) for Indian children.

(e) GRANT FORMULAS.—

(1) COMPETITIVE GRANTS TO STATE EDUCATIONAL AGENCIES.—From amounts appropriated under subsection (o) and not reserved under subsection (d), the Secretary shall award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to provide subgrants to eligible local educational agencies to establish mathematics programs for the purpose of improving overall mathematics performance among students in secondary school in the State.

(2) MINIMUM GRANT.—The Secretary shall ensure that the minimum grant made to any State educational agency under this section shall be not less than \$500,000.

(f) APPLICATIONS.—In order to receive a grant under this section, a State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall meet the following conditions:

(1) A State educational agency shall not include the application for assistance under this section in a consolidated application submitted under section 9302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7842).

(2) The State educational agency's application shall include assurances that such application and any technical assistance provided by the State will be guided by a peer review team, which shall consist of—

(A) researchers with expertise in the pedagogy of mathematics;

(B) mathematicians; and

(C) mathematics educators serving high-risk, high-achievement schools and eligible local educational agencies.

(3) The State educational agency shall include an assurance that the State has a process to safeguard against conflicts of interest consistent with subsection (m)(2) and section 6204 for individuals providing technical assistance on behalf of the State educational agency or participating in the State peer review process under this subtitle.

(4) The State educational agency will participate, if requested, in any evaluation of the State educational agency's program under this section.

(5) The State educational agency's application shall include a program plan that contains a description of the following:

(A) How the State educational agency will assist eligible local educational agencies in implementing subgrants, including providing ongoing professional development for mathematics coaches, teachers, paraprofessionals, and administrators.

(B) How the State educational agency will help eligible local educational agencies identify

high-quality screening, diagnostic, and classroom-based instructional mathematics assessments.

(C) How the State educational agency will help eligible local educational agencies identify high-quality research-based mathematics materials and programs.

(D) How the State educational agency will help eligible local educational agencies identify appropriate and effective materials, programs, and assessments for students with disabilities and students with limited English proficiency.

(E) How the State educational agency will ensure that professional development funded under this section—

(i) is based on mathematics research;

(ii) will effectively improve instructional practices for mathematics for secondary school students;

(iii) will improve student academic achievement in mathematics; and

(iv) is coordinated with professional development activities funded through other programs, including section 2113 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6613).

(F) How funded activities will help teachers and other instructional staff to implement research-based components of mathematics instruction and improve student academic achievement.

(G) The subgrant process the State educational agency will use to ensure that eligible local educational agencies receiving subgrants implement programs and practices based on mathematics research.

(H) How the State educational agency will build on and promote coordination among mathematics programs in the State to increase overall effectiveness in improving mathematics instruction and student academic achievement, including for students with disabilities and students with limited English proficiency.

(I) How the State educational agency will regularly assess and evaluate the effectiveness of the eligible local educational agency activities funded under this section.

(g) STATE USE OF FUNDS.—Each State educational agency receiving a grant under this section shall—

(1) establish a peer review team comprised of researchers with expertise in the pedagogy of mathematics, mathematicians, and mathematics educators from high-risk, high-achievement schools, to provide guidance to eligible local educational agencies in selecting or developing and implementing appropriate, research-based mathematics programs for secondary school students;

(2) use 80 percent of the grant funds received under this section for a fiscal year to fund high-quality applications for subgrants to eligible local educational agencies having applications approved under subsection (k); and

(3) use 20 percent of the grant funds received under this section—

(A) to carry out State-level activities described in the application submitted under subsection (f);

(B) to provide—

(i) technical assistance to eligible local educational agencies; and

(ii) high-quality professional development to teachers and mathematics coaches in the State;

(C) to oversee and evaluate subgrant services and activities undertaken by the eligible local educational agencies as described in subsection (k)(3); and

(D) for administrative costs, of which not more than 5 percent of the grant funds may be used for planning, administration, and reporting.

(h) NOTICE TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this section shall provide notice to all eligible local educational agencies in the State about the availability of subgrants under this section.

## (i) PROHIBITIONS.—

(1) IN GENERAL.—In implementing this section, the Secretary shall not—

(A) endorse, approve, or sanction any mathematics curriculum designed for use in any school; or

(B) engage in oversight, technical assistance, or activities that will require the adoption of a specific mathematics program or instructional materials by a State, local educational agency, or school.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize or permit the Secretary, Department of Education, or a Department of Education contractor, to mandate, direct, control, or suggest the selection of a mathematics curriculum, supplemental instructional materials, or program of instruction by a State, local educational agency, or school.

(j) SUPPLEMENT NOT SUPPLANT.—Each State educational agency receiving a grant under this section shall use the grant funds to supplement, not supplant, State funding for activities authorized under this section or for other educational activities.

(k) SUBGRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—

## (1) APPLICATION.—

(A) IN GENERAL.—Each eligible local educational agency desiring a subgrant under this subsection shall submit an application to the State educational agency in the form and according to the schedule established by the State educational agency.

(B) CONTENTS.—In addition to any information required by the State educational agency, each application under subparagraph (A) shall demonstrate how the eligible local educational agency will carry out the following required activities:

(i) Development or selection and implementation of research-based mathematics assessments.

(ii) Development or selection and implementation of research-based mathematics programs, including programs for students with disabilities and students with limited English proficiency.

(iii) Selection of instructional materials based on mathematics research.

(iv) High-quality professional development for mathematics coaches and teachers based on mathematics research.

(v) Evaluation and assessment strategies.

(vi) Reporting.

(vii) Providing access to research-based mathematics materials.

(C) CONSORTIA.—Consistent with State law, an eligible local educational agency may apply to the State educational agency for a subgrant as a member of a consortium of local educational agencies if each member of the consortium is an eligible local educational agency.

## (2) AWARD BASIS.—

(A) PRIORITY.—A State educational agency awarding subgrants under this subsection shall give priority to eligible local educational agencies that—

(i) are among the local educational agencies in the State with the lowest graduation rates, as described in section 1111(b)(2)(C)(vi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(vi)); and

(ii) have the highest number or percentage of students who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(B) AMOUNT OF GRANTS.—Subgrants under this subsection shall be of sufficient size and scope to enable eligible local educational agencies to fully implement activities assisted under this subsection.

(3) LOCAL USE OF FUNDS.—Each eligible local educational agency receiving a subgrant under this subsection shall use the subgrant funds to carry out, at the secondary school level, the following services and activities:

(A) Hiring mathematics coaches and providing professional development for mathematics coaches—

(i) at a level to provide effective coaching to classroom teachers;

(ii) to work with classroom teachers to better assess student academic achievement in mathematics;

(iii) to work with classroom teachers to identify students with mathematics problems and, where appropriate, refer students to available programs for remediation and additional services;

(iv) to work with classroom teachers to diagnose and remediate mathematics difficulties of the lowest-performing students, so that those teachers can provide intensive, research-based instruction, including during after-school and summer sessions, geared toward ensuring that those students can access and be successful in rigorous academic coursework; and

(v) to assess and organize student data on mathematics and communicate that data to school administrators to inform school reform efforts.

(B) Reviewing, analyzing, developing, and, where possible, adapting curricula to make sure mathematics skills are taught within other core academic subjects.

(C) Providing mathematics professional development for all relevant teachers in secondary school, as necessary, that addresses both remedial and higher level mathematics skills for students in the applicable curriculum.

(D) Providing professional development for teachers, administrators, and paraprofessionals serving secondary schools to help the teachers, administrators, and paraprofessionals improve student academic achievement in mathematics.

(E) Procuring and implementing programs and instructional materials based on mathematics research, including software and other education technology related to mathematics instruction with demonstrated effectiveness in improving mathematics instruction and student academic achievement.

(F) Building on and promoting coordination among mathematics programs in the eligible local educational agency to increase overall effectiveness in—

(i) improving mathematics instruction; and

(ii) increasing student academic achievement, including for students with disabilities and students with limited English proficiency.

(G) Evaluating the effectiveness of the instructional strategies, teacher professional development programs, and other interventions that are implemented under the subgrant.

(H) Measuring improvement in student academic achievement, including through progress monitoring or other assessments.

(4) SUPPLEMENT NOT SUPPLANT.—Each eligible local educational agency receiving a subgrant under this subsection shall use the subgrant funds to supplement, not supplant, the eligible local educational agency's funding for activities authorized under this section or for other educational activities.

(5) NEW SERVICES AND ACTIVITIES.—Subgrant funds provided under this subsection may be used only to provide services and activities authorized under this section that were not provided on the day before the date of enactment of this Act.

(6) EVALUATIONS.—Each eligible local educational agency receiving a grant under this subsection shall participate, as requested by the State educational agency or the Secretary, in reviews and evaluations of the programs of the eligible local educational agency and the effectiveness of such programs, and shall provide such reports as are requested by the State educational agency and the Secretary.

## (1) MATCHING REQUIREMENTS.—

(A) STATE EDUCATIONAL AGENCY REQUIREMENTS.—A State educational agency that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant, in cash or in-kind, to carry out the activities supported by the grant, of which not more than 20 percent

of such 50 percent may be provided by local educational agencies within the State.

(2) WAIVER.—The Secretary may waive all or a portion of the matching requirements described in paragraph (1) for any fiscal year, if the Secretary determines that—

(A) the application of the matching requirement will result in serious hardship for the State educational agency; or

(B) providing a waiver best serves the purpose of the program assisted under this section.

(m) EVALUATION AND TECHNICAL ASSISTANCE.—

## (1) EVALUATION.—

(A) IN GENERAL.—The Secretary shall conduct an annual independent evaluation, by grant or by contract, of the program assisted under this section, which shall include an assessment of the impact of the program on student academic achievement and teacher performance, and may use funds available to carry out this section to conduct the evaluation.

(B) REPORT.—The Secretary shall annually submit to the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives, and to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, a report on the results of the evaluation.

## (C) LIMITATIONS.—

(i) IN GENERAL.—The Secretary shall ensure that the organization selected to carry out the independent evaluation under subparagraph (A) does not hold a contract or subcontract to implement any aspect of the program under this section.

(ii) SUBCONTRACTORS.—Any contract entered into under subparagraph (A) shall prohibit the organization conducting the evaluation from subcontracting with any entity that holds a contract or subcontract for any aspect of the implementation of this section.

(iii) WAIVER.—Subject to clause (iv), the Secretary may waive the application of clause (i) or (ii), or both, in accordance with the requirements under section 9.503 of title 48, Code of Federal Regulations, if the Secretary determines that their application in a particular situation would not be in the Federal Government's interest.

(iv) SPECIAL RULE REGARDING WAIVERS.—No organization or subcontractor under this paragraph shall receive a waiver that allows the organization or subcontractor to evaluate any aspect of the program under this section that the organization or subcontractor was involved in implementing.

## (2) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may use funds made available under paragraph (3) to provide technical assistance to prospective applicants and to State educational agencies and eligible local educational agencies receiving grants or subgrants under this section.

(B) CONFLICTS OF INTEREST.—If the Secretary carries out subparagraph (A) through any contracts, the Secretary, in consultation with the Office of the General Counsel of the Department, shall ensure that each contract requires the contractor to—

(i) screen for conflicts of interest when hiring individuals to carry out the responsibilities under the contract;

(ii) include the requirement of clause (i) in any subcontracts the contractor enters into under the contract; and

(iii) establish and follow a schedule for carrying out clause (i) and subparagraph (C) and reporting to the Secretary on the contractor's actions under those provisions.

(C) SCREENING PROCESS.—Subject to subparagraph (D), the screening process described in subparagraph (B)(i) shall—

(i) include, at a minimum, a review of—

(I) each individual performing duties under the contract or subcontract for connections to any State's program under this section;

(II) such individual's potential financial interests in, or other connection to, products, activities, or services that might be purchased by a State educational agency or local educational agency in the course of the agency's implementation of the program under this section; and

(III) such individual's connections to teaching methodologies that might require the use of specific products, activities, or services; and

(ii) ensure that individuals performing duties under the contract do not maintain significant financial interests in products, activities, or services supported under this section.

(D) WAIVER.—

(i) IN GENERAL.—The Secretary may, in consultation with the Office of the General Counsel of the Department, waive the requirements of subparagraph (C).

(ii) REPORT.—The Secretary shall—

(I) establish criteria for the waivers under clause (i); and

(II) report any waivers under clause (i), and the criteria under which such waivers are allowed, to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(E) INFORMATION DISSEMINATION.—

(i) IN GENERAL.—If the Secretary enters into contracts to provide technical assistance under subparagraph (A), and if a contractor enters into subcontracts for that purpose, each such contract and subcontract shall require the provider of technical assistance to clearly separate technical assistance provided under the contract or subcontract from information provided, or activities engaged in, as part of the normal operations of the contractor or subcontractor.

(ii) METHODS OF COMPLIANCE.—Efforts to comply with clause (i) may include the creation of separate webpages for the purpose of fulfilling a contract or subcontract entered into under subparagraph (A).

(3) RESERVATION OF FUNDS.—The Secretary may reserve not more than 2.5 percent of funds appropriated under subsection (o) for a fiscal year to carry out this subsection.

(n) PROGRAM PERFORMANCE AND ACCOUNTABILITY.—

(1) INFORMATION.—Each State educational agency receiving a grant under this section shall collect and report to the Secretary annually such information on the results of the grant as the Secretary may reasonably require, including information on—

(A) mathematics achievement data that show the progress of students participating in projects under this section (including, to the extent practicable, comparable data from students not participating in such projects), based primarily on the results of State, school districtwide, or classroom-based monitoring reports or assessments, including—

(i) specific identification of those schools and eligible local educational agencies that report the largest gains in mathematics achievement; and

(ii) evidence on whether the State educational agency and eligible local educational agencies within the State have—

(I) significantly increased the number of students achieving at the proficient or advanced level on the State student academic achievement standards in mathematics under section 1111(b)(1)(D)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)(D)(ii));

(II) significantly increased the percentages of students described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)) who are achieving proficiency or advanced levels on such State academic content standards in mathematics;

(III) significantly increased the number of students making significant progress toward meeting such State academic content and achievement standards in mathematics; and

(IV) successfully implemented this section;

(B) the percentage of students in the schools served by the eligible local educational agency who enroll in advanced mathematics courses in grades 9 through 12, including the percentage of such students who pass such courses; and

(C) the progress made in increasing the quality and accessibility of professional development and leadership activities in mathematics, especially activities resulting in greater content knowledge and expertise of teachers, administrators, and other school staff, except that the Secretary shall not require such information until after the third year of a grant awarded under this section.

(2) REPORTING AND DISAGGREGATION.—The information required under paragraph (1) shall be—

(A) reported in a manner that allows for a comparison of aggregated score differentials of student academic achievement before (to the extent feasible) and after implementation of the project assisted under this section; and

(B) disaggregated in the same manner as information is disaggregated under section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i)).

(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$95,000,000 for fiscal year 2008 and each of the 2 succeeding fiscal years.

#### SEC. 6204. PEER REVIEW OF STATE APPLICATIONS.

(a) PEER REVIEW OF STATE APPLICATIONS.—The Secretary shall establish peer review panels to review State educational agency applications submitted pursuant to sections 6201 and 6203 and shall consider the recommendation of the peer review panels in deciding whether to approve the applications.

(b) SCREENING.—

(1) IN GENERAL.—The Secretary shall establish a process through which individuals on the peer review panels who review State applications under sections 6201 and 6203 (referred to in this section as “reviewers”) are screened for potential conflicts of interest.

(2) SCREENING REQUIREMENTS.—The screening process described in paragraph (1) shall, subject to paragraph (3)—

(A) be reviewed and approved by the Office of the General Counsel of the Department;

(B) include, at a minimum, a review of each reviewer's—

(i) professional connection to any State's program under such sections, including a disclosure of any connection to publishers, entities, private individuals, or organizations related to such State's program;

(ii) potential financial interest in products, activities, or services that might be purchased by a State educational agency or local educational agency in the course of the agency's implementation of the programs under such sections; and

(iii) professional connections to teaching methodologies that might require the use of specific products, activities, or services; and

(C) ensure that reviewers do not maintain significant financial interests in products, activities, or services supported under such sections.

(3) WAIVER.—

(A) IN GENERAL.—The Secretary may, in consultation with the Office of the General Counsel of the Department, waive the requirements of paragraph (2)(C).

(B) REPORT OF WAIVERS.—The Secretary shall—

(i) establish criteria for the waivers permitted under subparagraph (A); and

(ii) report any waivers allowed under subparagraph (A), and the criteria under which such waivers are allowed, to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(c) GUIDANCE.—

(1) IN GENERAL.—The Secretary shall develop procedures for, and issue guidance regarding,

how reviewers will review applications submitted under sections 6201 and 6203 and provide feedback to State educational agencies and recommendations to the Secretary. The Secretary shall also develop guidance for how the Secretary will review those recommendations and make final determinations of approval or disapproval of those applications.

(2) REQUIREMENTS.—Such procedures shall, at a minimum—

(A) create a transparent process through which review panels provide clear, consistent, and publicly available documentation and explanations in support of all recommendations, including the final reviews of the individual reviewers, except that a final review shall not reveal any personally identifiable information about the reviewer;

(B) ensure that a State educational agency has the opportunity for direct interaction with any review panel that reviewed the agency's application under section 6201 or 6203 when revising that application as a result of feedback from the panel, including the disclosure of the identities of the reviewers;

(C) require that any review panel and the Secretary clearly and consistently document that all required elements of an application under section 6201 or 6203 are included before the application is approved; and

(D) create a transparent process through which the Secretary clearly, consistently, and publicly documents decisions to approve or disapprove applications under such sections and the reasons for those decisions.

#### Subtitle C—Foreign Language Partnership Program

#### SEC. 6301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States faces a shortage of skilled professionals with higher levels of proficiency in foreign languages and area knowledge critical to the Nation's security.

(2) Given the Nation's economic competitiveness interests, it is crucial that our Nation expand the number of Americans who are able to function effectively in the environments in which critical foreign languages are spoken.

(3) Students' ability to become proficient in foreign languages can be addressed by starting language learning at a younger age and expanding opportunities for continuous foreign language education from elementary school through postsecondary education.

(b) PURPOSE.—The purpose of this subtitle is to significantly increase—

(1) the opportunities to study critical foreign languages and the context in which the critical foreign languages are spoken; and

(2) the number of American students who achieve the highest level of proficiency in critical foreign languages.

#### SEC. 6302. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE RECIPIENT.—The term “eligible recipient” means an entity mutually agreed upon by a partnership that shall receive grant funds under this subtitle on behalf of the partnership for use in carrying out the activities assisted under this subtitle.

(2) PARTNERSHIP.—The term “partnership” means a partnership that—

(A) shall include—

(i) an institution of higher education; and

(ii) 1 or more local educational agencies; and

(B) may include 1 or more entities that support the purposes of this subtitle.

(3) SUPERIOR LEVEL OF PROFICIENCY.—The term “superior level of proficiency” means level 3, the professional working level, as measured by the Federal Interagency Language Roundtable (ILR) or by other generally recognized measures of superior standards.

#### SEC. 6303. PROGRAM AUTHORIZED.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants to eligible recipients to enable

partnerships served by the eligible recipients to establish articulated programs of study in critical foreign languages that will enable students to advance successfully from elementary school through postsecondary education and achieve higher levels of proficiency in a critical foreign language.

(2) **DURATION.**—A grant awarded under paragraph (1) shall be for a period of not more than 5 years, of which 2 years may be for planning and development. A grant may be renewed for not more than 2 additional 5-year periods, if the Secretary determines that the partnership's program is effective and the renewal will best serve the purposes of this subtitle.

(b) **APPLICATIONS.**—

(1) **IN GENERAL.**—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) **CONTENTS.**—Each application shall—

(A) identify each local educational agency partner, including contact information and letters of commitment, and describe the responsibilities of each member of the partnership, including—

(i) how each of the partners will be involved in planning, developing, and implementing—

(I) program curriculum and materials; and

(II) teacher professional development;

(ii) what resources each of the partners will provide; and

(iii) how the partners will contribute to ensuring the continuity of student progress from elementary school through the postsecondary level;

(B) describe how an articulated curriculum for students will be developed and implemented, which may include the use and integration of technology into such curriculum;

(C) identify target proficiency levels for students at critical benchmarks (such as grades 4, 8, and 12), and describe how progress toward those proficiency levels will be assessed at the benchmarks, and how the program will use the results of the assessments to ensure continuous progress toward achieving a superior level of proficiency at the postsecondary level;

(D) describe how the partnership will—

(i) ensure that students from a program assisted under this subtitle who are beginning postsecondary education will be assessed and enabled to progress to a superior level of proficiency;

(ii) address the needs of students already at, or near, the superior level of proficiency, which may include diagnostic assessments for placement purposes, customized and individualized language learning opportunities, and experimental and interdisciplinary language learning; and

(iii) identify and describe how the partnership will work with institutions of higher education outside the partnership to provide participating students with multiple options for postsecondary education consistent with the purposes of this subtitle;

(E) describe how the partnership will support and continue the program after the grant has expired, including how the partnership will seek support from other sources, such as State and local governments, foundations, and the private sector; and

(F) describe what assessments will be used or, if assessments not available, how assessments will be developed.

(c) **USES OF FUNDS.**—Grant funds awarded under this subtitle—

(1) shall be used to plan, develop, and implement programs at the elementary school level through postsecondary education, consistent with the purpose of this subtitle, including—

(A) the development of curriculum and instructional materials; and

(B) recruitment of students; and

(2) may be used for—

(A) teacher recruitment (including recruitment from other professions and recruitment of na-

tive-language speakers in the community) and professional development directly related to the purposes of this subtitle at the elementary school through secondary school levels;

(B) development of appropriate assessments;

(C) opportunities for maximum language exposure for students in the program, such as the creation of immersion environments (such as language houses, language tables, immersion classrooms, and weekend and summer experiences) and special tutoring and academic support;

(D) dual language immersion programs;

(E) scholarships and study-abroad opportunities, related to the program, for postsecondary students and newly recruited teachers who have advanced levels of proficiency in a critical foreign language, except that not more than 20 percent of the grant funds provided to an eligible recipient under this section for a fiscal year may be used to carry out this subparagraph;

(F) activities to encourage community involvement to assist in meeting the purposes of this subtitle;

(G) summer institutes for students and teachers;

(H) bridge programs that allow dual enrollment for secondary school students in institutions of higher education;

(I) programs that expand the understanding and knowledge of historic, geographic, and contextual factors within countries with populations who speak critical foreign languages, if such programs are carried out in conjunction with language instruction;

(J) research on, and evaluation of, the teaching of critical foreign languages;

(K) data collection and analysis regarding the results of—

(i) various student recruitment strategies;

(ii) program design; and

(iii) curricular approaches;

(L) the impact of the strategies, program design, and curricular approaches described in subparagraph (K) on increasing—

(i) the number of students studying critical foreign languages; and

(ii) the proficiency of the students in the critical foreign languages; and

(M) distance learning projects for critical foreign language learning.

(d) **MATCHING REQUIREMENT.**—

(1) **IN GENERAL.**—An eligible recipient that receives a grant under this subtitle shall provide, toward the cost of carrying out the activities supported by the grant, from non-Federal sources, an amount equal to—

(A) 20 percent of the amount of the grant payment for the first fiscal year for which a grant payment is made;

(B) 30 percent of the amount of the grant payment for the second such fiscal year;

(C) 40 percent of the amount of the grant payment for the third such fiscal year; and

(D) 50 percent of the amount of the grant payment for each of the fourth and fifth such fiscal years.

(2) **NON-FEDERAL SHARE.**—The non-Federal share required under paragraph (1) may be provided in cash or in-kind.

(3) **WAIVER.**—The Secretary may waive all or part of the matching requirement of paragraph (1), for any fiscal year, if the Secretary determines that—

(A) the application of the matching requirement will result in serious hardship for the partnership; or

(B) the waiver will best serve the purposes of this subtitle.

(e) **SUPPLEMENT NOT SUPPLANT.**—Grant funds provided under this subtitle shall be used to supplement, not supplant, other Federal and non-Federal funds available to carry out the activities described in subsection (c).

(f) **TECHNICAL ASSISTANCE.**—The Secretary shall enter into a contract to establish a technical assistance center to provide technical assistance to partnerships developing critical for-

eign language programs assisted under this subtitle. The center shall—

(1) assist the partnerships in the development of critical foreign language instructional materials and assessments; and

(2) disseminate promising foreign language instructional practices.

(g) **PROGRAM EVALUATION.**—

(1) **IN GENERAL.**—The Secretary may reserve not more than 5 percent of the total amount appropriated for this subtitle for any fiscal year to annually evaluate the programs under this subtitle.

(2) **REPORT.**—The Secretary shall prepare and annually submit, to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and Labor of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, a report—

(A) on the results of any program evaluation conducted under this subsection; and

(B) that includes best practices on the teaching and learning of foreign languages based on the findings from the evaluation.

**SEC. 6304. AUTHORIZATION OF APPROPRIATIONS.**

For the purpose of carrying out this subtitle, there are authorized to be appropriated \$28,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years.

**Subtitle D—Alignment of Education Programs**

**SEC. 6401. ALIGNMENT OF SECONDARY SCHOOL GRADUATION REQUIREMENTS WITH THE DEMANDS OF 21ST CENTURY POSTSECONDARY ENDEAVORS AND SUPPORT FOR P-16 EDUCATION DATA SYSTEMS.**

(a) **PURPOSE.**—It is the purpose of this section—

(1) to promote more accountability with respect to preparation for higher education, the 21st century workforce, and the Armed Forces, by aligning—

(A) student knowledge, student skills, State academic content standards and assessments, and curricula, in elementary and secondary education, especially with respect to mathematics, science, reading, and, where applicable, engineering and technology; with

(B) the demands of higher education, the 21st century workforce, and the Armed Forces;

(2) to support the establishment or improvement of statewide P-16 education data systems that—

(A) assist States in improving the rigor and quality of State academic content standards and assessments;

(B) ensure students are prepared to succeed in—

(i) academic credit-bearing coursework in higher education without the need for remediation;

(ii) the 21st century workforce; or

(iii) the Armed Forces; and

(3) enable States to have valid and reliable information to inform education policy and practice.

(b) **DEFINITIONS.**—In this section:

(1) **P-16 EDUCATION.**—The term “P-16 education” means the educational system from preschool through the conferring of a baccalaureate degree.

(2) **STATEWIDE PARTNERSHIP.**—The term “statewide partnership” means a partnership that—

(A) shall include—

(i) the Governor of the State or the designee of the Governor;

(ii) the heads of the State systems for public higher education, or, if such a position does not exist, not less than 1 representative of a public degree-granting institution of higher education;

(iii) a representative of the agencies in the State that administer Federal or State-funded early childhood education programs;

(iv) not less than 1 representative of a public community college;

(v) not less than 1 representative of a technical school;

(vi) not less than 1 representative of a public secondary school;

(vii) the chief State school officer;

(viii) the chief executive officer of the State higher education coordinating board;

(ix) not less than 1 public elementary school teacher employed in the State;

(x) not less than 1 early childhood educator in the State;

(xi) not less than 1 public secondary school teacher employed in the State;

(xii) not less than 1 representative of the business community in the State; and

(xiii) not less than 1 member of the Armed Forces; and

(B) may include other individuals or representatives of other organizations, such as a school administrator, a faculty member at an institution of higher education, a member of a civic or community organization, a representative from a private institution of higher education, a dean or similar representative of a school of education at an institution of higher education or a similar teacher certification or licensure program, or the State official responsible for economic development.

(c) GRANTS AUTHORIZED.—The Secretary is authorized to award grants, on a competitive basis, to States to enable each such State to work with a statewide partnership—

(1) to promote better alignment of content knowledge requirements for secondary school graduation with the knowledge and skills needed to succeed in postsecondary education, the 21st century workforce, or the Armed Forces; or

(2) to establish or improve a statewide P-16 education data system.

(d) PERIOD OF GRANTS; NON-RENEWABILITY.—

(1) GRANT PERIOD.—The Secretary shall award a grant under this section for a period of not more than 3 years.

(2) NON-RENEWABILITY.—The Secretary shall not award a State more than 1 grant under this section.

(e) AUTHORIZED ACTIVITIES.—

(1) GRANTS FOR P-16 ALIGNMENT.—Each State receiving a grant under subsection (c)(1)—

(A) shall use the grant funds for—

(i) identifying and describing the content knowledge and skills students who enter institutions of higher education, the workforce, and the Armed Forces need to have in order to succeed without any remediation based on detailed requirements obtained from institutions of higher education, employers, and the Armed Forces;

(ii) identifying and making changes that need to be made to a State's secondary school graduation requirements, academic content standards, academic achievement standards, and assessments preceding graduation from secondary school in order to align the requirements, standards, and assessments with the knowledge and skills necessary for success in academic credit-bearing coursework in postsecondary education, in the 21st century workforce, and in the Armed Forces without the need for remediation;

(iii) convening stakeholders within the State and creating a forum for identifying and deliberating on education issues that—

(I) involve preschool through grade 12 education, postsecondary education, the 21st century workforce, and the Armed Forces; and

(II) transcend any single system of education's ability to address; and

(iv) implementing activities designed to ensure the enrollment of all elementary school and secondary school students in rigorous coursework, which may include—

(I) specifying the courses and performance levels necessary for acceptance into institutions of higher education; and

(II) developing or providing guidance to local educational agencies within the State on the adoption of curricula and assessments aligned with State academic content standards, which assessments may be used as measures of student

academic achievement in secondary school as well as for entrance or placement at institutions of higher education, including through collaboration with institutions of higher education in, or State educational agencies serving, other States; and

(B) may use the grant funds for—

(i) developing and making available specific opportunities for extensive professional development for teachers, paraprofessionals, principals, and school administrators, including collection and dissemination of effective teaching practices to improve instruction and instructional support mechanisms;

(ii) identifying changes in State academic content standards, academic achievement standards, and assessments for students in grades preceding secondary school in order to ensure such standards and assessments are appropriately aligned and adequately reflect the content needed to prepare students to enter secondary school;

(iii) developing a plan to provide remediation and additional learning opportunities for students who are performing below grade level to ensure that all students will have the opportunity to meet secondary school graduation requirements;

(iv) identifying and addressing teacher certification needs; or

(v) incorporating 21st century learning skills into the State plan, which skills shall include critical thinking, problem solving, communication, collaboration, global awareness, and business and financial literacy.

(2) GRANTS FOR STATEWIDE P-16 EDUCATION DATA SYSTEMS.—

(A) ESTABLISHMENT OF SYSTEM.—Each State that receives a grant under subsection (c)(2) shall establish a statewide P-16 education longitudinal data system that—

(i) provides each student, upon enrollment in a public elementary school or secondary school in the State, with a unique identifier, such as a bar code, that—

(I) does not permit a student to be individually identified by users of the system; and

(II) is retained throughout the student's enrollment in P-16 education in the State; and

(ii) meets the requirements of subparagraphs (B) through (E).

(B) IMPROVEMENT OF EXISTING SYSTEM.—Each State that receives a grant under subsection (c)(2) for the improvement of a statewide P-16 education data system may employ, coordinate, or revise an existing statewide data system to establish a statewide longitudinal P-16 education data system that meets the requirements of subparagraph (A), if the statewide longitudinal P-16 education data system produces valid and reliable data.

(C) PRIVACY AND ACCESS TO DATA.—

(i) IN GENERAL.—Each State that receives a grant under subsection (c)(2) shall implement measures to—

(I) ensure that the statewide P-16 education data system meets the requirements of section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (commonly known as the Family Educational Rights and Privacy Act of 1974);

(II) limit the use of information in the statewide P-16 education data system by institutions of higher education and State or local educational agencies or institutions to the activities set forth in paragraph (1) or State law regarding education, consistent with the purposes of this subtitle;

(III) prohibit the disclosure of personally identifiable information except as permitted under section 444 of the General Education Provisions Act and any additional limitations set forth in State law;

(IV) keep an accurate accounting of the date, nature, and purpose of each disclosure of personally identifiable information in the statewide P-16 education data system, a description of the information disclosed, and the name and address of the person, agency, institution, or enti-

ty to whom the disclosure is made, which accounting shall be made available on request to parents of any student whose information has been disclosed;

(V) notwithstanding section 444 of the General Education Provisions Act, require any non-governmental party obtaining personally identifiable information to sign a data use agreement prior to disclosure that—

(aa) prohibits the party from further disclosing the information;

(bb) prohibits the party from using the information for any purpose other than the purpose specified in the agreement; and

(cc) requires the party to destroy the information when the purpose for which the disclosure was made is accomplished;

(VI) maintain adequate security measures to ensure the confidentiality and integrity of the statewide P-16 education data system, such as protecting a student record from identification by a unique identifier;

(VII) where rights are provided to parents under this clause, provide those rights to the student instead of the parent if the student has reached the age of 18 or is enrolled in a postsecondary educational institution; and

(VIII) ensure adequate enforcement of the requirements of this clause.

(ii) USE OF UNIQUE IDENTIFIERS.—

(I) GOVERNMENTAL USE OF UNIQUE IDENTIFIERS.—It shall be unlawful for any Federal, State, or local governmental agency to use the unique identifiers employed in the statewide P-16 education data systems for any purpose other than as authorized by Federal or State law regarding education, or to deny any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose the individual's unique identifier.

(II) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations governing the use by governmental and non-governmental entities of the unique identifiers employed in statewide P-16 education data systems, including, where necessary, regulations requiring States desiring grants for statewide P-16 education data systems under this section to implement specified measures, with the goal of safeguarding individual privacy to the maximum extent practicable consistent with the uses of the information authorized in this Act or other Federal or State law regarding education.

(D) REQUIRED ELEMENTS OF A STATEWIDE P-16 EDUCATION DATA SYSTEM.—The State shall ensure that the statewide P-16 education data system includes the following elements:

(i) PRESCHOOL THROUGH GRADE 12 EDUCATION AND POSTSECONDARY EDUCATION.—With respect to preschool through grade 12 education and postsecondary education—

(I) a unique statewide student identifier that does not permit a student to be individually identified by users of the system;

(II) student-level enrollment, demographic, and program participation information;

(III) student-level information about the points at which students exit, transfer in, transfer out, drop out, or complete P-16 education programs;

(IV) the capacity to communicate with higher education data systems; and

(V) a State data audit system assessing data quality, validity, and reliability.

(ii) PRESCHOOL THROUGH GRADE 12 EDUCATION.—With respect to preschool through grade 12 education—

(I) yearly test records of individual students with respect to assessments under section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b));

(II) information on students not tested by grade and subject;

(III) a teacher identifier system with the ability to match teachers to students;

(IV) student-level transcript information, including information on courses completed and grades earned; and

(V) student-level college readiness test scores.  
(iii) POSTSECONDARY EDUCATION.—With respect to postsecondary education, data that provide—

(I) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework; and

(II) other information determined necessary to address alignment and adequate preparation for success in postsecondary education.

(E) FUNCTIONS OF THE STATEWIDE P-16 EDUCATION DATA SYSTEM.—In implementing the statewide P-16 education data system, the State shall—

(i) identify factors that correlate to students' ability to successfully engage in and complete postsecondary-level general education coursework without the need for prior developmental coursework;

(ii) identify factors to increase the percentage of low-income and minority students who are academically prepared to enter and successfully complete postsecondary-level general education coursework; and

(iii) use the data in the system to otherwise inform education policy and practice in order to better align State academic content standards, and curricula, with the demands of postsecondary education, the 21st century workforce, and the Armed Forces.

(f) APPLICATION.—

(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) APPLICATION CONTENTS.—Each application submitted under this section shall specify whether the State application is for the conduct of P-16 education alignment activities, or the establishment or improvement of a statewide P-16 education data system. The application shall include, at a minimum, the following:

(A) A description of the activities and programs to be carried out with the grant funds and a comprehensive plan for carrying out the activities.

(B) A description of how the concerns and interests of the larger education community, including parents, students, teachers, teacher educators, principals, and preschool administrators will be represented in carrying out the authorized activities described in subsection (e).

(C) In the case of a State applying for funding for P-16 education alignment, a description of how the State will provide assistance to local educational agencies in implementing rigorous State academic content standards, substantive curricula, remediation, and acceleration opportunities for students, as well as other changes determined necessary by the State.

(D) In the case of a State applying for funding to establish or improve a statewide P-16 education data system—

(i) a description of the privacy protection and enforcement measures that the State has implemented or will implement pursuant to subsection (e)(2)(C), and assurances that these measures will be in place prior to the establishment or improvement of the statewide P-16 education data system; and

(ii) an assurance that the State will continue to fund the statewide P-16 education data system after the end of the grant period.

(g) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this section shall be used to supplement, not supplant, other Federal, State, and local funds available to carry out the authorized activities described in subsection (e).

(h) MATCHING REQUIREMENT.—Each State that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 100 percent of the amount of the grant, in cash or in kind, to carry out the activities supported by the grant.

(i) RULE OF CONSTRUCTION.—

(1) NO RAW DATA REQUIREMENT.—Nothing in this section shall be construed to require States to provide raw data to the Secretary.

(2) PRIVATE OR HOME SCHOOLS.—Nothing in this section shall be construed to affect any private school that does not receive funds or services under this Act or any home school, whether or not the home school is treated as a home school or a private school under State law, including imposing new requirements for students educated through a home school seeking admission to institutions of higher education.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$120,000,000 for fiscal year 2008 and such sums as may be necessary for fiscal year 2009.

#### Subtitle E—Mathematics and Science Partnership Bonus Grants

#### SEC. 6501. MATHEMATICS AND SCIENCE PARTNERSHIP BONUS GRANTS.

(a) IN GENERAL.—From amounts appropriated under section 6502, the Secretary shall award a grant—

(1) for each of the school years 2007–2008 through 2010–2011, to each of the 3 elementary schools, and each of the 3 secondary schools, each of which has a high concentration of low income students as defined in section 1707(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(2)), in each State whose students demonstrate the most improvement in mathematics, as measured by the improvement in the students' average score on the State's assessments in mathematics for the school year for which the grant is awarded, as compared to the school year preceding the school year for which the grant is awarded; and

(2) for each of the school years 2008–2009 through 2010–2011, to each of the 3 elementary schools, and each of the 3 secondary schools, each of which has a high concentration of low income students as defined in section 1707(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(2)), in each State whose students demonstrate the most improvement in science, as measured by the improvement in the students' average score on the State's assessments in science for the school year for which the grant is awarded, as compared to the school year preceding the school year for which the grant is awarded.

(b) GRANT AMOUNT.—The amount of each grant awarded under this section shall be \$50,000.

#### SEC. 6502. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for fiscal years 2008 and each of the 2 succeeding fiscal years.

#### TITLE VII—NATIONAL SCIENCE FOUNDATION

#### SEC. 7001. DEFINITIONS.

In this title:

(1) BASIC RESEARCH.—The term “basic research” has the meaning given such term in the Office of Management and Budget circular No. A-11.

(2) BOARD.—The term “Board” means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) DIRECTOR.—The term “Director” means the Director of the Foundation.

(4) ELEMENTARY SCHOOL.—The term “elementary school” has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(5) FOUNDATION.—The term “Foundation” means the National Science Foundation.

(6) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(7) SECONDARY SCHOOL.—The term “secondary school” has the meaning given such term in sec-

tion 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

#### SEC. 7002. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2008.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$6,600,000,000 for fiscal year 2008.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$5,156,000,000 shall be made available for research and related activities, of which—

(i) \$115,000,000 shall be made available for the Major Research Instrumentation program;

(ii) \$165,400,000 shall be made available for the Faculty Early Career Development (CAREER) Program;

(iii) \$61,600,000 shall be made available for the Research Experiences for Undergraduates program;

(iv) \$120,000,000 shall be made available for the Experimental Program to Stimulate Competitive Research;

(v) \$47,300,000 shall be made available for the Integrative Graduate Education and Research Traineeship program;

(vi) \$9,000,000 shall be made available for the Graduate Research Fellowship program; and

(vii) \$10,000,000 shall be made available for the professional science master's degree program under section 7034;

(B) \$896,000,000 shall be made available for education and human resources, of which—

(i) \$100,000,000 shall be for Mathematics and Science Education Partnerships established under section 9 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n);

(ii) \$89,800,000 shall be for the Robert Noyce Scholarship Program established under section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1);

(iii) \$40,000,000 shall be for the Science, Mathematics, Engineering, and Technology Talent Expansion Program established under section 8(7) of the National Science Foundation Authorization Act of 2002 (Public Law 107-368);

(iv) \$52,000,000 shall be for the Advanced Technological Education program established by section 3(a) of the Scientific and Advanced-Technology Act of 1992 (Public Law 102-476);

(v) \$27,100,000 shall be made available for the Integrative Graduate Education and Research Traineeship program; and

(vi) \$96,600,000 shall be made available for the Graduate Research Fellowship program;

(C) \$245,000,000 shall be made available for major research equipment and facilities construction;

(D) \$285,600,000 shall be made available for agency operations and award management;

(E) \$4,050,000 shall be made available for the Office of the National Science Board; and

(F) \$12,350,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 2009.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$7,326,000,000 for fiscal year 2009.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$5,742,300,000 shall be made available for research and related activities, of which—

(i) \$123,100,000 shall be made available for the Major Research Instrumentation program;

(ii) \$183,600,000 shall be made available for the Faculty Early Career Development (CAREER) Program;

(iii) \$68,400,000 shall be made available for the Research Experiences for Undergraduates program;

(iv) \$133,200,000 shall be made available for the Experimental Program to Stimulate Competitive Research;

(v) \$52,500,000 shall be made available for the Integrative Graduate Education and Research Traineeship program;

(vi) \$10,000,000 shall be made available for the Graduate Research Fellowship program; and

(vii) \$12,000,000 shall be made available for the professional science master's degree program under section 7034;

(B) \$995,000,000 shall be made available for education and human resources, of which—

(i) \$111,000,000 shall be for Mathematics and Science Education Partnerships established under section 9 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n);

(ii) \$115,000,000 shall be for the Robert Noyce Scholarship Program established under section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1);

(iii) \$50,000,000 shall be for the Science, Mathematics, Engineering, and Technology Talent Expansion Program established under section 8(7) of the National Science Foundation Authorization Act of 2002 (Public Law 107-368);

(iv) \$57,700,000 shall be for the Advanced Technological Education program as established by section 3(a) of the Scientific and Advanced-Technology Act of 1992 (Public Law 102-476);

(v) \$30,100,000 shall be made available for the Integrative Graduate Education and Research Traineeship program; and

(vi) \$107,200,000 shall be made available for the Graduate Research Fellowship program;

(C) \$262,000,000 shall be made available for major research equipment and facilities construction;

(D) \$309,760,000 shall be made available for agency operations and award management;

(E) \$4,190,000 shall be made available for the Office of the National Science Board; and

(F) \$12,750,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2010.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$8,132,000,000 for fiscal year 2010.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$6,401,000,000 shall be made available for research and related activities, of which—

(i) \$131,700,000 shall be made available for the Major Research Instrumentation program;

(ii) \$203,800,000 shall be made available for the Faculty Early Career Development (CAREER) Program;

(iii) \$75,900,000 shall be made available for the Research Experiences for Undergraduates program;

(iv) \$147,800,000 shall be made available for the Experimental Program to Stimulate Competitive Research;

(v) \$58,300,000 shall be made available for the Integrative Graduate Education and Research Traineeship program;

(vi) \$11,100,000 shall be made available for the Graduate Research Fellowship program; and

(vii) \$15,000,000 shall be made available for the professional science master's degree program under section 7034;

(B) \$1,104,000,000 shall be made available for education and human resources, of which—

(i) \$123,200,000 shall be for Mathematics and Science Education Partnerships established under section 9 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n);

(ii) \$140,500,000 shall be for the Robert Noyce Scholarship Program established under section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1);

(iii) \$55,000,000 shall be for the Science, Mathematics, Engineering, and Technology Talent Expansion Program established under section 8(7) of the National Science Foundation Authorization Act of 2002 (Public Law 107-368);

(iv) \$64,000,000 shall be for the Advanced Technological Education program as established by section 3(a) of the Scientific and Advanced-Technology Act of 1992 (Public Law 102-476);

(v) \$33,400,000 shall be made available for the Integrative Graduate Education and Research Traineeship program; and

(vi) \$119,000,000 shall be made available for the Graduate Research Fellowship program;

(C) \$280,000,000 shall be made available for major research equipment and facilities construction;

(D) \$329,450,000 shall be made available for agency operations and award management;

(E) \$4,340,000 shall be made available for the Office of the National Science Board; and

(F) \$13,210,000 shall be made available for the Office of Inspector General.

**SEC. 7003. REAFFIRMATION OF THE MERIT-REVIEW PROCESS OF THE NATIONAL SCIENCE FOUNDATION.**

Nothing in this title or title I, or the amendments made by this title or title I, shall be interpreted to require or recommend that the Foundation—

(1) alter or modify its merit-review system or peer-review process; or

(2) exclude the awarding of any proposal by means of the merit-review or peer-review process.

**SEC. 7004. SENSE OF THE CONGRESS REGARDING THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAMS OF THE DEPARTMENT OF EDUCATION AND THE NATIONAL SCIENCE FOUNDATION.**

It is the sense of the Congress that—

(1) although the mathematics and science education partnership program at the Foundation and the mathematics and science partnership program at the Department of Education practically share the same name, the 2 programs are intended to be complementary, not duplicative;

(2) the Foundation partnership programs are innovative, model reform initiatives that move promising ideas in education from research into practice to improve teacher quality, develop challenging curricula, and increase student achievement in mathematics and science, and Congress intends that the Foundation peer-reviewed partnership programs found to be effective should be put into wider practice by dissemination through the Department of Education partnership programs; and

(3) the Director and the Secretary of Education should have ongoing collaboration to ensure that the 2 components of this priority effort for mathematics and science education continue to work in concert for the benefit of States and local practitioners nationwide.

**SEC. 7005. CURRICULA.**

Nothing in this title, or the amendments made by this title, shall be construed to limit the authority of State governments or local school boards to determine the curricula of their students.

**SEC. 7006. CENTERS FOR RESEARCH ON LEARNING AND EDUCATION IMPROVEMENT.**

(a) FUNDING FOR CENTERS.—The Director shall continue to carry out the program of Centers for Research on Learning and Education Improvement as established in section 11 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-2).

(b) ELIGIBILITY FOR CENTERS.—Section 11 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-2) is amended—

(1) in subsection (a)(1), by inserting “or eligible nonprofit organizations” after “institutions of higher education”;

(2) in subsection (b)(1), by inserting “or an eligible nonprofit organization” after “institution of higher education”; and

(3) in subsection (b)(1), by striking “of such institutions” and inserting “thereof”.

**SEC. 7007. INTERDISCIPLINARY RESEARCH.**

(a) IN GENERAL.—The Board shall evaluate the role of the Foundation in supporting interdisciplinary research, including through the Major Research Instrumentation program, the effectiveness of the Foundation's efforts in providing information to the scientific community about opportunities for funding of interdisciplinary research proposals, and the process through which interdisciplinary proposals are selected for support. The Board shall also evaluate the effectiveness of the Foundation's efforts to engage undergraduate students in research experiences in interdisciplinary settings, includ-

ing through the Research in Undergraduate Institutions program and the Research Experiences for Undergraduates program.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall provide the results of its evaluation under subsection (a), including a recommendation for the proportion of the Foundation's research and related activities funding that should be allocated for interdisciplinary research, to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate.

**SEC. 7008. POSTDOCTORAL RESEARCH FELLOWS.**

(a) MENTORING.—The Director shall require that all grant applications that include funding to support postdoctoral researchers include a description of the mentoring activities that will be provided for such individuals, and shall ensure that this part of the application is evaluated under the Foundation's broader impacts merit review criterion. Mentoring activities may include career counseling, training in preparing grant applications, guidance on ways to improve teaching skills, and training in research ethics.

(b) REPORTS.—The Director shall require that annual reports and the final report for research grants that include funding to support postdoctoral researchers include a description of the mentoring activities provided to such researchers.

**SEC. 7009. RESPONSIBLE CONDUCT OF RESEARCH.**

The Director shall require that each institution that applies for financial assistance from the Foundation for science and engineering research or education describe in its grant proposal a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduate students, graduate students, and postdoctoral researchers participating in the proposed research project.

**SEC. 7010. REPORTING OF RESEARCH RESULTS.**

The Director shall ensure that all final project reports and citations of published research documents resulting from research funded, in whole or in part, by the Foundation, are made available to the public in a timely manner and in electronic form through the Foundation's Web site.

**SEC. 7011. SHARING RESEARCH RESULTS.**

An investigator supported under a Foundation award, whom the Director determines has failed to comply with the provisions of section 734 of the Foundation Grant Policy Manual, shall be ineligible for a future award under any Foundation supported program or activity. The Director may restore the eligibility of such an investigator on the basis of the investigator's subsequent compliance with the provisions of section 734 of the Foundation Grant Policy Manual and with such other terms and conditions as the Director may impose.

**SEC. 7012. FUNDING FOR SUCCESSFUL SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.**

(a) EVALUATION OF PROGRAMS.—The Director shall, on an annual basis, evaluate all of the Foundation's grants that are scheduled to expire within 1 year and—

(1) that have the primary purpose of meeting the objectives of the Science and Engineering Equal Opportunity Act (42 U.S.C. 1885 et seq.); or

(2) that have the primary purpose of providing teacher professional development.

(b) CONTINUATION OF FUNDING.—For grants that are identified under subsection (a) and that are determined by the Director to be successful in meeting the objectives of the initial grant solicitation, the Director may extend the duration of those grants for not more than 3 additional years beyond their scheduled expiration without the requirement for a recompetition.

(c) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate that—

(1) lists the grants that have been extended in duration by the authority provided under this section; and

(2) provides any recommendations the Director may have regarding the extension of the authority provided under this section to programs other than those specified in subsection (a).

**SEC. 7013. COST SHARING.**

(a) **IN GENERAL.**—The Board shall evaluate the impact of its policy to eliminate cost sharing for research grants and cooperative agreements for existing programs that were developed around industry partnerships and historically required industry cost sharing, such as the Engineering Research Centers and Industry/University Cooperative Research Centers. The Board shall also consider the impact that the cost sharing policy has on initiating new programs for which industry interest and participation are sought.

(b) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Board shall report to the Committee on Science and Technology and the Committee on Appropriations of the House of Representatives, and the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, on the results of the evaluation under subsection (a).

**SEC. 7014. ADDITIONAL REPORTS.**

(a) **REPORT ON FUNDING FOR MAJOR FACILITIES.**—

(1) **PRECONSTRUCTION FUNDING.**—The Board shall evaluate the appropriateness of the requirement that funding for detailed design work and other preconstruction activities for major research equipment and facilities come exclusively from the sponsoring research division rather than being available, at least in part, from the Major Research Equipment and Facilities Construction account.

(2) **MAINTENANCE AND OPERATION COSTS.**—The Board shall evaluate the appropriateness of the Foundation's policies for allocation of costs for, and oversight of, maintenance and operation of major research equipment and facilities.

(3) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Board shall report on the results of the evaluations under paragraphs (1) and (2) and on any recommendations for modifying the current policies related to allocation of funding for major research equipment and facilities to the Committee on Science and Technology and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

(b) **INCLUSION OF POLAR FACILITIES UPGRADES IN MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION PLAN.**—Section 201(a)(2)(D) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 18621(a)(2)(D)) is amended by inserting “and for major upgrades of facilities in support of Antarctic research programs” after “facilities construction account”.

(c) **REPORT ON EDUCATION PROGRAMS WITHIN THE RESEARCH DIRECTORATES.**—Not later than 6 months after the date of enactment of this Act, the Director shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate a report cataloging all elementary school and secondary school, informal, and un-

dergraduate educational programs and activities supported through appropriations for Research and Related Activities. The report shall display the programs and activities by directorate, along with estimated funding levels for the fiscal years 2006, 2007, and 2008, and shall provide a description of the goals of each program and activity. The report shall also describe how the programs and activities relate to or are coordinated with the programs supported by the Education and Human Resources Directorate.

(d) **REPORT ON RESEARCH IN UNDERGRADUATE INSTITUTIONS PROGRAM.**—The Director shall transmit to Congress, as part of the President's fiscal year 2011 budget submission under section 1105 of title 31, United States Code, a report listing the funding success rates and distribution of awards for the Research in Undergraduate Institutions program, by type of institution based on the highest academic degree conferred by the institution, for fiscal years 2008, 2009, and 2010.

(e) **ANNUAL PLAN FOR ALLOCATION OF EDUCATION AND HUMAN RESOURCES FUNDING.**—

(1) **IN GENERAL.**—Not later than 60 days after the date of enactment of legislation providing for the annual appropriation of funds for the Foundation, the Director shall submit to the Committee on Science and Technology and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, a plan for the allocation of education and human resources funds authorized by this title for the corresponding fiscal year, including any funds from within the research and related activities account used to support activities that have the primary purpose of improving education or broadening participation.

(2) **SPECIFIC REQUIREMENTS.**—The plan shall include a description of how the allocation of funding—

(A) will affect the average size and duration of education and human resources grants supported by the Foundation;

(B) will affect trends in research support for the effective instruction of science, technology, engineering, and mathematics;

(C) will affect the kindergarten through grade 20 pipeline for the study of science, technology, engineering, and mathematics; and

(D) will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in science, technology, engineering, and mathematics, and help prepare such individuals to pursue postsecondary studies in these fields.

**SEC. 7015. ADMINISTRATIVE AMENDMENTS.**

(a) **TRIENNIAL AUDIT OF THE OFFICE OF THE NATIONAL SCIENCE BOARD.**—Section 15(a) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-5) is amended—

(1) in paragraph (3), by striking “an annual audit” and inserting “an audit every three years”;

(2) in paragraph (4), by striking “each year” and inserting “every third year”; and

(3) by inserting after paragraph (4) the following:

“(5) **MATERIALS RELATING TO CLOSED PORTIONS OF MEETINGS.**—To facilitate the audit required under paragraph (3) of this subsection, the Office of the National Science Board shall maintain the General Counsel's certificate, the presiding officer's statement, and a transcript or recording of any closed meeting, for at least 3 years after such meeting.”

(b) **LIMITED TERM PERSONNEL FOR THE NATIONAL SCIENCE BOARD.**—Subsection (g) of section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended to read as follows:

“(g) The Board may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than 5

professional staff members, technical and professional personnel on leave of absence from academic, industrial, or research institutions for a limited term, and such operations and support staff members as may be necessary. Such staff shall be appointed by the Chairman and assigned at the direction of the Board. The professional members and limited term technical and professional personnel of such staff may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 of such title relating to classification, and shall be compensated at a rate not exceeding the maximum rate payable under section 5376 of such title, as may be necessary to provide for the performance of such duties as may be prescribed by the Board in connection with the exercise of its powers and functions under this Act. Section 14(a)(3) shall apply to each limited term appointment of technical and professional personnel under this subsection. Each appointment under this subsection shall be subject to the same security requirements as those required for personnel of the Foundation appointed under section 14(a).”

(c) **INCREASE IN NUMBER OF WATERMAN AWARDS TO THREE.**—Section 6(c) of the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1881a) is amended to read as follows:

“(c) Not more than three awards may be made under this section in any one fiscal year.”

**SEC. 7016. NATIONAL SCIENCE BOARD REPORTS.**

Paragraphs (1) and (2) of section 4(j) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1) and (2)) are amended by striking “, for submission to” and “for submission to”, respectively, and inserting “and”.

**SEC. 7017. PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986 AMENDMENT.**

Section 3801(a)(1) of title 31, United States Code (commonly known as the “Program Fraud Civil Remedies Act of 1986”) is amended—

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

(2) in subparagraph (D), by inserting “and” after the semicolon; and

(3) by adding at the end the following:

“(E) the National Science Foundation.”

**SEC. 7018. MEETING CRITICAL NATIONAL SCIENCE NEEDS.**

(a) **IN GENERAL.**—In addition to any other criteria, the Director shall include consideration of the degree to which awards and research activities that otherwise qualify for support by the Foundation may assist in meeting critical national needs in innovation, competitiveness, safety and security, the physical and natural sciences, technology, engineering, social sciences, and mathematics.

(b) **PRIORITY TREATMENT.**—The Director shall give priority in the selection of awards and the allocation of Foundation resources to proposed research activities, and grants funded under the Foundation's Research and Related Activities Account, that can be expected to make contributions in physical or natural science, technology, engineering, social sciences, or mathematics, or that enhance competitiveness, innovation, or safety and security in the United States.

(c) **LIMITATION.**—Nothing in this section shall be construed to restrict or bias the grant selection process against funding other areas of research deemed by the Foundation to be consistent with its mandate nor to change the core mission of the Foundation.

**SEC. 7019. RESEARCH ON INNOVATION AND INVENTIVENESS.**

In carrying out its research programs on science policy and on the science of learning, the Foundation may support research on the process of innovation and the teaching of inventiveness.

**SEC. 7020. CYBERINFRASTRUCTURE.**

In order to continue and expand efforts to ensure that research institutions throughout the Nation can fully participate in research programs of the Foundation and collaborate with

colleagues throughout the Nation, the Director, not later than 180 days after the date of enactment of this Act, shall develop and publish a plan that—

(1) describes the current status of broadband access for scientific research purposes at institutions in EPSCoR-eligible States, at institutions in rural areas, and at minority serving institutions; and

(2) outlines actions that can be taken to ensure that such connections are available to enable participation in those Foundation programs that rely heavily on high-speed networking and collaborations across institutions and regions.

**SEC. 7021. PILOT PROGRAM OF GRANTS FOR NEW INVESTIGATORS.**

(a) IN GENERAL.—The Director shall carry out a pilot program to award 1-year grants to individuals to assist them in improving research proposals that were previously submitted to the Foundation but not selected for funding.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an individual—

(1) may not have previously received funding as the principal investigator of a research grant from the Foundation; and

(2) shall have submitted a proposal to the Foundation, which may include a proposal submitted to the Research in Undergraduate Institutions program, that was rated excellent under the Foundation's competitive merit review process.

(c) SELECTION PROCESS.—The Director shall make awards under this section based on the advice of the program officers of the Foundation.

(d) USE OF FUNDS.—Grants awarded under this section shall be used to enable an individual to resubmit an updated research proposal for review by the Foundation through the agency's competitive merit review process. Uses of funds made available under this section may include the generation of new data and the performance of additional analysis.

(e) PROGRAM ADMINISTRATION.—The Director shall carry out this section through the Small Grants for Exploratory Research program.

(f) NATIONAL SCIENCE BOARD REVIEW.—The Board shall conduct a review and assessment of the pilot program under this section, including the number of new investigators funded, the distribution of awards by type of institution of higher education, and the success rate upon resubmittal of proposals by new investigators funded through such pilot program. Not later than 3 years after the date of enactment of this Act, the Board shall summarize its findings and any recommendations regarding changes to, the termination of, or the continuation of the pilot program in a report to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate.

**SEC. 7022. BROADER IMPACTS MERIT REVIEW CRITERION.**

(a) IN GENERAL.—Among the types of activities that the Foundation shall consider as appropriate for meeting the requirements of its broader impacts criterion for the evaluation of research proposals are partnerships between academic researchers and industrial scientists and engineers that address research areas identified as having high importance for future national economic competitiveness, such as nanotechnology.

(b) REPORT ON BROADER IMPACTS CRITERION.—Not later than 1 year after the date of enactment of this Act, the Director shall transmit to Congress a report on the impact of the broader impacts grant criterion used by the Foundation. The report shall—

(1) identify the criteria that each division and directorate of the Foundation uses to evaluate the broader impacts aspects of research proposals;

(2) provide a breakdown of the types of activities by division that awardees have proposed to carry out to meet the broader impacts criterion;

(3) provide any evaluations performed by the Foundation to assess the degree to which the broader impacts aspects of research proposals were carried out and how effective they have been at meeting the goals described in the research proposals;

(4) describe what national goals, such as improving undergraduate science, technology, engineering, and mathematics education, improving kindergarten through grade 12 science and mathematics education, promoting university-industry collaboration, and broadening participation of underrepresented groups, the broader impacts criterion is best suited to promote; and

(5) describe what steps the Foundation is taking and should take to use the broader impacts criterion to improve undergraduate science, technology, engineering, and mathematics education.

**SEC. 7023. DONATIONS.**

Section 11(f) of the National Science Foundation Act of 1950 (42 U.S.C. 1870(f)) is amended by inserting before the semicolon “, except that funds may be donated for specific prize competitions for ‘basic research’ as defined in the Office of Management and Budget Circular No. A-11”.

**SEC. 7024. HIGH-PERFORMANCE COMPUTING AND NETWORKING.**

(a) HIGH-PERFORMANCE COMPUTING ACT OF 1991.—

(1) AMENDMENTS.—Title I of the High-Performance Computing Act of 1991 (15 U.S.C. 5511 et seq.) is amended—

(A) in the title heading, by striking “AND THE NATIONAL RESEARCH AND EDUCATION NETWORK” and inserting “RESEARCH AND DEVELOPMENT”;

(B) in section 101(a) (15 U.S.C. 5511(a))—

(i) by striking subparagraphs (A) and (B) of paragraph (1) and inserting the following:

“(A) provide for long-term basic and applied research on high-performance computing, including networking;

“(B) provide for research and development on, and demonstration of, technologies to advance the capacity and capabilities of high-performance computing and networking systems, and related software;

“(C) provide for sustained access by the research community throughout the United States to high-performance computing and networking systems that are among the most advanced in the world in terms of performance in solving scientific and engineering problems, including provision for technical support for users of such systems;

“(D) provide for widely dispersed efforts to increase software availability, productivity, capability, security, portability, and reliability;

“(E) provide for high-performance networks, including experimental testbed networks, to enable research and development on, and demonstration of, advanced applications enabled by such networks;

“(F) provide for computational science and engineering research on mathematical modeling and algorithms for applications in all fields of science and engineering;

“(G) provide for the technical support of, and research and development on, high-performance computing systems and software required to address Grand Challenges;

“(H) provide for educating and training additional undergraduate and graduate students in software engineering, computer science, computer and network security, applied mathematics, library and information science, and computational science; and

“(I) provide for improving the security of computing and networking systems, including Federal systems, including providing for research required to establish security standards and practices for these systems.”;

(ii) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(iii) in paragraph (2), as redesignated by clause (ii)—

(I) by striking subparagraph (B);

(II) by redesignating subparagraphs (A) and (C) as subparagraphs (D) and (F), respectively;

(III) by inserting before subparagraph (D), as redesignated by subclause (II), the following:

“(A) establish the goals and priorities for Federal high-performance computing research, development, networking, and other activities;

“(B) establish Program Component Areas that implement the goals established under subparagraph (A), and identify the Grand Challenges that the Program should address;

“(C) provide for interagency coordination of Federal high-performance computing research, development, networking, and other activities undertaken pursuant to the Program.”; and

(IV) by inserting after subparagraph (D), as redesignated by subclause (II) of this clause, the following:

“(E) develop and maintain a research, development, and deployment roadmap covering all States and regions for the provision of high-performance computing and networking systems under paragraph (1)(C); and”;

(iv) in paragraph (3), as so redesignated by clause (ii) of this subparagraph—

(I) by striking “paragraph (3)(A)” and inserting “paragraph (2)(D)”;

(II) by amending subparagraph (A) to read as follows:

“(A) provide a detailed description of the Program Component Areas, including a description of any changes in the definition of or activities under the Program Component Areas from the preceding report, and the reasons for such changes, and a description of Grand Challenges addressed under the Program.”;

(III) in subparagraph (C), by striking “specific activities” and all that follows through “the Network” and inserting “each Program Component Area”;

(IV) in subparagraph (D), by inserting “, and for each Program Component Area,” after “participating in the Program”;

(V) in subparagraph (D), by striking “applies;” and inserting “applies; and”;

(VI) by striking subparagraph (E) and redesignating subparagraph (F) as subparagraph (E); and

(VII) in subparagraph (E), as redesignated by subclause (VI), by inserting “and the extent to which the Program incorporates the recommendations of the advisory committee established under subsection (b)” after “for the Program”;

(C) by striking subsection (b) of section 101 (15 U.S.C. 5511) and inserting the following:

“(b) ADVISORY COMMITTEE.—(1) The President shall establish an advisory committee on high-performance computing, consisting of geographically dispersed non-Federal members, including representatives of the research, education, and library communities, network and related software providers, and industry representatives in the Program Component Areas, who are specially qualified to provide the Director with advice and information on high-performance computing. The recommendations of the advisory committee shall be considered in reviewing and revising the Program. The advisory committee shall provide the Director with an independent assessment of—

“(A) progress made in implementing the Program;

“(B) the need to revise the Program;

“(C) the balance between the components of the Program, including funding levels for the Program Component Areas;

“(D) whether the research and development undertaken pursuant to the Program is helping to maintain United States leadership in high-performance computing, networking technology, and related software; and

“(E) other issues identified by the Director.

(2) In addition to the duties outlined in paragraph (1), the advisory committee shall conduct periodic evaluations of the funding, management, coordination, implementation, and activities of the Program. The advisory committee

shall report not less frequently than once every 2 fiscal years to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on its findings and recommendations. The first report shall be due within 1 year after the date of enactment of the America COMPETES Act.

“(3) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.”; and

(D) in section 101(c) (15 U.S.C. 5511(c))—

(i) in paragraph (1)(A), by striking “Program or” and inserting “Program Component Areas or”; and

(ii) in paragraph (2), by striking “subsection (a)(3)(A)” and inserting “subsection (a)(2)(D)”.

(2) DEFINITIONS.—Section 4 of the High-Performance Computing Act of 1991 (15 U.S.C. 5503) is amended—

(A) in paragraph (2), by inserting “and multidisciplinary teams of researchers” after “high-performance computing resources”;

(B) in paragraph (3)—

(i) by striking “scientific workstations,”;

(ii) by striking “(including vector supercomputers and large scale parallel systems)”;

(iii) by striking “and applications” and inserting “applications”; and

(iv) by inserting “, and the management of large data sets” after “systems software”;

(C) in paragraph (4), by striking “packet switched”;

(D) by striking “and” at the end of paragraph (5);

(E) by striking the period at the end of paragraph (6) and inserting “; and”; and

(F) by adding at the end the following:

“(7) ‘Program Component Areas’ means the major subject areas under which related individual projects and activities carried out under the Program are grouped.”.

(3) CONFORMING AMENDMENT.—Section 1(26) of the Act entitled “An Act to prevent the elimination of certain reports”, approved November 28, 2001 (31 U.S.C. 3113 note) is amended—

(A) by striking “101(a)(3)” and inserting “101(a)(2)”; and

(B) by striking “(15 U.S.C. 5511(a)(3))” and inserting “(15 U.S.C. 5511(a)(2))”.

(b) ADVANCED INFORMATION AND COMMUNICATIONS TECHNOLOGY RESEARCH.—

(1) IN GENERAL.—As part of the Program described in title I of the High-Performance Computing Act of 1991 (15 U.S.C. 5511 et seq.), the Foundation shall support basic research related to advanced information and communications technologies that will contribute to enhancing or facilitating the availability and affordability of advanced communications services for all people of the United States. Areas of research to be supported may include research on—

(A) affordable broadband access, including wireless technologies;

(B) network security and reliability;

(C) communications interoperability;

(D) networking protocols and architectures, including resilience to outages or attacks;

(E) trusted software;

(F) privacy;

(G) nanoelectronics for communications applications;

(H) low-power communications electronics;

(I) implementation of equitable access to national advanced fiber optic research and educational networks in noncontiguous States; and

(J) such other related areas as the Director finds appropriate.

(2) CENTERS.—The Director shall award multiyear grants, subject to the availability of appropriations and on a merit-reviewed competitive basis, to institutions of higher education, nonprofit research institutions affiliated with institutions of higher education, or consortia of either type of institution to establish multidisciplinary Centers for Communications Research. The purpose of the Centers shall be to generate innovative approaches to problems in informa-

tion and communications technology research, including the research areas described in paragraph (1). Institutions of higher education, nonprofit research institutions affiliated with institutions of higher education, or consortia receiving such grants may partner with 1 or more government laboratories, for-profit entities, or other institutions of higher education or nonprofit research institutions.

(3) FUNDING ALLOCATION.—The Director shall increase funding for the basic research activities described in paragraph (1), which shall include support for the Centers described in paragraph (2), in proportion to the increase in the total amount appropriated to the Foundation for research and related activities for the fiscal years 2008 through 2010.

(4) REPORT TO CONGRESS.—The Director shall transmit to Congress, as part of the President’s annual budget submission under section 1105 of title 31, United States Code, a report on the amounts allocated for support of research under this subsection for the fiscal year during which such report is submitted and the levels proposed for the fiscal year with respect to which the budget submission applies.

#### SEC. 7025. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TALENT EXPANSION PROGRAM.

(a) AMENDMENTS.—Section 8(7) of the National Science Foundation Authorization Act of 2002 is amended—

(1) in subparagraph (A), by striking “competitive, merit-based” and all that follows through “in recent years.” and inserting “competitive, merit-based multiyear grants for eligible applicants to improve undergraduate education in science, technology, engineering, and mathematics through—

“(i) the creation of programs to increase the number of students studying toward and completing associate’s or bachelor’s degrees in science, technology, engineering, and mathematics, particularly in fields that have faced declining enrollment in recent years; and

“(ii) the creation of not more than 5 centers (in this paragraph referred to as ‘Centers’) to increase the number of students completing undergraduate courses in science, technology, engineering, and mathematics, including the number of nonmajors, and to improve student academic achievement in those courses, by developing—

“(I) undergraduate educational material, including curricula and courses of study;

“(II) teaching methods for undergraduate courses; and

“(III) methods to improve the professional development of professors and teaching assistants who teach undergraduate courses.

Grants made under clause (ii) shall be awarded jointly through the Education and Human Resources Directorate and at least 1 research directorate of the Foundation.”;

(2) by amending subparagraph (B) to read as follows:

“(B) In selecting projects under subparagraph (A)(i), the Director shall strive to increase the number of students studying toward and completing associate’s or bachelor’s degrees, concentrations, or certificates in science, technology, engineering, or mathematics by giving priority to programs that heavily recruit individuals who are—

“(i) individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b); or

“(ii) graduates of a public secondary school that—

“(I) is among the highest 25 percent of schools served by the local educational agency that serves the school, in terms of the percentage of students from families with incomes below the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), applicable to a family of the size involved; or

“(II) is designated with a school locale code of 41, 42, or 43, as determined by the Secretary of Education.”;

(3) by striking subparagraph (C) and inserting the following:

“(C)(i) The types of projects the Foundation may support under subparagraph (A)(i) include those programs that—

“(I) promote high quality—

“(aa) interdisciplinary teaching;

“(bb) undergraduate-conducted research;

“(cc) mentor relationships for students, especially underrepresented minority and female science, technology, engineering, and mathematics students;

“(dd) bridge programs that enable students at community colleges to matriculate directly into baccalaureate science, technology, engineering, or mathematics programs;

“(ee) internships carried out in partnership with industry;

“(ff) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students; and

“(gg) bridge programs that enable underrepresented minority and female secondary school students to obtain extra science, technology, engineering, and mathematics instruction prior to entering an institution of higher education;

“(II) finance summer internships for science, technology, engineering, and mathematics undergraduate students; and

“(III) conduct outreach programs that provide secondary school students and their science, technology, engineering, and mathematics teachers opportunities to increase the students’ and teachers’ exposure to engineering and technology.

“(ii) The types of activities the Foundation may support under subparagraph (A)(ii) include—

“(I) creating model curricula and laboratory programs;

“(II) developing and demonstrating research-based instructional methods and technologies;

“(III) developing methods to train graduate students and faculty to be more effective teachers of undergraduates;

“(IV) conducting programs to disseminate curricula, instructional methods, or training methods to faculty at the grantee institutions and at other institutions;

“(V) conducting assessments of the effectiveness of the Center at accomplishing the goals described in subparagraph (A)(ii); and

“(VI) conducting any other activities the Director determines will accomplish the goals described in subparagraph (A)(ii).”;

(4) in subparagraph (D)(i), by striking “under this paragraph” and inserting “under subparagraph (A)(i)”; and

(5) in subparagraph (D)(ii), by striking “under this paragraph” and inserting “under subparagraph (A)(i)”; and

(6) after subparagraph (D)(iii), by adding at the end the following:

“(iv) A grant under subparagraph (A)(ii) shall be awarded for up to 5 years.”;

(7) in subparagraph (E), by striking “under this paragraph” both places it appears and inserting “under subparagraph (A)(i)”; and

(8) by redesignating subparagraph (F) as subparagraph (J); and

(9) by inserting after subparagraph (E) the following:

“(F) Grants awarded under subparagraph (A)(ii) shall be carried out by a department or departments of science, technology, engineering, or mathematics at institutions of higher education (or a consortia thereof), which may partner with the department, college, or school of education at the institution. Applications for awards under subparagraph (A)(ii) shall be submitted to the Director at such time, in such manner, and containing such information as the Director may require. At a minimum, the application shall include—

“(i) a description of the activities to be carried out by the Center;

“(ii) a plan for disseminating programs related to the activities carried out by the Center to faculty at the grantee institution and at other institutions;

“(iii) an estimate of the number of faculty, graduate students (if any), and undergraduate students who will be affected by the activities carried out by the Center; and

“(iv) a plan for assessing the effectiveness of the Center at accomplishing the goals described in subparagraph (A)(ii).

“(G) In evaluating the applications submitted under subparagraph (F), the Director shall consider, at a minimum—

“(i) the ability of the applicant to effectively carry out the proposed activities, including the dissemination activities described in subparagraph (C)(ii)(IV); and

“(ii) the extent to which the faculty, staff, and administrators of the applicant institution are committed to improving undergraduate science, technology, engineering, and mathematics education.

“(H) In awarding grants under subparagraph (A)(ii), the Director shall ensure that a wide variety of science, technology, engineering, and mathematics fields and types of institutions of higher education, including 2-year colleges and minority-serving institutions, are covered, and that—

“(i) at least 1 Center is housed at a Doctoral/Research University as defined by the Carnegie Foundation for the Advancement of Teaching; and

“(ii) at least 1 Center is focused on improving undergraduate education in an interdisciplinary area.

“(I) The Director shall convene an annual meeting of the awardees under this paragraph to foster collaboration and to disseminate the results of the Centers and the other activities funded under this paragraph.”

(b) **REPORT ON DATA COLLECTION.**—Not later than 180 days after the date of enactment of this Act, the Director shall transmit to Congress a report on how the Director is determining whether current grant recipients in the Science, Technology, Engineering, and Mathematics Talent Expansion Program are making satisfactory progress as required by section 8(7)(D)(ii) of the National Science Foundation Authorization Act of 2002 and what funding actions have been taken as a result of the Director's determinations.

**SEC. 7026. LABORATORY SCIENCE PILOT PROGRAM.**

(a) **FINDINGS.**—Congress finds the following:

(1) To remain competitive in science and technology in the global economy, the United States must increase the number of students graduating from high school prepared to pursue postsecondary education in science, technology, engineering, and mathematics.

(2) There is broad agreement in the scientific community that learning science requires direct involvement by students in scientific inquiry and that laboratory experience is so integral to the nature of science that it must be included in every science program for every science student.

(3) In America's Lab Report, the National Research Council concluded that the current quality of laboratory experiences is poor for most students and that educators and researchers do not agree on how to define high school science laboratories or on their purpose, hampering the accumulation of research on how to improve laboratories.

(4) The National Research Council found that schools with higher concentrations of non-Asian minorities and schools with higher concentrations of poor students are less likely to have adequate laboratory facilities than other schools.

(5) The Government Accountability Office reported that 49.1 percent of schools where the minority student population is greater than 50.5

percent reported not meeting functional requirements for laboratory science well or at all.

(6) 40 percent of those college students who left the science fields reported some problems related to high school science preparation, including lack of laboratory experience and no introduction to theoretical or to analytical modes of thought.

(7) It is in the national interest for the Federal Government to invest in research and demonstration projects to improve the teaching of laboratory science in the Nation's high schools.

(b) **GRANT PROGRAM.**—Section 8(8) of the National Science Foundation Authorization Act of 2002 is amended—

(1) by redesignating subparagraphs (A) through (F) as clauses (i) through (vi), respectively;

(2) by inserting “(A)” before “A program of competitive”; and

(3) by adding at the end the following:

“(B) In accordance with subparagraph (A)(v), the Director shall establish a research pilot program designated as ‘Partnerships for Access to Laboratory Science’ to award grants to partnerships to improve laboratories and provide instrumentation as part of a comprehensive program to enhance the quality of science, technology, engineering, and mathematics instruction at the secondary school level. Grants under this subparagraph may be used for—

“(i) professional development and training for teachers aligned with activities supported under section 2123 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6623);

“(ii) purchase, rental, or leasing of equipment, instrumentation, and other scientific educational materials;

“(iii) development of instructional programs designed to integrate the laboratory experience with classroom instruction and to be consistent with State mathematics and science and, to the extent applicable, technology and engineering, academic achievement standards;

“(iv) training in laboratory safety for school personnel;

“(v) design and implementation of hands-on laboratory experiences to encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in science, technology, engineering, and mathematics and help prepare such individuals to pursue postsecondary studies in these fields; and

“(vi) assessment of the activities funded under this subparagraph.

“(C) Grants may be made under subparagraph (B) only to a partnership—

“(i) for a project that includes significant teacher preparation and professional development components; or

“(ii) that establishes that appropriate teacher preparation and professional development is being addressed, or has been addressed, through other means.

“(D) Grants awarded under subparagraph (B) shall be to a partnership that—

“(i) includes a 2-year or 4-year degree granting institution of higher education;

“(ii) includes a high need local educational agency (as defined in section 201 of the Higher Education Act of 1965);

“(iii) includes a business or eligible nonprofit organization; and

“(iv) may include a State educational agency, other public agency, National Laboratory, or community-based organization.

“(E) The Federal share of the cost of activities carried out using amounts from a grant under subparagraph (B) shall not exceed 40 percent.

“(F) The Director shall require grant recipients under subparagraph (B) to submit a report to the Director on the results of the project supported by the grant.”

(c) **REPORT.**—The Director shall evaluate the effectiveness of activities carried out under the research pilot projects funded by the grant program established pursuant to the amendment

made by subsection (b) in improving student achievement in science, technology, engineering, and mathematics. A report documenting the results of that evaluation shall be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate not later than 5 years after the date of enactment of this Act. The report shall identify best practices and materials developed and demonstrated by grant awardees.

(d) **SUNSET.**—The provisions of this section shall cease to have force or effect on the last day of fiscal year 2010.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—From the amounts authorized under subsections (a)(2)(B), (b)(2)(B), and (c)(2)(B) of section 7002, there are authorized to be appropriated to carry out this section and the amendments made by this section \$5,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 2 succeeding fiscal years.

**SEC. 7027. STUDY ON LABORATORY EQUIPMENT DONATIONS FOR SCHOOLS.**

Not later than 2 years after the date of enactment of this Act, the Director shall transmit a report to Congress examining the extent to which institutions of higher education and entities in the private sector are donating used laboratory equipment to elementary schools and secondary schools. The Director, in consultation with the Secretary of Education, shall survey institutions of higher education and entities in the private sector to determine—

(1) how often, how much, and what type of equipment is donated;

(2) what criteria or guidelines the institutions and entities are using to determine what types of equipment can be donated, what condition the equipment should be in, and which schools receive the equipment;

(3) whether the institutions and entities provide any support to, or follow-up with the schools; and

(4) how appropriate donations can be encouraged.

**SEC. 7028. MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS AMENDMENTS.**

Section 9 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n) is amended—

(1) in subsection (a)(2)(A), by striking “a State educational agency” and inserting “the department, college, or program of education at an institution of higher education, a State educational agency,”;

(2) by striking subparagraph (B) of subsection (a)(3) and inserting the following:

“(B) offering professional development programs, including—

“(i) teacher institutes for the 21st century, as described in paragraph (10); and

“(ii) academic year institutes or workshops that—

“(I) are designed to strengthen the capabilities of mathematics and science teachers; and

“(II) may include professional development activities to prepare mathematics and science teachers to teach challenging mathematics, science, and technology college-preparatory courses;”;

(3) in subsection (a)(3)(C)—

(A) by inserting “and laboratory experiences” after “technology”; and

(B) by inserting “and laboratory” after “provide technical”;

(4) in subsection (a)(3)(I), by inserting “including the use of induction programs, as defined in section 6113(h) of the America COMPETES Act, for teachers in their first 2 years of teaching,” after “and science,”;

(5) by striking subparagraph (K) of section (a)(3) and inserting the following:

“(K) developing science, technology, engineering, and mathematics educational programs and materials and conducting science, technology,

engineering, and mathematics enrichment programs for students, including after-school programs and summer programs, with an emphasis on including and serving students described in subsection (b)(2)(G);”;

(6) in subsection (a), by adding at the end the following:

“(8) **MENTORS FOR TEACHERS AND STUDENTS OF CHALLENGING COURSES.**—Partnerships carrying out activities to prepare mathematics and science teachers to teach challenging mathematics, science, and technology college-preparatory courses in accordance with paragraph (3)(B) shall encourage companies employing scientists, technologists, engineers, or mathematicians to provide mentors to teachers and students and provide for the coordination of such mentoring activities.

“(9) **INNOVATION.**—Activities carried out in accordance with paragraph (3)(H) may include the development and dissemination of curriculum tools that will help foster inventiveness and innovation.”;

(7) in subsection (b)(2)—

(A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(B) by inserting after subparagraph (D) the following:

“(E) the extent to which the evaluation described in paragraph (1)(E) will be independent and based on objective measures.”;

(8) by striking paragraph (2) of subsection (c) and inserting the following:

“(2) **REPORT ON EVALUATIONS.**—Not later than 4 years after the date of enactment of the America COMPETES Act, the Director shall transmit a report summarizing the evaluations required under subsection (b)(1)(E) of grants received under this program and describing any changes to the program recommended as a result of these evaluations to the Committee on Science and Technology and the Committee on Education and Labor of the House of Representatives and to the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate. Such report shall be made widely available to the public.”; and

(9) by adding at the end the following:

“(d) **DEFINITIONS.**—In this section—

“(1) the term ‘mathematics and science teacher’ means a science, technology, engineering, or mathematics teacher at the elementary school or secondary school level; and

“(2) the term ‘science’, in the context of elementary and secondary education, includes technology and pre-engineering.”.

**SEC. 7029. NATIONAL SCIENCE FOUNDATION TEACHER INSTITUTES FOR THE 21ST CENTURY.**

Section 9(a) of the National Science Foundation Authorization Act of 2002 (as amended by section 7028) (42 U.S.C. 1862n(a)) is further amended by adding at the end the following:

“(10) **TEACHER INSTITUTES FOR THE 21ST CENTURY.**—

“(A) **IN GENERAL.**—Teacher institutes for the 21st century carried out in accordance with paragraph (3)(B) shall—

“(i) be carried out in conjunction with a school served by the local educational agency in the partnership;

“(ii) be science, technology, engineering, and mathematics focused institutes that provide professional development to elementary school and secondary school teachers;

“(iii) serve teachers who—

“(I) are considered highly qualified (as defined in section 9101 of the Elementary and Secondary Education Act of 1965);

“(II) teach high-need subjects in science, technology, engineering, or mathematics; and

“(III) teach in high-need schools (as described in section 1114(a)(1) of the Elementary and Secondary Education Act of 1965);

“(iv) focus on the priorities developed by the Director in consultation with a broad group of relevant educational organizations;

“(v) be content-based and build on school year curricula that are experiment-oriented, content-based, and grounded in current research;

“(vi) ensure that the pedagogy component is designed around specific strategies that are relevant to teaching the subject and content on which teachers are being trained, which may include training teachers in the essential components of reading instruction for adolescents in order to improve student reading skills within the subject areas of science, technology, engineering, and mathematics;

“(vii) be a multiyear program that is conducted for a period of not less than 2 weeks per year;

“(viii) provide for direct interaction between participants in and faculty of the teacher institute;

“(ix) have a component that includes the use of the Internet;

“(x) provide for followup training in the classroom during the academic year for a period of not less than 3 days, which may or may not be consecutive, for participants in the teacher institute, except that for teachers in rural local educational agencies, the followup training may be provided through the Internet;

“(xi) provide teachers participating in the teacher institute with travel expense reimbursement and classroom materials related to the teacher institute, and may include providing stipends as necessary; and

“(xii) establish a mechanism to provide supplemental support during the academic year for teacher institute participants to apply the knowledge and skills gained at the teacher institute.

“(B) **OPTIONAL MEMBERS OF THE PARTNERSHIP.**—In addition to the partnership requirement under paragraph (2), an institution of higher education or eligible nonprofit organization (or consortium) desiring a grant for a teacher institute for the 21st century may also partner with a teacher organization, museum, or educational partnership organization.”.

**SEC. 7030. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.**

Section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1) is amended to read as follows:

**“SEC. 10. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.**

“(a) **SCHOLARSHIP PROGRAM.**—

“(1) **IN GENERAL.**—The Director shall carry out a program to award grants to eligible entities to recruit and train mathematics and science teachers and to provide scholarships and stipends to individuals participating in the program. Such program shall be known as the ‘Robert Noyce Teacher Scholarship Program’.

“(2) **MERIT REVIEW.**—Grants shall be provided under this section on a competitive, merit-reviewed basis.

“(3) **USE OF GRANTS.**—A grant provided under this section shall be used by the eligible entity—

“(A) to develop and implement a program to recruit and prepare undergraduate students majoring in science, technology, engineering, and mathematics at the eligible entity (and participating institutions of higher education of the consortium, if applicable) to become qualified as mathematics and science teachers, through—

“(i) administering scholarships in accordance with subsection (c);

“(ii) offering academic courses and early clinical teaching experiences designed to prepare students participating in the program to teach in elementary schools and secondary schools, including such preparation as is necessary to meet requirements for teacher certification or licensing;

“(iii) offering programs to students participating in the program, both before and after the students receive their baccalaureate degree, to enable the students to become better mathematics and science teachers, to fulfill the service

requirements of this section, and to exchange ideas with others in the students’ fields; and

“(iv) providing summer internships for freshman and sophomore students participating in the program; or

“(B) to develop and implement a program to recruit and prepare science, technology, engineering, or mathematics professionals to become qualified as mathematics and science teachers, through—

“(i) administering stipends in accordance with subsection (d);

“(ii) offering academic courses and clinical teaching experiences designed to prepare stipend recipients to teach in elementary schools and secondary schools served by a high need local educational agency, including such preparation as is necessary to meet requirements for teacher certification or licensing; and

“(iii) offering programs to stipend recipients, both during and after matriculation in the program for which the stipend is received, to enable recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in the students’ fields.

“(4) **ELIGIBILITY REQUIREMENT.**—

“(A) **IN GENERAL.**—To be eligible to receive a grant under this section, an eligible entity shall ensure that specific faculty members and staff from the science, technology, engineering, and mathematics departments and specific education faculty of the eligible entity (and participating institutions of higher education of the consortium, if applicable) are designated to carry out the development and implementation of the program.

“(B) **INCLUSION OF MASTER TEACHERS.**—An eligible entity (and participating institutions of higher education of the consortium, if applicable) receiving a grant under this section may also include master teachers in the development of the pedagogical content of the program and in the supervision of students participating in the program in their clinical teaching experiences.

“(C) **ACTIVE PARTICIPANTS.**—No eligible entity (or participating institution of higher education of the consortium, if applicable) shall be eligible for a grant under this section unless faculty from the science, technology, engineering, and mathematics departments of the eligible entity (and participating institutions of higher education of the consortium, if applicable) are active participants in the program.

“(5) **AWARDS.**—In awarding grants under this section, the Director shall ensure that the eligible entities (and participating institutions of higher education of the consortia, if applicable) represent a variety of types of institutions of higher education. In support of this goal, the Director shall broadly disseminate information about when and how to apply for grants under this section, including by conducting outreach to—

“(A) historically Black colleges and universities that are part B institutions, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)); and

“(B) minority institutions, as defined in section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k(3)).

“(6) **SUPPLEMENT NOT SUPPLANT.**—Grant funds provided under this section shall be used to supplement, and not supplant, other Federal or State funds available for the type of activities supported by the grant.

“(b) **SELECTION PROCESS.**—

“(1) **APPLICATION.**—An eligible entity seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

“(A) in the case of an applicant that is submitting an application on behalf of a consortium of institutions of higher education, a description

of the participating institutions of higher education and the roles and responsibilities of each such institution;

“(B) a description of the program that the applicant intends to operate, including the number of scholarships and summer internships or the size and number of stipends the applicant intends to award, the type of activities proposed for the recruitment of students to the program, and the selection process that will be used in awarding the scholarships or stipends;

“(C) evidence that the applicant has the capability to administer the program in accordance with the provisions of this section, which may include a description of any existing programs at the applicant eligible entity (and participating institutions of higher education of the consortium, if applicable) that are targeted to the education of mathematics and science teachers and the number of teachers graduated annually from such programs;

“(D) a description of the academic courses and clinical teaching experiences required under subparagraphs (A)(ii) and (B)(ii) of subsection (a)(3), as applicable, including—

“(i) a description of the undergraduate program that will enable a student to graduate within 5 years with a major in science, technology, engineering, or mathematics and to obtain teacher certification or licensing;

“(ii) a description of the clinical teaching experiences proposed; and

“(iii) evidence of agreements between the applicant and the schools or local educational agencies that are identified as the locations at which clinical teaching experiences will occur;

“(E) a description of the programs required under subparagraphs (A)(iii) and (B)(iii) of subsection (a)(3), including activities to assist new teachers in fulfilling the teachers' service requirements under this section;

“(F) an identification of the applicant eligible entity's science, technology, engineering, and mathematics faculty and its education faculty (and such faculty of participating institutions of higher education of the consortium, if applicable) who will carry out the development and implementation of the program as required under subsection (a)(4); and

“(G) a description of the process the applicant will use to fulfill the requirements of subsection (f).

“(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

“(A) the ability of the applicant (and the participating institutions of higher education of the consortium, if applicable) to effectively carry out the program;

“(B) the extent to which the applicant's science, technology, engineering, and mathematics faculty and its education faculty (and such faculty of participating institutions of higher education of the consortium, if applicable) have worked or will work collaboratively to design new or revised curricula that recognize the specialized pedagogy required to teach science, technology, engineering, and mathematics effectively in elementary schools and secondary schools;

“(C) the extent to which the applicant (and the participating institutions of higher education of the consortium, if applicable) is committed to making the program a central organizational focus;

“(D) the degree to which the proposed programming will enable scholarship or stipend recipients to become successful mathematics and science teachers;

“(E) the number and academic qualifications of the students who will be served by the program; and

“(F) the ability of the applicant (and the participating institutions of higher education of the consortium, if applicable) to recruit students who would otherwise not pursue a career in teaching in elementary schools or secondary schools and students who are individuals identi-

fied in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

“(C) SCHOLARSHIP REQUIREMENTS.—

“(1) IN GENERAL.—Scholarships under this section shall be available only to students who—

“(A) are majoring in science, technology, engineering, or mathematics; and

“(B) have attained at least junior status in a baccalaureate degree program.

“(2) SELECTION.—Individuals shall be selected to receive scholarships primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

“(3) AMOUNT.—The Director shall establish for each year the amount to be awarded for scholarships under this section for that year, which shall be not less than \$10,000 per year, except that no individual shall receive for any year more than the cost of attendance at that individual's institution. Full-time students may receive annual scholarships through the completion of a baccalaureate degree program, not to exceed a maximum of 3 years. Part-time students may receive scholarships that are prorated according to such students' enrollment status, not to exceed 6 years of scholarship support.

“(4) SERVICE OBLIGATION.—If an individual receives a scholarship under this section, such individual shall be required to complete, within 8 years after graduation from the baccalaureate degree program for which the scholarship was awarded, 2 years of service as a mathematics or science teacher for each full scholarship award received, with a maximum service requirement of 6 years. Service required under this paragraph shall be performed in a high need local educational agency.

“(d) STIPENDS.—

“(1) IN GENERAL.—Stipends under this section shall be available only to science, technology, engineering, or mathematics professionals who, while receiving the stipend, are enrolled in a program established under subsection (a)(3)(B).

“(2) SELECTION.—Individuals shall be selected to receive stipends under this section primarily on the basis of academic merit and professional achievement, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

“(3) AMOUNT AND DURATION.—Stipends under this section shall be not less than \$10,000 per year, except that no individual shall receive for any year more than the cost of attendance at such individual's institution. Individuals may receive a maximum of 1 year of stipend support, except that if an individual is enrolled in a part-time program, such amount shall be prorated according to the length of the program.

“(4) SERVICE OBLIGATION.—If an individual receives a stipend under this section, such individual shall be required to complete, within 4 years after graduation from the program for which the stipend was awarded, 2 years of service as a mathematics or science teacher. Service required under this paragraph shall be performed in a high need local educational agency.

“(e) CONDITIONS OF SUPPORT.—As a condition of acceptance of a scholarship or stipend under this section, a recipient of a scholarship or stipend shall enter into an agreement with the eligible entity—

“(1) accepting the terms of the scholarship or stipend pursuant to subsection (c) or subsection (d);

“(2) agreeing to provide the eligible entity with annual certification of employment and up-to-date contact information and to participate in surveys conducted by the eligible entity as part of an ongoing assessment program; and

“(3) establishing that if the service obligation required under this section is not completed, all or a portion of the scholarship or stipend re-

ceived under this section shall be repaid in accordance with subsection (g).

“(f) COLLECTION FOR NONCOMPLIANCE.—

“(1) MONITORING COMPLIANCE.—An eligible entity receiving a grant under this section shall, as a condition of participating in the program, enter into an agreement with the Director to monitor the compliance of scholarship or stipend recipients with their respective service requirements.

“(2) COLLECTION OF REPAYMENT.—

“(A) IN GENERAL.—In the event that a scholarship or stipend recipient is required to repay the scholarship or stipend under subsection (g), the eligible entity shall—

“(i) be responsible for determining the repayment amounts and for notifying the recipient and the Director of the amount owed; and

“(ii) collect such repayment amount within a period of time as determined under the agreement described in paragraph (1), or the repayment amount shall be treated as a loan in accordance with subparagraph (C).

“(B) RETURNED TO TREASURY.—Except as provided in subparagraph (C), any such repayment shall be returned to the Treasury of the United States.

“(C) RETAIN PERCENTAGE.—An eligible entity may retain a percentage of any repayment the eligible entity collects to defray administrative costs associated with the collection. The Director shall establish a single, fixed percentage that will apply to all eligible entities.

“(g) FAILURE TO COMPLETE SERVICE OBLIGATION.—

“(1) GENERAL RULE.—If an individual who has received a scholarship or stipend under this section—

“(A) fails to maintain an acceptable level of academic standing in the educational institution in which the individual is enrolled, as determined by the Director;

“(B) is dismissed from such educational institution for disciplinary reasons;

“(C) withdraws from the program for which the award was made before the completion of such program;

“(D) declares that the individual does not intend to fulfill the service obligation under this section; or

“(E) fails to fulfill the service obligation of the individual under this section, such individual shall be liable to the United States as provided in paragraph (2).

“(2) AMOUNT OF REPAYMENT.—

“(A) LESS THAN ONE YEAR OF SERVICE.—If a circumstance described in paragraph (1) occurs before the completion of 1 year of a service obligation under this section, the total amount of awards received by the individual under this section shall be repaid or such amount shall be treated as a loan to be repaid in accordance with subparagraph (C).

“(B) MORE THAN ONE YEAR OF SERVICE.—If a circumstance described in subparagraph (D) or (E) of paragraph (1) occurs after the completion of 1 year of a service obligation under this section—

“(i) for a scholarship recipient, the total amount of scholarship awards received by the individual under this section, reduced by the ratio of the number of years of service completed divided by the number of years of service required, shall be repaid or such amount shall be treated as a loan to be repaid in accordance with subparagraph (C); and

“(ii) for a stipend recipient, ½ of the total amount of stipends received by the individual under this section shall be repaid or such amount shall be treated as a loan to be repaid in accordance with subparagraph (C).

“(C) REPAYMENTS.—The loans described under subparagraphs (A) and (B) shall be payable to the Federal Government, consistent with the provisions of part B or D of title IV of the Higher Education Act of 1965, and shall be subject to repayment in accordance with terms and conditions specified by the Director (in consultation with the Secretary of Education) in

regulations promulgated to carry out this paragraph.

“(3) EXCEPTIONS.—The Director may provide for the partial or total waiver or suspension of any service or payment obligation by an individual under this section whenever compliance by the individual with the obligation is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be unconscionable.

“(h) DATA COLLECTION.—An eligible entity receiving a grant under this section shall supply to the Director any relevant statistical and demographic data on scholarship and stipend recipients the Director may request, including information on employment required under this section.

“(i) DEFINITIONS.—In this section—

“(1) the term ‘cost of attendance’ has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711);

“(2) the term ‘eligible entity’ means—

“(A) an institution of higher education; or

“(B) an institution of higher education that receives grant funds on behalf of a consortium of institutions of higher education;

“(3) the term ‘fellowship’ means an award to an individual under section 10A;

“(4) the term ‘high need local educational agency’ has the meaning given such term in section 201 of the Higher Education Act of 1965 (20 U.S.C. 1021);

“(5) the term ‘mathematics and science teacher’ means a science, technology, engineering, or mathematics teacher at the elementary school or secondary school level;

“(6) the term ‘scholarship’ means an award under subsection (c);

“(7) the term ‘science, technology, engineering, or mathematics professional’ means a person who holds a baccalaureate, master’s, or doctoral degree in science, technology, engineering, or mathematics, and is working in or had a career in such field or a related area; and

“(8) the term ‘stipend’ means an award under subsection (d).

“(j) MATHEMATICS AND SCIENCE SCHOLARSHIP GIFT FUND.—In accordance with section 11(f) of the National Science Foundation Act of 1950 (42 U.S.C. 1870(f)), the Director is authorized to accept donations from the private sector to supplement but not supplant scholarships, stipends, internships, or fellowships associated with programs under this section or section 10A.

“(k) ASSESSMENT OF TEACHER SERVICE AND RETENTION.—Not later than 4 years after the date of enactment of the America COMPETES Act, the Director shall transmit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Science and Technology of the House of Representatives a report on the effectiveness of the programs carried out under this section and section 10A. The report shall include the proportion of individuals receiving scholarships, stipends, or fellowships under the program who—

“(1) fulfill the individuals’ service obligation required under this section or section 10A;

“(2) remain in the teaching profession beyond the individuals’ service obligation; and

“(3) remain in the teaching profession in a high need local educational agency beyond the individuals’ service obligation.

“(l) EVALUATION.—Not less than 2 years after the date of enactment of the America COMPETES Act, the Director, in consultation with the Secretary of Education, shall conduct an evaluation to determine whether the scholarships, stipends, and fellowships authorized under this section and section 10A have been effective in increasing the numbers of high-quality mathematics and science teachers teaching in high need local educational agencies and whether there continue to exist significant shortages of such teachers in high need local educational agencies.

**“SEC. 10A. NATIONAL SCIENCE FOUNDATION TEACHING FELLOWSHIPS AND MASTER TEACHING FELLOWSHIPS.**

“(a) IN GENERAL.—

“(1) GRANTS.—

“(A) IN GENERAL.—As part of the Robert Noyce Teacher Scholarship Program established under section 10, the Director shall establish a separate program to award grants to eligible entities to enable such entities to administer fellowships in accordance with this section.

“(B) DEFINITIONS.—The terms used in this section have the meanings given the terms in section 10.

“(2) FELLOWSHIPS.—Fellowships under this section shall be available only to—

“(A) science, technology, engineering, or mathematics professionals, who shall be referred to as ‘National Science Foundation Teaching Fellows’ and who, in the first year of the fellowship, are enrolled in a master’s degree program leading to teacher certification or licensing; and

“(B) mathematics and science teachers, who shall be referred to as ‘National Science Foundation Master Teaching Fellows’ and who possess a master’s degree in their field.

“(b) ELIGIBILITY.—In order to be eligible to receive a grant under this section, an eligible entity shall enter into a partnership that shall include—

“(1) a department within an institution of higher education participating in the partnership that provides an advanced program of study in mathematics and science;

“(2)(A) a school or department within an institution of higher education participating in the partnership that provides a teacher preparation program; or

“(B) a 2-year institution of higher education that has a teacher preparation offering or a dual enrollment program with an institution of higher education participating in the partnership;

“(3) not less than 1 high need local educational agency and a public school or a consortium of public schools served by the agency; and

“(4) 1 or more nonprofit organizations that have a demonstrated record of capacity to provide expertise or support to meet the purposes of this section.

“(c) USE OF GRANTS.—Grants awarded under this section shall be used by the eligible entity (and participating institutions of higher education of the consortium, if applicable) to develop and implement a program for National Science Foundation Teaching Fellows or National Science Foundation Master Teaching Fellows, through—

“(1) administering fellowships in accordance with this section, including providing the teaching fellowship salary supplements described in subsection (f);

“(2) in the case of National Science Foundation Teaching Fellowships—

“(A) offering academic courses and clinical teaching experiences leading to a master’s degree and designed to prepare individuals to teach in elementary schools and secondary schools, including such preparation as is necessary to meet the requirements for certification or licensing; and

“(B) offering programs both during and after matriculation in the program for which the fellowship is received to enable fellows to become highly effective mathematics and science teachers, including mentoring, training, induction, and professional development activities, to fulfill the service requirements of this section, including the requirements of subsection (e), and to exchange ideas with others in their fields; and

“(3) in the case of National Science Foundation Master Teaching Fellowships—

“(A) offering academic courses and leadership training to prepare individuals to become master teachers in elementary schools and secondary schools; and

“(B) offering programs both during and after matriculation in the program for which the fel-

lowship is received to enable fellows to become highly effective mathematics and science teachers, including mentoring, training, induction, and professional development activities, to fulfill the service requirements of this section, including the requirements of subsection (e), and to exchange ideas with others in their fields.

“(d) SELECTION PROCESS.—

“(1) MERIT REVIEW.—Grants shall be awarded under this section on a competitive, merit-reviewed basis.

“(2) APPLICATIONS.—An eligible entity desiring a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

“(A) in the case of an applicant that is submitting an application on behalf of a consortium of institutions of higher education, a description of the participating institutions of higher education and the roles and responsibilities of each such institution;

“(B) a description of the program that the applicant intends to operate, including the number of fellowships the applicant intends to award, the type of activities proposed for the recruitment of students to the program, and the amount of the teaching fellowship salary supplements to be provided in accordance with subsection (f);

“(C) evidence that the applicant has the capability to administer the program in accordance with the provisions of this section, which may include a description of any existing programs at the applicant eligible entity (and participating institutions of higher education of the consortium, if applicable) that are targeted to the education of mathematics and science teachers and the number of teachers graduated annually from such programs;

“(D) in the case of National Science Foundation Teaching Fellowships, a description of—

“(i) the selection process that will be used in awarding fellowships, including a description of the rigorous measures to be used, including the rigorous, nationally recognized assessments to be used, in order to determine whether individuals applying for fellowships have advanced content knowledge of science, technology, engineering, or mathematics;

“(ii) the academic courses and clinical teaching experiences described in subsection (c)(2)(A), including—

“(I) a description of an educational program that will enable a student to obtain a master’s degree and teacher certification or licensing within 1 year; and

“(II) evidence of agreements between the applicant and the schools or local educational agencies that are identified as the locations at which clinical teaching experiences will occur;

“(iii) a description of the programs described in subsection (c)(2)(B), including activities to assist individuals in fulfilling their service requirements under this section;

“(E) evidence that the eligible entity will provide the teaching supplements required under subsection (f); and

“(F) a description of the process the applicant will use to fulfill the requirements of section 10(f).

“(3) CRITERIA.—In evaluating the applications submitted under paragraph (2), the Director shall consider, at a minimum—

“(A) the ability of the applicant (and participating institutions of higher education of the consortium, if applicable) to effectively carry out the program and to meet the requirements of subsection (f);

“(B) the extent to which the mathematics, science, or engineering faculty and the education faculty at the eligible entity (and participating institutions of higher education of the consortium, if applicable) have worked or will work collaboratively to design new or revised

curricula that recognizes the specialized pedagogy required to teach science, technology, engineering, and mathematics effectively in elementary schools and secondary schools;

“(C) the extent to which the applicant (and participating institutions of higher education of the consortium, if applicable) is committed to making the program a central organizational focus;

“(D) the degree to which the proposed programming will enable participants to become highly effective mathematics and science teachers and prepare such participants to assume leadership roles in their schools, in addition to their regular classroom duties, including serving as mentor or master teachers, developing curriculum, and assisting in the development and implementation of professional development activities;

“(E) the number and quality of the individuals that will be served by the program; and

“(F) in the case of the National Science Foundation Teaching Fellowship, the ability of the applicant (and participating institutions of higher education of the consortium, if applicable) to recruit individuals who would otherwise not pursue a career in teaching and individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1855a or 1855b).

“(4) SELECTION OF FELLOWS.—

“(A) IN GENERAL.—Individuals shall be selected to receive fellowships under this section primarily on the basis of—

“(i) professional achievement;

“(ii) academic merit;

“(iii) content knowledge of science, technology, engineering, or mathematics, as demonstrated by their performance on an assessment in accordance with paragraph (2)(D)(i); and

“(iv) in the case of National Science Foundation Master Teaching Fellows, demonstrated success in improving student academic achievement in science, technology, engineering, or mathematics.

“(B) PROMOTING PARTICIPATION OF CERTAIN INDIVIDUALS.—Among individuals demonstrating equivalent qualifications, consideration may be given to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1855a or 1855b).

“(e) DUTIES OF NATIONAL SCIENCE FOUNDATION TEACHING FELLOWS AND MASTER TEACHING FELLOWS.—A National Science Foundation Teaching Fellow or a National Science Foundation Master Teaching Fellow, while fulfilling the service obligation under subsection (g) and in addition to regular classroom activities, shall take on a leadership role within the school or local educational agency in which the fellow is employed, as defined by the partnership according to such fellow's expertise, including serving as a mentor or master teacher, developing curricula, and assisting in the development and implementation of professional development activities.

“(f) TEACHING FELLOWSHIP SALARY SUPPLEMENTS.—

“(1) IN GENERAL.—An eligible entity receiving a grant under this section shall provide salary supplements to individuals who participate in the program under this section during the period of their service obligation under subsection (g). A local educational agency through which the service obligation is fulfilled shall agree not to reduce the base salary normally paid to an individual solely because such individual receives a salary supplement under this subsection.

“(2) AMOUNT AND DURATION.—

“(A) AMOUNT.—Salary supplements provided under paragraph (1) shall be not less than \$10,000 per year, except that, in the case of a National Science Foundation Teaching Fellow, while enrolled in the master's degree program as described in subsection (c)(2)(A), such fellow

shall receive not more than the cost of attendance at such fellow's institution.

“(B) SUPPORT WHILE ENROLLED IN MASTER'S DEGREE PROGRAM.—A National Science Foundation Teaching Fellow may receive a maximum of 1 year of fellowship support while enrolled in a master's degree program as described in subsection (c)(2)(A), except that if such fellow is enrolled in a part-time program, such amount shall be prorated according to the length of the program.

“(C) DURATION OF SUPPORT.—An eligible entity receiving a grant under this section shall provide teaching fellowship salary supplements through the period of the fellow's service obligation under subsection (g).

“(g) SERVICE OBLIGATION.—An individual awarded a fellowship under this section shall serve as a mathematics or science teacher in an elementary school or secondary school served by a high need local educational agency for—

“(1) in the case of a National Science Foundation Teaching Fellow, 4 years, to be fulfilled within 6 years of completing the master's program described in subsection (c)(2)(A); and

“(2) in the case of a National Science Foundation Master Teaching Fellow, 5 years, to be fulfilled within 7 years of the start of participation in the program under subsection (c)(3).

“(h) MATCHING REQUIREMENT.—

“(1) IN GENERAL.—An eligible entity receiving a grant under this section shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (which may be provided in cash or in-kind) to carry out the activities supported by the grant.

“(2) WAIVER.—The Director may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible entity receiving a grant under this section, if the Director determines that applying the matching requirement would result in serious hardship or inability to carry out the authorized activities described in this section.

“(i) CONDITIONS OF SUPPORT; COLLECTION FOR NONCOMPLIANCE; FAILURE TO COMPLETE SERVICE OBLIGATION; DATA COLLECTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), subsections (e), (f), (g), and (h) of section 10 shall apply to eligible entities and recipients of fellowships under this section, as applicable, in the same manner as such subsections apply to eligible entities and recipients of scholarships and stipends under section 10, as applicable.

“(2) AMOUNT OF REPAYMENT.—If a circumstance described in subparagraph (D) or (E) of section 10(g)(1) occurs after the completion of 1 year of a service obligation under this section—

“(A) for a National Science Foundation Teaching Fellow, the total amount of fellowship award received by the individual under this section while enrolled in the master's degree program, reduced by  $\frac{1}{4}$  of the total amount for each year of service completed, plus  $\frac{1}{2}$  of the total teaching fellowship salary supplements received by such individual under this section, shall be repaid or such amount shall be treated as a loan to be repaid in accordance with section 10(g)(1)(C); and

“(B) for a National Science Foundation Master Teaching Fellow, the total amount of teaching fellowship salary supplements received by the individual under this section, reduced by  $\frac{1}{2}$ , shall be repaid or such amount shall be treated as a loan to be repaid in accordance with section 10(g)(1)(C).”

#### SEC. 7031. ENCOURAGING PARTICIPATION.

(a) COMMUNITY COLLEGE PROGRAM.—Section 3 of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i) is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), by striking “and” after the semicolon;

(B) in subparagraph (B), by striking the semicolon and inserting “; and”; and

(C) by adding at the end the following:

“(C) encourage participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1855a or 1855b);”;

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

“(3) MENTOR TRAINING GRANTS.—The Director shall—

“(A) establish a program to encourage and make grants available to institutions of higher education that award associate degrees to recruit and train individuals from the fields of science, technology, engineering, and mathematics to mentor students who are described in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1855a or 1855b) in order to assist those students in identifying, qualifying for, and entering higher-paying technical jobs in those fields; and

“(B) make grants available to associate-degree-granting colleges to carry out the program identified in subsection (A).”

(b) EVALUATION AND REPORT.—The Director shall establish metrics to evaluate the success of the programs established by the Foundation for encouraging individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1855a or 1855b) to study and prepare for careers in science, technology, engineering, and mathematics, including programs that provide for mentoring for such individuals. The Director shall carry out evaluations based on the metrics developed and report to Congress annually on the findings and conclusions of the evaluations.

#### SEC. 7032. NATIONAL ACADEMY OF SCIENCES REPORT ON DIVERSITY IN SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS FIELDS.

(a) IN GENERAL.—The Director shall enter into an arrangement with the National Academy of Sciences for a report, to be transmitted to the Congress not later than 1 year after the date of enactment of this Act, about barriers to increasing the number of underrepresented minorities in science, technology, engineering, and mathematics fields and to identify strategies for bringing more underrepresented minorities into the science, technology, engineering, and mathematics workforce.

(b) SPECIFIC REQUIREMENTS.—The Director shall ensure that the report described in subsection (a) addresses—

(1) social and institutional factors that shape the decisions of minority students to commit to education and careers in the science, technology, engineering, and mathematics fields;

(2) specific barriers preventing greater minority student participation in the science, technology, engineering, and mathematics fields;

(3) primary focus points for policy intervention to increase the recruitment and retention of underrepresented minorities in the future workforce of the United States;

(4) programs already underway to increase diversity in the science, technology, engineering, and mathematics fields, and their level of effectiveness;

(5) factors that make such programs effective, and how to expand and improve upon existing programs;

(6) the role of minority-serving institutions in the diversification of the workforce of the United States in these fields and how that role can be supported and strengthened; and

(7) how the public and private sectors can better assist minority students in their efforts to join the workforce of the United States in these fields.

#### SEC. 7033. HISPANIC-SERVING INSTITUTIONS UNDERGRADUATE PROGRAM.

(a) IN GENERAL.—The Director is authorized to establish a new program to award grants on a competitive, merit-reviewed basis to Hispanic-serving institutions (as defined in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a)) to enhance the quality of undergraduate

science, technology, engineering, and mathematics education at such institutions and to increase the retention and graduation rates of students pursuing associate's or baccalaureate degrees in science, technology, engineering, and mathematics.

(b) PROGRAM COMPONENTS.—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in science, technology, engineering, and mathematics;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) INSTRUMENTATION.—Funding for instrumentation is an allowed use of grants awarded under this section.

#### SEC. 7034. PROFESSIONAL SCIENCE MASTER'S DEGREE PROGRAMS.

(a) CLEARINGHOUSE.—

(1) DEVELOPMENT.—The Director shall establish a clearinghouse, in collaboration with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, to share program elements used in successful professional science master's degree programs and other advanced degree programs related to science, technology, engineering, and mathematics.

(2) AVAILABILITY.—The Director shall make the clearinghouse of program elements developed under paragraph (1) available to institutions of higher education that are developing professional science master's degree programs.

(b) PROGRAMS.—

(1) PROGRAMS AUTHORIZED.—The Director shall award grants to 4-year institutions of higher education to facilitate the institutions' creation or improvement of professional science master's degree programs that may include linkages between institutions of higher education and industries that employ science-trained personnel, with an emphasis on practical training and preparation for the workforce in high-need fields.

(2) APPLICATION.—A 4-year institution of higher education desiring a grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may require. The application shall include—

(A) a description of the professional science master's degree program that the institution of higher education will implement;

(B) a description of how the professional science master's degree program at the institution of higher education will produce individuals for the workforce in high-need fields;

(C) the amount of funding from non-Federal sources, including from private industries, that the institution of higher education shall use to support the professional science master's degree program; and

(D) an assurance that the institution of higher education shall encourage students in the professional science master's degree program to apply for all forms of Federal assistance available to such students, including applicable graduate fellowships and student financial assistance under titles IV and VII of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 1133 et seq.).

(3) PREFERENCES.—The Director shall give preference in making awards to 4-year institutions of higher education seeking Federal funding to create or improve professional science master's degree programs, to those applicants—

(A) located in States with low percentages of citizens with graduate or professional degrees, as determined by the Bureau of the Census, that demonstrate success in meeting the unique needs of the corporate, non-profit, and government communities in the State, as evidenced by providing internships for professional science master's degree students or similar partnership arrangements; or

(B) that secure more than 2/3 of the funding for such professional science master's degree programs from sources other than the Federal Government.

(4) NUMBER OF GRANTS; TIME PERIOD OF GRANTS.—

(A) NUMBER OF GRANTS.—Subject to the availability of appropriated funds, the Director shall award grants under paragraph (1) to a maximum of 200 4-year institutions of higher education.

(B) TIME PERIOD OF GRANTS.—Grants awarded under this section shall be for one 3-year term. Grants may be renewed only once for a maximum of 2 additional years.

(5) EVALUATION AND REPORTS.—

(A) DEVELOPMENT OF PERFORMANCE BENCHMARKS.—Prior to the start of the grant program, the Director, in collaboration with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, shall develop performance benchmarks to evaluate the pilot programs assisted by grants under this section.

(B) EVALUATION.—For each year of the grant period, the Director, in consultation with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, shall complete an evaluation of each program assisted by grants under this section. Any program that fails to satisfy the performance benchmarks developed under subparagraph (A) shall not be eligible for further funding.

(C) REPORT.—Not later than 180 days after the completion of an evaluation described in subparagraph (B), the Director shall submit a report to Congress that includes—

(i) the results of the evaluation; and

(ii) recommendations for administrative and legislative action that could optimize the effectiveness of the pilot programs, as the Director determines to be appropriate.

#### SEC. 7035. SENSE OF CONGRESS ON COMMUNICATIONS TRAINING FOR SCIENTISTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that institutions of higher education receiving awards under the Integrative Graduate Education and Research Traineeship program of the Foundation should, among the activities supported under these awards, train graduate students in the communication of the substance and importance of their research to nonscientist audiences.

(b) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Director shall transmit a report to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate, describing the training programs described in subsection (a) provided to graduate students who participated in the Integrative Graduate Education and Research Traineeship program. The report shall include data on the number of graduate students trained and a description of the types of activities funded.

#### SEC. 7036. MAJOR RESEARCH INSTRUMENTATION.

(a) AWARD AMOUNT.—The minimum amount of an award under the Major Research Instrumentation program shall be \$100,000. The maximum amount of an award under the program shall be \$4,000,000 except if the total amount appropriated for the program for a fiscal year exceeds \$125,000,000, in which case the maximum amount of an award shall be \$6,000,000.

(b) USE OF FUNDS.—In addition to the acquisition of instrumentation and equipment, funds made available by awards under the Major Research Instrumentation program may be used to support the operations and maintenance of such instrumentation and equipment.

(c) COST SHARING.—

(1) IN GENERAL.—An institution of higher education receiving an award under the Major Research Instrumentation program shall provide at least 30 percent of the cost from private or non-Federal sources.

(2) EXCEPTIONS.—Institutions of higher education that are not Ph.D.-granting institutions are exempt from the cost sharing requirement in paragraph (1), and the Director may reduce or waive the cost sharing requirement for—

(A) institutions—

(i) that are not ranked among the top 100 institutions receiving Federal research and development funding, as documented by the statistical data published by the Foundation; and

(ii) for which the proposed project will make a substantial improvement in the institution's capabilities to conduct leading edge research, to provide research experiences for undergraduate students using leading edge facilities, and to broaden the participation in science and engineering research by individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b); and

(B) consortia of institutions of higher education that include at least one institution that is not a Ph.D.-granting institution.

#### SEC. 7037. LIMIT ON PROPOSALS.

(a) POLICY.—For programs supported by the Foundation that require as part of the selection process for awards the submission of preproposals and that also limit the number of preproposals that may be submitted by an institution, the Director shall allow the subsequent submission of a full proposal based on each preproposal that is determined to have merit following the Foundation's merit review process.

(b) REVIEW AND ASSESSMENT OF POLICIES.—The Board shall review and assess the effects on institutions of higher education of the policies of the Foundation regarding the imposition of limitations on the number of proposals that may be submitted by a single institution for programs supported by the Foundation. The Board shall determine whether current policies are well justified and appropriate for the types of programs that limit the number of proposal submissions. Not later than 1 year after the date of enactment of this Act, the Board shall summarize the Board's findings and any recommendations regarding changes to the current policy on the restriction of proposal submissions in a report to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate.

#### TITLE VIII—GENERAL PROVISIONS

##### SEC. 8001. COLLECTION OF DATA RELATING TO TRADE IN SERVICES.

(a) REPORT.—Not later than January 31, 2008, the Secretary of Commerce, acting through the Director of the Bureau of Economic Analysis, shall report to Congress on the feasibility, annual cost, and potential benefits of a program to collect and study data relating to export and import of services.

(b) PROGRAM.—The proposed program to be studied under subsection (a) shall include requirements that the Secretary annually—

(1) provide data collection and analysis relating to export and import of services;

(2) collect and analyze data for service imports and exports in not less than 40 service industry categories, on a State-by-State basis;

(3) collect data on, and analyze, the employment effects of exports and imports on the service industry; and

(4) integrate ongoing and planned data collection and analysis initiatives in research and development and innovation.

##### SEC. 8002. SENSE OF THE SENATE REGARDING SMALL BUSINESS GROWTH AND CAPITAL MARKETS.

(a) FINDINGS.—Congress finds that—

(1) the United States has the most fair, most transparent, and most efficient capital markets in the world, in part due to its strong securities statutory and regulatory scheme;

(2) it is of paramount importance for the continued growth of the economy of the Nation, that our capital markets retain their leading position in the world;

(3) small businesses are vital participants in United States capital markets, and play a critical role in future economic growth and high-wage job creation;

(4) section 404 of the Sarbanes-Oxley Act of 2002 has greatly enhanced the quality of corporate governance and financial reporting for public companies and increased investor confidence;

(5) the Securities and Exchange Commission (referred to in this section as the "Commission") and the Public Company Accounting Oversight Board (referred to in this section as the "PCAOB") have both determined that the current auditing standard implementing section 404 of the Sarbanes-Oxley Act of 2002 has imposed unnecessary and unintended cost burdens on small and mid-sized public companies;

(6) the Commission and the PCAOB are now near completion of a 2-year process intended to revise the auditing standard in order to provide more efficient and effective regulation; and

(7) the Chairman of the Commission recently has said, with respect to section 404 of the Sarbanes-Oxley Act of 2002, that, "We don't need to change the law, we need to change the way the law is implemented. It is the implementation of the law that has caused the excessive burden, not the law itself. That's an important distinction. I don't believe these important investor protections, which are even now only a few years old, should be opened up for amendment, or that they need to be."

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that the Commission and the PCAOB should complete promulgation of the final rules implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262).

**SEC. 8003. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF ACTIVITIES, GRANTS, AND PROGRAMS.**

Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress that—

(1) assesses and evaluates the effectiveness of a representative sample of the new or expanded programs and activities (including programs and activities carried out under grants) required to be carried out under this Act; and

(2) includes such recommendations as the Comptroller General determines are appropriate to ensure effectiveness of, or improvements to, the programs and activities, including termination of programs or activities.

**SEC. 8004. SENSE OF THE SENATE REGARDING ANTI-COMPETITIVE TAX POLICY.**

It is the sense of the Senate that Federal funds should not be provided to any organization or entity that advocates against a United States tax policy that is internationally competitive.

**SEC. 8005. STUDY OF THE PROVISION OF ONLINE DEGREE PROGRAMS.**

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Education shall enter into an arrangement with the National Academy of Sciences to conduct a study and provide a report to the Secretary, the Secretary of Commerce, and Congress. The study shall consider the mechanisms and supports needed for an institution of higher education (as defined in section 7001) or nonprofit organization to develop and maintain a program to provide free access to online educational content as part of a degree program, especially in science, technology, engineering, mathematics, or foreign languages, without using Federal funds, including funds provided

under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) The study shall consider whether such a program could be developed and managed by such institution of higher education or nonprofit organization and sustained through private funding. The study shall examine how such program can—

(1) build on existing online programs, including making use of existing online courses;

(2) modify or expand traditional course content for online educational content;

(3) develop original course content for online courses and degree programs;

(4) provide necessary laboratory experience for science, technology, and engineering courses;

(5) be accepted for full credit by other institutions of higher education; and

(6) provide credentials that would be recognized by employers, enabling program participants to attain employment.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2008.

**SEC. 8006. SENSE OF THE SENATE REGARDING DEEMED EXPORTS.**

It is the sense of the Senate that—

(1) the policies of the United States Government relating to deemed exports should safeguard the national security of the United States and protect fundamental research;

(2) the Department of Commerce has established the Deemed Export Advisory Committee to develop recommendations for improving current controls on deemed exports; and

(3) the President and Congress should consider the recommendations of the Deemed Export Advisory Committee in the development and implementation of export control policies.

**SEC. 8007. SENSE OF THE SENATE REGARDING CAPITAL MARKETS.**

It is the sense of the Senate that—

(1) Congress, the President, regulators, industry leaders, and other stakeholders should take the necessary steps to reclaim the preeminent position of the United States in the global financial services marketplace;

(2) the Federal and State financial regulatory agencies should, to the maximum extent possible—

(A) coordinate activities on significant policy matters, so as not to impose regulations that may have adverse unintended consequences on innovativeness with respect to financial products, instruments, and services, or that impose regulatory costs that are disproportionate to their benefits; and

(B) at the same time, ensure that the regulatory framework overseeing the United States capital markets continues to promote and protect the interests of investors in those markets; and

(3) given the complexity of the financial services marketplace, Congress should exercise vigorous oversight over Federal regulatory and statutory requirements affecting the financial services industry and consumers, with the goal of eliminating excessive regulation and problematic implementation of existing laws and regulations, while ensuring that necessary investor protections are not compromised.

**SEC. 8008. ACCOUNTABILITY AND TRANSPARENCY OF ACTIVITIES AUTHORIZED BY THIS ACT.**

(a) **PROHIBITED USE OF FUNDS.**—A grant or contract funded by amounts authorized by this Act may not be used for the purpose of defraying the costs of a banquet or conference that is not directly and programmatically related to the purpose for which the grant or contract was awarded. A directly and programmatically related banquet or conference includes a banquet or conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract. Records of the total costs related to, and justifications for, all banquets and

conferences shall be reported to the appropriate Department, Administration, or Foundation. Not later than 60 days after receipt of such records, the appropriate Department, Administration, or Foundation shall make the records available to the public.

(b) **CONFLICT OF INTEREST STATEMENT.**—Any person awarded a grant or contract funded by amounts authorized by this Act shall submit a statement to the Secretary of Commerce, the Secretary of Energy, the Secretary of Education, the Administrator, or the Director, as appropriate, certifying that no funds derived from the grant or contract will be made available through a subcontract or in any other manner to another person who has a financial interest or other conflict of interest in the person awarded the grant or contract, unless such conflict is previously disclosed and approved in the process of entering into a contract or awarding a grant. Not later than 60 days after receipt of the certification, the appropriate Secretary, Administrator, or Director shall make all documents received that relate to the certification available to the public.

(c) **APPLICATION TO FEDERAL GRANTS AND CONTRACTS.**—Subsections (a) and (b) shall take effect 360 days after the date of enactment of this Act.

(d) **EXCEPTION.**—Subsections (a) and (b) shall not apply to grants or contracts authorized under sections 6201 and 6203.

And the Senate agree to the same. From the Committee on Science and Technology, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

BART GORDON,  
DANIEL LIPINSKI,  
BRIAN BAIRD,  
DAVID WU,  
NICK LAMPSON,  
MARK UDALL,  
GABRIELLE GIFFORDS,  
JERRY MCNERNEY,  
VERNON J. EHLERS,

From the Committee on Education and Labor, for consideration of Division C of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,  
RUSH HOLT,

Managers on the Part of the House.

JEFF BINGAMAN,  
DANIEL K. INOUE,  
EDWARD KENNEDY,  
JOSEPH LIEBERMAN,  
BARBARA A. MIKULSKI,  
JOHN F. KERRY,  
BILL NELSON,  
PETE V. DOMENICI,  
TED STEVENS,  
MICHAEL B. ENZI,  
LAMAR ALEXANDER,  
JOHN ENSIGN,  
NORM COLEMAN,

Managers on the Part of the Senate.

**JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE**

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2272) to invest in innovation through research and development, and to improve the competitiveness of the United States, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

## TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY; GOVERNMENT-WIDE SCIENCE

NATIONAL SCIENCE AND TECHNOLOGY SUMMIT  
(SEC. 1001)

The Senate amendment contained a provision (sec. 1101) that would require the President to convene a National Science and Technology Summit within 180 days of enactment to evaluate the health and direction of the nation's science, technology, engineering, and mathematics enterprises and to identify key research and technology challenges and recommendations for research and development investment over the next five years.

The House bill contained no similar provision.

The House recedes to subsections (a) and (b) and agrees to modified text for subsection (c).

## STUDY ON BARRIERS TO INNOVATION (SEC. 1002)

The Senate amendment contained a provision (sec. 1102) that requires the Director of the Office of Science and Technology Policy (OSTP) to enter into a contract with the National Academy of Sciences one year after enactment and four years after enactment to conduct a study to identify forms of risk that create barriers to innovation. The study is intended to review the long-term value of innovation to the business community and to identify means to mitigate risks presently associated with such innovation activities.

The House bill contained no similar provision.

The House recedes to the Senate provision with the removal of paragraphs (a)(13) and (a)(14).

NATIONAL TECHNOLOGY AND INNOVATION MEDAL  
(SEC. 1003)

The Senate amendment contained a provision (sec. 1103) that amends Section 16 of the Stevenson-Wydler Technology Innovation Act of 1980 to rename the "National Technology Medal" as the "National Technology and Innovation Medal."

The House bill contained a provision (sec. 205) that establishes the Presidential Innovation Award to be presented periodically, on the basis of recommendations from the director of the Office of Science and Technology Policy, to citizens or permanent residents of the United States who develop unique scientific or engineering ideas judged to stimulate scientific and engineering advances in the national interest, to illustrate the linkage between science and engineering and national needs, and to provide an example to excite the interest of students in science or engineering professions.

The House recedes.

## SEMIANNUAL SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS DAYS (SEC. 1004)

The Senate amendment contained a provision (sec. 1105) that expresses the Sense of Congress that OSTP should encourage all elementary and middle schools to observe a Science, Technology, Engineering, and Mathematics Day twice in every school year for the purpose of facilitating the interaction between science, technology, engineering, and mathematics mentors and grade school students. This section also expresses a Sense of Congress that OSTP should encourage involvement of federal employees, the private sector, and institutions of higher learning in such days.

The House bill contained no similar provision.

The House recedes.

## STUDY OF SERVICE SCIENCE (SEC. 1005)

The Senate amendment contained a provision (sec. 1106) that would express a Sense of Congress that the Federal Government

should better understand and respond strategically to the emerging management and learning discipline known as "service science." The provision would require the Director of OSTP, through the National Academy of Sciences, to conduct a study on how the Federal Government should best support service science through research, education, and training.

The House bill contained no similar provision.

The House recedes with an amendment to change the report requirement from 270 days to 1 year.

## PRESIDENT'S COUNCIL ON INNOVATION AND COMPETITIVENESS (SEC. 1006)

The Senate amendment contained a provision (sec. 1201) that would require the President to establish a President's Council on Innovation and Competitiveness to develop a comprehensive agenda to promote innovation in the public and private sectors. The Council, which could be constituted by designating an existing body to perform its functions, would include the Secretaries of Commerce, Defense, Education, Health and Human Services, Homeland Security, Labor, and Treasury along with the heads of the National Aeronautics and Space Administration, the Securities and Exchange Commission, the National Science Foundation, the Office of the United States Trade Representative, the Office of Management and Budget, the Office of Science and Technology Policy, the Environmental Protection Agency, the Small Business Administration, and other relevant federal agencies involved in innovation. As the President's Council on Innovation and Competitiveness develops a comprehensive agenda for strengthening innovation and competitiveness it should consult with advisors from the private sector, labor, scientific organizations, academic organizations, and other nongovernmental organizations working in the area of science or technology.

The House bill contained no similar provision.

The House recedes.

## NATIONAL COORDINATION OF RESEARCH INFRASTRUCTURE (SEC. 1007)

The House bill contained a provision (sec. 206) that establishes a National Coordination Office for Research Infrastructure under the OSTP to identify and prioritize deficiencies in research facilities and instrumentation in academic institutions and national laboratories and to make recommendations for use of funding authorized. The Office is directed to report to Congress annually at the time of the Administration's budget proposal.

The Senate amendment contained no similar provision.

The Conferees agree to modified language that directs the Director of the OSTP to identify and prioritize the deficiencies in research facilities and major instrumentation located at Federal laboratories and national user facilities at academic institutions that are widely accessible for use by researchers in the United States. The provision also requires the Director of OSTP to annually submit to Congress, in support of the President's budget, a report setting forth the deficiencies in research infrastructure, projects, and budget proposals of Federal research facilities for major instrumentation acquisitions that are included in the budget and an explanation of how the projects and instrumentation acquisitions relate to the identified deficiencies and priorities.

## SENSE OF CONGRESS ON INNOVATION ACCELERATION RESEARCH (SEC. 1008)

The Senate amendment contained a provision (sec. 1202) that would require the President, through the head of each Federal re-

search agency, to establish the "Innovation Acceleration Research Program" to support and promote innovation in the United States by requiring each department or agency that sponsors scientific research to set as a goal 8 percent of its annual research budget to be directed toward innovation acceleration research.

The House bill contained no similar provision.

The Conferees agree to a modified provision that expresses the Sense of Congress that each Federal research agency should strive to support and promote innovation through high-risk, high-reward basic research and set a goal of allocating an appropriate percentage of its annual basic research budget to funding high-risk, high-reward basic research projects.

RELEASE OF SCIENTIFIC RESEARCH RESULTS  
(SEC. 1009)

The Senate amendment contained a provision (sec. 1104) that would require the Director of OSTP, in consultation with the Director of the Office of Management and Budget (OMB) and the heads of all Federal civilian agencies that conduct scientific research, to develop and issue a set of principles for the communication of scientific information by government scientists, policy makers, and managers to the public within 90 days after the date of enactment.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

## TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

## NASA'S CONTRIBUTION TO INNOVATION (SEC. 2001)

The House bill contained a provision (sec. 209) that expresses the Sense of the Congress that a balanced and robust program in science, aeronautics, exploration, and human space flight at NASA, as authorized in the NASA Authorization Act of 2005, contributes significantly to national innovation and competitiveness. It also directs the NASA Administrator to participate fully in inter-agency efforts to promote innovation and economic competitiveness through scientific research and development.

The Senate amendment contained a provision (sec. 1301) that directs that NASA be regarded as a full participant in interagency activities to promote competitiveness and innovation and to enhance science, technology, engineering, and mathematics education, provided that such efforts are consistent with NASA's mission, including authorized activities. It also identifies NASA's balanced science program as an essential part of NASA's contribution to innovation in and the economic competitiveness of the United States and that funding NASA at the levels authorized in the NASA Authorization Act of 2005 would enable NASA's programs to contribute to U.S. innovation and competitiveness.

The House recedes with modifications.

## AERONAUTICS (SEC. 2002)

The Senate amendment contained a provision (sec. 1302) that would consolidate NASA's aeronautics research authorized under the NASA Authorization Act of 2005 into an Aeronautics Institute for Research within NASA. It would require the Institute to cooperate with relevant programs in the Department of Transportation, the Department of Defense, the Department of Commerce, and the Department of Homeland Security, including the Joint Planning and Development Office established under the VISION 100-Century of Aviation Reauthorization Act. The Aeronautics Institute would be allowed to accept assistance, staff, and funding from other federal departments and agencies.

The House bill contained no similar provision.

The Conferees agree to modified language that includes a Sense of Congress that NASA's aeronautics research and development program has been an important contributor to innovation and to the competitiveness of the United States, and that NASA should maintain its capabilities to advance the state of aeronautics. The provision also includes language that directs the Administrator to coordinate NASA's aeronautics activities with relevant departments and agencies.

#### BASIC RESEARCH ENHANCEMENT (SEC. 2003)

The Senate amendment contained a provision (sec. 1303) that establishes, within NASA, a Basic Research Executive Council to oversee the distribution and management of programs and resources engaged in support of basic research activity including the most senior agency official representing the space science, earth science, life and microgravity sciences, and aeronautical research areas. The duties of the Council will be to set criteria for identification of basic research, set priority of research activity, review and evaluate research activity, make recommendations regarding needed adjustments in research activities, and provide annual reports to Congress on research activities.

The House bill contained no similar provision.

The Conferees agree to strike all but subsection (a) as amended.

#### AGING WORKFORCE ISSUES PROGRAM (SEC. 2004)

The Senate amendment contained a provision (sec. 1304) that expresses the Sense of Congress that the NASA Administrator should implement a program to address aging workforce issues in aerospace that would document technical and management experiences of senior NASA employees before they leave the Administration, provide incentives for retirees to return to NASA to teach new NASA employees about their lessons and experiences, and provide for the development of an award to recognize and reward senior NASA employees for their contribution to knowledge sharing.

The House bill contained no similar provision.

The House recedes.

#### SENSE OF THE CONGRESS REGARDING NASA'S UNDERGRADUATE STUDENT RESEARCH PROGRAM (SEC. 2005)

The Senate amendment contained no provision.

The House bill contained no provision.

The Conferees agree to include a provision to express the Sense of Congress that in order to generate interest in careers in science, technology, engineering, and mathematics and to help train the next generation of space and aeronautics scientists, technologists, engineers, and mathematicians, the Administrator should utilize NASA's existing Undergraduate Student Research Program to support basic research projects on subjects relevant to NASA.

#### USE OF INTERNATIONAL SPACE STATION NATIONAL LABORATORY TO SUPPORT MATH AND SCIENCE EDUCATION AND COMPETITIVENESS (SEC. 2006)

The Senate amendment contained no provision.

The House bill contained no provision.

The Conferees agree to include a provision to express the Sense of Congress that the International Space Station National Laboratory offers unique opportunities for educational activities and provides a unique resource for research and development in science, technology, and engineering which can enhance the global competitiveness of the United States. The provision also directs

the Administrator to develop detailed plans for implementing one or more education projects that utilize the International Space Station and identifying and supporting research to be conducted aboard the International Space Station.

#### Fiscal Year 2008 basic science and research funding

The Senate amendment contained a provision (sec. 1306) that increases funding for basic science and research, including for the Explorer program, for fiscal year 2008 by \$160 million by transferring such amount for such purpose from NASA accounts. The availability of these funds is made contingent upon unobligated balances being available to NASA.

The House bill contained no similar provision.

The Senate recedes.

#### Conforming amendments

The Senate amendment contained a provision (sec. 1305) that would amend Section 101(d) of the NASA Authorization Act of 2005 by adding that the assessment undertaken by NASA examines the number and content of science activities which may be considered as fundamental, or basic research, whether incorporated within specific missions or conducted independently of any specific mission. In addition, this section would require NASA to assess how NASA science activities can best be structured to ensure that basic and fundamental research can be effectively maintained and coordinated in response to national goals in competitiveness and innovation.

The House bill contained no similar provision.

The Senate recedes.

#### TITLE III—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

##### AUTHORIZATION OF APPROPRIATIONS (SEC. 3001)

The House bill contained provisions (sec. 411 and 412) that authorize appropriations for the next three fiscal years. Included in the House provisions were authorizations for Science and Technical Research and Services of \$470.9 million for Laboratory Activities, \$7.9 million for the Malcolm Baldrige National Quality Award Program, and \$93.9 million for Construction and Maintenance in FY08; \$497.8 million for Laboratory Activities, \$8.1 million for the Malcolm Baldrige National Quality Award Program, and \$86.4 million for Construction and Maintenance in FY09; and \$537.6 million for Laboratory Activities, \$8.3 million for the Malcolm Baldrige National Quality Award Program, and \$49.7 million for Construction and Maintenance in FY10. In addition, the House provision authorizes for Industrial Technology Services: \$223 million for FY08, of which \$110 million is for the Technology Innovation Program (TIP) of which at least \$45 million shall be for new awards, and \$113 million is for the Manufacturing Extension Partnership (MEP) Program of which not more than \$1 million is for the MEP competitive grant program; \$263.5 million for FY09, of which \$141.5 million is for the TIP of which at least \$45 million shall be for new awards, and \$122 million is for the MEP of which not more than \$4 million is for the MEP competitive grant program; and \$282.3 million for FY10, of which \$150.5 million is for the TIP of which at least \$45 million shall be for new awards, and \$131.8 million is for the MEP of which not more than \$4 million is for the MEP competitive grant program.

The Senate amendment contained a provision (sec. 1401) that authorized appropriations for the next four fiscal years. The Senate provision authorizes \$703.6 million in FY08 of which \$115 million is for the MEP; \$774 million in FY09 of which \$122 million is

for the MEP; \$851.4 million in FY10 of which \$131.8 million is for the MEP; and \$936.5 million in FY11 of which \$142.3 million is for the MEP.

The Conferees agree to alternate language that authorizes NIST appropriations for three years and at sums for Science and Technical Research and Services of \$502.1 million for Laboratory Activities and \$150.9 million for Construction and Maintenance in FY08; \$541.9 million for Laboratory Activities and \$86.4 million for Construction and Maintenance in FY09; and \$584.8 million for Laboratory Activities and \$49.7 million for Construction and Maintenance in FY10. In addition, the Conferees authorize for Industrial Technology Services: \$210 million for FY08, of which \$100 million is for the Technology Innovation Program (TIP) of which at least \$40 million shall be for new awards, and \$110 million is for the Manufacturing Extension Partnership (MEP) Program of which not more than \$1 million is for the MEP competitive grant program; \$253.5 million for FY09, of which \$131.5 million is for the TIP of which at least \$40 million shall be for new awards, and \$122 million is for the MEP of which not more than \$4 million is for the MEP competitive grant program; and \$272.3 million for FY10, of which \$140.5 million is for the TIP of which at least \$40 million shall be for new awards, and \$131.8 million is for the MEP of which not more than \$4 million is for the MEP competitive grant program.

##### AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980 (SEC. 3002)

The Senate amendment contained a provision (sec. 1402) that eliminates the Technology Administration and the Under Secretary of Commerce for Technology at the Department of Commerce, and makes conforming amendments.

The House bill contained no similar provision.

The Conferees agree to a modified provision that restructures the Technology Administration Authority and makes appropriate conforming amendments, including clarification that the Directors of the National Institute of Standards and Technology and the National Technical Information Service shall report directly to the Secretary of Commerce.

The Senate amendment contained a provision (sec. 1405) that re-establishes the Experimental Program to Stimulate Competitive Technology (EPSCoT), which was previously managed by the Technology Administration, at NIST. In making awards under this section the NIST Director is directed to ensure that the awards are made on a competitive basis. Special emphasis would be given to projects which would increase the participation of women, Native Americans (including Native Hawaiians and Alaska Natives) and other under-represented groups in science and technology. The program has a matching requirement of not less than 50 percent.

The House bill contains no similar provision.

The Conferees agree to a modified provision that transfers the responsibility of the EPSCoT to the Secretary of Commerce rather than the Director of the National Institute of Standards and Technology as in the original Senate provision.

##### MANUFACTURING EXTENSION PARTNERSHIP (SEC. 3003)

The Senate amendment contained a provision (sec. 1407) that would amend paragraph 3 of section 25(c) of the National Institute of Standards and Technology Act to clarify that a MEP Center that receives Federal aid must pay for at least 50 percent of the costs incurred in operating the Center with funding from non-Federal sources for the first 3 years and an increasing percentage for the

last three years in which the Center is receiving aid under the program. All non-Federal funding that a Center receives from private industry, universities, and State governments, may be included as a portion of the Center's 50 percent or greater funding obligation, if it is determined by the Center to be programmatically reasonable and allowable.

The House bill contained no similar provision.

The House recedes to a modified provision.

The House bill contained a provision (sec. 423(A)) that creates an independent and outside Advisory Board for the MEP to assess and provide advice on MEP programs, plans, policies, and performance.

The Senate amendment contained no similar provision.

The Senate recedes.

The House bill contained a provision (sec. 423(B)) that allows the MEP to accept funds from the private sector and other Federal departments and agencies. The provision specifies that these funds shall not be considered in the calculation of the Federal cost-share.

The Senate amendment contained a similar provision (sec. 1404 (b)) that allows the MEP to accept funds from the private sector and other Federal departments and agencies and stipulates that any private sector funding would not be considered a part of the Federal share in the calculation of the Federal cost-share. Funding accepted from other Federal departments or agencies may be considered in the calculation of the Federal cost share.

The Conferees agree to a modified provision that allows the MEP to accept funds from the private sector and other Federal departments and agencies. Any private sector funding would not be considered a part of the Federal share in the calculation of the Federal cost-share. When funds are accepted from other Federal departments or agencies, the provision specifies that the Director shall make the determination if funds from other Federal departments and agencies shall be considered a part of the Federal share in the calculation of the Federal cost share.

The Senate amendment contained a provision (sec. 1404(a)) that amends section 25(c)(5) of the National Institute of Standards and Technology Act (15 USC 278(c)(5)) by inserting a probationary program for MEP Centers that have not received a satisfactory rating. If a Center's performance has not improved in one year, the Director would be required to conduct a competition to select a new operator for the Center.

The House bill contained no similar provision.

The House recedes.

The House bill contained a provision (sec. 423(C)) that establishes a competitive grants program for MEP Centers or consortia of Centers. The grants are for Centers to conduct projects to solve new or emerging manufacturing problems. Awardees are not required to provide matching funds.

The Senate amendment contained no similar provision.

The Senate recedes.

INSTITUTE-WIDE PLANNING REPORT (SEC. 3004)

The House bill contained a provision (sec. 421) that requires the Director of NIST to submit a 3-year programmatic planning document for NIST to Congress and submit yearly updates thereafter.

The Senate amendment contained no similar provision.

The Senate recedes.

REPORT BY VISITING COMMITTEE (SEC. 3005)

The House bill contained a provision (sec. 422) that changes the reporting requirement for the Visiting Committee on Advanced

Technology to be due 30 days after the budget submission and to comment on the NIST Director's 3-year planning document.

The Senate amendment contained no similar provision.

The Senate recedes.

MEETINGS OF VISITING COMMITTEE ON  
ADVANCED TECHNOLOGY (SEC. 3006)

The House bill contained a provision (sec. 428) that reduces the frequency of meetings for the Visiting Committee on Advanced Technology from quarterly to twice annually.

The Senate amendment contained no similar provision.

The Senate recedes.

COLLABORATIVE MANUFACTURING RESEARCH  
PILOT GRANTS (SEC. 3007)

The House bill contained a provision (sec. 426) that establishes a collaborative manufacturing research pilot grant program for partnerships between at least one industry and one non-industry partner, with the purpose of fostering collaboration and conducting applied research on manufacturing. The award can be no more than one-third of the cost of the partnership, with no more than an additional one-third coming from other Federal sources. NIST will run one pilot competition and awards will be for three years.

The Senate amendment contained no similar provision.

The Senate recedes.

MANUFACTURING FELLOWSHIP PROGRAM (SEC.  
3008)

The House bill contained a provision (sec. 427) that establishes a program of postdoctoral and senior research fellowships at NIST in manufacturing sciences.

The Senate amendment contained no similar provision.

The Senate recedes.

PROCUREMENT OF TEMPORARY AND  
INTERMITTENT SERVICES (SEC. 3009)

The House bill contained a provision (sec. 449) that authorizes NIST to issue up to 200 personal services contracts per year to procure the temporary or intermittent services of scientific and technical experts and consultants. The authority expires in 2010.

The Senate amendment contained no similar provision.

The Senate recedes.

MALCOLM BALDRIGE AWARDS (SEC. 3010)

The House bill contained a provision (sec. 450) that raises to 18 the limit on the number of annual awards under the Malcolm Baldrige National Quality Award Program and removes category restrictions.

The Senate amendment contained no similar provision.

The Senate recedes.

REPORT ON NATIONAL INSTITUTE OF STANDARDS  
AND TECHNOLOGY EFFORTS TO RECRUIT AND  
RETAIN EARLY CAREER SCIENCE AND ENGI-  
NEERING RESEARCHERS (SEC. 3011)

The House bill contained a provision (sec. 208) that requires the Director of NIST to report on efforts to recruit and retain young scientists and engineers at the early stages of their careers.

The Senate amendment contained no similar provision.

The Senate recedes.

TECHNOLOGY INNOVATION PROGRAM (SEC. 3012)

The House bill contained a provision (sec. 424) that repeals the existing Advanced Technology Program (ATP) statute and creates the Technology Innovation Program (TIP). The purpose of TIP is to assist businesses and universities to accelerate the development of high-risk technologies that will have broad-based economic impact. The TIP

will make awards to either small- or medium-sized businesses or joint ventures. Awards made to single companies can be for no more than \$3 million over three years. Awards made to joint ventures may not exceed \$9 million over five years. (A joint venture includes either two separately owned for-profit companies with the lead being a small- or medium-sized business, or at least one small- or medium-sized business and one institution of higher education.) The Federal share of a project shall not exceed 50 percent. To participate in the TIP an eligible company must be majority owned by U.S. citizens or owned by a parent company incorporated in another country provided that the company's participation is in U.S. economic interests. The provision establishes minimum criteria for the selection of awards based upon scientific and technological merit, the project's potential for benefits that extend beyond direct return to the applicant, the applicant's ability to manage the award successfully and an explanation of why TIP support is necessary. In the case of joint ventures, language is included to ensure that intellectual property is to vest in any participant as agreed to by the joint venture participants. The provisions requires the TIP to continue funding awards made under the prior Advanced Technology Program, requires the Director to coordinate with other Federal agencies to ensure there is no duplication of efforts, and allows the TIP to accept funds from other Federal agencies. An Advisory board is established to provide independent advice on TIP operations and planning.

The Senate amendment contained no similar provision.

The Conferees agree to accept a modified version of the House provision. The modifications clarify that the focus of the program is to support, promote, and accelerate innovation in the United States through high-risk, high-reward research in areas of critical national need, and establish that large companies may not receive any TIP funding. The modified version also includes a list of award criteria requiring the applicant to: establish that the proposed technology has strong potential to address critical national needs through transforming the Nation's capacity to deal with major societal challenges that are not currently being addressed; provide evidence that the research will not be conducted within a reasonable time period without TIP assistance; demonstrate that reasonable efforts were made by the applicant to secure funding from alternative sources and that no other alternative funding sources were reasonably available; and demonstrate that other entities have not already developed, commercialized, marketed, distributed or sold similar technologies. In addition, the Director shall transmit to Congress an annual report on the program's activities. The TIP may accept funds from other Federal agencies, and these funds will be included as part of the Federal cost share of any TIP project. The section also provides a definition of "high-risk, high-reward research."

TECHNICAL AMENDMENTS TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AND OTHER TECHNICAL AMENDMENTS (SEC. 3013)

The House bill contained several provisions (sec. 425, 442, 443, 445, 446, 447, and 448) that make technical amendments to the NIST Act. These provisions: raise the limitation on the amount NIST can spend on research fellowships from 1 percent to 1.5 percent of the total appropriations; authorize NIST to enter into grants and cooperative agreements in addition to its current authority to enter into contracts and cooperative research and development agreements; authorize NIST to transfer up to 0.25 percent of its

total appropriations, and any funds from other agencies given to NIST to produce Standard Reference Materials, into the Working Capital Fund; repeal an outdated statute requiring the NIST Director to establish a program to evaluate non-energy inventions; clarify in statute that the metric system used in the U.S. is the modern system of metric measurement units; eliminate archaic, special-case language related to the definition of units of electrical and light measurement; and specify that standard time in the US is Coordinated Universal Time and fix technical problems in statute with the time zone definitions.

The Senate amendment contained a provision (sec. 1406) that makes technical amendments to the NIST Act as requested in previous years by the President. These provisions: eliminate the limitation on the amount NIST can spend on research fellowships; authorize NIST to enter in grants and cooperative agreements in addition to its current authority to enter in contracts and cooperative research and development agreements; authorize NIST to purchase memberships in scientific organizations and pay registration fees for NIST employees' attendance at conferences; clarify in statute that the metric system used in the U.S. is the modern system of metric measurement units; eliminate archaic, special-case language related to the definition of units of electrical and light measurement; specify that standard time in the U.S. is Coordinated Universal Time and fix technical problems in statute with the time zone definitions; and repeal an outdated statute requiring the NIST Director to establish a program to evaluate non-energy inventions.

The Senate recesses to sec 425 of the House bill.

The Conferees agree to include all House and Senate provisions, except the Working Capital Fund Transfers (sec. 443 of the House bill) and the authorization for NIST to purchase memberships in scientific organizations and pay registration fees for NIST employees' attendance at conferences (sec. 1406(b)(2) of the Senate amendment).

RETENTION OF DEPRECIATION SURCHARGE (SEC. 3014)

The House bill contained a provision (sec. 444) that allows NIST to retain the building use and depreciation surcharge fees that are charged by the General Services Administration.

The Senate amendment contained no similar provision.

The Senate recesses.

POST-DOCTORAL FELLOWS (SEC. 3015)

The House bill contained a provision (sec. 441) that raises the cap on the number of post-doctoral fellows that NIST can accept each year from 60 to 120.

The Senate amendment contained no similar provision.

The Senate recesses.

*Innovation acceleration*

The Senate amendment contained a provision (sec. 1403) that establishes an Innovation Acceleration grants program at NIST to be known as the "Standards and Technology Acceleration Research Program." The purpose of the program is to support and promote innovation in the United States through high-risk, high-reward research. No less than 8 percent of the funds available to NIST are for this program, and they shall be taken from the funds available to NIST for Laboratory Activities. At least 80 percent of the funds available to the program shall be used to award competitive, merit-reviewed grants, cooperative agreements or contracts to public or private entities, including businesses and universities. The Director is re-

quired to ensure that any resulting intellectual property from awards under the program shall vest in a United States entity that can commercialize the technology in a timely manner. Each funded project would be required to have a least one small- or medium-sized business and would receive priority when educational institutions are involved. The Director is required to solicit proposals annually to address areas of national need for high-risk, high-reward research. "High-risk, high-reward research" is defined as research that: 1) has the potential for yielding results with far-ranging or wide-ranging implications, 2) addresses critical national needs related to measurement standards and technology, and 3) is too novel or too interdisciplinary to fare well in the traditional peer-review process.

The House bill contained no similar provision.

The Senate recesses.

*Manufacturing research database*

The House bill contained a provision (sec. 429) that requires NIST to establish a manufacturing research database to enable private sector individuals and Federal officials to access a broad range of information on manufacturing research supported by Federal funding. NIST may charge a nominal fee for use of the database. This section authorizes \$2 million for these activities.

The Senate amendment contained no similar provision.

The House recesses.

TITLE IV—OCEAN AND ATMOSPHERIC PROGRAMS

OCEAN AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM (SEC. 4001)

The Senate amendment contained a provision (sec. 1501) that directs the Administrator of NOAA, in consultation with the NASA and the NSF, to establish a coordinated program of ocean, coastal, Great Lakes, and atmospheric research, in collaboration with academic and nongovernmental entities, that is focused on the development of advanced technologies and analytic methods to promote U.S. leadership in ocean and atmospheric science and competitiveness in the uses of such knowledge.

The House bill contains no similar provision.

The House recesses.

NOAA OCEAN AND ATMOSPHERIC SCIENCE EDUCATION PROGRAMS (SEC. 4002)

The Senate amendment contained a provision (sec. 1502) that directs the Administrator of NOAA to develop, conduct, and coordinate education activities, built upon existing NOAA programs, to increase public awareness of ocean, coastal, Great Lakes, and atmospheric science and stewardship. The Administrator of NOAA is also directed to develop a science education plan for the next twenty years and evaluate and update the education plan every five years thereafter.

The House bill contains no similar provision.

The House recesses.

NOAA'S CONTRIBUTION TO INNOVATION (SEC. 4003)

The Senate amendment contained a provision (sec. 1503) that directs that NOAA is to be a full participant in interagency efforts to promote innovation and economic competitiveness, consistent with the agency mission.

The House contains no similar provision.

The House recesses.

TITLE V—DEPARTMENT OF ENERGY

MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION AT THE DEPARTMENT OF ENERGY (SEC. 5003)

The Senate amendment (section 2003) contained a provision that would amend the De-

partment of Energy Science Education Enhancement Act (42 U.S.C. 7381a) to establish a Director of Mathematics, Science and Engineering Education, reporting to the Undersecretary of Science. The Director would be responsible for coordinating Mathematics, Science and Engineering Education across the Department of Energy; preparing unified budgets; and acting as the interagency liaison for this area. The Secretary is directed to establish a separate fund to which 0.3 percent of funds made available to the Department for research, development, demonstration and commercial application activities for each fiscal year are made available to carry out activities authorized in this Act.

The House bill contained no similar provision.

The House recesses to the Senate with an amendment requiring along with the Department's annual budget proposal a description of how funds were spent from this fund in the prior fiscal year and a proposal for how they will be spent in the fiscal year of the budget proposal.

PILOT PROGRAM OF GRANTS TO SPECIALTY SCHOOLS FOR MATHEMATICS AND SCIENCE (SEC. 5003, CHPT. 1)

The Senate amendment contained a provision to establish a competitive grant program to assist States in establishing or expanding public, statewide specialty schools that provide comprehensive mathematics, science, engineering and technology education. The provision authorized scientific and engineering staff of the National Laboratories to assist in teaching courses in statewide specialty schools in mathematics and science education, and to use National Laboratory scientific equipment in the teaching of courses. The Federal share of the costs of establishing or expanding public statewide specialty schools for mathematics and science would not exceed 50 percent. The Senate amendment provided \$140 million over 4 years for these schools.

The House bill contained no similar provision.

The House recesses with an amendment authorizing a 3-year pilot program; setting a cap on the award amount and duration for each State; reducing the Federal share; clarifying the required uses of funds; and reducing the total authorization to \$66.5 million over fiscal years 2008 through 2010.

The conferees intend for all 50 states to be eligible to participate in the pilot program, and that schools serve students residing in the State where the school is located and offer a high quality comprehensive math, science, engineering and technology curriculum designed to improve academic achievement in those areas. The conferees intend for the specialty schools to integrate parental involvement into curricula.

EXPERIENTIAL-BASED LEARNING OPPORTUNITIES (SEC. 5003, CHPT. 2)

The Senate amendment contained a provision to establish summer internships, including internships at the National Laboratories, for middle and high school students to promote experiential, hands-on learning in math and science. The Senate amendment provided \$60 million over 4 years for these internships.

The House bill contained no similar provision.

The House recesses with an amendment to reduce the total authorization to \$22.5 million over fiscal years 2008 through 2010.

The conferees do not intend for this provision to override any policies of the Department as they pertain to liability concerns with hosting minors onsite at the National Laboratories.

NATIONAL LABORATORIES CENTERS OF EXCELLENCE IN SCIENCE, TECHNOLOGY, ENGINEERING AND MATHEMATICS EDUCATION (SEC. 5003, CHPT. 3)

The Senate amendment contained a provision to establish a program at each of the National Laboratories to support a Center of Excellence in Mathematics and Science at one high need public secondary school located in the region of the National Laboratory.

The House bill contained no similar provision.

The House recedes with an amendment providing the National Laboratories flexibility to designate more than 1 high-need school in the region as a Center of Excellence; clarifying the eligibility requirement for partnerships with institutions of higher education; and permitting nonprofit entities to participate in the partnerships.

The conferees intend for the institutions of higher education and any nonprofit partners in this program to have long-standing expertise in teacher training, including pre-service preparation and postgraduate professional development of teachers and other school personnel. In addition, the conferees intend that the schools and students throughout the region benefit from the Centers of Excellence through the distribution of best practices and teacher training at the Centers.

#### SUMMER INSTITUTES (SEC. 5003, CHPT. 4)

The Senate amendment contained a provision to establish programs of summer institutes, at both the National Laboratories and at eligible partner institutions, including universities and certain nonprofits, to strengthen the teaching skills of K-12 math and science teachers. The provision gave priority to the establishment of summer institutes that provide training to teachers from a wide range of high need school districts. The Senate amendment provided \$190 million over 4 years for these institutes.

The House bill contained no similar provision.

The House recedes with an amendment clarifying the definitions of "eligible partner" and "summer institute"; establishing selection criteria for eligible partners; clarifying the assistance provided by the National Laboratories to the eligible partners; specifying the required and allowable uses of funds under this program; and reducing the total authorization to \$60 million over fiscal years 2008 through 2010.

The conferees intend for this provision to create two programs. The first program would provide funds to the National Laboratories to establish or expand existing summer institutes on-site. The conferees encourage the National Laboratories to leverage the federal contribution by continuing to solicit state and local government support along with that of the private sector for these summer institutes. The second program would allow National Laboratory resources, including staff and equipment, to be used to assist eligible partner institutions seeking to establish or expand their own summer institutes. Provision of such assistance may require travel and other expenditures by the National Laboratories. However, the conferees do not intend for all of the funds authorized under this program to be made available directly to eligible partners but that funds shall be made available through the National Laboratories to the eligible partner for the costs associated with hosting an institute provided that the Department of Energy shall ensure adequate oversight of such funds. It is the intent of the conferees that the National Laboratory seek partnerships in which the National Laboratory contributes unique expertise and re-

sources. Under the definition of eligible partners the conferees intend for the institution of higher education that provides training for teachers and principals to have strong and longstanding expertise in teacher training, including pre-service preparation and postgraduate professional development for teachers and other school personnel.

NUCLEAR SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION (SEC. 5004) AND HYDROCARBON SYSTEMS SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION (SEC. 5005)

The Senate bill contained a provision, Section 2003, Chapter 5 that would create a program of grants to institutions of higher education to create or expand research and education programs in nuclear science. The Senate provision placed the authority for this program under the newly created Director of Mathematics, Science and Engineering Education, a position reporting to the Undersecretary for Science. The Senate bill provided \$139.5 million over 4 years for these grants.

The House bill contained no similar provision.

The House recedes with an amendment removing this program from the authority of the newly created Director and elevating it to the level of the Secretary; giving the Secretary more flexibility in determining the duration of grants; creating an additional program for hydrocarbon systems sciences; and reducing the overall authorizations for the program.

The conferees believe that the Office of Science and the Office of Nuclear Energy have distinct roles in supporting nuclear science research and education. Accordingly, the conferees do not intend the new program created in this provision to be a replacement for the existing University Nuclear Science and Engineering Support program authorized in Sec. 954 of the Energy Policy Act of 2005 (EPACT). In particular, the conferees believe that the Office of Nuclear Energy has the responsibility to support university research and training reactors and associated infrastructure, as described in subsection (d) of Sec. 954. In addition, while nuclear sciences has been defined broadly in Sec. 5004 to include a range of fields with varying degrees of relevance to the nuclear energy mission of the Department, it is the intent of the conferees that the Office of Nuclear Energy maintain its primary responsibility for supporting research and human infrastructure development in areas identified by the Secretary as critical to the near term nuclear energy mission. Such support may be in the form of fellowships or research grants as authorized in Sec. 954 of EPACT, or in the form of institutional grants authorized under this Act. The conferees believe that the Office of Science should participate in the new program only in support of basic sciences, which may include fields like separations chemistry that are relevant to the long-term nuclear energy research plan. The conferees encourage the Secretary to allocate responsibilities under this provision accordingly.

The conferees intend for the program of grants to institutions of higher education to create or expand research and education programs in hydrocarbon systems science authorized in Section 5005 to begin to address the decline in resources dedicated to hydrocarbon systems science education at institutions of higher education and bolster the number of graduates with degrees in hydrocarbon systems science. The conferees believe that increasing hydrocarbon systems science programs at institutions of higher education will rebuild the science and engineering capabilities of the nation in this critical energy sector. Programs to educate

and create graduates of hydrocarbon systems science are needed to replace forecasted workforce shortages in this area due to retirements of aging hydrocarbon systems science professionals. The conferees seek to address this workforce challenge in the nation's energy industry.

#### EARLY CAREER GRANTS (SEC. 5006)

The House bill contained a provision (section 203) to award grants to scientists and engineers at the early stage of their careers in academia or in nonprofit, non-degree granting research organizations to conduct research in fields relevant to the mission of the Department, giving priority to grants expanding energy production and use through coal-to-liquids technology and advanced nuclear reprocessing. The grants provide 5 years of research funding support at a minimum of \$80 thousand per year per award and are based upon merit.

The Senate amendment contained a similar provision (section 2004) to award early career grants of not more than \$100 thousand annually for up to 5 years to scientists and engineers within 10 years of completing their doctorate, particularly at National Laboratories or other federally funded research and development centers.

The Senate recedes to the House provision with an amendment expanding eligibility for early career awards to include scientists at the National Laboratories; requiring an award ceiling of \$125 thousand per year; [and striking the priority given to coal-to-liquids technology and advanced nuclear reprocessing.]

#### OFFICE OF SCIENCE AUTHORIZATION (SEC. 5007)

The Senate amendment contained a provision (section 2006) that amended section 971(b) of the Energy Policy Act (42 U.S.C. 16311(B)) by lowering the authorization for the Office of Science in fiscal year 2009 from \$5.2 billion to \$4.8 billion and extending the authorization out to fiscal year 2010 to \$4.945 billion and fiscal year 2011 to \$5.265 billion consistent with the President's American Competitiveness Initiative.

The House bill contained no similar provision.

The House recedes to the Senate with an amendment that retains the authorization levels for the Office of Science found in the Energy Policy Act of 2005 and adds an additional year of authorization in Fiscal Year 2010, increasing it to \$5.814 billion.

#### DISCOVERY SCIENCE INSTITUTES (SEC. 5008)

The Senate amendment contained a provision (section 2007) to select, based upon merit, 3 multidisciplinary institutes centered at National Laboratories to apply fundamental science and engineering discoveries to technological innovations related to missions of the Department and the global competitiveness of the United States. The institutes would partner with institutions of higher education to train engineering students and work with private industry, state and local governments and financing entities, such as venture capital funds, to transition innovative technologies from the institutes to the private sector.

The House bill contained no similar provision.

The House recedes with an amendment striking the partnership with state and local governments as well as financing entities and limiting the funding of any one institute to three years in duration.

#### PROTECTING AMERICA'S COMPETITIVE EDGE FELLOWSHIPS (SEC. 5009)

The Senate amendment contained a provision (section 2008) that would award competitive, merit-based, portable fellowships not exceeding 5 years in duration to students pursuing a Ph.D. at an institution of higher

education in a field relevant to the mission of the Department. Selection criteria included that the applicants be in the upper 10 percent of their class. Funding was authorized based on a fellowship of \$40 thousand—\$50 thousand per year, including a stipend, tuition and incidentals. The enumerated authorizations were to fund in fiscal year 2008 200 fellowships, increasing in fiscal year 2011 to 700 fellowships. A limit on a fee for a third party administrator was placed on the program to approximately 10 percent of the fellowship program.

The House bill contained no similar provision.

The House recedes with an amendment limiting the duration of the fellowship to 3 years within a 5 year period; eliminating the criterion that applicants be in the upper 10 percent of their class; removing the cap on administrative fees; and reducing the total authorization for the program such that the number of fellowships available is approximately 160 in fiscal year 2008 (assuming the same fellowship amount as above), increasing to approximately 430 in fiscal year 2010.

SENSE OF CONGRESS REGARDING CERTAIN RECOMMENDATIONS AND REVIEWS (SEC. 5010)

The Senate amendment contained a provision (section 2009) requiring the Secretary of Energy to implement the recommendations of Government Accountability Report number 04-639 and annually conduct compliance reviews of at least 2 recipients of Department grants in order to comply with Title IX of the Education Amendments of 1972.

The House bill contained no similar provision.

The House recedes with an amendment expressing a Sense of Congress that the Department comply with the recommendations of GAO report 04-639 and annually conduct reviews in accordance with Title IX of at least 2 grant recipients.

DISTINGUISHED SCIENTIST PROGRAM (SEC. 5011)

The Senate amendment contained a provision (section 2011) to establish a program to support the joint appointment of distinguished scientists by institutions of higher education and National Laboratories. The provision authorized \$30 million in fiscal year 2008 to support 30 appointments, increasing to \$100 million in fiscal year 2010 and 2011 to support 100 appointments at \$1 million each, with a requirement for a \$1 million cost-match by the institution of higher education.

The House bill contained no similar provision.

The House recedes with an amendment reducing the total authorization level to \$65 million over fiscal years 2008 through 2010.

It is the intent of the conferees that the amounts authorized for each of fiscal years 2008 through 2010 support appointments at approximately \$1 million with an equal or greater cost-match by the institution of higher education.

ADVANCED RESEARCH PROJECTS AGENCY—ENERGY (SEC. 5012)

The Senate amendment contained a provision (section 2005) that establishes an Advanced Research Projects Authority—Energy, enabling the Secretary acting through a Director to fund projects to overcome long-term and high-risk technological barriers to the development of energy technologies. Authorization of the authority was established based on such sum as necessary to carry out this section for Fiscal Years 2008 through 2011. An authorization for ARPA-E was previously contained in Senate bill S. 2197 in the 109th Congress at \$250 million annually for Fiscal Years 2008 through 2011.

The House bill contained no such provision.

The House recedes with an amendment that establishes an Advanced Research Projects Agency—Energy, or ARPA-E, whose purpose is to fund collaborative research and development to overcome long-term or high-risk technological barriers in energy technologies that industry by itself will not undertake because of technical and financial uncertainty. ARPA-E is to be headed by a Director nominated by the President and confirmed by the Senate. The conferees expect the President to appoint an acting Director who shall have the full authority allowed to the Director under this Act, to serve from the time ARPA-E is established until the Senate acts to confirm a Director. Similar to the Defense Advanced Research Projects Agency the Director is to establish and monitor project milestones, initiate research projects quickly, and just as quickly terminate or restructure projects if such milestones are not achieved. The Director is to utilize the existing authorities granted to the Department of Energy by Congress to fund projects. Projects should be conducted through teams that utilize the talent, resources and facilities found in the nation's universities, National Laboratories and the private sector. In the case of awards to consortia that include one or more of the National Laboratories, the conferees intend that the unique, taxpayer-funded resources and facilities of the National Laboratories be used to complement the abilities of companies, nonprofits, institutions of higher learning, or other participants in the consortia. The Director is given hiring authority to hire 70 to 120 scientific, engineering personnel to act as program managers without regard to civil service laws to quickly offer competitive salaries rivaling those of industry. Use of this hiring authority is limited to a 3 year appointment which may be extended. This ensures that technical program managers pass through ARPA-E with the intent of executing technically challenging projects during their tenure, while circulating new talent and ideas through ARPA-E. A fund is established in the United States Treasury without fiscal year limitation, for ARPA-E, to be included as a separate line item in the annual budget request to the Congress. Likewise, with this separate fund it is the intent that ARPA-E should be a semi-autonomous agency outside the Department of Energy bureaucracy, able to react quickly to the most challenging energy problems in the 21st century to reduce foreign imports of energy, develop revolutionary energy efficient and low-emitting technologies, and ensure the United States leads the world in energy technology competitiveness. The conferees intend that funding for ARPA-E be provided through the same appropriations process and subcommittee consideration used for other semi-autonomous agencies of the Department at the time of enactment of this Act. It is the strong intent of the conferees that ARPA-E should not be established at the expense of on-going programs at the Department of Energy. In particular, the conferees intend that ARPA-E be funded to the full extent practicable provided that the Office of Science, the National Nuclear Security Agency (NNSA), and laboratory directed research and development (LDRD) at the National Laboratories maintain the funding levels they would have received in the absence of ARPA-E. In this regard, the provision contains language specifying that no funds for ARPA-E shall be appropriated unless the appropriation for the Office of Science increases by inflation over Fiscal Year 2007. Authorization of appropriations for ARPA-E is established in FY 2008 at \$300 million and such sums thereafter for fiscal years 2009 and 2010.

Provisions deleted

HIGH-RISK, HIGH REWARD RESEARCH

The Senate amendment contained a provision (section 2010) that required the Secretary of Energy and the Director of the United States Geological Survey to establish a grant program to conduct high-risk, high-reward research.

The House bill contained no similar provision.

The Senate recedes to the House.

FINAL STATEMENT OF MANAGERS FOR TITLE VI—EDUCATION

FINDINGS OF CONGRESS (SEC. 6001)

The Senate amendment included findings regarding the importance of improving education to ensure that the nation remains competitive in the global economy.

The House bill had no similar provision.

The House recedes.

DEFINITIONS (SEC. 6002)

The Senate amendment provided that, unless otherwise specified, all terms used in the division have the same meanings given in section 9101 of the Elementary and Secondary Education Act. It also defined critical foreign languages and the Secretary.

The House bill had no similar provision.

The House recedes.

SUBTITLE A—TEACHER ASSISTANCE

Part I—Teachers for a Competitive Tomorrow

PURPOSE (SEC. 6111)

The Senate amendment stated that the purposes of this Part were: to develop and implement programs to provide integrated courses of study in mathematics, science, engineering, or critical foreign languages, and teacher education that lead to a baccalaureate degree with concurrent teacher certification; to develop and implement master's degree programs that enhance science, mathematics, technology, or critical foreign language teachers' content knowledge and pedagogical skills; and to develop master's degree programs in education for professionals in science, mathematics or critical foreign language fields to become teachers.

The House bill had no similar provision.

The House recedes with an amendment to clarify that technology and engineering fields should be supported by the programs in this Part.

DEFINITIONS (SEC. 6112)

The Senate amendment defined Children from Low-income Families, Eligible Recipient, High-Need Local Educational Agencies, Highly Qualified, Partnership, and Teaching Skills.

The House bill had no similar provision.

The House recedes with an amendment to clarify the definition of teaching skills.

Programs for baccalaureate degrees in science, technology, engineering, mathematics, or critical foreign languages, with concurrent teacher certification (sec. 6113)

The Senate amendment authorized competitive grants that enable partnerships to develop and implement programs to provide courses of study in mathematics, science, engineering, or critical foreign language in ways that are integrated with teacher education and that lead to a baccalaureate degree with concurrent teacher certification.

The House bill had no similar provision.

The House recedes with an amendment to collect data on the retention of program graduates, placing a priority on applications with a focus on placing participants in high need local educational agencies clarifying that technology programs also should be supported and to include a rule of construction maintaining compliance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

PROGRAMS FOR MASTER'S DEGREES IN SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, OR CRITICAL FOREIGN LANGUAGE (SEC. 6114)

The Senate amendment authorized competitive grants for partnerships to develop and implement 2- or 3-year part-time master's degree programs in mathematics, science, technology, or critical foreign language education for current teachers to improve their content knowledge and pedagogical skills, and programs for professionals in mathematics, science, engineering, or critical foreign languages that lead to 1-year master's degree in teaching that results in teacher certification. The partnerships consist of institutions of higher education, departments of mathematics, engineering, science or critical foreign languages, teacher preparation programs and high-need local educational agencies and their schools.

The House bill had no similar provision.

The House recedes with an amendment that technology and engineering fields should be supported by both programs.

#### GENERAL PROVISIONS (SEC. 6115)

The Senate amendment includes provisions requiring the programs under sections 6113 and 6114 to provide grants for five years, require applicants to provide matching funds and ensure that grants supplement existing state and federal funding. The Secretary is also required to evaluate the programs and provide an annual report to Congress.

The House bill had no similar provision.

The House recedes with an amendment to change House Committee on Education and the Workforce to House Committee on Education and Labor.

#### AUTHORIZATION OF APPROPRIATIONS (SEC. 6116)

The Senate amendment authorized \$210,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 3 succeeding fiscal years, of which 57.1 percent will be available to carry out section 3113 for fiscal year 2008 and each succeeding fiscal year; and 42.9 percent will be available to carry out section 3114 for fiscal year 2008 and each succeeding fiscal year.

The House bill had no similar provision.

The House recedes with an amendment changing the amounts authorize to \$276 million for fiscal year 2008 and such sums for the two succeeding years, with \$151,200,000 for section 6113 and \$125,000,000 for section 6114.

#### PART II—ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS PURPOSE (SEC. 6121)

The Senate amendment stated that the purpose of the section was to increase the number of students taking Advanced Placement (AP) and International Baccalaureate (IB) classes and to increase the number of students passing AP and IB tests, and to increase the number of qualified AP and IB teachers serving in high-need schools teaching mathematics, science, and critical foreign languages.

The House bill had no similar provision.

The House recedes.

#### DEFINITIONS (SEC. 6122)

The Senate amendment defined Advanced Placement or International Baccalaureate courses as courses of college-level instruction provided to middle or secondary school students, terminating in an examination administered by the College Board or the International Baccalaureate Organization, or another highly rigorous, evidence-based, post-secondary preparatory program terminating in an examination administered by another nationally recognized educational organization that has a demonstrated record of effectiveness in assessing secondary school students.

The House had no similar provision.

The House recedes with an amendment to update the definition to include the additional program that may be allowed and to strike the reference to middle school students from the definition because such students are included in the definition of "secondary school" students used in this bill.

#### ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS (SEC. 6123)

The Senate amendment authorized competitive grants to expand access to AP and IB and pre-AP and pre-IB classes and to increase the number of qualified AP and IB teachers in high-need schools. The Senate amendment outlined allowable uses of funds, terms of grants and application requirements. It also authorized appropriations of \$58,000,000 for fiscal year 2008 and such sums as may be necessary for each of the three succeeding fiscal years.

The House had no similar provision.

The House recedes with an amendment to change the reference to the House Committee on Education and the Workforce to the House Committee on Education and Labor and to increase the authorized appropriation to \$65,000,000 for 2008 and such sums for each of the next 2 succeeding fiscal years. The amendment also places a priority on grant applications that increase the number of students in high need schools who participate in and pass IB and AP courses.

#### PART III—PROMISING PRACTICES IN MATHEMATICS, SCIENCE, TECHNOLOGY, AND ENGINEERING TEACHING

##### PROMISING PRACTICES (SEC. 6131)

The Senate amendment authorized the Secretary of Education to contract with the National Academy of Sciences to convene a national panel within a year after the enactment of this Act to identify promising practices in the teaching of science, technology, engineering and mathematics in elementary and secondary education. Scientists, practitioners, teachers, principals, and representatives from entities with expertise in education, mathematics, and science would participate in the panel.

The House bill had no similar provision.

The House recedes with an amendment clarifying the provision, including that promising practices identified under this program should be grounded in scientifically valid research as that term is defined in the Higher Education Act of 1965. The House amendment also authorizes appropriations of \$1,200,000 for fiscal year 2008.

##### SUBTITLE B—MATHEMATICS

##### MATH NOW FOR ELEMENTARY SCHOOL AND MIDDLE SCHOOL STUDENTS PROGRAM (SEC. 6201)

The Senate amendment authorized a grant program to improve instruction in elementary and middle school mathematics and provided targeted help for students struggling with mathematics to reach or exceed grade-level academic achievement standards. Grants would be awarded to implement mathematics instructional materials and interventions, provide professional development activities, and monitor the progress of students in mathematics. State educational agencies would be awarded grants on a competitive basis to enable them to award grants to eligible local educational agencies. Priority would be given to applications for projects that would implement statewide strategies for improving mathematics instruction and raising the mathematics achievement of students, particularly those in grades 4 through 8. The provision requires a match, but the Secretary is given the authority to waive all or part of it in cases of serious hardship. The section authorized \$146,700,000 for fiscal year 2008, and such sums as may be necessary for each of the three succeeding fiscal years.

The House bill had no similar provision.

The House recedes with an amendment to decrease the duration of the grants from five years to three years and to authorize \$95,000,000 in fiscal year 2008 and such sums in the succeeding two, not three, years. The amendment also requires the Secretary of Education to establish a screening process to ensure that those providing technical assistance to states and school districts under this program do not have financial interests in the products, activities or services that grant recipients might purchase with grant funding.

##### SUMMER TERM EDUCATION PROGRAMS (SEC. 6202)

The Senate amendment authorized the Secretary of Education to provide grants to support summer learning opportunities for low income students in the fields of mathematics, technology, and problem-solving to mitigate learning losses experienced over the summer. The Senate bill authorized such sums as may be necessary for fiscal years 2008 through 2012.

The House bill had no similar provision.

The House recedes with an amendment to authorize such sums as may be necessary to carry out the program for 2008 and each of the succeeding two succeeding fiscal years.

##### MATH SKILLS FOR SECONDARY SCHOOL STUDENTS (SEC. 6203)

The Senate amendment authorized the Secretary of Education to provide grants supporting the following activities: (1) assistance to State and local education agencies in implementing research-based mathematics programs for students in secondary schools; (2) improving the instruction of mathematics programs based on best practices; (3) providing targeted help to low-income students who are struggling with mathematics; and (4) providing in-service training to instructors to improve the teaching of mathematics to students.

The House bill had no similar provision.

The House recedes with an amendment to decrease the duration of the grants from a period of four years to a period of three years and to authorize \$95,000,000 for fiscal year 2008 and such sums for the succeeding two, not three, fiscal years. The amendment also requires the Secretary of Education to establish a screening process that would ensure that those providing technical assistance to states and school districts under this program do not have financial interests in the products, activities or services that recipients could purchase with grant funding.

##### PEER REVIEW OF STATE APPLICATIONS (SEC. 6204)

The Senate amendment banned conflict of interests for those reviewing grant applications for the Math Now program (sec. 3201).

The House bill had no similar provisions.

The House recedes with an amendment adding a section prohibiting conflicts of interest and establishing a screening process for identifying such conflicts under the Math Now and Math Skills programs. The amendment requires the Secretary of Education to establish peer review panels to review State applications and further requires that the Secretary and the Office of General Counsel establish a process for screening reviewers to prevent conflicts arising from professional connections to teaching methodologies, connections to state programs, or financial interests. The amendment requires that the review process be transparent and that reviewer's reports be available to the public but not reveal any personally identifiable information about the reviewer. However, State educational agencies shall have the opportunity for direct interaction with the review panel including the disclosure of the identities of the reviewers.

SUBTITLE C—FOREIGN LANGUAGE PARTNERSHIP PROGRAM

FINDINGS AND PURPOSE (SEC. 6301)

The Senate amendment included findings regarding the shortage of skilled professionals with higher levels of proficiency in foreign language and the need to provide language instruction at younger ages, starting in elementary school and carrying through to postsecondary education. The Senate amendment stated that the purpose of the subtitle was to significantly increase both the opportunities to study critical foreign languages programs and the number of students who obtain the highest levels of foreign language proficiency.

The House bill had no similar provision. The House recedes.

DEFINITIONS (SEC. 6302)

The Senate amendment contained definitions for eligible recipient and superior level of proficiency.

The House bill had no similar provision.

The House recedes with an amendment to revise the definition of the term 'eligible entity' to mean an entity mutually agreed upon by a partnership that shall receive grant funds under this subtitle on behalf of the partnership for use in carrying out the activities assisted under this title.

PROGRAM AUTHORIZED (SEC. 6303)

The Senate amendment authorizes a competitive grant program to enable institutions of higher education and local educational agencies working in partnership to establish articulated programs of study in critical foreign languages so that students from elementary school through postsecondary education can advance their knowledge successfully and achieve higher levels of proficiency in a critical foreign language.

The House bill had no similar provision.

The House recedes with an amendment to change the reference to the House Committee on Education and the Workforce to the House Committee on Education and Labor. The amendment also requires that the evaluation required by the Senate bill identify best practices on teaching and learning of foreign languages. The amendment also clarifies that 2 of the 5 years of the grant duration may be used for planning and development.

AUTHORIZATION OF APPROPRIATIONS (SEC. 6304)

The Senate amendment authorizes \$22,000,000 for fiscal year 2008 and such sums as may be necessary for each of the three succeeding fiscal years.

The House bill had no similar provision.

The House recedes with an amendment to authorize \$28,000,000 for fiscal year 2008 and such sums as may be necessary for each of the succeeding two, not three, fiscal years.

SUBTITLE D—ALIGNMENT OF EDUCATION PROGRAMS

ALIGNMENT OF SECONDARY SCHOOL GRADUATION REQUIREMENTS WITH THE DEMANDS OF 21ST CENTURY POSTSECONDARY ENDEAVORS AND SUPPORT FOR P-16 EDUCATION DATA SYSTEMS (SEC. 6401)

The Senate amendment authorized the Secretary of Education to award competitive grants to States to promote better alignment of elementary and secondary education with the knowledge and skills needed to succeed in academic credit-bearing coursework in institutions of higher education, in the 21st century workforce and in the Armed Forces. The Senate amendment also authorized competitive grants to support the establishment or improvement of statewide P-16 educational longitudinal data systems to assist States in improving the rigor and quality of content knowledge requirements and assessments, ensure that students are pre-

pared to succeed in postsecondary endeavors, and enable States to have valid and reliable information to inform education policy and practice. The Senate amendment authorized \$100,000,000 for fiscal year 2008, and such sums as may be necessary for fiscal year 2009.

The House bill had no similar provision.

The House recedes with an amendment to add the requirement that access to personally identifiable information be limited by the provisions of the General Education Provisions Act (20 USC 1232g) and to authorize \$120,000,000 for fiscal year 2008 and such sums as may be necessary for fiscal year 2009.

SUBTITLE E—MATHEMATICS AND SCIENCE PARTNERSHIP BONUS GRANTS

MATHEMATICS AND SCIENCE PARTNERSHIP BONUS GRANTS (SEC. 6501)

The Senate amendment directed the Secretary of Education to award grants of \$50,000 to three elementary and three secondary schools, each of which has a high concentration of low income students, in each State whose students demonstrate the largest improvement in mathematics and science.

The House bill had no similar provision.

The House recedes.

AUTHORIZATION OF APPROPRIATIONS (SEC. 6502)

The Senate amendment authorized such sums as may be necessary for fiscal years 2008-2011 to carry out the activities under Title V.

The House bill had no similar provision.

The House recedes with an amendment to authorize such sums as may be necessary for fiscal year 2008 and each of the two succeeding fiscal years.

TITLE VII—NATIONAL SCIENCE FOUNDATION

DEFINITIONS (SEC. 7001)

The House bill contained a provision (sec. 302) that defined a number of terms used in this Title.

The Senate amendment contained no similar provision.

The Senate recedes with the addition of a definition for the term basic research.

TOTAL AMOUNT AND LENGTH OF NSF AUTHORIZATION (SEC. 7002)

The House bill contained a provision authorizing total appropriations for NSF as follows: \$6.5 billion for FY 2008, \$6.98 billion for FY 2009, and \$7.49 billion for FY 2010 (sec. 303).

The Senate amendment contained a provision authorizing total appropriations as follows: \$6.73 billion for FY 2008, \$7.74 billion for FY 2009, \$8.9 billion for FY 2010, and \$10.2 billion for FY 2011 (sec. 4001).

The Conference substitute provides \$6.6 billion for FY 2008, \$7.33 billion for FY 2009, and \$8.13 billion for FY 2010, which would place NSF on a path to achieve budget doubling in approximately 7 years (sec. 7002).

The conferees intend that the rate of budget increase for the education activities supported by NSF keep pace with the rate of increase for the research activities for FY 2009 and beyond.

RESEARCH AND RELATED ACTIVITIES (R&R) AUTHORIZATION (SEC. 7002)

The House bill contained a provision authorizing appropriations for Research and Related Activities (R&R) as follows: \$5.08 billion for FY 2008, of which \$115 million is provided for Major Research Instrumentation (MRI); \$5.46 billion for FY 2009, of which \$123.1 million is provided for MRI; and \$5.86 billion for FY 2010, of which \$131.7 million is provided for MRI (sec. 303). In addition, the provision required NSF to increase funding for Research Experiences for Undergraduates (REU) in proportion to appropriations received for R&R (sec. 303(g)); and required

NSF to allocate at least 3.5 percent of appropriations received for R&R for the CAREER program (sec. 202).

The Senate amendment contained no provision for authorizing the overall R&R budget. However, it contained authorization amounts for specified programs: for the Professional Science Master's program, it provided \$15 million for FY 2008, \$18 million for FY 2009, and \$20 million for each of FY 2010 and FY 2011 (sec. 4004); for the EPSCoR program, it provided \$125 million for FY 2008 and provided for increases above that amount in proportion to overall appropriations increases in each year thereafter (sec. 4008); and for communications technology research, it provided \$45 million for FY 2008, \$50 million for FY 2009, \$55 million for FY 2010, and \$60 million for FY 2011 (sec. 4011).

The Senate recedes on sections 303(g) and 202 with an amendment to authorize specific amounts for REU and CAREER. The Conference substitute (sec. 7002) provides the following authorizations of appropriations for R&R:

- \$5.156 billion for FY 2008, of which \$115 million is provided for Major Research Instrumentation (MRI), \$165.4 million for early-career (CAREER) grants, \$61.6 million for Research Experiences for Undergraduates (REU), \$120.0 million for Experimental Program to Stimulate Competitive Research (EPSCoR), \$47.3 million for the R&R share of the Integrated Graduate Education and Research Traineeship (IGERT) program, \$9.0 million for the R&R share of the Graduate Research Fellowship (GRF) program, and \$10.0 million for the Professional Science Masters (PSM) program.

- \$5.742 billion for FY 2009, of which \$123.1 million is provided for MRI, \$183.6 million for CAREER grants, \$68.4 million for REU, \$133.2 million for EPSCoR, \$52.5 million for the R&R share of IGERT, \$10.0 million for the R&R share of GRF, and \$12.0 million for PSM.

- \$6.401 billion for FY 2010, of which \$131.7 million is provided for MRI, \$203.8 million for CAREER grants, \$75.9 million for REU, \$147.8 million for EPSCoR, \$58.3 million for the R&R share of IGERT, \$11.1 million for the R&R share of GRF, and \$15.0 million for PSM.

SUMMARY OF R&R AUTHORIZATIONS, IN MILLIONS OF DOLLARS

	FY08	FY09	FY10
R&R	5156	5742	6401
MRI	115	123.1	131.7
CAREER	165.4	183.6	203.8
REU	61.6	68.4	75.9
EPSCoR	120.0	133.2	147.8
IGERT	47.3	52.5	58.3
GRF	9.0	10.0	11.1
PSM	10.0	12.0	15.0

EDUCATION AND HUMAN RESOURCES (EHR) AUTHORIZATION (SEC. 7002)

The House bill contained a provision authorizing appropriations for Education and Human Resources (EHR) as follows (sec 303):

- \$873 million for FY08, of which \$94 million was provided for Math and Science Partnerships (MSP), \$70 million for the Noyce Scholarship Program (Noyce), \$44 million for the STEM Talent Expansion Program (STEP), and \$51.6 million for the Advanced Technological Education (ATE) program.

- \$934 million for FY09, of which \$100.6 million was provided for MSP, \$101 million for Noyce, \$55 million for STEP, and \$55.2 million for ATE.

- \$1.003 billion for FY10, of which \$107.6 million was provided for MSP, \$133 million for Noyce, \$60 million for STEP, and \$59.1 million for ATE.

In addition, the House bill required NSF to increase funding for undergraduate education programs in proportion to appropriations received for the entire Foundation (sec.

303(e)); and required NSF to support activities to create informal educational materials relevant to global warming (sec 303(h)).

The Senate amendment contained a provision authorizing \$1050 million for EHR for FY08, with the rate of increase for the three subsequent years equal to the rate of increase for the entire Foundation (sec 4002). It also authorized specific amounts for the following programs:

- For STEP, provided \$40 million for FY08; \$45 million for FY 09, \$50 million for FY 10, and \$55 million for FY 11 (sec. 4005);
- For Noyce, provided \$117 million for FY 08, \$130 million for FY 09, \$148 million for FY 10, and \$200 million for FY 11 (sec. 4012);
- For the Teacher Institutes for the 21st Century, provided \$84 million for FY 08, \$94 million for FY 09, \$106 million for FY 10, and \$140 million for FY 11 (sec. 4014)

The House recedes to the Senate on sections 303 (e) and (h). The Conference substitute provides (sec. 7002):

- \$896.0 million for FY 2008, of which \$100.0 million is provided for MSP, \$89.8 million for Noyce, \$40.0 million for STEP, \$52.0 million for ATE, \$27.1 million for the EHR share of the Integrated Graduate Education and Research Traineeship (IGERT) program, and \$96.6 million for the EHR share of the Graduate Research Fellowship (GRF) program.
- \$995.0 million for FY 2009, of which \$111.0 million is provided for MSP, \$115.0 million for Noyce, \$50.0 million for STEP, \$57.7 million for ATE, \$30.1 million for the EHR share of the IGERT, and \$107.2 million for the EHR share of GRF.
- \$1.104 billion for FY 2010, of which \$123.2 million is provided for MSP, \$140.5 million for Noyce, \$55.0 million for STEP, \$64.0 million for ATE, \$33.4 million for the EHR share of the IGERT, and \$119.0 million for the EHR share of GRF.

The conferees intend that a significant proportion of the appropriation for the Math and Science Partnerships be used to support the Teacher Training Institutes for the 21st Century (sec. 7029).

SUMMARY OF EHR AUTHORIZATIONS, IN MILLIONS OF DOLLARS

	FY08	FY09	FY10
EHR .....	896.0	995.0	1104.0
MSP .....	100.0	111.0	123.2
Noyce .....	89.8	115.0	140.5
STEP .....	40.0	50.0	55.0
ATE .....	27.1	30.1	33.4
IGERT .....	96.6	107.2	119.0
GRF .....			

OTHER PROGRAMS AUTHORIZATIONS (SEC. 7002)

The House bill (sec. 303) contained a provision authorizing appropriations for other accounts as follows:

- For FY 2008, \$245.0 million for Major Research Equipment and Facilities Construction (MREFC), \$285.6 million for the Agency Operations & Award Management (AOAM), \$4.05 million for the National Science Board (NSB), and \$12.35 million for the Office of the Inspector General (IG).
  - For FY 2009, \$262.0 million for MREFC, \$309.8 million for the AOAM, \$4.12 million for NSB, and \$12.72 million for the IG.
  - For FY 2010, \$280.0 million for MREFC, \$329.5 million for the AOAM, \$4.25 million for NSB, and \$13.1 million for the IG.
- The Senate amendment contained no similar provision.
- The Conference Substitute provides (sec. 7002):
- For FY 2008, \$245.0 million for MREFC, \$286.6 million for AOAM, \$4.05 million for NSB, and \$12.35 million for the IG.
  - For FY 2009, \$262.0 million for MREFC, \$309.8 million for the AOAM, \$4.19 million for NSB, and \$12.75 million for the IG.
  - For FY 2010, \$280.0 million for MREFC, \$329.5 million for the AOAM, \$4.34 million for NSB, and \$13.21 million for the IG.

SUMMARY OF NSF AUTHORIZATIONS OTHER THAN R&RA OR EHR, IN MILLIONS OF DOLLARS

	FY08	FY09	FY10
MREFC .....	245.0	262.0	280.0
AOAM .....	285.6	309.8	329.5
NSB .....	4.05	4.19	4.34
IG .....	12.35	12.75	13.21

REAFFIRMATION OF THE MERIT-REVIEW PROCESS OF THE NATIONAL SCIENCE FOUNDATION (SEC. 7003)

The House bill contained no provision. The Senate amendment contained a provision clarifying that the Act does not change NSF's merit-review system or peer review process (sec. 4007).

THE HOUSE RECEDES. SENSE OF THE CONGRESS REGARDING THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAMS OF THE DEPARTMENT OF EDUCATION AND THE NATIONAL SCIENCE FOUNDATION (SEC. 7004)

The House bill contained a provision expressing a sense of the Congress that the Math and Science Partnerships programs at NSF and the Department of Education are complementary and not duplicative and that the two agencies should have ongoing collaboration to ensure the two programs continue to work in concert (sec. 319).

The Senate amendment contained a provision expressing a sense of the Senate with language identical to the House provision (sec. 4013).

THE SENATE RECEDES. CURRICULA (SEC. 7005)

The House bill contained a provision clarifying that nothing in the Act limits the authority of state or local governments to determine curricula (sec. 124).

The Senate amendment contained no similar provision. The Senate recedes.

CENTERS FOR RESEARCH ON LEARNING AND EDUCATION IMPROVEMENT (SEC. 7006)

The House bill contained a provision requiring NSF to continue funding Centers for Research on Learning and Education Improvement (sec. 304).

Senate amendment contained no similar provision.

THE SENATE RECEDES. INTERDISCIPLINARY RESEARCH (SEC. 7007)

The House bill contained a provision requiring the National Science Board to evaluate NSF's role and effectiveness in supporting interdisciplinary research and to report to Congress on its findings (sec. 305).

The Senate amendment contained no similar provision. The Senate recedes.

POSTDOCTORAL RESEARCH FELLOWS (SEC. 7008)

The House bill contained a provision requiring all research proposals that support postdoctoral researchers to include a description of the mentoring activities that will be provided and to require that this aspect of the proposal be evaluated under NSF's "broader impacts" criterion (sec. 308). It also required that the grant annual and final reports describe the mentoring activities that were provided.

The Senate amendment contained no similar provision. The Senate recedes.

RESPONSIBLE CONDUCT OF RESEARCH (SEC. 7009)

The House bill contained a provision requiring institutions funded by NSF to provide training in the responsible conduct of research to students participating in research projects (sec. 309).

The Senate amendment contained no similar provision. The Senate recedes.

The conferees recognize that what constitutes "appropriate training" may not be the same for undergraduate students as for graduate students or postdocs. The conferees prefer to give NSF maximum flexibility in determining the full range of activities that would constitute appropriate training; however, the conferees do expect NSF to promptly develop and provide written guidelines and/or templates for universities to follow so that compliance can be verified by all parties. The conferees intend for NSF, when developing guidelines, to consider the financial impact that these measures will have on institutions and seek to minimize such impacts accordingly.

REPORTING OF RESEARCH RESULTS (SEC. 7010)

The House bill contained a provision requiring NSF to make available to the public in electronic form final project reports and citations to NSF-funded research (sec. 310).

The Senate amendment contained no similar provision. The Senate recedes.

The conferees intend for NSF to provide to the public a readily accessible summary of the outcomes of NSF-sponsored research projects. In addition to citations to journal publications, the conferees intend for NSF to make available research project summaries, not including any proprietary or otherwise sensitive information.

SHARING RESEARCH RESULTS (SEC. 7011)

The House bill contained a provision making investigators who fail to comply with existing NSF policy on sharing of research results ineligible for future NSF awards until they come into compliance (sec. 311).

The Senate amendment contained no similar provision.

The Senate recedes.

In deciding if and when to reinstate eligibility, the conferees urge the Director to weigh heavily whether the research results being requested were withheld deliberately and were critical to a policy decision being made at the time of the denied request.

FUNDING FOR SUCCESSFUL SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS (SEC. 7012)

The House bill contained a provision authorizing NSF to exempt from re-competition and renew for up to 3 years, with the possibility of a second extension of 3 years, grants that are for teacher professional development or that have the primary purpose of increasing diversity in STEM fields. Such grant extensions are to be based on the success of the project in meeting the objectives of the initial grant proposal (sec. 312).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to allow only one extension of a grant under this exemption for a total of 3 years beyond the initial period of support.

COST SHARING (SEC. 7013)

The House bill contained a provision requiring the National Science Board to evaluate and report to Congress on the impact of its ruling to eliminate all cost-sharing for NSF's awards as it affects programs that involve industry partnerships and historically have required industry cost sharing (sec. 313).

The Senate amendment contained no similar provision.

The Senate recedes.

ADDITIONAL REPORTS (SEC. 7014)

The House bill contained a provision requiring the National Science Board to report to Congress on options for supporting the cost of detailed design for major research facilities construction projects; requiring NSF to include plans for polar research facilities

in its annual facilities report; requiring NSF to report on education programs carried out through the research directorates' programs; requiring NSF to report on the success rates and distribution of awards by type of institution under the Research in Undergraduate Institutions program; and requiring NSF to provide an annual plan for all its STEM education activities (sec. 315).

The Senate amendment contained no similar provision.

The Senate recedes.

ADMINISTRATIVE AMENDMENTS (SEC. 7015)

The House bill contained a provision changing from annual to triannual the Inspector General's audit requirement for assessing the compliance of the National Science Board with the Government in Sunshine Act; authorizing the NSB to employ individuals in rotator positions; and authorizing up to 3 Waterman awards in any year (sec. 316).

The Senate amendment contained no similar provision.

The Senate recedes.

NATIONAL SCIENCE BOARD REPORTS (SEC. 7016)

The House bill contained a provision requiring certain NSB reports to be submitted directly to Congress (sec. 317).

The Senate amendment contained no similar provision.

The Senate recedes.

PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986 AMENDMENT (SEC. 7017)

The Senate amendment contained no provision.

The House bill contained no provision.

The conferees agree to include a provision amending the Program Fraud and Civil Remedies Act (PFCRA) to include NSF. This provision will authorize the agency to recover funds and assess penalties under PFCRA's provisions.

MEETING CRITICAL NATIONAL SCIENCE NEEDS (SEC. 7018)

The House bill contained no similar provision.

The Senate amendment contained a provision requiring NSF to give priority in making research awards to proposals that assist in meeting critical national needs by advancing physical or natural science, technology, engineering, mathematics, or national competitiveness or innovation and specifying that the provision does not inhibit NSF's support for other areas of research that are within the agency's mandate or change the core mission of NSF (sec. 4006).

The House recedes with an amendment to add social sciences to the list of priority areas for making research awards and to add safety and security as areas of critical national needs.

The conferees cite the National Academies "Rising Above the Gathering Storm Report" on which this Act is based in calling attention to the unique contribution of research in the social sciences, which have "increased understanding of the nature of competent performance and the principles of knowledge organization that underlie people's abilities to solve problems in a wide variety of fields, including mathematics and science." The conferees further agree with the statement in the report that "special investment in physical sciences, engineering, mathematics and information sciences does not mean that there should be a disinvestment in such important fields as the life sciences or the social sciences." It is the intent of the conferees to ensure support for research in areas that will address the critical national needs identified in the "Gathering Storm" report. The conferees do not intend the language contained in subsections (a) and (b) of this provision to in any way devalue the con-

tributions of other fields or to signal any desire on the part of the conferees to disinvest in any field currently supported by the Foundation, as is made clear in subsection (c).

RESEARCH ON INNOVATION AND INVENTIVENESS (SEC. 7019)

The House bill contained a provision authorizing NSF to support research on the process of innovation and the teaching of inventiveness as part of its research programs on science policy and the science of learning (sec. 207).

The Senate amendment contained no similar provision.

The Senate recedes.

CYBERINFRASTRUCTURE (SEC. 7020)

The House bill contained no similar provision.

The Senate amendment contained a provision requiring NSF to develop a plan that describes the status of broadband access for scientific research purposes for institutions in EPSCoR-eligible jurisdictions (sec. 4010).

The House recedes with amendment to expand the report to include all rural areas and minority-serving institutions.

PILOT PROGRAM OF GRANTS FOR NEW INVESTIGATORS (SEC. 7021)

The House bill contained a provision establishing a pilot program of one-year seed grants for new investigators whose research proposals are rated "excellent" or "very good" but who are nevertheless not funded, specifying that grants are to support the eligible individuals in generating additional data and performing additional analysis to enable them to submit strengthened proposals to NSF. The provision also required the National Science Board to evaluate the program and report to Congress within 3 years with any recommendations regarding the pilot program (sec. 306).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment authorizing such seed grants only for new investigators whose initial, unsuccessful proposals are rated "excellent" and requiring the Board's report to Congress to state explicitly whether the pilot program should be continued or terminated.

BROADER IMPACTS MERIT REVIEW CRITERION (SEC. 7022)

The House bill contained a provision requiring NSF, in applying its "broader impacts" criterion in evaluating research proposals, to give special consideration to proposals involving partnerships with industry and to encourage proposals that involve partnerships with industry, including cost-sharing by industrial partners (sec. 307).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment specifying that NSF must consider as appropriate, among other types of possible activities for meeting its broader impacts criterion, proposals involving partnerships with industry and deleting language in the House bill on encouraging proposals involving industry partnerships.

The conferees affirm that the primary mission of NSF is to support discovery research, research that asks questions about how the world works before any particular problem or application has been identified. In specifying that research proposals involving partnerships with industry should be considered as appropriate for meeting the requirements of the "broader impacts" proposal review criterion, the conferees do not intend to devalue other appropriate activities, such as promoting learning or broadening participation in STEM fields. The conferees simply point out that industry interest and involve-

ment in proposed basic research projects is one indication of the potential value of the research and may arise in areas important to innovation and technological competitiveness, such as nanotechnology or information technology.

DONATIONS (SEC. 7023)

The House bill contained a provision authorizing NSF to accept private funds for specific prize competitions (sec. 314).

The Senate amendment contained no similar provision.

The Senate recedes with amendment to ensure that prizes are for "basic research".

HIGH-PERFORMANCE COMPUTING AND NETWORKING (SEC. 7024)

The House bill contained a provision amending the High-Performance Computing Act of 1991 to clarify the program's goals and content; to require a regularly updated plan for the development and deployment of high-end computing systems; and to reestablish a dedicated external advisory committee for the interagency program and specify its responsibilities (sec. 501 and 502).

The Senate amendment contained a provision authorizing a communications research grant program; establishing a board within the NSF to oversee the research program; authorizing university-based research centers; and authorizing appropriations for the program (sec. 4011).

The conference agreement accepts the House amendments to the 1991 Act with minor language changes. The Senate provision is replaced with a requirement for the interagency program carried out under the 1991 Act to support communications research in areas designated by section 4011 and to report to Congress annually on the funding allocated to these areas. NSF is directed to increase funding for these research areas in proportion to appropriations received for its research and related activities account. The House recedes on the centers program, and the Senate recedes on creation of the new board.

SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TALENT EXPANSION PROGRAM (SEC. 7025)

The House bill contained a provision amending the NSF STEM Talent Expansion Program (STEP) to create centers for improvement of undergraduate education in STEM fields, specifying that centers may support activities to help train faculty and graduate students to be more effective teachers and to develop more effective educational materials and methods targeted for undergraduate instruction (sec. 125).

The Senate amendment contained a provision amending the STEP Program to establish outreach programs for middle and high school students and teachers to expand their exposure to engineering and technology; provide summer internships for STEM undergraduate students; facilitate hiring of STEM faculty; and provide programs that bridge the transition to college for students from underrepresented groups (sec. 4005).

The conference agreement amends the STEP Program to establish a grant program to create up to 5 centers for the improvement of undergraduate STEM education. It also amends the current program to make the changes included in the Senate amendment, except the provision regarding hiring of faculty.

LABORATORY SCIENCE PILOT PROGRAM (SEC. 7026)

The House bill contained a provision establishing a "Partnerships for Access to Laboratory Science" (PALS) program at NSF to determine how best to integrate laboratory experiences with STEM classroom instruction in secondary schools. The provision specified

that the pilot program should support teacher training, development of instructional programs, and acquisition and maintenance of equipment. The provision required a 50 percent cost-share from non-Federal sources (sec. 128).

The Senate amendment contained a provision establishing a program that is similar to that in the House bill, except that it included a sunset provision that would terminate the program after FY 2011 and required a 70 percent cost-share from non-Federal sources (sec. 4015).

The Senate recedes with an amendment requiring a 60 percent cost-share from non-Federal sources and including a provision to sunset the program after FY 2010.

STUDY ON LABORATORY EQUIPMENT DONATIONS FOR SCHOOLS (SEC. 7027)

The House bill contained a provision directing NSF to report to Congress on the extent to which institutions of higher education are donating used laboratory equipment to schools (sec. 129).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to extend the study on donations of equipment to include other private sector entities.

MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS AMENDMENTS (SEC. 7028)

The House bill contained a provision amending the Math and Science Partnerships program (sec. 121), authorizing the development of master's degree programs for in-service teachers, after school and summer programs, mentoring programs for teachers and students involved in STEM college-preparatory courses, and development of curriculum tools for teaching innovation. The provision also amended the program by setting award size limits and requiring the identification and reporting of model projects ready for wider replication. An additional provision required NSF to develop a master's degree program for in-service teachers through the Math and Science Partnerships program (sec. 123).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment striking the authorization for the master's degree program for teachers, the limits on award size, and the requirement for identification and reporting of model programs. The House recedes on the section 123 provision.

The conferees strongly support the creation of master's degree programs for in-service teachers to improve content knowledge in science, technology, engineering and mathematics and include a provision to fund such programs in section 6114 of this bill.

NATIONAL SCIENCE FOUNDATION TEACHER INSTITUTES FOR THE 21ST CENTURY (SEC. 7029)

The House bill contained a provision directing NSF to establish a grant program to support teacher institutes and authorizing grantees under the Teacher Institutes for the 21st Century program to carry out summer teacher institutes (sec. 122).

The Senate amendment contained a provision authorizing the Teacher Institutes for the 21st Century program at NSF to provide professional development for math and science teachers in high-need schools (sec. 4014).

The House recedes with an amendment to specify what comprise "high-need subjects" and to clarify how priorities are established for the institutes.

ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM (SEC. 7030)

The House bill contained a provision stating as a policy objective the education of 10,000 highly qualified K-12 science, tech-

nology, engineering and mathematics (STEM) teachers each year (sec. 113). The bill also amended and expanded the NSF Noyce Teacher Scholarship Program as follows (sec. 114): required collaboration between science and education faculty to establish STEM teacher education programs, required early classroom experiences for teachers in training, increased scholarships and stipends to at least \$10,000 per year, and allowed for up to 3 years of scholarship support, beginning with the sophomore year. Further, it replaced the requirement for Noyce Scholars to serve their teaching obligation in high-need schools with an incentive for teaching in such schools; changed from 4 to 5 the number of years within which Noyce Scholars must graduate with certification to teach; and created a new partnership program for attracting STEM professionals to teaching careers and provides for salary supplements for such individuals, from non-Federal sources through the partnership, during the period of their teaching obligation.

The Senate amendment contained a provision amending and expanding the NSF Noyce Teacher Scholarship Program in a way similar to the House bill, except: it established NSF Teaching Fellowships for attracting accomplished STEM professionals to teaching and NSF Master Teaching Fellowships for creating master teachers from among current exemplary STEM teachers having master's degrees (in each case providing salary supplements for the teaching obligation period); required a 50 percent cost share from non-Federal funds for all types of Noyce awards; required that teaching obligations be served in high-need schools; and limited scholarships to 2 years (sec. 4012).

The conference agreement amends and expands the Noyce program: requires collaboration between science and education faculty to establish STEM teacher education programs, requires early classroom experiences for teachers in training, increases scholarships and stipends to at least \$10,000 per year, and allows for up to 3 years of scholarship support, beginning with the junior year. In addition it retains the requirement for Noyce Scholars to serve their teaching obligation in high-need schools; changes from 4 to 5 the number of years within which Noyce Scholars must graduate with certification to teach; and creates a new partnership program for attracting STEM professionals to teaching careers (NSF Teaching Fellows) and for preparing master teachers (NSF Master Teaching Fellows). The agreement specifies that annual scholarship, stipend, and fellowship awards may be granted on a prorated basis to students in school part time and that scholarship and stipend recipients' service obligation is based on the number of full annual scholarships or stipends received, regardless of the number of years over which such amounts are prorated. For the two fellowship programs, the agreement requires 50 percent cost sharing from non-federal sources and the provision for salary supplements for fellows during the period of their teaching obligation. The House recedes on the section 113 provision.

The agreement also clarifies the process for repayment in the event that scholarship, stipend, or fellowship recipients fail to maintain good status in the program or fail to meet their service requirements. The conferees intend that the Director consult with the Secretary of Education in developing policies regarding the effective enforcement of the service requirement under this section. The conferees note that the changes made in the system of repayment collection are intended to clarify such system but do not presume the creation of an entirely new system of repayment collection.

The conferees anticipate that the Noyce program will grow to become a major source of effective STEM teachers, which is the reason for the large increases in authorizations of appropriations provided for the program. The conferees have required that teachers educated through the Noyce program carry out their teaching obligations in high-need schools because survey results have documented that such schools have the highest percentages of poorly qualified STEM teachers on their faculties. This requirement is appropriate during the period of initial growth of the Noyce program but the conferees intend for this national program to benefit all students. As the scale of the program grows and the numbers of teachers educated under the program increases substantially, the conferees expect this policy to be reviewed in 2 years and when the program is next reauthorized to ensure that all children have equal access to high-quality teachers with strong subject matter knowledge.

The conferees note that eligibility for awards under the Noyce program includes 2-year colleges and that such institutions are specifically included among the institutions that may form partnerships for carrying out the NSF Teaching Fellowship and NSF Master Teaching Fellowship programs. The conferees urge NSF, in soliciting applications for awards under the Noyce program, to encourage participation by 2-year institutions.

ENCOURAGING PARTICIPATION (SEC. 7031)

The House bill contained had no similar provision.

The Senate amendment contained a provision establishing at 2-year colleges a mentoring program to increase the participation of women in STEM fields, including recruiting and training of mentors.

The House recedes with an amendment to place the program within the existing NSF Advanced Technological Education program.

NATIONAL ACADEMY OF SCIENCES REPORT ON DIVERSITY IN SCIENCE, TECHNOLOGY, ENGINEERING AND MATHEMATICS FIELDS (SEC. 7032)

The House bill contained a provision requiring NSF to contract with the National Academy of Sciences (NAS) for a report on barriers to and strategies for increasing the participation of underrepresented minorities in STEM fields (sec. 318).

The Senate amendment contained a provision with a similar requirement as part of a study that the Office of Science and Technology Policy is required to conduct through the NAS (sec. 1102).

The Senate recedes.

HISPANIC-SERVING INSTITUTIONS UNDERGRADUATE PROGRAM (SEC. 7033)

The House bill contained a provision establishing a program to improve STEM undergraduate education at Hispanic-serving institutions through activities that may include improved courses and curriculum, faculty development, and support for research experiences for undergraduates (sec. 320).

The Senate amendment contained no similar provision.

The Senate recedes.

PROFESSIONAL SCIENCE MASTER'S DEGREE PROGRAMS (SEC. 7034)

The House bill contained no similar provision.

The Senate amendment contained a provision requiring NSF to award grants to facilitate the creation or improvement of Professional Science Master's degree programs at institutions of higher education (sec. 4004).

The House recedes with an amendment that clarifies that such programs may include linkages in the program between institutions of higher education and industry and requires such programs to describe how they will produce individuals for the workforce in

high need fields. The conferees intend that the term "high need fields" take into account needs on a state, regional and national basis.

SENSE OF CONGRESS ON COMMUNICATIONS  
TRAINING FOR SCIENTISTS (SEC. 7035)

The House bill contained a provision requiring NSF to provide supplements, on a competitive, merit-reviewed basis, to holders of IGERT grants to train graduate students in the communication of the substance and importance of their research to non-scientist audiences and to report to Congress on how the funds are used (sec. 321).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to transform the provision to a Sense of Congress statement that such communications training should be part of the activities carried out using IGERT grants. The report to Congress on how IGERT grants are used for communications training is retained.

MAJOR RESEARCH INSTRUMENTATION (SEC. 7036)

The House bill contained a provision setting a minimum and maximum award amounts for major research instrumentation (MRI) grants, specifying that MRI funds may be used for operations and maintenance, and requiring cost-sharing by grantees (sec. 303(d)).

The Senate amendment contained no similar provision.

The Senate recedes.

LIMIT ON PROPOSALS (SEC. 7037)

The House bill contained a provision requiring the Director allow submission of a full proposal for each pre-proposal that is determined to have merit and requiring a review and assessment of Foundation policies regarding the imposition of limitations on the numbers of proposals that may be submitted by an institution of higher education.

The Senate amendment contained no similar provision.

The Senate recedes.

TITLE VIII—GENERAL PROVISIONS

COLLECTION OF DATA RELATING TO TRADE IN  
SERVICES (SECTION 8001)

The Senate amendment contained a provision (section 5001) that established a five year program within the Bureau of Economic Analysis to collect and study data relating to export and import services.

The House bill contained no similar provision.

The House recedes to the Senate with an amendment that would have the Secretary of Commerce acting through the Director of the Bureau of Economic Analysis to prepare a report to Congress, no later than January 31, 2008 on the feasibility, cost and potential benefits of a program to collect and study data relating to the export and import of services.

SENSE OF THE SENATE REGARDING SMALL BUSINESS GROWTH AND CAPITAL MARKETS (SECTION 8002)

The Senate amendment contained a sense of the Senate (section 5002) that Securities and Exchange Commission and the Public Company Accounting Oversight Board should promulgate final rules implementing section 404 of the Sarbanes Oxley Act of 2002 (15 U.S.C. 7262).

The House bill contained no similar provision.

The House recedes to the Senate provision.  
GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF ACTIVITIES, GRANTS AND PROGRAMS (SECTION 8003)

The Senate amendment contained a provision (section 5003) that required no later than 3 years after date of enactment that the

Comptroller General of the United States examine each interim report submitted to the Congress under the Act and assess or evaluate the effectiveness of the new or expanded activities under the Act and include recommendations to improve the effectiveness of activities under the Act including termination.

The House bill contained no similar provision.

The House recedes to the Senate with an amendment that selects a representative sample of new or expanded activities required to be carried out under the Act and includes such recommendations as the Comptroller General determines appropriate to ensure effectiveness of, or improvements to the programs and activities, including termination.

SENSE OF THE SENATE REGARDING ANTI-COMPETITIVE TAX POLICY (SECTION 8004)

The Senate amendment contained a provision (section 5004) that notwithstanding any other provision of law, would prohibit federal funds to any organization or entity that advocates against tax competition or United States tax competitiveness. The amendment notes that advocating for effective tax information or advocating for effective tax transfer, and advocating for income tax treaties is not considered to be advocating against tax competition or the United States' tax competitiveness.

The House had no similar provision.

The House recedes to the Senate with an amendment that it is a sense of the Senate that Federal funds should not be provided to any organization or entity that advocates against United States tax policy that is internationally competitive.

STUDY OF THE PROVISION OF ONLINE DEGREE PROGRAMS (SECTION 8005)

The Senate amendment contained a provision (section 5005) that would require the Secretary of Commerce to enter into a contract with the National Academy of Sciences to conduct a feasibility study on creating a national, free online degree program that would enable all individuals described under section 484(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(5)) who wish to pursue a degree in a field of strategic importance to the United States and where expertise is in demand such as mathematics, science and foreign languages.

The House bill contained no similar provision.

The House recedes to the Senate with an amendment that the Secretary of Education shall enter into an arrangement with the National Academy of Sciences to conduct a study and provide a report to the Secretary, Secretary of Commerce and Congress on the mechanisms and support needed for an institution of higher education or nonprofit organization to develop and maintain a program to provide free access to online educational content as part of a degree program, especially in science, technology, engineering and mathematics or foreign language without using Federal funds including funds provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070).

SENSE OF THE SENATE REGARDING DEEMED EXPORTS (SECTION 8006)

The Senate amendment contained a sense of the Senate that the Deemed Export Advisory Committee of the Department of Commerce develop recommendations for improving current controls on deemed exports and that the President and the Congress should consider the recommendations of the Committee in developing and implementing export control policies.

The House bill contained no similar provision.

The House recedes to the Senate provision.

ACCOUNTABILITY AND TRANSPARENCY OF ACTIVITIES AUTHORIZED BY THIS ACT (SECTION 8008)

The Senate amendment contained a provision (section 1504) that would have required the Inspector General of the Department of Commerce to conduct routine independent, publicly available reviews of activities carried out with grants and other financial assistance made available by the Administrator of the National Oceanic and Atmospheric Administration, NOAA. The provision would have prohibited NOAA funds under a grant or contract to be used by the person who receives the grant or contract, including any subcontractor, for a banquet or conference, other than a conference relating to the training or a routine meeting with officers or employees of the Administration to discuss an ongoing project. The provision would also require that each person who receives funds from the NOAA Administrator through a grant or contract shall submit to the Administrator a certification stating that none of such funds will be made available through a subcontract in any other manner to another person who has a financial interest or other conflict with the person who received such funds from the Administrator.

The House bill contains no similar provision.

The House recedes with an amendment specifying that, 360 days after enactment of the Act, a grant or contract funded by amounts authorized under the Act may not be used to defray the costs of a banquet or conference not directly and programmatically related to the purpose for which the grant or contract was awarded where a directly and programmatically related banquet or conference includes a banquet or conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract. The amendment also requires that any person awarded a grant or contract funded by amounts authorized by this Act shall submit a statement to the Secretary of Commerce, the Secretary of Energy, the Secretary of Education, the Administrator, or the Director, as appropriate, certifying that no funds derived from the grant or contract will be made available through a subcontract or in any other manner to another person who has a financial interest or other conflict of interest in the person awarded the grant or contract, unless previously disclosed and approved in the process of entering into a contract or awarding a grant. The amendment does not apply to sections 6201 and 6203 which contain separate conflict of interest provisions.

From the Committee on Science and Technology, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

BART GORDON,  
DANIEL LIPINSKI,  
BRIAN BAIRD,  
DAVID WU,  
NICK LAMPSON,  
MARK UDALL,  
GABRIELLE GIFFORDS,  
JERRY MCNERNEY,  
VERNON J. EHLERS,

From the Committee on Education and Labor, for consideration of Division C of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,  
RUSH HOLT,

*Managers on the Part of the House.*

JEFF BINGAMAN,  
DANIEL K. INOUE,  
EDWARD KENNEDY,

JOSEPH LIEBERMAN,  
BARBARA A. MIKULSKI,  
JOHN F. KERRY,  
BILL NELSON,

PETE V. DOMENICI,  
TED STEVENS,  
MICHAEL B. ENZI,  
LAMAR ALEXANDER,

JOHN ENSIGN,  
NORM COLEMAN,  
*Managers on the Part of the Senate.*

### NOTICE

***Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.***

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HAYES (at the request of Mr. BOEHNER) for July 31 until 1 p.m. on account of illness in the family.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. SUTTON, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. JEFFERSON, for 5 minutes, today.

Mr. SESTAK, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Ms. FOXX) to revise and extend their remarks and include extraneous material:)

Ms. FOXX, for 5 minutes, today.

Mr. BRADY of Texas, for 5 minutes, today and August 2 and 3.

Mr. MCHENRY, for 5 minutes, today and August 2 and 3.

Mr. WESTMORELAND, for 5 minutes, today.

Mr. PRICE of Georgia, for 5 minutes, today.

Mr. ROHRBACHER, for 5 minutes, today.

#### SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 7. Joint resolution providing for the reappointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

S.J. Res. 8. Joint resolution providing for the reappointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

#### ENROLLED BILL SIGNED

Ms. Lorraine C. Miller, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1. An act to provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States.

#### ADJOURNMENT

Mr. PETERSON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, August 2, 2007, at 9 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2816. A letter from the Comptroller, Department of Defense, transmitting the Secretary's certification that the current Future Years Defense Program (FYDP) fully funds the support costs associated with the MH-60R helicopter mission avionics multiyear procurement program, pursuant to 10 U.S.C. 2306b(i)(1)(A); to the Committee on Armed Services.

2817. A letter from the Under Secretary for Acquisitions, Technology and Logistics, Department of Defense, transmitting the Department's certification that the F-22 multiyear procurement meets all requirements of the law, pursuant to 10 U.S.C. 134; to the Committee on Armed Services.

2818. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting a copy of the "Annual Report on the Department of Defense Mentor-Protege Program" for FY 2006, pursuant to Public Law 101-510, section 831; to the Committee on Armed Services.

2819. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement Vice Admiral David C. Nichols, Jr., United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

2820. A letter from the Director, Office of Standards and Variances, Department of Labor, transmitting the Department's final rule — Sealing of Abandoned Areas (RIN: 1219-AB52) received July 2, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

2821. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's

final rule — Implementation of the Office of OMB Guidance on Nonprocurement Debarment and Suspension — received June 23, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2822. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio; Correction [EPA-R05-OAR-2006-0046; EPA-R05-OAR-2006-0891; EPA-R05-OAR-2006-0892; FRL-8335-6] received July 2, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2823. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Kentucky Portion of the Louisville 8-Hour Ozone Nonattainment Area to Attainment for Ozone [EPA-R04-OAR-2006-0584-200723; FRL-8335-4] received July 2, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2824. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Ohio Rules to Control Emissions from Hospital, Medical, and Infectious Waste Incinerators [EPA-R05-OAR-2006-0560; FRL-8335-5] received July 2, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2825. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Hampton Roads Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base-Year Inventory; Correction [EPA-R03-OAR-2006-0919; FRL-8335-1] received July 2, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2826. A letter from the Chair, Acquisition Advisory Panel, transmitting the Panel's Final Report including recommendations regarding small business, the Federal acquisition workforce, and the appropriate role of contractors supporting the federal government, as required by Section 1423 of the Services Acquisition Reform Act of 2003; to the Committee on Oversight and Government Reform.

2827. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting the Department's 2006 inventory of activities that are not inherently governmental functions as required by Section 2 of the Federal Activities Inventory Reform (FAIR) Act of 1998, Public Law 105-270; to the Committee on Oversight and Government Reform.

2828. A letter from the General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the

Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2829. A letter from the Under Secretary for Management, Department of Homeland Security, transmitting in accordance with the Federal Activities Inventory Reform Act of 1998, the Department's FY 2006 inventory of commercial and inherently governmental activities; to the Committee on Oversight and Government Reform.

2830. A letter from the Principal Deputy Assistant Attorney General, Department of Justice, transmitting the Department's report on the amount of acquisitions made from entities that manufacture the articles, materials, or supplies outside the United States in Fiscal Years 2005 and 2006; to the Committee on Oversight and Government Reform.

2831. A letter from the Principal Deputy Assistant Attorney General, Department of Justice, transmitting the Department's report on the use of the Category Rating System during calendar year 2006, pursuant to 5 U.S.C. 3319(d); to the Committee on Oversight and Government Reform.

2832. A letter from the Procurement Executive, Department of State, transmitting the Department's final rule — Department of State Acquisition Regulation; Technical Amendments (RIN: 1400-AC34) received July 16, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

2833. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2834. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2835. A letter from the Special Assistant to the Secretary, Department of Veterans Affairs, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2836. A letter from the Assistant Director, Executive & Political Personnel, Department of the Army, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2837. A letter from the Assistant Director, Executive & Political Personnel, Department of the Navy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2838. A letter from the Associate Special Counsel for Legal Counsel and Policy, Office of Special Counsel, transmitting the Office's final rule — Revision of Freedom of Information Act regulations of the U.S. Office of Special Counsel — received July 30, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

2839. A letter from the Executive Secretary, U.S. Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2840. A letter from the Executive Secretary, U.S. Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2841. A letter from the Executive Secretary, U.S. Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

2842. A letter from the Office of the District of Columbia Auditor, transmitting a copy of the report entitled, "Audit of Advisory Neighborhood Commission 3D for Fiscal Years 2005 through 2007, as of March 31, 2007"; to the Committee on Oversight and Government Reform.

2843. A letter from the Office of the District of Columbia Auditor, transmitting a copy of the report entitled, "Audit of Advisory Neighborhood Commission 3C for Fiscal Years 2005 through 2007, as of March 31, 2007"; to the Committee on Oversight and Government Reform.

2844. A letter from the Office of the District of Columbia Auditor, transmitting a report entitled, "Letter Report: Certification of the Sufficiency of the Washington Convention Center Authority's Projected Revenues and Excess Reserve to Meet Projected Operating and Debt Service Expenditures and Reserve Requirements for Fiscal Year 2008"; to the Committee on Oversight and Government Reform.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GORDON: Committee of Conference. Conference report on H.R. 2272. A bill to invest in innovation through research and development, and to improve the competitiveness of the United States (Rept. 110-289). Order to be printed.

Mr. MCGOVERN: COMMITTEE ON RULES. HOUSE RESOLUTION 599. RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF THE BILL (H.R. 3161) MAKING APPROPRIATIONS FOR AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES PROGRAMS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2008, AND FOR OTHER PURPOSES (REPT. 110-290). REFERRED TO THE HOUSE CALENDAR.

Mr. WELCH: Committee on Rules. House Resolution 600. Resolution providing for consideration of motions to suspend the rules (Rept. 110-291). Referred to the House Calendar.

Ms. SLAUGHTER: Committee on Rules. House Resolution 601. Resolution providing for consideration of the bill (H.R. 3159) to mandate minimum periods of rest and recuperation for units and members of the regular and reserve components of the Armed Forces between deployments for Operation Iraqi Freedom or Operation Enduring Freedom (Rept. 110-292). Referred to the House Calendar.

Ms. SUTTON: Committee on Rules. House Resolution 602. Resolution providing for consideration of the conference report to accompany the bill (H.R. 2272) to invest in innovation through research and development, and to improve the competitiveness of the United States (Rept. 110-293). Referred to the House Calendar.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FILNER:

H.R. 3270. A bill to amend the Immigration and Nationality Act to permit certain Mexican children, and accompanying adults, to obtain a waiver of the documentation requirements otherwise required to enter the United States as a temporary visitor; to the Committee on the Judiciary.

By Ms. SHEA-PORTER:

H.R. 3271. A bill to prohibit the solicitation and display of Social Security account num-

bers, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIRK (for himself, Mr. LARSEN of Washington, Mr. ISRAEL, Mrs. DAVIS of California, and Mr. BOUSTANY):

H.R. 3272. A bill to provide for increased funding and support for diplomatic engagement with the People's Republic of China; to the Committee on Foreign Affairs.

By Mr. LARSEN of Washington (for himself, Mr. KIRK, Mrs. DAVIS of California, Mr. ISRAEL, and Mr. BOUSTANY):

H.R. 3273. A bill to authorize assistance to small- and medium-sized businesses to promote exports to the People's Republic of China, and for other purposes; to the Committee on Foreign Affairs, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISRAEL (for himself, Mr. LARSEN of Washington, Mr. KIRK, Mrs. DAVIS of California, and Mr. BOUSTANY):

H.R. 3274. A bill to authorize the Secretary of Energy to make grants to encourage cooperation between the United States and China on joint research, development, or commercialization of carbon capture and sequestration technology, improved energy efficiency, or renewable energy sources; to the Committee on Energy and Commerce, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. DAVIS of California (for herself, Mr. LARSEN of Washington, Mr. KIRK, Mr. ISRAEL, and Mr. BOUSTANY):

H.R. 3275. A bill to support programs that offer instruction in Chinese language and culture, and for other purposes; to the Committee on Education and Labor.

By Mr. KIRK (for himself, Ms. BEAN, Mr. EMANUEL, Mr. HINCHEY, Mr. GUTIERREZ, Mr. ROSKAM, Mr. PETRI, Mr. LAHOOD, Mr. KUCINICH, Mr. DAVIS of Illinois, Mr. JACKSON of Illinois, Mr. HARE, and Mr. CARNEY):

H.R. 3276. A bill to amend the Internal Revenue Code of 1986 to deny refinery expensing to owners of refineries that are permitted to increase the discharge of pollutants into the Great Lakes; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 3277. A bill to suspend temporarily the duty on butanedioic acid, dimethylester, polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidine ethanol; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 3278. A bill to suspend temporarily the duty on a mixture of 1,3,5-Triazine-2,4,6-triamine,N,N''-[1,2-ethane-diyl-bis [ [ 4,6-bis-[butyl (1,2,2,6,6-pentamethyl-4-piperidinyl)amino]-1,3,5-triazine-2 yl) imino]-3,1-propanediyl ] bis[N',N''-dibutyl-N',N''-bis(1,2,2,6,6-pentamethyl-4-piperidinyl)- and Butanedioic acid, dimethylester polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidine ethanol; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 3279. A bill to suspend temporarily the duty on 4-chloro-benzonitrile; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 3280. A bill to suspend temporarily the duty on ortho nitro aniline; to the Committee on Ways and Means.

By Mr. BOUCHER (for himself and Mr. UPTON):

H.R. 3281. A bill to promote competition, to preserve the ability of local governments to provide broadband capability and services, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CAMP of Michigan (for himself, Mr. KIND, Mr. BURGESS, Mr. WELLER, Mr. CLAY, Mr. LATHAM, Mr. HINCHEY, Mr. COSTA, and Mr. BARROW):

H.R. 3282. A bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CARDOZA:

H.R. 3283. A bill to amend part E of title IV of the Social Security Act to require States to provide foster children with court-appointed special advocates who meet national standards, and for other purposes; to the Committee on Ways and Means.

By Mr. CARNEY (for himself, Ms. JACKSON-LEE of Texas, Mr. THOMPSON of Mississippi, Mr. DEFAZIO, Ms. NORTON, Ms. CLARKE, Mr. AL GREEN of Texas, and Mr. PERLMUTTER):

H.R. 3284. A bill to amend title 49, United States Code, by repealing the provision regarding the acquisition management system for the Transportation Security Administration; to the Committee on Homeland Security.

By Mr. COHEN:

H.R. 3285. A bill to amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FILNER:

H.R. 3286. A bill to amend title 38, United States Code, to reduce the period of time for which a veteran must be totally disabled before the veteran's survivors are eligible for the benefits provided by the Secretary of Veterans Affairs for survivors of certain veterans rated totally disabled at time of death; to the Committee on Veterans' Affairs.

By Mr. GRIJALVA:

H.R. 3287. A bill to expand the Pajarita Wilderness and designate the Tumacacori Highlands Wilderness in Coronado National Forest, Arizona, and for other purposes; to the Committee on Natural Resources.

By Mr. GRIJALVA:

H.R. 3288. A bill to authorize appropriations for the U.S. Institute for Environmental Conflict Resolution, and for other purposes; to the Committee on Education and Labor, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HIRONO (for herself, Mr. GEORGE MILLER of California, Mr. ANDREWS, Mr. TIERNEY, and Mrs. DAVIS of California):

H.R. 3289. A bill to amend the Elementary and Secondary Education Act of 1965 to improve early education; to the Committee on Education and Labor.

By Mr. HOLT:

H.R. 3290. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management systems to minimize the use of pesticides in schools and to provide parents, guardians, and employees with notice of the use of pesticides in schools, and for other purposes; to the Committee on Agriculture.

By Mr. KIRK (for himself, Mr. DAVIS of Kentucky, Mr. CARNEY, Mr. SESSIONS, Mrs. BIGGERT, Mr. TERRY, Mr. ROSKAM, Mr. GINGREY, Mr. REICHERT, Mr. KUHL of New York, Mr. GERLACH, Mr. SHAYS, Mr. SHIMKUS, Mr. BOUSTANY, Mr. TOM DAVIS of Virginia, Mr. FERGUSON, Mr. GILCHREST, Mrs. MILLER of Michigan, Mr. SAXTON, Mr. WAMP, Mr. MCCOTTER, Mr. BRADY of Texas, Mr. LINCOLN DIAZ-BALART of Florida, Mr. ENGLISH of Pennsylvania, Mr. FRELINGHUYSEN, Ms. PRYCE of Ohio, Mr. ROGERS of Michigan, Mr. TIBERI, and Mr. WELLER):

H.R. 3291. A bill to protect students and teachers; to the Committee on Education and Labor.

By Mr. KIRK (for himself and Mr. CARNEY):

H.R. 3292. A bill to amend the Elementary and Secondary Education Act of 1965 to clarify Federal requirements under that Act; to the Committee on Education and Labor.

By Mr. LAMBORN:

H.R. 3293. A bill to direct the Secretary of Homeland Security to establish an Immigration and Customs Enforcement office in El Paso County, Colorado; to the Committee on Homeland Security, and in addition to the Committees on the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Mr. TOWNS, Ms. ROYBAL-ALLARD, Mr. DAVIS of Illinois, Ms. BORDALLO, and Ms. CARSON):

H.R. 3294. A bill to amend the Rehabilitation Act of 1973 and the Public Health Service Act to set standards for medical diagnostic equipment and to establish a program for promoting good health, disease prevention, and wellness and for the prevention of secondary conditions for individuals with disabilities, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCRERY (for himself and Mr. MELANCON):

H.R. 3295. A bill to amend the Public Health Service Act to modify the program for the sanctuary system for surplus chimpanzees by terminating the authority for the removal of chimpanzees from the system for research purposes; to the Committee on Energy and Commerce.

By Mr. MURPHY of Connecticut:

H.R. 3296. A bill to amend the Truth in Lending Act to establish transparency and accountability requirements for mortgage brokers, and for other purposes; to the Committee on Financial Services.

By Mr. PATRICK MURPHY of Pennsylvania (for himself, Mr. HOLDEN, Mr. ALTMIRE, Mr. DENT, Mr. MURTHA, Mr. TIM MURPHY of Pennsylvania, Mr.

DOYLE, Mr. SESTAK, Mr. PITTS, Mr. PLATTS, Mr. FATTAH, Mr. KANJORSKI, Ms. SCHWARTZ, Mr. GERLACH, Mr. CARNEY, Mr. BRADY of Pennsylvania, Mr. SHUSTER, and Mr. ENGLISH of Pennsylvania):

H.R. 3297. A bill to designate the facility of the United States Postal Service located at 950 West Trenton Avenue in Morrisville, Pennsylvania, as the "Nate DeTemple Post Office Building"; to the Committee on Oversight and Government Reform.

By Mr. PATRICK MURPHY of Pennsylvania (for himself and Mr. WALZ of Minnesota):

H.R. 3298. A bill to amend the Servicemembers Civil Relief Act to allow individuals called to military service to terminate or suspend certain service contracts entered into before the individual receives notice of a permanent change of station or deployment orders and to provide penalties for violations of interest rate limitations; to the Committee on Veterans' Affairs.

By Mrs. MUSGRAVE:

H.R. 3299. A bill to provide for a boundary adjustment and land conveyances involving Roosevelt National Forest, Colorado, to correct the effects of an erroneous land survey that resulted in approximately 7 acres of the Crystal Lakes Subdivision, Ninth Filing, encroaching on National Forest System land; to the Committee on Natural Resources.

By Mr. NUNES:

H.R. 3300. A bill to provide for the development of a market for coal-to-liquid fuel; to the Committee on Energy and Commerce.

By Mr. PASTOR (for himself, Mr. FLAKE, Mr. MITCHELL, and Mr. SHAD-EGG):

H.R. 3301. A bill to authorize and direct the exchange and conveyance of certain National Forest land and other land in southeast Arizona; to the Committee on Natural Resources.

By Mr. PAUL:

H.R. 3302. A bill to amend title 5, United States Code, to prohibit agencies from enforcing rules that result in a specified economic impact until the requirements of those rules are enacted into law by an Act of Congress, and for other purposes; to the Committee on the Judiciary.

By Mr. PAUL:

H.R. 3303. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for police officers and professional firefighters, and to exclude from income certain benefits received by public safety volunteers; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 3304. A bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit for law enforcement officers who purchase armor vests, and for other purposes; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 3305. A bill to provide for the safety of United States aviation and the suppression of terrorism; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE:

H.R. 3306. A bill to amend the Internal Revenue Code of 1986 to allow amounts in a health flexible spending arrangement that are unused during a plan year to be carried over to subsequent plan years or deposited into certain health or retirement plans; to the Committee on Ways and Means.

By Mr. SIREs (for himself, Mr. ANDREWS, Mr. HOLT, Mr. PALLONE, Mr. PASCRELL, Mr. PAYNE, Mr. ROTHMAN, Mr. FERGUSON, Mr. FRELINGHUYSEN,

Mr. GARRETT of New Jersey, Mr. LOBIONDO, Mr. SAXTON, and Mr. SMITH of New Jersey):

H.R. 3307. A bill to designate the facility of the United States Postal Service located at 570 Broadway in Bayonne, New Jersey, as the "Dennis P. Collins Post Office Building"; to the Committee on Oversight and Government Reform.

By Mr. SOUDER (for himself, Mr. DONNELLY, Mr. ELLSWORTH, Mr. BURTON of Indiana, Mr. BUYER, Mr. HILL, Mr. PENCE, Mr. VISCLOSKEY, and Ms. CARSON):

H.R. 3308. A bill to designate the facility of the United States Postal Service located at 216 East Main Street in Atwood, Indiana, as the "Lance Corporal David K. Fribley Post Office"; to the Committee on Oversight and Government Reform.

By Mr. VAN HOLLEN (for himself, Mr. ALLEN, Mr. STARK, Mr. WELCH of Vermont, and Mr. RAHALL):

H.R. 3309. A bill to amend title XIX of the Social Security Act to require, at the option of a State, drug manufacturers to pay rebates to State prescription drug discount programs as a condition of participation in a rebate agreement for outpatient prescription drugs under the Medicaid Program; to the Committee on Energy and Commerce.

By Ms. VELÁZQUEZ:

H.R. 3310. A bill to amend the Housing and Urban Development Act of 1968 to ensure improved access to employment opportunities for low-income people; to the Committee on Financial Services.

By Mr. BRADY of Pennsylvania (for himself, Mr. LANTOS, and Ms. ROSLEHTINEN):

H. Con. Res. 196. Concurrent resolution authorizing the use of the rotunda and grounds of the Capitol for a ceremony to award the Congressional Gold Medal to Tenzin Gyatso, the Fourteenth Dalai Lama; to the Committee on House Administration, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRIJALVA:

H. Con. Res. 197. Concurrent resolution commending the Hispanic Heritage Foundation for recognizing the next generation of Latino role models for their academic achievements and community service; to the Committee on Oversight and Government Reform.

By Ms. LEE (for herself, Mr. BACA, Mr. BUTTERFIELD, Mr. CONYERS, Mr. ELLISON, Mr. GRIJALVA, Mr. HARE, Mr. HONDA, Ms. KILPATRICK, Mr. MCGOVERN, Ms. SCHAKOWSKY, Ms. SOLIS, Ms. WATSON, and Ms. WOOLSEY):

H. Con. Res. 198. Concurrent resolution expressing the sense of Congress that the United States has a moral responsibility to meet the needs of those persons, groups and communities that are impoverished, disadvantaged or otherwise in poverty; to the Committee on Oversight and Government Reform.

By Mr. AKIN (for himself, Mr. DOOLITTLE, Mrs. MYRICK, Mrs. BLACKBURN, Mr. NEUGEBAUER, Mr. MARCHANT, Mr. LAMBORN, Mr. BURGESS, Mr. SOUDER, Mr. KING of Iowa, Mr. GOHMERT, Mr. SAM JOHNSON of Texas, Mr. PRICE of Georgia, Mr. BILBRAY, Mr. KINGSTON, Mr. CARTER, Mr. WESTMORELAND, Mr. GARRETT of New Jersey, Mr. JORDAN, Mr. ROSKAM, Mr. BARTLETT of Maryland, Mr. BURTON of Indiana, Mr. PENCE, Mr. FRANKS of Arizona, and Mr. MILLER of Florida):

H. Res. 598. A resolution supporting the goals of the Ten Commandments Commission and congratulating such Commission and its supporters for their key role in promoting and ensuring recognition of the Ten Commandments as the cornerstone of Western law; to the Committee on Oversight and Government Reform.

By Mr. HASTINGS of Florida:

H. Res. 603. A resolution expressing the sense of the House of Representatives on the announcement of the Government of the Russian Federation of its intention to suspend implementation of the Treaty on Conventional Armed Forces in Europe; to the Committee on Foreign Affairs.

By Mr. MCCOTTER:

H. Res. 604. A resolution expressing the nation's sincerest appreciation and thanks for the service of the members of the 303rd Bombardment Group (Heavy) upon the occasion of the final reunion of the 303rd Bomb Group (H) Association; to the Committee on Armed Services.

By Mr. ROSKAM (for himself, Mr. ETHERIDGE, Mr. HASTINGS of Florida, Mr. GINGREY, Mr. KINGSTON, Mr. CARTER, Mr. RAMSTAD, Mr. HOLDEN, and Mr. GOODLATTE):

H. Res. 605. A resolution supporting the goals and ideals of Gold Star Mothers Day; to the Committee on Oversight and Government Reform.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 111: Mr. DAVIS of Illinois.  
 H.R. 358: Mr. FRANK of Massachusetts.  
 H.R. 538: Mr. SALAZAR.  
 H.R. 583: Mr. MARKEY.  
 H.R. 601: Mr. FORTENBERRY, Mr. ROSKAM, and Mr. KIRK.  
 H.R. 748: Mr. KILDEE, Mr. DOGGETT, Mrs. EMERSON, and Mr. DAVID DAVIS of Tennessee.  
 H.R. 760: Mr. DOYLE.  
 H.R. 819: Mr. BISHOP of Georgia and Mr. PASCARELL.  
 H.R. 900: Mrs. LOWEY.  
 H.R. 946: Ms. HIRONO and Mr. SERRANO.  
 H.R. 983: Mr. SPACE.  
 H.R. 989: Mrs. BIGGERT.  
 H.R. 1000: Mr. WELCH of Vermont, Mr. WYNN, Mr. BRADY of Pennsylvania, Mr. MELANCON, Mr. HINCHEY, and Mr. HONDA.  
 H.R. 1089: Mr. MCCOTTER.  
 H.R. 1125: Ms. LINDA T. SÁNCHEZ of California, Mr. WYNN, Mr. JOHNSON of Illinois, Mr. GOHMERT, Ms. MATSUL, Mr. SHERMAN, Mr. SMITH of New Jersey, Mr. KINGSTON, Ms. SOLIS, Mr. ROTHMAN, Mr. BOOZMAN, Mr. HASTERT, Mr. REYES, Mr. GARRETT of New Jersey, Mr. MCKEON, Mr. NEAL of Massachusetts, and Mr. DAVID DAVIS of Tennessee.  
 H.R. 1154: Mr. JEFFERSON, Ms. KILPATRICK, Ms. SOLIS, Ms. NORTON, Mr. HINCHEY, Ms. LINDA T. SÁNCHEZ of California, Mr. ISSA, Mr. ROSS, Mr. GOODE, Mr. CARDOZA, Mr. ELLSWORTH, Mr. LUCAS, Mr. COBLE, Mr. DOOLITTLE, Mr. GERLACH, Mr. TIM MURPHY of Pennsylvania, Mr. LOBIONDO, Mr. FERGUSON, Mr. MCKEON, Mr. TIAHRT, Mr. LEWIS of California, Mr. FRELINGHUYSEN, Mr. SIMPSON, Mr. MORAN of Kansas, Mr. TOM DAVIS of Virginia, Ms. WASSERMAN SCHULTZ, Mr. DANIEL E. LUNGREN of California, Mr. WAXMAN, Mr. SNYDER, Mr. GALLEGLY, Mr. DAVIS of Kentucky, Mr. REGULA, Mr. WOLF, Mr. SHAYS, Mr. MCCOTTER, Mr. WALSH of New York, Mr. MCHUGH, Mr. DAVID DAVIS of Tennessee, Mr. JORDAN, Mr. SMITH of Nebraska, Mr. KNOLLENBERG, Mr. KLINE of Minnesota, Mr. KINGSTON, Ms. ROS-LEHTINEN, Ms. PRYCE of Ohio, Mr. WHITFIELD, and Mr. BROUN of Georgia.

H.R. 1190: Mr. LINCOLN DIAZ-BALART of Florida, Mr. KENNEDY, Mr. COLE of Oklahoma, and Mr. GOHMERT.

H.R. 1216: Mr. KAGEN and Mrs. BOYDA of Kansas.

H.R. 1236: Mr. ALEXANDER, Mr. PERLMUTTER, Mr. BAKER, Mr. RANGEL, and Mr. SALAZAR.

H.R. 1232: Mr. DOYLE, Mr. DOGGETT, Ms. MCCOLLUM of Minnesota, and Mr. HINCHEY.

H.R. 1275: Ms. WASSERMAN SCHULTZ.

H.R. 1304: Mr. BONNER.

H.R. 1342: Mrs. BOYDA of Kansas.

H.R. 1359: Mr. HELLER.

H.R. 1366: Mr. GOODLATTE.

H.R. 1400: Mr. GOODLATTE.

H.R. 1420: Mr. COURTNEY, Mr. BRADY of Pennsylvania, and Mr. HINCHEY.

H.R. 1422: Mr. PLATTS and Mr. PAYNE.

H.R. 1426: Mr. HOEKSTRA.

H.R. 1440: Mr. ISSA, Mr. SNYDER, and Mr. CASTLE.

H.R. 1461: Mr. WATT.

H.R. 1514: Mr. OBERSTAR.

H.R. 1537: Mr. DAVIS of Illinois.

H.R. 1576: Mr. PERLMUTTER and Mrs. LOWEY.

H.R. 1609: Mr. TOM DAVIS of Virginia, Mr. LAMPSON, Mr. KENNEDY, and Ms. NORTON.

H.R. 1665: Mr. SHUSTER and Ms. SCHWARTZ.

H.R. 1687: Mr. MICHAUD.

H.R. 1717: Mr. BROUN of Georgia.

H.R. 1727: Mrs. NAPOLITANO, Mr. ALTMIRE, and Mr. KILDEE.

H.R. 1742: Mr. FERGUSON.

H.R. 1746: Mrs. MYRICK, Mr. ISRAEL, and Mr. ROTHMAN.

H.R. 1748: Mr. PAUL, Mr. WILSON of South Carolina, Mr. MACK, Mr. ENGLISH of Pennsylvania, and Mr. SMITH of New Jersey.

H.R. 1755: Ms. HIRONO.

H.R. 1767: Mr. BACHUS.

H.R. 1809: Mr. MARSHALL and Mr. MCGOVERN.

H.R. 1876: Mr. FILNER and Mr. MCCOTTER.

H.R. 1878: Mrs. WILSON of New Mexico.

H.R. 1881: Mr. SCHIFF, and Mr. PETERSON of Minnesota.

H.R. 1926: Mr. DELAHUNT and Mr. RUPPERSBERGER.

H.R. 1955: Mr. DENT.

H.R. 1959: Ms. BORDALLO.

H.R. 1977: Mr. SAXTON.

H.R. 1983: Mr. RODRIGUEZ and Mr. HARE.

H.R. 2005: Mr. BOUCHER and Mr. PLATTS.

H.R. 2015: Mr. RYAN of Ohio and Mr. HALL of New York.

H.R. 2042: Mr. DEFAZIO.

H.R. 2052: Mr. HALL of New York and Mr. SERRANO.

H.R. 2053: Mr. ELLISON, Ms. GIFFORDS, Mr. DOGGETT, and Mr. LEWIS of Georgia.

H.R. 2061: Mr. FATTAH and Ms. SCHAKOWSKY.

H.R. 2095: Mr. COSTELLO, Ms. SCHAKOWSKY, and Mr. COSTA.

H.R. 2108: Ms. SUTTON.

H.R. 2109: Mr. DAVID DAVIS of Tennessee.

H.R. 2169: Mrs. DAVIS of California and Mr. SCOTT of Virginia.

H.R. 2220: Mr. ALTMIRE.

H.R. 2255: Mr. PERLMUTTER, Mr. LOEBBACH, and Ms. BERKLEY.

H.R. 2327: Ms. SHEA-PORTER.

H.R. 2353: Mr. SNYDER.

H.R. 2380: Mr. BUYER.

H.R. 2443: Ms. SOLIS.

H.R. 2452: Ms. LEE.

H.R. 2495: Mr. COURTNEY.

H.R. 2518: Mr. POE.

H.R. 2550: Mrs. CHRISTENSEN.

H.R. 2566: Mrs. LOWEY.

H.R. 2668: Mr. AL GREEN of Texas.

H.R. 2677: Ms. SHEA-PORTER.

H.R. 2682: Mr. WILSON of Ohio, Mrs. CHRISTENSEN, Mr. TIM MURPHY of Pennsylvania, Mr. GENE GREEN of Texas, Mrs. EMERSON, Mr. GORDON, and Mr. BACHUS.

H.R. 2694: Mr. BERMAN, Mr. WYNN, Mr. HASTINGS of Florida, and Mr. PAYNE.  
 H.R. 2700: Mr. ALLEN.  
 H.R. 2702: Ms. BORDALLO.  
 H.R. 2712: Mr. BONNER, Mr. INGLIS of South Carolina, Mr. CARTER, and Mr. WAMP.  
 H.R. 2734: Mr. COBLE and Mrs. JO ANN DAVIS of Virginia.  
 H.R. 2758: Mr. HASTINGS of Florida and Mr. SIREs.  
 H.R. 2761: Mr. HINOJOSA.  
 H.R. 2774: Mr. LANTOS.  
 H.R. 2784: Mr. KING of New York, Mr. WHITFIELD, Mr. PORTER, Mrs. BLACKBURN, Mr. MCCRERY, Mr. GALLEGLY, Mrs. MUSGRAVE, Mrs. MILLER of Michigan, Mr. BOREN, and Mr. HERGER.  
 H.R. 2790: Ms. CARSON.  
 H.R. 2802: Mr. MURTHA, Mr. WYNN, Ms. BALDWIN, and Ms. HIRONO.  
 H.R. 2805: Mr. SOUDER and Mr. MARSHALL.  
 H.R. 2818: Mr. CUMMINGS, Mr. PASTOR, Mr. UDALL of Colorado, Ms. HIRONO, Ms. BERKLEY, Mr. CLYBURN, Mr. KINGSTON, Mr. MARSHALL, Mr. SPRATT, and Mr. WAMP.  
 H.R. 2821: Mr. BERRY.  
 H.R. 2881: Mr. CLEAVER.  
 H.R. 2899: Mr. BROUN of Georgia, Mr. MARSHALL, and Mr. BARROW.  
 H.R. 2905: Mr. YARMUTH, Mr. ALEXANDER, Mrs. WILSON of New Mexico, Mr. HAYES, Mr. LOBIONDO, Mr. ROHRBACHER, Mr. SAXTON, Mr. BAKER, Mrs. BIGGERT, Mr. BONNER, Mrs. CAPITO, Mr. CASTLE, Mr. DENT, Mr. GERLACH, Mr. GILLMOR, Mr. KING of New York, Mr. KNOLLENBERG, Mr. LATOURETTE, Mr. MICA, Mr. PORTER, Mr. REICHERT, Mr. SHAYS, Mr. THORNBERRY, Mr. WALSH of New York, Mr. YOUNG of Florida, Mr. LAHOOD, and Mr. JONES of North Carolina.  
 H.R. 2922: Mr. MARSHALL.  
 H.R. 2934: Mr. BOREN and Mr. EDWARDS.  
 H.R. 2942: Mr. DOYLE, Mr. MANZULLO, Mr. MOLLOHAN, Mr. ADERHOLT, and Mr. STUPAK.  
 H.R. 2943: Ms. DEGETTE, and Mr. EDWARDS.  
 H.R. 2948: Mr. BURTON of Indiana, Mr. SOUDER, and Mr. PAUL.  
 H.R. 2954: Mr. BAKER, and Mr. ALEXANDER.  
 H.R. 3004: Ms. HIRONO, Mr. SMITH of Nebraska, Mrs. EMERSON, Mr. MCHUGH, Mr. NUNES, Mr. PETERSON of Minnesota, Mr. RAHALL, Mr. MR. MURTHA, and Mr. BERRY.  
 H.R. 3008: Mr. MAHONEY of Florida.  
 H.R. 3012: Mrs. BIGGERT.  
 H.R. 3026: Mr. MCGOVERN, Mr. SCOTT of Virginia, Ms. FOXX, Mr. DAVIS of Kentucky, Mrs. MALONEY of New York, Mr. REGULA, Mr. KINGSTON, Mr. CAMPBELL of California, Mr. MCHENRY, Mr. KING of Iowa, Mr. TURNER, Ms. WATERS, Mrs. MYRICK, and Mr. HAYES.  
 H.R. 3035: Mr. JACKSON of Illinois, Mr. ISSA, Mr. LAHOOD, Mr. YOUNG of Alaska, Ms. GIFFORDS, and Mr. RAMSTAD.  
 H.R. 3045: Ms. CARSON, Ms. CASTOR, Mr. HARE, Mr. KAGEN, Mr. LOEBACK, Mr. PERLMUTTER, Mr. TIERNEY, Mr. VAN HOLLEN, Ms. HIRONO, Ms. SCHAKOWSKY, Ms. SUTTON, and Mr. SIREs.  
 H.R. 3046: Mrs. LOWEY, and Mrs. MCCARTHY of New York.  
 H.R. 3084: Mr. DAVIS of Illinois.  
 H.R. 3098: Mr. ROGERS of Alabama, Mr. BONNER, and Mr. BACHUS.  
 H.R. 3103: Mr. MILLER of Florida.  
 H.R. 3109: Mr. PORTER.  
 H.R. 3114: Mr. FRANK of Massachusetts, Mr. BRADY of Pennsylvania, Ms. SOLIS, and Mr. KUHL of New York.  
 H.R. 3121: Mr. PICKERING.  
 H.R. 3138: Mr. CAMPBELL of California, Mr. PRICE of Georgia, Mr. KING of New York, Mr. CAMP of Michigan, Mr. BARRETT of South Carolina, Mr. CONAWAY, Mr. CANNON, Mr. MCCAUL of Texas, Mr. ROSKAM, Mr. CARTER, Mr. BURTON of Indiana, Mr. SHUSTER, and Mr. CHABOT.  
 H.R. 3143: Mr. GERLACH, Mr. BLUNT, and Mr. BURTON of Indiana.

H.R. 3145: Mr. PLATTS, and Mr. MILLER of Florida.  
 H.R. 3149: Mr. GERLACH.  
 H.R. 3157: Mrs. EMERSON.  
 H.R. 3168: Mr. TOWNS.  
 H.R. 3175: Mr. MCNUITY, Mr. STARK, and Mr. MCGOVERN.  
 H.R. 3189: Mr. DEFAZIO, Mr. GUTIERREZ, Mr. KENNEDY, and Mr. DAVIS of Illinois.  
 H.R. 3204: Mr. LEWIS of Georgia.  
 H.R. 3213: Mr. BONNER, Mr. SIMPSON, Mr. TERRY, and Mr. YOUNG of Alaska.  
 H.R. 3224: Mr. ARCURI, Mr. HALL of New York, Mr. LOBIONDO, Mr. MOORE of Kansas, Mr. CARNEY, Ms. BERKLEY, Mr. ABERCROMBIE, Mr. COSTA, and Mr. BOUCHER.  
 H.R. 3245: Mr. CULBERSON.  
 H.R. 3269: Mr. REICHERT, Mrs. EMERSON, Mr. SHAYS, Mr. WALSH of New York, and Mr. MCHUGH.  
 H.J. Res. 16: Mr. TANCREDO.  
 H.J. Res. 40: Mr. WELCH of Vermont.  
 H.J. Res. 47: Mr. REYES and Mr. BACA.  
 H. Con. Res. 37: Mr. CAMPBELL of California.  
 H. Con. Res. 75: Mr. MORAN of Kansas.  
 H. Con. Res. 134: Mr. BUTTERFIELD, Mr. CLAY, Mr. BISHOP of Georgia, Ms. NORTON, Mr. PAYNE, Mr. MEEK of Florida, Mr. TOWNS, Mr. SCOTT of Virginia, Mr. CONYERS, Mr. AL GREEN of Texas, Mr. JEFFERSON, and Mr. JOHNSON of Georgia.  
 H. Con. Res. 154: Mr. BURTON of Indiana.  
 H. Con. Res. 162: Ms. BERKLEY.  
 H. Con. Res. 181: Mrs. DAVIS of California and Mr. ROGERS of Alabama.  
 H. Con. Res. 183: Mr. COSTA.  
 H. Con. Res. 193: Mr. WILSON of Ohio, Mr. ALLEN, Mr. HILL, Mr. KAGEN, Mr. BOREN, Mr. MURTHA, and Mr. MILLER of Florida.  
 H. Res. 111: Mr. KING of Iowa, Mr. ALEXANDER, Mr. DOYLE, Mr. PAYNE, and Mr. WYNN.  
 H. Res. 169: Mr. BOSWELL.  
 H. Res. 333: Ms. BALDWIN and Mr. PAYNE.  
 H. Res. 356: Mr. ACKERMAN.  
 H. Res. 389: Mr. MILLER of North Carolina.  
 H. Res. 405: Ms. LEE.  
 H. Res. 443: Ms. BORDALLO, Ms. HERSETH SANDLIN, and Mr. GUTIERREZ.  
 H. Res. 457: Mr. INGLIS of South Carolina.  
 H. Res. 497: Mr. INGLIS of South Carolina.  
 H. Res. 508: Mr. HASTERT and Mr. SHERMAN.  
 H. Res. 548: Ms. Linda T. SANCHEZ of California, Mr. FERGUSON, Mr. SCOTT of Georgia, and Mr. GONZALEZ.  
 H. Res. 555: Mr. HIGGINS, Ms. NORTON, Mr. TOWNS, and Mr. BARROW.  
 H. Res. 557: Mr. MARSHALL and Mrs. MCMORRIS RODGERS.  
 H. Res. 563: Mrs. JONES of Ohio, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WATSON, Ms. LEE, Mr. PAYNE, Mrs. CHRISTENSEN, Mr. WATT, Mr. SCOTT of Georgia, Mr. THOMPSON of Mississippi, Ms. MOORE of Wisconsin, Mr. CLYBURN, Mr. HASTINGS of Florida, Ms. WATERS, Mr. JEFFERSON, Ms. KILPATRICK, Mr. CUMMINGS, Mr. AL GREEN of Texas, Mr. CLAY, Mr. LEWIS of Georgia, Mr. DAVIS of Illinois, Mr. DAVIS of Alabama, Mr. OBERSTAR, Mr. ELLISON, Mr. TOWNS, Mr. MEEKS of New York, Ms. JACKSON-LEE of Texas, and Mr. BUTTERFIELD.  
 H. Res. 564: Ms. SCHAKOWSKY and Ms. WATSON.  
 H. Res. 572: Mr. DAVIS of Illinois.  
 H. Res. 576: Mr. MATHESON.  
 H. Res. 583: Ms. BORDALLO and Ms. SHEAPORTER.  
 H. Res. 589: Mr. GRIJALVA, Mr. FRANK of Massachusetts, Ms. BERKLEY, Ms. BALDWIN, and Mrs. TAUSCHER.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks,

limited tax benefits, or limited tariff benefits were submitted as follows:

OFFERED BY MR. BART GORDON

The Conference Report accompanying H.R. 2272, America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education and Science Act, "does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI."

OFFERED BY MR. BART GORDON

Among the provisions that warranted a referral to the Committee on Science and Technology, H.R. 3221, the New Direction for Energy Independence, National Security, and Consumer Protection Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

OFFERED BY MR. COLLIN C. PETERSON

Among the provisions that warranted a referral to the Committee on Agriculture, H.R. 3221, the New Direction for Energy Independence, National Security, and Consumer Protection Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

OFFERED BY MS. NYDIA M. VELÁZQUEZ

Among the provisions that warranted a referral to the Committee on Small Business, H.R. 3221, the New Direction for Energy Independence, National Security, and Consumer Protection Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

OFFERED BY MR. HENRY A. WAXMAN

Among the provisions that warranted a referral to the Committee on Oversight and Government Reform, H.R. 3221, the New Direction for Energy Independence, National Security, and Consumer Protection Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

#### AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 3161

OFFERED BY: MR. BOOZMAN

AMENDMENT No. 56: At the end of the bill (before the short title), insert the following: SEC. \_\_\_\_ None of the funds made available in this Act may be used to implement the National Animal Identification System where the participation by livestock owners in such a system is mandatory.

H.R. 3222

OFFERED BY: MR. SESSIONS

AMENDMENT No. 9: In section 8027, page 61, starting on line 1, strike "Provided further" and all that follows through the period on line 4.

H.R. 3222

OFFERED BY: MR. SESSIONS

AMENDMENT No. 10: Strike section 8020.

H.R. 3222

OFFERED BY: MS. MOORE OF WISCONSIN

AMENDMENT No. 11: In title VI, in the item relating to "Office of the Inspector General", after the first dollar amount, insert "(increased by \$500,000) (reduced by \$500,000)".

H.R. 3222

OFFERED BY: MS. MOORE OF WISCONSIN

AMENDMENT No. 12: In title II, in the item relating to "Operation and Maintenance, Defense-Wide", after the first dollar amount,

insert “(increased by \$2,000,000) (reduced by \$2,000,000)”.

H.R. 3222

OFFERED BY: MS. MOORE OF WISCONSIN

AMENDMENT NO. 13: In title II, in the item relating to “Operation and Maintenance, Defense-Wide”, after the first dollar amount, insert “(increased by \$2,000,000)”.

In title IV, in the item relating to “Research, Development, Test and Evaluation, Defense-Wide”, after the dollar amount, insert “(reduced by \$2,000,000)”.

In title IV, in the item relating to “Research, Development, Test and Evaluation, Defense-Wide”, after the dollar amount, insert “(reduced by \$2,000,000)”.

H.R. 3222

OFFERED BY: MS. MOORE OF WISCONSIN

AMENDMENT NO. 14: In title II, in the item relating to “Operation and Maintenance, Defense-Wide”, after the first dollar amount, insert “(increased by \$2,000,000)”.

In title IV, in the item relating to “Research, Development, Test and Evaluation, Army”, after the dollar amount, insert “(reduced by \$2,000,000)”.

H.R. 3222

OFFERED BY: MR. CASTLE

AMENDMENT NO. 15: At the end of the bill (before the short title), insert the following:

SEC. \_\_\_\_\_. None of the funds made available in this Act may be obligated or expended by the Department of Defense to award a contract in an amount greater than \$5,000,000 to any entity that does not have in place an internal ethics compliance program.

H.R. 3222

OFFERED BY: MR. CASTLE

AMENDMENT NO. 16: At the end of the bill (before the short title), insert the following:

SEC. 8110. Funds made available under title II of this Act shall be used to credit each member of the Armed Forces, including each member of a reserve component, with one additional day of leave for every month of the

member’s most recent previous deployment in a combat zone.

H.R. 3222

OFFERED BY: MR. CAMPBELL OF CALIFORNIA

AMENDMENT NO. 17: AT THE END OF THE BILL (BEFORE THE SHORT TITLE), INSERT THE FOLLOWING:

SEC. \_\_\_\_\_. None of the funds made available in this Act under the heading “Research, Development, Test and Evaluation, Navy” may be used for the Swimmer Detection Sonar Network.

H.R. 3222

OFFERED BY: MR. CAMPBELL OF CALIFORNIA

AMENDMENT NO. 18: At the end of the bill (before the short title), insert the following:

SEC. \_\_\_\_\_. None of the funds made available in this Act under the heading “Research, Development, Test and Evaluation, Army” may be used for the Paint Shield for Protecting People from Microbial Threats.