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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 ayes 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.

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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 to gather foreign intelligence 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 procedural 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 noes 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	Broun (GA)
Bachmann	Bishop (UT)	Brown (SC)
Bachus	Blackburn	Brown-Waite, Ginny
Baker	Blunt	Buchanan
Barrett (SC)	Boehner	Burgess
Bartlett (MD)	Bonner	

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

NAYS—231

Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boozman
Boren
Boswell
Boucher
Boyd (FL)
Boyda (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
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tiahrt
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Weiner
Welch (VT)
Weller
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NOT VOTING—24

Bean
Clarke
Cubin
Culberson
Cummings
Davis, Jo Ann
Engel
Hinchey
Honda
Jefferson
Johnson, Sam
Maloney (NY)
Markey
McCarthy (CA)
Miller, George
Murtha
Peterson (PA)
Poe
Pryce (OH)
Rogers (KY)
Ruppersberger
Tancredo
Udall (CO)
Waxman

□ 1101

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.''

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
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (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
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Perlmutter
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Weiner
Welch (VT)
Wexler
Whitfield
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NAYS—189

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
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
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

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

NOT VOTING—29

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

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
Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blunt
Boehner
Bonner
Bono
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Capito
Chabot
Cole (OK)
Conaway
Crenshaw
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Fallin
Flake
Forbes
Fortenberry
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Inglis (SC)
Issa
Johnson (IL)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Lucas
Lungren, Daniel E.
Mack
Mahoney (FL)
Manzullo
Marchant
McCaul (TX)
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Murphy, Tim
Musgrave
Neugebauer
Nunes
Paul
Pearce
Pence
Petri
Pickering
Pitts
Poe
Price (GA)
Putnam
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Sali
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOES—236

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baker
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Boozman
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Burgess
Butterfield
Capps
Cardoza
Carnahan
Carson
Carter
Castle
Castor
Chandler
Clay
Cleaver
Clyburn
Coble
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Emerson
Eshoo
Etheridge
Farr
Fattah
Ferguson
Filner
Fossella
Foxx
Frank (MA)
Gerlach
Giffords
Gilchrest
Gillmor
Gonzalez
Green, Al
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
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
Kuhl (NY)
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCotter
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Perlmutter
Peterson (MN)
Peterson (PA)
Pomeroy
Porter
Rahall
Ramstad
Rangel
Reyes
Reynolds
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Shays
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walberg
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—42

Bean
Cantor
Capuano
Carney
Clarke
Cubin
Culberson
Davis, Jo Ann
Engel
Feeney
Gillibrand
Gordon
Green, Gene
Hastert
Honda
Hulshof
Hunter
Jefferson
Johnson, Sam
Linder
McCarthy (CA)
McCollum (MN)
McDermott
Moran (VA)
Myrick
Payne
Platts
Price (NC)
Pryce (OH)
Radanovich
Rogers (KY)
Rothman
Ryan (WI)
Sestak
Simpson
Smith (WA)
Tancredo
Tierney
Udall (CO)
Waxman
Weller
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 gentlewoman 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
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boyd (FL)
Boyda (KS)
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NAYS—197

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

LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
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)

NOT VOTING—13

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

□ 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 gentlewoman 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 recommit, 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 Republican-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 commonsense 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 everyone 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. Physiatry

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-income 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. PITTS' 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 gentlewoman 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. SESSION 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	Broun (GA)
Barrett (SC)	Blunt	Brown (SC)
Bartlett (MD)	Boehner	Buchanan

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

NAYS—246

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Ferguson
Filner
Forbes
Fossella
Frank (MA)
Giffords
Gillibrand
Gillmor
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (GA)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Klein (FL)
Kucinich
Kuhl (NY)
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Payne
Perlmutter
Peterson (MN)
Platts
Pomeroy
Porter
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rodriguez
Rohrabacher
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walberg
Walsh (NY)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Weiner
Welch (VT)
Weller
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NOT VOTING—14

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

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

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

NAYS—190

Aderholt
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
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
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hastert
Hastings (WA)
Hayes
Heller
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Jindal
Johnson (IL)
Jones (NC)
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
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)

NOT VOTING—14

Akin
Bartlett (MD)
Clarke
Davis, Jo Ann
Doolittle
Hall (TX)
Hensarling
Johnson, Sam
Jordan
Manzullo
Pickering
Pitts
Rogers (KY)
Tancredo

□ 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
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castor
Chandler
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NOES—197

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
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
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Ellsworth
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Hill
Hobson
Hoekstra
Hulshof
Inglis (SC)
Issa
Jindal
Johnson (IL)
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (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)

NOT VOTING—11

Clarke
Davis, Jo Ann
Herger
Hunter
Johnson, Sam
Manzullo
Moore (WI)
Pickering
Smith (TX)
Sullivan
Tancredo

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. INOUYE, 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:

''(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 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 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 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 crtieria 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 preprinted 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 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 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 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:

''(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. 1397bb(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''.

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 servicesservices 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 (l)(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 (l)(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 (l)(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(l)(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(l)(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(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))''.

(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;

(2) for 2011, a State election under section 1902(l)(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(l)(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(l)(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(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 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 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)(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 sbparagraphs:

''(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

(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 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 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 described in subsection (s)(2)(Y)).

''(I) Ultrasound screening for abdominal aortic aneurysm for certain individuals (as described in 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))'';

(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'';

(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 medicaid 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) 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 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, 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) Immunosuppresessants.

''(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)''; 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 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 GRANTEES.—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 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), 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''; and

(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 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.—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 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. 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''; 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 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 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)(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 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. 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, 1/12 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, 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. 1935w–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) 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 nonmedical 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 numer 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 ofproviding 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 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.

(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 FREE-STANDING 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 free-standing 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)''; 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) 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)''; 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) 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''; and

(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)''; and

(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.

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(ll) of the Social Security Act (42 U.S.C. 1395x(ll)) 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(ll)(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(ll)(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 (ll)(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 (ll)(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 (ll)(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(ll)(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 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. 1395*l*(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. 1395*l*(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)''; 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 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)'' ; 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 VENDER 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''; and

(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''; and

(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. 13951–4(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. 13951(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. 13951(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. 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 erythopoetin 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 erythopoetin 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 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 INTITIATIVE 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 alogorithms 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)(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)''; and

(C) by striking ''clauses (i) and (ii)'' and inserting ''subclauses (I) and (II)''; and

(D) in the last sentence, by striking ''Effective for items'' and inserting ''Subject to clause (ii), effective for items''; and

(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. 1396d(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 a 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)''; 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. 13961396r–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.C.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 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 traveltime), 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 preceeding 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)''; and

(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 ambulance 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(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, 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(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 (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 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 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 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 crtieria 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 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 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 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. 1397bb(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. 1397bb(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 (r) 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. 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.''.

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. 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.

(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 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 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:

''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 described in subsection (s)(2)(Y)).

''(I) Ultrasound screening for abdominal aortic aneurysm for certain individuals (as described in 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. 1395l(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(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) 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 medicaid 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 '')''; 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 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(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) Immunosuppresessants.

''(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)''; 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 GRANTEES.—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:

''(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 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 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 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, 1/12 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, 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. 1935w–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''; 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''; 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 (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:

''(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 nonmedical 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 numer 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 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 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 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 health 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)(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), 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)(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 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. 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)''; 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)''; and

(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.

(c) 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''; and

(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)''; and

(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 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 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(ll) of the Social Security Act (42 U.S.C. 1395x(ll)) 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(ll)(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(ll)(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 (ll)(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 (ll)(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 (ll)(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(ll)(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. 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 (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:

''(6) 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. 1395x(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 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.''.

(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 erythopoetin 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 erythopoetin 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 INTITIATIVE 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 alogorithms 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)''; and

(C) by striking ''clauses (i) and (ii)'' and inserting ''subclauses (I) and (II)''; and

(D) in the last sentence, by striking ''Effective for items'' and inserting ''Subject to clause (ii), effective for items''; and

(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. 1395ww(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 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. 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 a 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)''; 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.

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 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''; 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. 13961396r-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 Stat÷e 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 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.C.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 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) 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 preceeding 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)''; and

(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. 1395ll) 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 be 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 enlarge 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 1 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, reserving 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 devious 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 msurance.

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 Burleson, 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 Hudguns, 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; Iddriss 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. RESETTING 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'';

(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)

Add 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 objected. 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 gentlewoman 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 pro-lifers 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 gentlewoman 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 congressional 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 recommital 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, Washington, 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.

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Mr. DINGELL. Mr. Speaker, I note that Mr. MCCRERY 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 unconscionable. 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 anticompetitive 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-Wydler 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. SEMIANNUAL 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 nongovernmental 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 polices 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-Wydler 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-Wydler 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 Director 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-Wydler 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 management 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 Congress 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–l) 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 implementation 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 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 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(1), 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 (l), 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, awarding 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, nonprofit 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 learning 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 ½ 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.

(l) MATCHING REQUIREMENTS.—

(1) 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 native-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 foreign 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 entity 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 section 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, including 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. 1862l(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 undergraduate 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) TRIANNUAL 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''; 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 information 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)'';

(5) in subparagraph (D)(ii), by striking ''under this paragraph'' and inserting ''under subparagraph (A)(i)'';

(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)'';

(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 identified 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 received 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. 1087ll);

''(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 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.

''(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. 1885a or 1885b).

''(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 ¼ of the total amount for each year of service completed, plus ½ 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 ½, 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. 1885a or 1885b);''; and

(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. 1885a or 1885b) 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. 1885a or 1885b) 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 ⅔ 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. INOUYE,
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 research 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 interagency 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 allocable.

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 ENGINEERING 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 recedes 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 recedes.

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 recedes.

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 required 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 recedes.

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 recedes.

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 recedes.

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 recedes.

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 recedes.

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 Department 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 recedes 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 recedes 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 recedes 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 any 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 resources. 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 hydrocarbons 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 prepared 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&RA) AUTHORIZATION (SEC. 7002)

The House bill contained a provision authorizing appropriations for Research and Related Activities (R&RA) 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&RA (sec. 303(g)); and required NSF to allocate at least 3.5 percent of appropriations received for R&RA for the CAREER program (sec. 202).

The Senate amendment contained no provision for authorizing the overall R&RA 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&RA:

- $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&RA share of the Integrated Graduate Education and Research Traineeship (IGERT) program, $9.0 million for the R&RA 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&RA share of IGERT, $10.0 million for the R&RA 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&RA share of IGERT, $11.1 million for the R&RA share of GRF, and $15.0 million for PSM.

SUMMARY OF R&RA AUTHORIZATIONS, IN MILLIONS OF DOLLARS

	FY08	FY09	FY10
R&RA	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	52.0	57.7	64.0
IGERT	27.1	30.1	33.4
GRF	96.6	107.2	119.0

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 contributions 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 involvement 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, technology, 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 pro-rated. 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. INOUYE,
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. ROHRABACHER, 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 Pricipal 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 Council — 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 numbers, 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-hyroxy-2,2,6,6-tetramethyl-1-piperdine 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 othro 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 DeTample 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. SHADEGG):

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. VISCLOSKY, 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. ROS-LEHTINEN):

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. PASCRELL.
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. MATSUI, 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. 1232: Mr. ALEXANDER, Mr. PERLMUTTER, Mr. BAKER, Mr. RANGEL, and Mr. SALAZAR.
H.R. 1236: 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. LOEBSACK, 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. ROHRABACHER, 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. LOEBSACK, 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. MCNULTY, 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. SÁNCHEZ 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. SHEA-PORTER.
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.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153 WASHINGTON, WEDNESDAY, AUGUST 1, 2007 No. 125

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord most holy, we confess to You our unworthiness. Grant that we may, every day, crave those dispositions which shall make us worthy to be called Your children.

Bless our Senators. Guide them so that in all getting, they will receive understanding. Whatever they lose, may they retain Your favor, growing in grace and in a deeper knowledge of You. Give them a hunger to know Your sacred word and a willingness to follow Your precepts.

Grant that those who seek the right way will be led by Your hand. May those who experience setbacks be lifted by Your mercy and know the restoration of Your joy. Consecrate, with Your presence, the road our lawmakers travel, and lead them to Your desired destination.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 1, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARDIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, today there will be 30 minutes of morning business, and it will all be under the control of the Republicans. Following that time, the Senate will resume consideration of the children's health bill and then conduct 30 minutes of debate with respect to the Ensign amendment. That time will be equally divided and controlled between Senators ENSIGN and BAUCUS. Upon the use or yielding back of that time, the Senate will vote in relation to the Ensign amendment. Following the disposition of the Ensign amendment, the managers hope to come to a short agreement with respect to the Gregg amendment and have a vote shortly thereafter. Senator BYRD is to be recognized to speak for up to 30 minutes at 12 noon. Other votes with respect to the bill are expected today.

Mr. President, we have two major amendments we have been told exist with respect to this children's health legislation. One will be offered by Senator KERRY, which is going to increase the amount of money we believe is needed in this legislation. The other is by Senators LOTT and KYL, which is a substitute amendment. I hope those Senators who are going to offer those amendments will come and do them quickly. We need these two amendments. That is what this legislation is all about. Other individuals also have a right to offer amendments, but I do hope those two amendments will be offered very quickly. We need to finish this bill. We are going to finish this bill before we leave.

Of course, everybody knows we have, in the morning, the cloture vote on ethics and lobbying. We will do that an hour after we come in in the morning. I very much appreciate the willingness of the minority to work with us and that we didn't have to go—because it was a privileged piece of legislation that came from the House, that we didn't have to waste time from last night until tomorrow morning. I appreciate very much the Republicans allowing us to work on this legislation today. It would have been a wasted day otherwise.

I hope we can get a lot of work done on SCHIP today. I will speak with Senator MCCONNELL as to when, if at all—and I hope it is not necessary—we will file cloture on SCHIP to finish it. I hope we don't have to do that. We had good luck last week on the first appropriations bill and not having to do that.

We have one other must-do item before we leave here, and that deals with the surveillance program that everybody has read about and knows about. That has to be done. I had a briefing meeting with Admiral McConnell this morning, and he has sent some proposed changes to the legislation up here. It is already here. We hope that will be enough to have that legislation pass quickly. I hope we can get it done. It is something on which we all acknowledge we should give it the old college try and do everything we can to complete that.

Those are the things we must do.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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There are other things we would like to do. One of them is the competitiveness bill, which is very important. It is such an interesting piece of legislation. In conversations with the most liberal members of my caucus, I find that they love this piece of legislation, as do moderates and conservatives in my caucus, and it is the same with the Republicans. They think this legislation is very good.

I see my friend from Tennessee on the floor who worked with Senator BINGAMAN on this early on. I hope we can do this before we leave. It is my understanding that the conference, if not completed, is virtually completed. It would be good to do that before we leave. It would show real bipartisanship.

Mr. DORGAN. Will the Senator yield for a question?

Mr. REID. Yes.

Mr. DORGAN. Mr. President, I know others are waiting to begin morning business. Let me first add my hope with the majority leader that we will be able to move through these bills with some expeditious action this week. There has been so much delay in the Chamber. I know the majority leader wishes to move through and get these things done. I hope we can do that.

I want to mention to the Senator from Nevada that I have offered to the children's health insurance bill the Indian Health Care Improvement Act. I did that yesterday as an amendment. There are 3 million children benefitted by the children's health insurance bill, but there are 2 million American Indians who are subject to full-scale health care rationing. It is unbelievable what is happening.

We have had 11 separate bills introduced in the Congress since the authorization for the Indian Health Care Improvement Act expired some years ago, and none of them have moved. So I offered the amendment because I felt I had to do it to the Children's Health Insurance Program that is on the floor.

I indicated yesterday, however, in response to Senator BAUCUS, who said that he would mark up on September 12 in the Finance Committee the portions of the bill relevant to them, I indicated I would withdraw my amendment from the children's health bill if I could get a commitment to get the Indian health care bill to the floor of the Senate. I have already marked up the Indian health bill in the Indian Affairs Committee, my committee.

This is urgent. We have a problem with respect to rationing of health care with American Indians. I ask my colleague—and I know we have visited about it, and I know how strongly he supports American Indians and health care for them—can we have a commitment to get the Indian health bill to the floor of the Senate? If we can do that, I will withdraw my amendment here in anticipation of having that debate on Indian health in the next couple of months in the Senate.

Mr. REID. Mr. President, I say to my friend, the distinguished chairman of the Indian Affairs Committee, a tireless advocate for Native Americans his entire career, I have 22 different tribal organizations in the State of Nevada. You say ''rationing'' health care. I think that is even being too generous because there is no health care rationed, in many instances, in Nevada. We have gone from having two wonderful hospitals for Native Americans and now we have one that is closed. The other they don't use for acute care. It is a situation that, for our country, should be an embarrassment. It is an embarrassment. People just don't know how bad it is.

I say to my friend, through the Chair, that we are going to do this bill this year. If it is reported out of the Finance Committee, we will find a way to bring it to the floor. It is the right thing to do. We talk about people who don't have advocates for them. My tribal organizations in Nevada don't have people back here advocating for them. We need to advocate for them. I have to do that, especially on this issue of health care. They deserve the basic minimum; they deserve the ability to have some kind of health care. It is in such a state now that I, frankly, don't know what to tell the tribal organizations when they come to see me. There has been more than a decade waiting to do something about this.

So I support my friend from North Dakota and will do everything I can to move this forward and make a commitment that we will do something this session of Congress.

Mr. DORGAN. Mr. President, that commitment of the majority leader is welcome. I observe this: There are few places in this country where someone having a heart attack would be wheeled into an emergency room with a piece of paper attached to their thigh by masking tape that says:

> To the hospital: By the way, if you admit this woman, understand you are on your own because contract health care from the Indian Health Service has run out.

Very few places in this country will you see that. It describes how unbelievably urgent it is to pass this bill. The commitment from the majority leader is very welcome. It reflects his long-term commitment to deal with Indian issues.

The commitment from Senator BAUCUS to mark up his portion of the bill on September 12 is welcome. Therefore, when we are back on the children's health bill, I will withdraw my amendment as a result of the commitment to move it separately.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for 30 minutes, under the control of the Republican leader or his designee, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, will the Chair let me know when 6 minutes has expired?

The ACTING PRESIDENT pro tempore. The Chair will so inform the Senator.

NOMINATION OF JUDGE LESLIE SOUTHWICK

Mr. ALEXANDER. Mr. President, when I was first elected to the Senate in 2002, I recognized the so-called maiden speech tradition, and I came here expecting to talk about U.S. history. I was so disappointed by the debate that I found going on in February of 2003 about the President's appointment of Miguel Estrada to the Supreme Court that I spoke for a long time one night about the unfairness that I felt about that. I thought he was a superbly qualified individual and that a case was being manufactured against him to try to prevent an up-or-down vote.

Then, along came the nomination of Judge Charles Pickering, of Mississippi, who in the 1950s and 1960s, while others were making speeches about civil rights, was living it out in the middle of Mississippi, testifying against someone who was described as the ''most violent living racist'' in Mississippi and putting his children into desegregated schools at a time when others weren't. There was a manufactured, unfair case against him.

The Senate came to its senses shortly thereafter and began to develop a procedure where judges could get an up-or-down vote, which brings me to the matter of Judge Leslie Southwick, of Mississippi, whom the President has nominated to serve on the U.S. Court of Appeals for the Fifth Circuit—the same position for which Judge Pickering was nominated. Yet, despite his excellent qualifications, his nomination has not been reported to the floor by the Judiciary Committee for a fair up-or-down vote. It seems that Judge Southwick may be the first target in a new round of character assassination by some in this body.

That seat has been vacant for 6 years. This is one of the most important courts in America. I was a law clerk on that court—actually a messenger, but I was treated like a law clerk—to the great Judge John Minor Wisdom, who served with Judge Tuttle, Judge Rives, and Judge Brown, all of whom presided over the segregation of the South. I value that court and the quality of judges who have been there.

Judge Southwick has that same quality. He has 11 years of service as a Mississippi State appellate court judge. He had military service in Iraq as a staff judge advocate. He has been a professor

at Mississippi College of Law. He has had service as a senior Justice Department official. He has had more than 20 years in private practice in Jackson. He is rated unanimously ''well qualified'' by the American Bar Association. He has been honored by the Mississippi State Bar with its Judicial Excellence Award.

What is it about the Democrats and Mississippi judges? This is an enormously well-qualified judge from Mississippi, and the Democrats, apparently because he is from Mississippi, do not want to give him a fair up-or-down vote. That is totally unfair and it is beneath the dignity of this body and I object to it strenuously. This judgeship has been labeled a ''judicial emergency'' by the nonpartisan Administrative Office of the Courts.

What is the manufactured case? The case that has been made against him, if a student were to send it in to any accredited law school, would be sent back with an F and the student would be told to prepare better.

First, it is said he participated in an opinion he didn't even write which put the first amendment ahead of a racial slur. That is always—always—a difficult decision to make, but the Mississippi Supreme Court said it was the correct decision. Judge Southwick reiterated his disdain for racial slurs. He said the racial slur in question is ''always offensive'' and ''inherently and highly derogatory.''

He did not even write the opinion. Yet for some reason that is thought to be inappropriate.

Then they said he joined in a case that used the words ''homosexual lifestyle.'' He didn't write the opinion. That phrase ''homosexual lifestyle'' may not be preferred by some, but it is very commonly used in American legal opinions by the U.S. Supreme Court, for example, in Lawrence v. Texas, striking down the Texas ban on sodomy. It was also used by President Bill Clinton when he announced his ''don't ask don't tell'' policy. That is the manufactured case.

So I ask my colleagues to remember the difficulties we had in 2003 and 2004, when the Senate did not look at its best, when it was manufacturing cases against otherwise well-qualified and distinguished men and women who had been nominated to the court.

I hope the Judiciary Committee will bring Judge Leslie Southwick's name forward to the full Senate so we can have an up-or-down vote. He deserves a vote. The Senate deserves to respect its traditions regarding nominees, and the American people deserve to be served by a man of such quality.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I ask unanimous consent to speak for up to 7 minutes, and at 6 minutes, if I am still speaking, will the Chair please let me know.

The ACTING PRESIDENT pro tempore. The Chair will so notify the Senator.

IRAQ

Mr. ISAKSON. Mr. President, there have been some in the leadership of the majority, a few months ago, who declared the war in Iraq was lost. There have been others who have been invested in two significant debates we have had over withdrawing precipitously without any consideration for the consequences. I have steadfastly supported our effort in the global war on terror and, in particular, our effort in Iraq, cautious to understand we have had difficulties and we have made mistakes. But today I rise to ask those who have, in the past, declared defeat or withdrawal to consider the alternative should America win.

Yesterday, in the New York Times, Kenneth Pollack and Michael O'Hanlon wrote a significant editorial—neither one an advocate, per se, of the war and the surge—that said this is a war we might win. News that comes today from the Christian Science Monitor declares a precipitous decline in the number of deaths of U.S. soldiers and casualties and a tremendous decrease in IEDs.

On Monday night, the people of Iraq in every city, hamlet, and town turned out in the streets, and without a single injury, they celebrated the victory of the Iraqi soccer team in the Asian soccer games.

We must ask the question: What do we say if, in fact, the tide has turned and we are winning? I think there may be some who will try and redescribe what victory is, and for that purpose, I wish to describe and remind everybody of what we already declared victory would be.

When President Bush asked all of us, and I supported going into Iraq to enforce Resolution 1441 of the United Nations with 29 other partners, we declared three goals: One, to find the weapons of mass destruction and to depose Saddam Hussein; two, to allow the Iraqis the chance to hold free elections and write a constitution; and, three, to train the Iraqi military so it was capable of defending the people of Iraq.

Saddam Hussein is gone, tried by his people and gone from this planet. Weapons of mass destruction—no smoking gun was found, but all the components were Scud missiles buried in the sand, elements of sarin gas in the Euphrates River, some of the biological mobile laboratories we thought were there were found, and 400,000 bodies in 8 mass graves near Baghdad in Iraq. So that was accomplished.

Second, the Iraqis held three elections, wrote a constitution, and now meet in a parliamentary form of government. It may not be everything we like, but it is their Government and their progress, and America gave them the opportunity to do it.

Now today in Iraq on the ground, Shiites who fought against us have joined with us against al-Qaida. Sunnis who fought against us have joined us in fighting against al-Qaida. In Ramadi, the streets are clear. The people in Baghdad are happy the American soldiers are there and afraid American soldiers may leave precipitously.

We are on the cusp of meeting the third goal. Iraqi troops—it is being recognized now—Iraqi battalions have, in some cases—not all, in some cases—demonstrated the capability of holding the areas Americans have secured. America's soldiers are in the same camps with Sunni, Shia, and Kurdish soldiers of the Iraqi military.

This war is not over, but two-thirds of the goals we established are accomplished, and the third goal is within our reach. When we look in the next 6 weeks toward September 15—and I don't know what General Petraeus is going to say, but I know what the New York Times is saying, I know what the Christian Science Monitor is saying, I know what the Georgia soldiers I talk with or get e-mails from on the ground are saying, I know what the attitude and morale of the American soldiers is and the hopes and aspirations of the American people. Today I ask that as we get ready to break, as we wait for the report on September 15, we need to be prepared for victory, not invested in defeat.

This has been a tough battle. Some of my friends in Georgia have lost their children. They have fought for a dream Americans have fought for since this great Republic was founded, and that is the right to self-determine your future.

I hope the Government of al-Maliki will accomplish some reconciliation. I hope they will accomplish a hydrocarbon deal. I hope debaathification can work. But I hope we would not declare failure when, in fact, we have the opportunity it looks like to succeed. A lot of brave young men and women in America have invested their lives in the chance to win a victory, not for ourselves but for mankind, for civility, for peace, for democracy, and for all the principles upon which this country was founded.

So I hope for those who have been invested in the possibility that we will fail, that they will get equally invested in the probability or possibility that we will succeed and that together, as a Congress, we can reward those who fought so valiantly and see to it that one more democracy is born in the Middle East of this world.

Mr. President, I ask unanimous consent that an article that appeared this morning in the Christian Science Monitor and yesterday's article of Michael O'Hanlon and Kenneth Pollack in the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Aug. 1, 2007]

U.S. TROOP FATALITIES IN IRAQ DROP SHARPLY

(By Gordon Lubold)

U.S. troop fatalities in Iraq have plummeted from near-historic highs just two months ago. The number of deaths attributed to improvised explosive devices is down by more than half. Violence is down in the four most dangerous provinces.

The decrease is an apparent sign that, by at least one indicator, the surge of American forces is doing something it set out to do: tamp down the violence.

But even if this positive trend were to continue for the next several months, the larger question remains unanswered: will the reduced levels of violence push Kurdish, Shiite, and Sunni groups to reach political reconciliation so that U.S. troops can withdraw? U.S. military officials are wary.

''Success does not hinge on the effectiveness or success solely of the security situation,'' says one senior official in uniform, who requested anonymity, echoing what many military officials have said. ''It really depends on political governance.''

As a single measure of success or failure in Iraq, the rate of American fatalities has its own limitations. But it does reflect the ability of the US to reduce insurgent-led violence. Two months ago, U.S. fatalities climbed to 128, making May the third deadliest month for US troops in Iraq since the war began in 2003. But since then, as the surge of 30,000 new U.S. forces has arrived, fatalities have fallen sharply. At press time, the toll for the month of July stood at 74, a decrease of 42 percent compared with May. That's the lowest fatality rate since last November.

When the surge was announced earlier this year, critics said adding more troops in one area would simply force insurgents to provoke violence in other areas. But according to an analysis by Pentagon officials, fatalities are down in July in all four of the most violent provinces of Iraq: Baghdad, Anbar, Salahaddin, and Diyala.

In Baghdad Province, for example, 27 Americans were killed as of July 24, down from 44 in May. In Diyala Province, six Americans were killed as of July 24, a decrease from 19 in May. Sunni-dominated Anbar Province to the west of Baghdad, where violence has been tamped down in part because Sunni sheiks have organized against Sunni extremism there, five American service members were killed as of July 24, down from 14 for the month of May. Salahaddin saw the same trend, where 12 were killed in May, six in July. The four provinces represent about 37 percent of the Iraqi population but nearly 80 percent of the violence that occurs in Iraq.

The toll from improvised explosive devices, or IEDs, has also decreased considerably in the last two months. As of July 24, 40 Americans had been killed in July, down from 95 in May.

Iraqis are also seeing a decrease in violence. The number of Iraqi security forces and civilian fatalities has declined since May as well, according to icasualties.org, a website that tracks such information. The site reports that there were 1,664 civilians and Iraqi security forces killed in July, down from 1,980 in May, but it notes that no such tallies are completely accurate and are probably much higher.

The reduction in violence doesn't appear to be the result of summer weather, when the intense heat might discourage insurgent attacks. According to an analysis by the Marine command in Anbar, violence trends upward from a low point in January, when it's coldest, through summer to October for each of the last three years. This year, according to Marine Maj. Gen. Walter Gaskin, commander of Multi-national Force West, the violence in Anbar has trended downward instead.

All this may be illustrating what to some is a new reality in Iraq even if much of Washington has yet to acknowledge it, says Michael O'Hanlon, a senior fellow at the Brookings Institution, a Washington-based think tank.

Mr. O'Hanlon has been critical of the war and has remained skeptical of the current strategy. But on Monday, he coauthored an Op-Ed in The New York Times titled ''A War We Might Just Win.'' In it, O'Hanlon says he is impressed with the improved security situation, the reasonably high morale of US troops, and the increasing competency of Iraqi forces. ''We are finally getting somewhere in Iraq, at least in military terms,'' O'Hanlon wrote, along with Brookings colleague Kenneth Pollack. ''As two analysts who have harshly criticized the Bush administration's miserable handling of Iraq, we were surprised by the gains we saw and the potential to produce not necessarily 'victory' but a sustainable stability that both we and the Iraqis could live with.''

Military officials are heartened by decreases in American fatalities but are reluctant to characterize it as a turning point.

''My initial thought is this is what we thought would happen once we got control of the real key areas that are controlled by these terrorists,'' Lt. Gen. Ray Odierno, the No. 2 American commander in Iraq, said on Thursday. ''It's an initial positive sign, but I would argue I need a bit more time to make an assessment of whether it's a true trend or not.''

In May, noting the high number of casualties among American forces, General Odierno said it was the result of taking the fight to the enemy, going into places like Diyala and Baquba to fight insurgents, and that he expected over time that the number of casualties would decrease, as it appears to have done now.

Odierno says he may need more time, but Congress is waiting for an assessment as early as next month. That's when Odierno's boss, Army Gen. David Petraeus, the top commander in Iraq, is expected to provide a comprehensive report of the security situation in Iraq. Military officials caution that General Petraeus's assessment may not make specific recommendations regarding a possible drawdown of the more than 155,000 US troops currently serving in Iraq.

''Petraeus is very, very cautious about how much success he is going to advertise,'' the senior uniformed official says. ''The culminating point is when the hearts and minds finally tip'' in Iraq.

[From the New York Times, July 30, 2007]

A WAR WE JUST MIGHT WIN

(By Michael E. O'Hanlon and Kenneth M. Pollack)

WASHINGTON.—Viewed from Iraq, where we just spent eight days meeting with American and Iraqi military and civilian personnel, the political debate in Washington is surreal. The Bush administration has over four years lost essentially all credibility. Yet now the administration's critics, in part as a result, seem unaware of the significant changes taking place.

Here is the most important thing Americans need to understand: We are finally getting somewhere in Iraq, at least in military terms. As two analysts who have harshly criticized the Bush administration's miserable handling of Iraq, we were surprised by the gains we saw and the potential to produce not necessarily ''victory'' but a sustainable stability that both we and the Iraqis could live with.

After the furnace-like heat, the first thing you notice when you land in Baghdad is the morale of our troops. In previous trips to Iraq we often found American troops angry and frustrated—many sensed they had the wrong strategy, were using the wrong tactics and were risking their lives in pursuit of an approach that could not work.

Today, morale is high. The soldiers and marines told us they feel that they now have a superb commander in Gen. David Petraeus; they are confident in his strategy, they see real results, and they feel now they have the numbers needed to make a real difference.

Everywhere, Army and Marine units were focused on securing the Iraqi population, working with Iraqi security units, creating new political and economic arrangements at the local level and providing basic services—electricity, fuel, clean water and sanitation—to the people. Yet in each place, operations had been appropriately tailored to the specific needs of the community. As a result, civilian fatality rates are down roughly a third since the surge began—though they remain very high, underscoring how much more still needs to be done.

In Ramadi, for example, we talked with an outstanding Marine captain whose company was living in harmony in a complex with a (largely Sunni) Iraqi police company and a (largely Shiite) Iraqi Army unit. He and his men had built an Arab-style living room, here he met with the local Sunni sheiks—all formerly allies of Al Qaeda and other jihadist groups—who were now competing to secure his friendship.

In Baghdad's Ghazaliya neighborhood, which has seen some of the worst sectarian combat, we walked a street slowly coming back to life with stores and shoppers. The Sunni residents were unhappy with the nearby police checkpoint, where Shiite officers reportedly abused them, but they seemed genuinely happy with the American soldiers and a mostly Kurdish Iraqi Army company patrolling the street. The local Sunni militia even had agreed to confine itself to its compound once the Americans and Iraqi units arrived.

We traveled to the northern cities of Tal Afar and Mosul. This is an ethnically rich area, with large numbers of Sunni Arabs, Kurds and Turkmens. American troop levels in both cities now number only in the hundreds because the Iraqis have stepped up to the plate. Reliable police officers man the checkpoints in the cities, while Iraqi Army troops cover the countryside. A local mayor told us his greatest fear was an overly rapid American departure from Iraq. All across the country, the dependability of Iraqi security forces over the long term remains a major question mark.

But for now, things look much better than before. American advisers told us that many of the corrupt and sectarian Iraqi commanders who once infested the force have been removed. The American high command assesses that more than three-quarters of the Iraqi Army battalion commanders in Baghdad are now reliable partners (at least for as long as American forces remain in Iraq).

In addition, far more Iraqi units are well integrated in terms of ethnicity and religion. The Iraqi Army's highly effective Third Infantry Division started out as overwhelmingly Kurdish in 2005. Today, it is 45 percent Shiite, 28 percent Kurdish, and 27 percent Sunni Arab.

In the past, few Iraqi units could do more than provide a few ''jundis'' (soldiers) to put a thin Iraqi face on largely American operations. Today, in only a few sectors did we

find American commanders complaining that their Iraqi formations were useless—something that was the rule, not the exception, on a previous trip to Iraq in late 2005.

The additional American military formations brought in as part of the surge, General Petraeus's determination to hold areas until they are truly secure before redeploying units, and the increasing competence of the Iraqis has had another critical effect: no more whack-a-mole, with insurgents popping back up after the Americans leave.

In war, sometimes it's important to pick the right adversary, and in Iraq we seem to have done so. A major factor in the sudden change in American fortunes has been the outpouring of popular animus against Al Qaeda and other Salafist groups, as well as (to a lesser extent) against Moktada al-Sadr's Mahdi Army.

These groups have tried to impose Shariah law, brutalized average Iraqis to keep them in line, killed important local leaders and seized young women to marry off to their loyalists. The result has been that in the last six months Iraqis have begun to turn on the extremists and turn to the Americans for security and help. The most important and best-known example of this is in Anbar Province, which in less than six months has gone from the worst part of Iraq to the best (outside the Kurdish areas). Today the Sunni sheiks there are close to crippling Al Qaeda and its Salafist allies. Just a few months ago, American marines were fighting for every yard of Ramadi; last week we strolled down its streets without body armor.

Another surprise was how well the coalition's new Embedded Provincial Reconstruction Teams are working. Wherever we found a fully staffed team, we also found local Iraqi leaders and businessmen cooperating with it to revive the local economy and build new political structures. Although much more needs to be done to create jobs, a new emphasis on microloans and small-scale projects was having some success where the previous aid programs often built white elephants.

In some places where we have failed to provide the civilian manpower to fill out the reconstruction teams, the surge has still allowed the military to fashion its own advisory groups from battalion, brigade and division staffs. We talked to dozens of military officers who before the war had known little about governance or business but were now ably immersing themselves in projects to provide the average Iraqi with a decent life.

Outside Baghdad, one of the biggest factors in the progress so far has been the efforts to decentralize power to the provinces and local governments. But more must be done. For example, the Iraqi National Police, which are controlled by the Interior Ministry, remain mostly a disaster. In response, many towns and neighborhoods are standing up local police forces, which generally prove more effective, less corrupt and less sectarian. The coalition has to force the warlords in Baghdad to allow the creation of neutral security forces beyond their control.

In the end, the situation in Iraq remains grave. In particular, we still face huge hurdles on the political front. Iraqi politicians of all stripes continue to dawdle and maneuver for position against one another when major steps towards reconciliation—or at least accommodation—are needed. This cannot continue indefinitely. Otherwise, once we begin to downsize, important communities may not feel committed to the status quo, and Iraqi security forces may splinter along ethnic and religious lines.

How much longer should American troops keep fighting and dying to build a new Iraq while Iraqi leaders fail to do their part? And how much longer can we wear down our forces in this mission? These haunting questions underscore the reality that the surge cannot go on forever. But there is enough good happening on the battlefields of Iraq today that Congress should plan on sustaining the effort at least into 2008.

Mr. ISAKSON. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, we all know and acknowledge that al-Qaida and other related terrorist groups are determined to strike at the U.S. homeland. But a precipitous U.S. withdrawal from Iraq would only serve to fuel that determination and, as a result, surrender Iraq to al-Qaida, which would directly threaten the security of the United States and its allies.

Yesterday, we had a visit from Henry Kissinger who warned us that such a precipitous withdrawal would be revisiting the nightmare of Vietnam, where our withdrawal there created genocide among those who had supported us and other innocent Southeast Asians. This time, however, al-Qaida would follow us back to America. Al-Qaida would use Iraq as a safe haven, as it once had in Afghanistan. Only this time with oil revenues, in addition to a safe haven, it would be well positioned and financed to launch further enhanced attacks against the United States. Yet we continue to hear from the other side calls for withdrawal, despite preliminary reports of progress resulting from the surge, as my colleague from Georgia has so eloquently explained.

We continue to hear calls for timelines that would embolden the morale of our enemies and dissuade the populace from cooperating with U.S. and Iraqi forces, and the latest and most recent development in the string of defeatism has come from the House majority whip. This past Monday in the Washington Post, he stated that a strongly positive report on progress in Iraq by General Petraeus would likely split Democrats in the House and impede his party's efforts to press for a timetable to end the war.

Now it appears some in the Democratic Party leadership are so invested in retreat and defeat politically that despite whatever the news is coming out of Iraq and regardless of the consequences, they are committed to defeat.

Why, I ask, is the majority focused not on our national security but on scoring political points? I guess we should pull out, cede victory for the terrorists in Iraq, in order to keep the Democrats united for the general elections in 2008.

What we, the Iraqi people, and all freedom-loving nations face is a fundamental threat from barbaric cowards misrepresenting the true nature of peaceful teachings of Islam. The terrorists of mufsidoon, as they should be called, are condemned evildoers distorting the Koran. They are not jihadists. Jihad is pursuing a moral superiority. These people who commit these acts are not insurgents or jihadists. The clearer we define the true enemy, the easier it will be to defeat them.

What we have seen for some time now is encouraging signs this has, in fact, happened, coupled with the surge that is showing progress. Sunni sheiks in Al Anbar have been working with us to take back their neighborhoods and villages, fed up with the mufsidoon al-Qaida committing atrocities.

My colleague referred to the Sunday New York Times article. Two men who are strong opponents of the war in Iraq said, referring to al-Qaida and other Salafist groups, as well as Moktada al-Sadr's Mahdi Army:

> These groups have tried to impose Shariah law, brutalized average Iraqis to keep them in line, killed important local leaders and seized young women to marry off to their loyalists. The result has been that in the last 6 months, Iraqis have begun to turn on the extremists and turn to the Americans for security and help. The most important and best-known example of this is in Anbar Province, which in less than 6 months has gone from the worst part of Iraq to the best. Today, the Sunni sheiks there are close to crippling Al Qaeda and its Salafist allies. Just a few months ago, American marines were fighting for every yard of Ramadi; last week we strolled down its streets without body armor.

I observed the same when my CODEL visited Iraq in early May. The authors said ''there is enough good happening on the battlefields of Iraq today that Congress should plan on sustaining the effort at least until 2008.''

So if two of the war's harshest, most longstanding critics admit we are making a difference, why can't the Democrats give victory a chance? Why can't they give millions of Iraqis a chance at freedom? Why can't they acknowledge the progress being made?

Pollack and O'Hanlon said that the soldiers and marines know they have a superb commander in General Petraeus.

> . . . they are confident in his strategy, they see real results, and they feel now they have the numbers needed to make a real difference.

It is time my colleagues in the other party who claim to support the troops actually do so in both words and deeds. Ignoring the progress being made by our troops because it does not suit the political ends of some Democratic leaders is an egregious outrage. Advocating for a precipitous withdrawal from Iraq would be a rallying cry for al-Qaida and other mufsidoon all over the world. What are we to say to the millions of Iraqis who have sided with us in taking back their country, only to see them slaughtered systematically after we leave the job before it is finished?

Our words should inspire our troops and those who are working with us. Rest assured our soldiers and marines are listening. A recent speech by Marine Corps Commandant Conway underscores the point:

> I sat this week and listened to a United States Senator who criticized the U.S. effort

in Iraq as being involved in an Iraqi civil war while ignoring the real fight against terrorism that was taking place in Afghanistan.

With due respect to the Senator, I would offer that he is wrong on two counts. The fact is that there is no civil war taking place in Iraq by any reasonable metric. There is certainly sectarian strife, but even that is on the declining scale over the past six months.

Ironically, this strife was brought about and inflamed by the very terrorists some claim do not exist in Iraq. The sectarian strife is a tactic aimed at creating chaos with little risk to the instigator while it ties down coalition forces.

Yet, Mr. President, the retreat-and-defeat crowd, despite encouraging signs the surge is working, despite the fact this new strategy has only been in place fully for just a couple of months, and despite the fact that the Democrats have failed to offer any constructive alternatives, other than the ones that would cede defeat, continue to push down that line.

It is a huge disappointment to me, to others, to those who support our troops and the efforts to protect our homeland from the al-Qaida attacks that would surely follow a precipitous withdrawal. It is a huge disappointment that this debate is not about how we can achieve victory but how quickly we can declare defeat. This has become a political debate. The focus of our national security has been sidetracked. As I have said time and time again, we should debate legislation which provides our troops with a clear path to victory, a victory which, sadly, many in this body are ready to award to al-Qaida and mufsidoon all over the world without ever having given the surge a chance.

Mr. GRAHAM. Mr. President, I ask unanimous consent that I be recognized for 7 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I will say to my good friend from Missouri that was a well-done presentation. I know how important this topic is to him because of his family's commitment to our military, and he, like many other people in this country, definitely has a vested interest in the outcome in Iraq in terms of family members.

The point I would like to make this morning, to build on this theme, is that I passionately believe the outcome in Iraq will not be a neutral event in terms of the overall war on terror, that success in Iraq will not be confined to Iraq in terms of winning the war on terror, and a defeat in Iraq certainly will not be confined to Iraq. It will spill over and empower extremists in the region and throughout the world.

The reason I say that is this: Who is the enemy in Iraq? Is this really a civil war? Certainly there are aspects of sectarian violence and people trying to seize political power through militia groups and the use of violence, trying to destroy this democracy and win the day to control Iraq. There are Shia and Sunni groups trying to do that. But the vast majority of Iraqis want to go a different way. They want to live together and try to find some way to reconcile their past differences and not resort to the use of the gun. I do believe there is some hope this will happen—and not just blind hope but realistic progress in Iraq that can be seen if you are willing to look.

The challenges are real. The Iraqi central government has failed on many fronts to reconcile the country politically. But, as my colleagues have indicated, the surge, the additional combat power that started in February and has been in place now for about 3 or 4 weeks, has made a dramatic difference in certain parts of Iraq.

Mr. O'Hanlon and Mr. Pollack's article has been often mentioned by Republicans, and they have been critics of the war, but I would just like to say to them, if they happen to be listening: I appreciate your willingness to come back and report progress, and I also understand what you are telling us in your article, that we are a long way from having it right in Iraq and there are many challenges left. The political front has been stagnant, but the military front has moved forward in a very substantial way.

The surge, for me, is not so much that we have moved al-Qaida out of Anbar but that the people in Anbar, given a choice, have rejected al-Qaida. The ability to make that choice was provided by the additional combat power coming from the surge. An offensive strategy is now in place, and it has replaced a defensive strategy. The old strategy of training the Iraqi police and military and hiding behind walls simply wasn't working. The new strategy of going out in the communities and living with the Iraqi police and army is paying dividends.

Anbar truly has changed in a phenomenal way, as Senator BOND said. You can go to Ramadi now—someplace you couldn't go a few months ago. Again, the Iraqi Sunni residents of Anbar tasted al Qaida's lifestyle, had an experience in terms of what al-Qaida would impose upon their families, and said: No, thank you. And along comes American forces to help them reinforce that choice.

The biggest news in Anbar is that 12,000 people joined the local police force in 2007, where there were only 1,000 in 2006. So that means when we do leave—and it is all of our goal to withdraw from Iraq—the goal should be to withdraw with honor and security, and honor means you leave the country without those who helped you fight al-Qaida and other extremists getting slaughtered. I don't think we could leave that country with much honor if we left in a way that allowed those who bravely stepped out and embraced moderation to be killed by the extremists. From a security perspective, it is important that we leave Iraq in a stable situation and that the problems there do not spill over to the other parts of the region and the world at large.

Now, whom are we fighting? There are sectarian conflicts. There are power struggles to regain control of Iraq. That is part of the enemy. Al-Qaida is part of the enemy. And al-Qaida is really not limited in controlling Iraq. It is not their goal to take over central Baghdad and run Iraq; their goal, in my opinion, is to come into Iraq and make sure this attempt at moderation and democracy fails.

Is there a connection between al-Qaida in Iraq and bin Laden and his organization? About a week ago, President Bush came to Charleston, SC, and spoke at Charleston's Air Force Base. He made a very logical, reasoned case that there is a deep connection between al-Qaida in Iraq and the bin Laden infrastructure. To those who say that al-Qaida in Iraq is really a separate organization with a separate agenda, I think you are not understanding who the major players are and what their agenda includes.

No. 1, their agenda is to defeat us in Iraq and drive America out and be able to claim to the rest of the world that they beat us. If you don't believe me, ask Bin Laden or look at what bin Laden says. Bin Laden claimed, ''The Third World war is raging in Iraq.'' Osama Bin Laden says, ''The war is for you or for us to win. If we win it, it means your defeat and your disgrace forever.''

Well, I think he understands the consequences of a victory by al-Qaida. He also understands the consequences of a defeat by America. The question I have is, Do we understand that? Do we understand what would happen to this country and all forces of moderation in the Mideast and throughout the world if it were perceived that al-Qaida in Iraq was able to drive the United States out of that country and leave it to the warlords of terrorism?

Who is al-Qaida in Iraq? The founder of al-Qaida in Iraq was not an Iraqi, it was a Jordanian—al-Zarqawi. He was a Jordanian terrorist. Before 9/11, he ran a terrorist camp in Afghanistan. After joining Osama bin Laden, he left Afghanistan, after the fall of the Taliban, and went to Iraq. Zarqawi and his terrorist group formally joined bin Laden, pledging allegiance to Osama bin Laden, and promised to follow his orders in jihad. Soon after, bin Laden publicly declared that Zarqawi was the prince of al-Qaida in Iraq and instructed terrorists in Iraq to listen to him and obey him. Now, to me, that is a pretty serious connection.

Beyond Zarqawi, who was from Jordan, bin Laden sent an Egyptian, who was a member of al-Qaida's international infrastructure, to provide support to Zarqawi and leadership. And the President gave a laundry list of international terrorists tied to bin Laden who migrated to Iraq to build up al-Qaida in Iraq. They have the same agenda. The agenda is to defeat moderation where you find it, to try to control as much of the Mideast as possible. And their agenda doesn't just include Iraq. The Gulf States are next and after that Israel, and always us.

Now, that is not what I am saying; that is what they say. So I think the President made a very persuasive case that the infrastructure of al-Qaida in Iraq is very much tied to the bin Laden organization. If you don't believe that, come down and let's have a debate about it.

Who else is our enemy in Iraq? Iran. This body passed unanimously a resolution authored by Senator LIEBERMAN during the Defense authorization debate, and part of that resolution was a laundry list of activity by Iran, particularly the Quds Force, part of the Revolutionary Guard, in terms of trying to kill Americans in Iraq and destabilize the efforts of building a democracy in Iraq. On February 11, 2007, the U.S. military held a briefing in Baghdad at which its representatives stated that at least 170 members of the U.S. Armed Forces have been killed and at least 620 wounded by weapons tied to Iran.

This resolution which we passed was a damning indictment of Iran's involvement in Iraq about training, providing funds, providing weaponry, and bringing Hezbollah agents from Lebanon into Iraq to try to assist extremist groups whose goal it is to kill Americans and to destabilize this effort of democracy.

Now, why does al-Qaida come to Iraq? I said before that their biggest nightmare is a moderate form of government where Sunnis and Shias and Kurds and all different groups could live together, accepting their differences, where a woman could have a say about her children by being able to run for office and vote and have a strong voice in society. That is their worst nightmare.

Whether we should have gone to Iraq or not is a historical debate. We have made plenty of mistakes after the fall of Baghdad. But the biggest mistake would be not to recognize that Iraq is part of a global struggle. There are sectarian conflicts in Iraq; I acknowledge that. There has been a major failure of political reconciliation; I acknowledge that. The old strategy was not working; I acknowledged that 2 or 3 years ago. The new strategy is providing dividends in terms of defeating al-Qaida in Iraq. The Iraqi people in the Sunni areas have turned against al-Qaida in Iraq. That is good news. Political reconciliation is occurring at the local provincial level. I hope it works its way up.

Another aspect of Iraq, to me, which is undeniable—and I understand the challenges, and I think I see the successes for what they are—is that the Iranian Government's involvement in Iraq is major. It is substantial. It is designed to break our will. Their efforts include killing our troops, and they are there to make sure this experiment in democracy fails because Iran's worst nightmare is to have a functioning democracy on their border.

So this is part of a global struggle, and the outcome will create momentum one way or the other. I hope the outcome will be a success for moderation and a defeat of extremism.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. All time has expired. Morning business is closed.

SMALL BUSINESS TAX RELIEF ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 976, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 976) to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

Pending:

Baucus amendment No. 2530, in the nature of a substitute.

Grassley (for Ensign) amendment No. 2538 (to amendment No. 2530), to amend the Internal Revenue Service Code of 1986 to create a Disease Prevention and Treatment Research Trust Fund.

Bunning amendment No. 2547 (to amendment No. 2530), to eliminate the exception for certain States to cover children under SCHIP whose income exceeds 300 percent of the Federal poverty level.

Dorgan amendment No. 2534 (to amendment No. 2530), to revise and extend the Indian Health Care Improvement Act.

Gregg amendment No. 2587 (to amendment No. 2530), to limit the matching rate for coverage other than for low-income children or pregnant women covered through a waiver and to prohibit any new waivers for coverage of adults other than pregnant women.

The ACTING PRESIDENT pro tempore. Under the previous order, there is now 30 minutes of debate equally divided prior to a vote in relation to amendment No. 2538.

Who yields time? The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, the bill before us today would reauthorize SCHIP for 5 years with a $35 billion expansion in spending. But because of the way the budget gimmicks were worked in this bill, it is actually an expansion of somewhere around $110 billion.

This expansion, or at least part of it, is going to be funded by an increase in the Federal tobacco tax by 61 cents per pack and up to $10 per cigar. The problem with the funding mechanism in this bill, the way I see it, is that for the funding to still be there, we actually need to encourage people to smoke. Today, in our health care system, smokers contribute to a lot of diseases and this imposes large costs. In the future, as we raise the price of tobacco, fewer people smoking will mean less revenue. The proposal to fund the SCHIP expansion will yield diminishing returns. In the future, the tobacco tax will not adequately pay for the spending that is provided for in this bill.

This bill greatly increases dependency on the Federal Government and the dependency of the Federal Government on this tobacco tax revenue. The expansions included in this bill will have little bang for the buck in terms of reducing the ranks of the uninsured. As more money is poured into expanding SCHIP, less of the new funds will go to providing coverage to low-income children who currently go without coverage. SCHIP expansion will only serve to coax individuals and families out of the private insurance market and into Government coverage.

Undermining private health insurance coverage by creating more Government dependence is not an effective way to address shortfalls in coverage. We should have more of a comprehensive approach. This approach should include fiscal discipline, not more taxes and higher spending. We should be working to strengthen private sector health insurance options and increase parental choice and responsibility.

My amendment, however, will not address taking a more comprehensive approach to coverage. We will have other amendments during this debate that will address more of a comprehensive approach to insurance coverage.

I strongly believe in the role of Federal Government plays in promoting basic research. Some have noted that an increase in the tobacco tax should be used to fund the costs that tobacco imposes on our society. I agree with that. My amendment would establish a trust fund that will be known as the Disease Prevention and Treatment Research Trust Fund. The revenue from increased tobacco tax rates in the underlying bill will be transferred to this trust fund. From there, the dollars will be made available to fund research on diseases that are often associated with tobacco use.

I also believe the chronic underfunding of research in areas such as pediatric cancer need to be addressed, so I have expanded the permissible use of these funds to cover research on other diseases as well. I urge my colleagues to support my amendment to help discover new knowledge and treatments that improve and save lives.

Our current health care system is a sick care system. We do not spend nearly as much money on prevention as we do on getting people healthy once they are sick. This trust fund will fund research into areas to keep people healthy, to make sure we are spending money on disease research that actually keeps people out of hospitals, that keeps people as healthy as possible for as long as possible throughout their lives. I think this is a better use of taxpayers' dollars, especially when we are going to be raising those taxes on people who smoke. Let's use that money to fund disease research instead of taking people from the private health market onto the Government-funded health market.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, it is important to look at what this amendment actually does. It is a remarkable amendment. What does it do? It would try to spend the same dollar twice, take a dollar from tobacco taxes, spend it in the trust fund and spend it on CHIP—doing two things at once. I don't think we can do that in the real world. It is too good to be true. We can't do it. That is what the amendment says, basically. I do not think the Senator wants to take money away from kids, from the CHIP fund, the CHIP program. The amendment doesn't say that. I am sure he doesn't intend to do that. But what the amendment does say is the same dollars are going to be spent twice—one way we spend it is for this trust fund, the other way is we spend it on kids. I don't know how we do that; how in the real world we can do that. It is fantasy land. We can't do it.

Again, surely the Senator does not want to repeal the entire Children's Health Insurance Program. I am sure he doesn't want to do that. He does not do that in this amendment. But he still sets up the tension between the two, between research and all the good causes the Senator talks about on the one hand, and children's health insurance on the other, pitting one against the other. I don't think he wants to do that. He does not do that directly but he does that indirectly by trying to spend the same dollar twice. That might be possible in Hogwarts; it might be possible in Harry Potter's world. But I don't think it is possible in the real world.

Back here in the real world I want Senators to know this amendment is a thinly veiled attempt to steal the funding from the children's health care program. It is an attempt to undermine children's health care coverage. That is what this bill does. It takes a dollar from the tobacco tax—it is amazing—and that dollar is going to be spent on this trust fund and that same dollar is going to be spent on children's health care. We can't do that.

I urge my colleagues to reject the amendment.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, our amendment clearly takes the money from the increase in the tobacco tax, and instead of dedicating to the expansion of SCHIP, puts it into a disease research trust fund. SCHIP is still authorized; we don't do anything to the underlying program that currently exists. We take the money out of the expansion, this is tobacco tax money out of the expansion, and we apply it to the trust fund to be used for disease research. That is what this bill does. That is what the amendment does.

Mr. BAUCUS. Will the Senator yield for a question on that one point?

Mr. ENSIGN. Yes, but let me explain it.

Mr. BAUCUS. I will take it on our time.

Mr. ENSIGN. Let me explain it to you and then I will yield for a question. It says:

> There are hereby appropriated to the Disease Prevention and Treatment Reserve Trust Fund—

which we are talking about here,

> —amounts equivalent to the taxes received in the Treasury attributable to the amendments made by section 701. . . .

That is the tobacco taxes. We are taking the tobacco taxes, which would fund part of the increase the SCHIP expansion, and apply it to the Disease Prevention and Treatment Research Trust Fund. We are not taking money out of the trust fund; it is the revenues generated from the expansion of the tobacco tax from which we are taking the money.

Mr. BAUCUS. So the Senator wishes to take all the tobacco taxes in the underlying amendment, take all those dollars away from kids?

Mr. ENSIGN. That is not exactly right.

Mr. BAUCUS. It is exactly right.

Mr. ENSIGN. As you heard in my statement, pediatric cancer research is underfunded.

Mr. BAUCUS. No, take it from the Children's Health Insurance Program.

Mr. ENSIGN. We are taking it from the expansion, which is not just children. We are going to have other amendments to make sure the prioritization is on low-income kids. Part of the expansion is in States where the folks being covered are not just those under 200 percent of the poverty level. The expansion of SCHIP has been part of the problem. I believe in actually covering everybody, but doing it in a way that is different than the approach in the bill. What we want to do is take the tobacco taxes and take those funds that are raised by the tobacco taxes and dedicate those funds to disease research. The budget gimmicks used in the SCHIP expansion are so phony that it is ridiculous, some of the worst I have seen around here. These gimmicks assume these folks are going away in a few years, that they are not going to be on the program at the end of the 5-year reauthorization. This is how they got the SCHIP expansion to meet pay-go requirements.

But we say let's take the money and put it in a trust fund and with those real dollars that are in the trust fund, we are going to fund disease research that will help children, that will help adults, that will help all Americans.

Mr. BAUCUS. Will the Senator yield for another question again, again on my time?

Mr. ENSIGN. Yes.

Mr. BAUCUS. I don't mean to be condescending here, but has the Senator read the CBO analysis? I am sure he has. And, having read that, isn't it clear that a large share of the dollars in this bill from the tobacco tax are to maintain current coverage? That is, if we do not provide the $35 billion in this bill, that is the funds from the tobacco tax, that many kids are going to lose coverage? In fact, isn't it true that CBO says about 1.4 million children will lose coverage—not just maintain, but lose coverage if we do not have this bill?

Mr. ENSIGN. That is exactly why I believe in a comprehensive approach to solve the problem we have in the country. You do not take care of all of the children in America in this bill.

Mr. BAUCUS. Of course not.

Mr. ENSIGN. I believe in taking a more comprehensive approach that actually doesn't increase the dependence on the Government. I am addressing something different with this amendment. What I believe is we should do this amendment to fund disease prevention research, but then do a comprehensive approach that takes care of kids, that takes care of those uninsured adults, that gets them into the private insurance market. The more people, especially a lot of younger people, healthier people who are currently uninsured, whom we get into the private health insurance markets—the more the better. There are several proposals out there, whether it is tax credits or tax deductions; there is a blend of the two that has been talked about. We need to explore those because if we are doing it in a way that will take care of the uninsured, we bring in the folks who are healthier which will bring down the cost of health care insurance for all Americans.

That is the direction we should be going. SCHIP will take people out of the private insurance market. The program, the expansion you have done—and this is according to CBO—will take children who are currently in the private health insurance market and it will move them to Government programs. There will be a great incentive in the future to do more and more of this.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I think it is important to talk about the amendment, not all these other very important points with respect to health care. The effect of this amendment, the way it is written, will be to spend the same dollar twice. If the effect is what the Senator says it is, and he intends it—although that is not the amendment—if he intends to have all additional tobacco taxes go to the trust fund, then the net effect of this amendment is about 1.4 million American low-income kids will lose coverage. That is CBO. They will lose it, if that is the intent of the amendment.

The actual effect of the amendment the way it is written is the dollars have to be spent twice. We can't do that. I don't know how we do that. But, again, if the intent of the amendment is dollars do not go to kids, then the effect of the amendment is about 1.4 million

children will lose health insurance coverage; that is 5.7 million fewer kids will be covered under insurance than under our amendment.

In the Senator's own statements, he admits it. He apparently does not want to add dollars, he wants to take away the $35 billion raised by the tobacco tax and the honest effect of that $35 billion is to help prevent about 1.4 million kids from losing coverage as well as adding additional coverage. It is both. If the amendment is what the Senator wants it to do and says it is, then about 1.4 million kids will lose coverage.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, to be clear, this amendment funds cancer research, including:

. . . pediatric, lung, breast, ovarian, uterine, prostate, colon, rectal, oral, skin, bone, kidney, liver, stomach, bladder—

any kind of cancer you can think of.

Respiratory diseases . . . chronic obstructive pulmonary disease—

We hear so much about that today.

—tuberculosis, bronchitis, asthma and emphysema. All the related problems we see so much with smoking: ''Cardiovascular diseases''—a huge killer in the United States with huge costs to our health care system. We are going to fund a lot more research with this money. I think this money is going to some very good things in America, things that will benefit not just children but will benefit all Americans. It doesn't spend the money twice as I pointed out. It takes the money from the expansion and actually spends it, I believe, in more appropriate areas. Then, later in the bill, we are going to be offering some alternatives that will make sure the kids are covered and we will be looking at some other alternatives to do more comprehensive care.

I urge my colleagues to support this amendment.

Have the yeas and nays been ordered?

The ACTING PRESIDENT pro tempore. They have not.

Mr. ENSIGN. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ENSIGN. Mr. President, I ask unanimous consent to have a letter from Dr. Neal Birnbaum, president of the American College of Radiology, printed at the end of my remarks on amendment No. 2538. The letter expresses support for my amendment, which would use the tobacco tax increase to fund research on diseases that are often associated with tobacco use, including arthritis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUGUST 1, 2007

Hon. JOHN ENSIGN,
U.S. Senate,
Washington, DC.

DEAR SENATOR ENSIGN: The American College of Rheumatology greatly appreciates your leadership and amendment of the Internal Revenue Code of 1986 to create a Disease Prevention and Treatment Research Trust Fund (H.R. 976). This piece of legislation is of vital importance to the rheumatology community.

Arthritis currently affects over 46 million Americans, including 300,000 children. It is the nation's leading cause of disability and cost the U.S. economy approximately $128 billion annually in medical costs and lost productivity.

We appreciate your efforts in bring forth this amendment that would use the tobacco tax increase to fund research on diseases that are often associated with tobacco use such as arthritis. This is a disease that has been chronically underfunded.

We will send supporting materials in the coming days regarding the increased prevalence of Rheumatoid Arthritis in smokers.

Sincerely,

NEAL BIRNBAUM, MD,
President,
American College of Rheumatology.

Mr. ENSIGN. I am willing to yield back time so we can get back on schedule for a 10:30 vote, if that will be OK with the Senator?

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. I don't want to belabor the point. Some of the points the Senator makes are very good. Sure, he wants to do more research, but still the fact is the amendment takes dollars away from kids, away from the Children's Health Insurance Program.

In the children's health care program, 1.4 million American children will lose coverage under the Senator's amendment. That is CBO, that is not me. That is CBO. I do not think we want to take away our current coverage under the program.

One minor point that is not relevant to the amendment, but is relevant to the bill, is the Senator talks a little about something called crowd-out; that is, the number of kids who might not have private coverage who move to the CHIP program. That happens in every single program.

Do you know what the crowd-out estimate was with the Medicare Modernization Act, Part D? It was 75 percent. That was the estimate on how much crowd-out there would be for that legislation, which this body strongly supported. It actually turned out to be much less than that.

When this program was initially enacted in 1997, the Children's Health Insurance Program, CBO estimated crowd-out to be 70 percent. It was much less than that. We have asked the CBO Director to design this legislation to minimize crowd-out as well as we possibly can. And he, in testimony before the committee, said: You have done a very efficient job to minimize so-called crowd-out.

So we are cognizant of the point. But the main point is to get more health insurance coverage for kids. That is what the underlying bill does.

Mr. President, I yield back the remainder of our time.

The ACTING PRESIDENT pro tempore. All time is yielded back.

The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. CARPER), the Senator from South Dakota (Mr. JOHNSON), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Missouri (Mrs. MCCASKILL), amd the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. CARPER), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Missouri (Mrs. MCCASKILL) would each vote ''nay.''

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. COBURN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Arizona (Mr. MCCAIN), the Senator from Alaska (Mr. STEVENS), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Virginia (Mr. WARNER).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''nay.''

The PRESIDING OFFICER. (Mr. WHITEHOUSE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 26, nays 58, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—26

Allard	DeMint	Kyl
Barrasso	Dole	Lott
Bennett	Domenici	Martinez
Bunning	Ensign	McConnell
Burr	Enzi	Sessions
Chambliss	Graham	Shelby
Cornyn	Gregg	Thune
Craig	Inhofe	Vitter
Crapo	Isakson	

NAYS—58

Alexander	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Grassley	Obama
Biden	Hagel	Pryor
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hutchison	Roberts
Brown	Inouye	Salazar
Byrd	Kennedy	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Smith
Casey	Kohl	Snowe
Clinton	Lautenberg	Specter
Cochran	Leahy	Stabenow
Collins	Lincoln	Tester
Conrad	Lugar	Webb
Corker	Menendez	Whitehouse
Dodd	Mikulski	Wyden
Dorgan	Murkowski	
Durbin	Murray	

NOT VOTING—16

Akaka	Coleman	Lieberman
Brownback	Johnson	McCain
Carper	Landrieu	
Coburn	Levin	

McCaskill	Stevens	Voinovich
Rockefeller	Sununu	Warner

The amendment (No. 2538) was rejected.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Ms. LANDRIEU. Will the Senator from Montana yield?

Mr. BAUCUS. I do.

The PRESIDING OFFICER. The Senator from Louisiana.

VOTE EXPLANATIONS

Ms. LANDRIEU. Mr. President, I missed the previous vote because we were in a markup in committee. About six other Members did as well. Could I please be recorded as having voted no? If I were here, I would have voted no on the previous amendment.

Mr. WARNER. I was likewise in the committee when we were informed by the chairman and ranking member that we had an extra minute to finish the markup. But the best I can do is add, if I were present, I would have voted no.

Mr. LEVIN. Mr. President, I was in a similar situation. I would have voted no had I been here. I was also in the same committee meeting.

Mr. VOINOVICH. Mr. President, I had the same problem the other Members had. If I were here, I would have voted no.

The PRESIDING OFFICER. Without objection, it will be so ordered.

Mr. COBURN. Mr. President, as a member of the Homeland Security Committee, we were advised that we would be given leniency on this vote through our chairman, through communication, I assumed, from leadership staff. We did not come on a timely basis. I would like to be recorded as aye. It will not make a difference in the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COLEMAN. Mr. President, I was also in Homeland Security. We were advised by the chair that we would be able to make the vote. Obviously, we weren't. I would like to be recorded as voting no.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. I also was in the Homeland Security markup where we were informed that the vote would be held open so we could finish the markup. Had I been in the Chamber, I would have voted no.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I am the chairman of the Homeland Security Committee. I apologize to my colleagues for any misunderstanding. We had a very busy agenda, important matters that we needed to get done today. I did make a request that the vote be held open. It was the wisdom of the Chair not to do so. I particularly express my regret to my colleagues, for some of whom this was the first rollcall that they have missed. Anyway, for myself, had I been here I would have voted in the negative. It would not have altered the result.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. I also was detained. Were I here, I would have voted no.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I also was at the Homeland Security markup. I am sure that anyone observing this is surprised that so many Senators in one setting, having been notified by the cloakroom, were put in a position where they missed a vote. Had I been here, like all my other colleagues, I would have voted aye. As we see, given that so many of our colleagues have to make this point to the Chair, we have now exceeded by far any time that might have been saved by cutting off the vote in an atypically short way.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, as did my other committee colleagues, I missed the vote. Had I been present, I would have voted ''no.''

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am very happy to see the Committee on Homeland Security doing its work. I think the country is very pleased. Thank you.

Mr. BYRD. Mr. President, let us have order in the Senate. May we have order in the Senate, Mr. President.

Why all this consternation about this vote? Were Senators promised they would have a chance to vote? They were. And we did not hold the vote for them. Now, we ought to do what we promised Senators we will do. Shame.

Mr. GREGG. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield for a question.

Mr. GREGG. As one of the most leading Parliamentarians in the history of the Senate, would it be appropriate by unanimous consent to reopen that vote so that the——

Mr. BYRD. May I ask the Senator, what did he say?

Mr. GREGG. I ask the Senator if he feels it is appropriate to reopen the vote so that vote could be reconsidered and Senators could——

Mr. BAUCUS. I would object to that.

Mr. REID. Mr. President, can I be heard?

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I am very sorry people missed the vote. We waited almost 25 minutes for the vote. And I am sorry. Senator LIEBERMAN certainly did not do anything intentionally. He thought the vote would be held open. I have checked with the very loyal staff we have in the cloakroom, and there was a misunderstanding between the cloakroom and Senator LIEBERMAN.

But, regardless, I hope everybody understands we have to have some semblance of order around here. We are doing our very best to save people time. One of the things we are doing to save time is have a vote start on time and end on time. A 15-minute vote is a 20-minute vote. This vote was cut off approaching 25 minutes.

So I am sorry that people missed the vote. I had one Senator tell me it was the first one they missed. It is a favor to that person. I say the first vote I missed took a lot of the pressure off.

This vote passed, I think, 2 to 1. It is not a very difficult issue. I am so sorry that people are disturbed about following the rules here. That is what we are doing.

I appreciate my friend from Montana because if he had not objected, I would have.

Mr. HATCH. Mr. President, will the leader yield?

Mr. REID. Yes.

Mr. HATCH. Mr. President, apparently this was a sorry situation. Nobody's vote would be changed. Why can't we ask unanimous consent that these votes be counted?

Mr. REID. Because I will object to it.

Mr. HATCH. You would object to it?

Mr. REID. Yes.

Mr. BYRD. What was the Senator's request?

Mr. HATCH. I was requesting that we should consider unanimous consent that their votes be counted.

Mr. BYRD. No, Mr. President, we cannot do that.

Mr. HATCH. I understand.

Mr. BYRD. I thank the Senator. We cannot do that. I hope Senators will pay a little more attention.

Mr. President, who has the floor?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I had the floor, and I yielded to the Senator from West Virginia.

Mr. BYRD. I thank the Senator for yielding.

I was caught in this situation a while back, and I have cast more votes than any Senator in the history of this Republic, and it was called on me. I regretted that.

Sometimes I think we get a little bit too hung up. The Senate is a body in which we talk to one another, we talk with one another, we think about one another, and we think of one another's problems. We can get a little bit too hung up on the time on a vote. A vote is important. The people send me here, the people of West Virginia—who has the floor, Mr. President?

Mr. BAUCUS. Mr. President, I say to the Senator, you do.

The PRESIDING OFFICER. The Senator from Montana yielded time to the Senator from West Virginia.

Mr. BYRD. I thank the Senator from Montana.

Now, the people send me here to vote. That is my right. Of course, I ought to get here, be here on time. But the people expect ROBERT BYRD—the people of West Virginia expect ROBERT BYRD—to vote. So let's do not get hung up on 60 seconds or 30 seconds or whatever it is. Let's have a little bit of accommodations to one another.

I hope I am not speaking out of turn. I hope I am not saying too much or making too much of nothing. But I am sent here to vote, and I hope we will accommodate one another. We Democrats ought to accommodate one another, and we ought to accommodate the Republicans, too.

I thank the Senator.

Mr. REID. Mr. President, will the Senator from Montana yield?

Mr. BAUCUS. Mr. President, I yield to the Senator from Nevada.

Mr. REID. Mr. President, I say to all my colleagues, we have been in this session now for 7 months. This is something we all decided would be best for the institution. We all decided this. This is not something we put into effect yesterday. And I say to my dear friend, the senior Senator from Utah, I understand his compassion. He does not want to miss votes. But if we decide to change it this time, then we will be doing it every time people miss a vote.

Now, it would be different—I say to my friend, the ''Babe Ruth'' of the Senate, Senator BYRD, this was not 60 seconds, a few seconds off. We have a lot of work we need to do here. The vote was a 15-minute vote. We waited almost 25 minutes. So I think we have been fair.

The one I feel worst for is my friend JOE LIEBERMAN, because he felt they had the time to get here. I have checked with the cloakroom, and they emphatically said there was a misunderstanding, because they have a time, they know when the vote is going to end. When everybody calls, they say there is no extension, the time the vote will end is such and such a time. They have been instructed to do this because one Senator missed a vote Monday. So the cloakroom has instructions as to what to do.

I am sorry people missed votes, but remember, this is not anything that is new. It is something that has been going on for 7 months, and we have a lot of work to do. I respectfully suggested to one of my friends, who said: Well, we wasted all this time; we could have gone ahead and waited for everybody—but while we are waiting for everybody to come and vote, some people got here on time, and other people have work they want to do, waiting for people to get here on time.

So I think it is best for the body that we stick to our 15 minutes, plus 5 minutes. That is when the vote will be called. For those of us who have had service in the House—many of us have—you do not have any wiggle room in the House. That vote is over, and you are through. It is done mechanically, and you are all through. We do not want it to be like the House. This is the Senate, and we want it differently. That is why we have a 5-minute leeway.

I appreciate everyone's thoughtfulness, but I am certainly trying to do the right thing.

Mrs. HUTCHISON. Mr. President, will the distinguished leader yield for one observation?

I understand totally that the leader has to have a firm principle. And when it is one person who is late because they are off the Capitol grounds or something such as that, I think that is totally legitimate. This is something I have never seen since I have been here for 14 years, where a committee is meeting, with important business, and the committee chairman gives people the comfort that the vote is going to be held, and so you have around 12 people who have missed a vote.

I ask one more time for, just this once, a unanimous consent and will propose a unanimous consent that we reopen this vote.

Mr. REID. Let me say this. I have heard everyone loudly and clearly because we have spent a lot of time on this. Just so everyone has the total, absolute understanding, in the future—Senator LEAHY; Senator LIEBERMAN; Senator BAUCUS; Senator KERRY; Senator DORGAN; Senator BYRD, on Appropriations—if Appropriations chairmen tell you there is more time to vote, there is not any. Therefore, if the chairman is trying to keep you there, and the time is running, walk out of there.

I ask unanimous consent that those Senators who missed the vote because of the misunderstanding with Senator LIEBERMAN be allowed to cast their votes.

Mr. BYRD. No, Mr. President. That has never been done.

Mr. REID. Never been done. OK.

The PRESIDING OFFICER. That request is not in order and prevented by the rules.

Mr. REID. We tried, KAY.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I suggest we get back to business.

The PRESIDING OFFICER. The Senator from Montana has the floor.

AMENDMENT NO. 2587

Mr. BAUCUS. Mr. President, I understand Senator GREGG is ready for a vote with respect to his amendment, so I ask unanimous consent that there be 2 minutes equally divided in the usual form for debate prior to a vote in relation to the amendment, that no amendment be in order to the amendment prior to the vote, and that upon the use of time, the Senate proceed to vote in relation to the amendment, with no intervening action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, I understand this is a 45-minute vote?

Mr. BAUCUS. It may be.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, can we have order.

The PRESIDING OFFICER. The Senate will be in order.

There are 2 minutes of debate equally divided on the Gregg amendment.

Who yields time?

Mr. GREGG. Mr. President, I will claim my time, but I want the Senate to be in order before I begin.

The PRESIDING OFFICER. May we have order in the Senate for the Senator from New Hampshire. Will the Senate be in order.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, this amendment essentially says what the bill is titled and represents to be, which is that the funds will go to children, to help children get health insurance. This amendment says that adults can continue to be insured by States at the reimbursement rate, which is the Medicaid rate, should they so desire, but that a higher rate should not apply to adults by putting adults under a children's program.

The problem is very simple. States are gaming the system. They are using the SCHIP program, which gives a higher reimbursement rate, to bring into the system adults, and then they take that money and basically use it in their general fund. This is not appropriate. It is not appropriate, first, to have adults funded under a children's health insurance program. Secondly, it is not appropriate to give States the ability to game the system in this manner.

So I hope people will vote for this amendment, which essentially keeps the program for children and actually expands the number of children who can be covered by saving some money that is being spent on adults.

Mr. GRASSLEY. Mr. President, there are legitimate issues being raised about how adults are dealt with in this SCHIP bill. First of all, adding adults to SCHIP should have never been allowed. It was wrong when the Clinton administration started it. It was wrong when the Bush administration continued it. Stopping it is the right thing to do.

However, I think this amendment goes too far, too fast, and I encourage my colleagues to consider how the Finance Committee bill deals with adults. Let me be clear, in some States, the problem is extreme. Some States cover more adults than children. The even bigger problem is that several States that cover large numbers of adults have very high rates of uninsured children. This problem started under the Clinton administration but the Bush administration made it worse. Both the Clinton and the Bush administrations helped push Humpty-Dumpty off the wall. Now, it is our job to try to put the piece back together.

Advocates for parent coverage under SCHIP argue that in order to get kids covered, you have to cover the parents. I don't buy that argument; too many States that are covering parents are still among the worst in the country at covering kids. But the Congressional Budget Office does buy the argument that covering parents will get a few more kids covered. And they estimate that a reduction in parent coverage will lead to a reduction in children covered, so we have to be cautious. This amendment will lead to children losing coverage.

So what we have done in the Finance Committee bill is to say to States covering parents: put up or shut up. You either cover the kids or you get a far smaller Federal match for the parents you want to cover.

The bill before us eliminates coverage under SCHIP for childless adults by 2009. It eliminates the enhanced match for parents currently covered under SCHIP and prohibits new state waivers for parents. CBO estimates that it would reduce spending on adults by $1.1 billion. Furthermore, the easiest way to put the emphasis back on lower-income kids is to refocus the SCHIP program away from adults. The Finance Committee bill redirects States' efforts to low-income children.

Our bill covers 1.7 million kids in Medicaid who are currently uninsured. We are not talking about adults. We are not talking about middle-income kids. We are talking about 1.7 million of the poorest uninsured kids in this country.

As a former Governor, I am sure the Senator from New Hampshire can appreciate that concept. If your States will only get a lower matching rate for covering adults in SCHIP but significant financial incentives for covering low-income kids, where will you direct your energies? The parent policy in the Senate bill represents a reasonable compromise and I urge my colleagues to oppose the Gregg amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, four quick points. No. 1, we clearly want to bring this program down for kids, and this legislation does that. No. 2, the current expansion—not to point fingers anywhere—is basically as a result of the waivers this administration has given to States. That is the main reason for others. That is the main reason we have expansion to cover adults in States. No. 3, we are addressing this in this bill. We cut back on adults in this bill. But No. 4 is, we want to draw the line here a bit, and not totally cut adults off cold turkey, but, rather, childless adults would be cut back and zeroed out after 2 years, but then parents are phased down. But CBO has said when you do not cover parents, then you are also not covering some kids. The goal is to cover kids. I think the legislation is a fair, good, solid way to restrict coverage of adults, and I urge my colleagues, do not support this amendment, which is too draconian and goes too far.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON), the Senator from Illinois (Mr. OBAMA), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER (Mr. CASEY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 53, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—42

Alexander	Crapo	Lugar
Allard	DeMint	Martinez
Barrasso	Dole	McCaskill
Bennett	Dorgan	McConnell
Bond	Ensign	Nelson (NE)
Bunning	Enzi	Roberts
Burr	Graham	Sessions
Chambliss	Gregg	Shelby
Coburn	Hagel	Stevens
Cochran	Hutchison	Sununu
Conrad	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Kyl	Voinovich
Craig	Lott	Warner

NAYS—53

Akaka	Feingold	Murkowski
Baucus	Feinstein	Murray
Bayh	Grassley	Nelson (FL)
Biden	Harkin	Pryor
Bingaman	Hatch	Reed
Boxer	Inouye	Reid
Brown	Kennedy	Salazar
Byrd	Kerry	Sanders
Cantwell	Klobuchar	Schumer
Cardin	Kohl	Smith
Carper	Landrieu	Snowe
Casey	Lautenberg	Specter
Clinton	Leahy	Stabenow
Coleman	Levin	Tester
Collins	Lieberman	Webb
Dodd	Lincoln	Whitehouse
Domenici	Menendez	Wyden
Durbin	Mikulski	

NOT VOTING—5

Brownback	McCain	Rockefeller
Johnson	Obama	

The amendment (No. 2587) was rejected.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 2593 TO AMENDMENT NO. 2530

Mr. LOTT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for himself, Mr. MCCONNELL, Mr. KYL, Mr. GREGG, Mr. CORNYN, Mr. BUNNING, Mr. COBURN, and Mr. DEMINT, proposes an amendment numbered 2593 to amendment No. 2530.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. LOTT. Mr. President, I thank the managers of the legislation for allowing me to go forward with this alternative amendment at this time. I think it is important on an issue of this nature that we have a full discussion and amendments offered and debated and voted on. That helps us get to a conclusion on a major piece of legislation such as this without it turning into a late-night ugly session.

This alternative is intended to show we fully intend to be supportive of the SCHIP program—the program for children's health insurance—and we want it to be done in a responsible way and in a way that actually increases funding to make sure the children it wants to cover are actually covered.

This is an effort of good faith to come up with an alternative that I think is better, in many ways, than the underlying Baucus and others legislation. I have, on two previous occasions, indicated that part of my big problem is the pattern of the coverage going up and up, to the point where States that have waivers now, and under the underlying bill, middle-income children would be covered, and that we are on a steady march to say all children ought to be covered regardless of income.

I think that is a mistake. I think it is unaffordable. It will lead to disruptions, and it will lead to significant tax increases, or it will start to put our children against the parents. The way the House proposes to pay for this underlying bill is to go after funds in the Medicare Program. At least this bill doesn't do that, but it does pay for the increases with tax increases—yes, tobacco tax increases, but still tax increases which, in my opinion, are not going to be achievable and which will leave a huge hole in the funding.

So what we do in the alternative is to direct our attention at the core mission, which is low-income children—not adults, not middle-income children. We pay for it in a way that would equalize this Medicaid coverage in our States. So I think overall it is a very good alternative.

We have a number of Senators who are cosponsors of the legislation and would like to speak on it as we go forward this morning and into the afternoon.

Again, we all support reauthorization of the so-called SCHIP program, and we want to ensure that children have access to good, quality health care insurance. How you do it is the difference. We have come up with a different alternative that does it better because it puts kids first. It makes sure we take care of the kids, not an ever-growing list of kids and not a lot of adults. I

think you have to do it in a fiscally responsible way so we don't have huge holes develop in the outyears. One of the problems in the underlying bill is that down the road, in 6 years or so—and before that, in my opinion—the numbers are not going to add up. We will not have the income we were going to have, and there will be an explosion of the costs that are involved. So I think we should pay attention to the impact not just next year, or in 5 years, but it will be the situation in 7 or 8 years. That is what this bill does.

We have heard talk in the last couple of days from our friends on other side of this issue that they are concerned about the insurance for kids. I believe that, but that will be done in this bill. Let me tell you why. Under the Kids First amendment we sent to the desk, 1.5 million more children will be covered under SCHIP in 2017 than under the Baucus bill. Yes, that is a long way down the road, but the truth of the matter is we need to look at these programs over a 10-year period, not just the 5 years, because the commitments we make in that 5 years will continue to go up. We need to think about what is going to be the impact. You heard it right. It would cover actually more children in 2017. The Kids First bill will cover 3.6 million children. The Baucus bill will cover 2.1 million children in the SCHIP program.

The Kids First bill actually spends more money than the Baucus bill. You heard that right. We increase SCHIP spending by $9.3 billion over the next 5 years, expanding coverage to 1.3 million new children. Because the Kids First Act doesn't rely on any kind of budget gimmicks, as the underlying bill does, we can actually spend more on SCHIP over the budget window than the underlying bill does. I think it is important we focus on honest budgeting.

I realize honest budgeting is quite often in the eye of the beholder, but I don't think anybody would deny there are budget problems with the underlying bill. The Baucus bill has a long-term budget point of order against it, meaning that over the long-term it will significantly increase the budget deficit. The reason for this is the budget bill relies on the declining revenue. When you have the amount of increase on tobacco products included in the underlying bill—61 cents a pack for cigarettes and, of course, the same application to other tobacco products, including cigars—you are going to get less revenue than you project. People will not be able to afford it. They are going to change their habits. Some people would say that is going to be good for health. OK. I am not a big advocate of smoking, even though I smoke a pipe privately. Nobody here has ever seen me do that.

I think we have to be honest about what is going to be the impact the next 5 years. This will also contribute to an increase in Medicaid costs because the Baucus bill reduces SCHIP funding in those outyears, and CBO assumes those kids will have to be moved to Medicaid. That is part of what is going to be happening. More children will be under SCHIP under the bill and more children will be on Medicaid and more children will be coming off private health insurance. I don't think we want to do at least two out of those three things.

So I think it is important we cover the children in the low-income area and that we cover more children. That is what this alternative does. This amendment doesn't have a dime in tax increase to pay for it. It would not be subject to a point of order. Then it does a couple of other very important things. Unfortunately, last year, we never could get action on the associated health plans, the small business health plans.

We were so close, and yet because of some objections, perhaps legitimately, that the sponsors could not agree on, we did not give this opportunity to small business women and men to cover more of their employees, and they would like to. I talk to small business men and women. They don't understand why they cannot form groups and provide coverage to these low-income, entry-level workers, a lot of times unwed mothers, high school dropouts.

For the life of me, I cannot understand why we do not give that option. It would probably be a way that 10 to 20 million more working adults could get coverage. We do include in the bill the small business health plans.

We also include important health savings accounts reforms and provide for a study of ways to increase health insurance coverage through reforms to our Tax Code to enhance tax equity.

The Kids First Act is an amendment that all my colleagues, Republicans and Democrats, should support. The amendment enrolls millions more kids in SCHIP than the underlying bill and does it in a fiscally responsible way and avoids budget points of order. It will not expand Medicaid spending.

I urge my colleagues to actually take a look at this legislation. We have spent a long time coming up with it. I actually thought this was probably the bill that would come out of the Finance Committee when we started. We had bipartisan meetings. We talked about, OK, do we want to do this health insurance program for children? Yes, we do. How much do we want to do, and how are we going to pay for it? Of course, there were those in the beginning who said: No, we need a lot more than this. We need an increase of $50 billion or more.

I know the Senator from Massachusetts, Mr. KERRY, feels strongly about that point. He made his point legitimately. He said: Should we just decide how many we want to cover and don't worry about the cost and just do it? No, I think we also have to worry about the cost of these programs and how it is going to be paid for, who pays for it.

One of the things that worries me because we have this gap in the outyear funding—we have had pictures of children on the floor of the Senate. I have some grandchildren I worry a lot about—a 9-year-old grandson and two little girls, just under 6, and one 3. My daughter is a working mom full time, partially so her family can have insurance coverage, and her husband is a small businessman, an entrepreneur. It is not easy working full time as a mom, having two children, and dealing with other issues she really cares about, such as charitable activities. I worry about them. She is working to make sure they have this coverage, but I am worried they are going to be saddled with the cost of this extra coverage.

So let's do what we can affordably while complying with the underlying core mission of making sure that low-income children have access to this coverage. Generally speaking, my daughter and her husband would be considered middle-income Americans. That is what they would consider themselves. Yet they are having to work to get the coverage they want and barely making it so that others can have coverage who are making probably almost as much money as they are. I don't know, the way things are going, they might be eligible for this program. I don't think they should be.

Common sense is what is called for. We have a long way to go. There is no question the House bill is going to be much larger and funded in a much worse way. By putting down this marker, giving Members a legitimate alternative that a lot of Senators have been involved in, is a good way to go.

I urge Members to support this alternative.

I yield the floor.

Mr. MCCONNELL addressed the Chair.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LEAHY. I suggest the absence of a quorum.

Mr. MCCONNELL. Mr. President, have I been recognized?

The PRESIDING OFFICER. I recognize the Republican leader.

Mr. LEAHY. Will the Republican leader yield for a moment?

Mr. MCCONNELL. Would the Senator from Vermont like to ask the Senator from Kentucky a question?

Mr. LEAHY. I said, will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. I will be happy to yield.

Mr. LEAHY. Mr. President, the distinguished majority leader wishes to be on the Senate floor, and I ask the Senator from Kentucky if he will yield for a brief quorum call so that the distinguished majority leader can be on the floor.

Mr. MCCONNELL. Mr. President, I will be happy to accommodate that request. It was my understanding that

the majority leader was on the way, and I thought I would get started. But I will be happy to wait until he walks through the door, if that is the request of my good friend from Vermont.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, is the Lott amendment the pending question?

The PRESIDING OFFICER. It is the pending question.

Mr. MCCONNELL. I ask unanimous consent that it be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2599 TO AMENDMENT NO. 2530

Mr. MCCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself and Mr. SPECTER, proposes an amendment numbered 2599 to amendment No. 2530.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate Judge Leslie Southwick should receive a vote by the full Senate)

At the end of the substitute, insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING THE NOMINATION OF JUDGE LESLIE SOUTHWICK.

(a) FINDINGS.—The Senate makes the following findings:

(1) Judge Leslie Southwick served on the Mississippi Court of Appeals from January 1995 to December 2006, during which time he was honored by his peers for his outstanding service on the bench.

(2) The Mississippi State Bar honored Judge Southwick in 2004 with its judicial excellence award, which is awarded annually to a judge who is ''an example of judicial excellence; a leader in advancing the quality and integrity of justice; and a person of high ideals, character and integrity''.

(3) The American Bar Association has twice rated Judge Southwick well-qualified for Federal judicial service, its highest rating. As part of its evaluation, the American Bar Association considers a nominee's ''compassion,'' ''open-mindedness,'' ''freedom from bias and commitment to equal justice under law''.

(4) In 2006, the President nominated Judge Southwick to the United States District Court for the Southern District of Mississippi.

(5) Last fall, the Senate Judiciary Committee unanimously reported Judge Southwick's nomination to the full Senate for its favorable consideration.

(6) In 2007, the President nominated Judge Southwick to the United States Court of Appeals for the Fifth Circuit.

(7) The Administrative Office of the Courts has declared the Fifth Circuit vacancy to which Judge Southwick has been nominated a ''judicial emergency'' with one of the highest case filing rates in the country.

(8) Judge Southwick is the third consecutive Mississippian whom the President has nominated to address this judicial emergency.

(9) Both Senators from Mississippi strongly support Judge Southwick's nomination to the Fifth Circuit, and they strongly supported his 2 predecessor nominees to that vacancy.

(10) The only material change in Judge Southwick's qualifications between last fall when the Senate Judiciary Committee unanimously reported his district court nomination to the floor, and this year when the Committee is considering his nomination to the Fifth Circuit is that the American Bar Association has increased its rating of him from well-qualified to unanimously well-qualified.

(11) While on the State appellate bench, Judge Southwick has continued to serve his country admirably in her armed forces.

(12) In 1992, Judge Southwick sought an age waiver to join the Army Reserves, and in 2003, he volunteered to serve in a line combat unit, the 155th Separate Armor Brigade. In 2004, he took a leave of absence from the bench to serve in Iraq with the 155th Brigade Combat Team of the Mississippi National Guard. There he distinguished himself at Forward Operating Base Duke near Najaf and at Forward Operating Base Kalsu.

(b) SENSE OF SENATE.—It is the sense of the Senate that the nomination of Judge Leslie Southwick to the United States Court of Appeals for the Fifth Circuit should receive an up or down vote by the full Senate.

Mr. MCCONNELL. Mr. President, in 1992, a Mississippi lawyer named Leslie Southwick wanted to serve his country in the Armed Forces. At 42, he was too old to do so, but service to others is a duty that Leslie Southwick has always taken very seriously, whether in the Justice Department or on the State bench or with Habitat for Humanity or in doing charity work for inner-city communities. So in 1992, 42-year-old Leslie Southwick sought an age waiver to join the U.S. Army Reserves. The country had the good sense and the good fortune to grant his request.

Leslie Southwick continued to serve in the Armed Forces after he was elected to the State court of appeals in 1994. He conscientiously performed his military and judicial duties, even using his vacation time from the court to satisfy the required service period in the Mississippi National Guard.

In 2003, Lieutenant Colonel Southwick volunteered for a line combat unit—this is 2003—a line combat unit, the 155th Separate Armor Brigade. His commanding officer, MG Harold A. Cross, notes that his decision ''was a courageous move, as it was widely known at the time that the 155th was nearly certain to mobilize for overseas duty in the near future.''

Colleagues such as attorney Brian Montague were not surprised. This is what Brian Montague had to say: ''Despite love of wife and children,'' Leslie Southwick volunteered for a line combat unit over a safer one ''because of a commitment to service to country above self-interest.''

In August of 2004, Leslie Southwick's unit mobilized in support of Operation Iraqi Freedom. His commanding officer states that he distinguished himself at forward operating bases near Najaf. Another officer, LTC Norman Gene Hortman, Jr., describes Southwick's service in Iraq as follows:

Service in a combat zone is stressful and challenging, oftentimes bringing out the best or the worst in a person. Leslie Southwick endured mortar and rocket attacks, travel through areas plagued with IEDs, extremes in temperature, harsh living conditions—the typical stuff of Iraq. He shouldered a heavy load of regular JAG officer duties, which he performed excellently. He also took on the task of handling the claims of the numerous Iraqi civilians who had been injured or who had property losses due to accidents involving the U.S. military. . . .This involved long days of interviewing Iraqi civilian claimants, many of whom were children, widows, and elderly people, to determine whether the U.S. military could pay their claims. Leslie always listened to these Iraqi claimants patiently and treated them with the utmost respect and kindness. He did this not just out of a sense of duty, but because he is a genuinely good and caring person. His attitude left a very positive impression on all those that Leslie came in contact with, especially the Iraqi civilians he helped. This in turn helped ease tensions in our unit's area of operations . . . and ultimately saved American lives.

Lieutenant Colonel Hortman concludes that Leslie Southwick ''has the right stuff'' for the Fifth Circuit Court of Appeals—''profound intelligence, good judgment, broad experience, and an unblemished reputation.'' Lieutenant Colonel Hortman added:

I know him and can say these things without reservation. Anyone who says otherwise simply does not know him.

Stuart Taylor writes in the National Journal that Leslie Southwick ''wears a distinctive badge of courageous service to his country,'' and that he ''is a professionally well-qualified and personally admirable'' nominee for the Fifth Circuit Court of Appeals.

Judge Southwick does not seek thanks or notoriety or charity for his military and other civic service. He asks to be judged fairly—to be judged on the facts, to be judged on his record. It is the same standard he has applied to others as a judge, a military officer, a teacher, and a mentor.

It is a standard for which he is well known and admired. By that standard, he is superbly fit to continue to serve his country, this time on the Fifth Circuit Court of Appeals.

His colleagues know this, as do his home State Senators. His peers within the State bar know this. They honored him as one of the finest jurists, declaring him ''an example of judicial excellence; a leader in advancing the quality and integrity of justice; and a person of high ideals, character, and integrity.''

The American Bar Association knows this as well. It has twice given him its highest rating, ''well qualified,'' and in so doing found him to be exemplary in

the areas of compassion, open-mindedness, freedom from bias, and commitment to equal justice under law.

Even Democrats on the Judiciary Committee know this because just last fall, all of them—again, all of them—looked at his record and approved him for a lifetime position on the Federal bench.

But it appears that Democrats on the committee may now apply a different standard to Judge Southwick. A member of the Democratic leadership who serves on that committee states that what is ''determinative'' is whether a judicial nominee is perceived to be fair.

The notion that perception, rather than reality, will be dispositive in evaluating a nominee is at odds with the principle of the rule of law. And it is not fair to manufacture a false impression of someone through insinuation and innuendo, and then use that falsehood to defeat him. In the case of Judge Southwick, the sudden ''perception'' about his fairness is driven by those who do not even know him, and it is disproved by his long record by those who know him very well.

All nominees deserve to be treated with dignity, but a selfless public servant and veteran such as Leslie Southwick deserves to be treated with respect as well. It is disrespectful for the same members of the Judiciary Committee who unanimously supported his nomination last fall to now turn around and unanimously oppose him. There is only one change in Judge Southwick's credentials between last year and now. The ABA, hardly a bastion of conservatism, has actually increased—increased—its rating for him from ''well qualified'' to ''unanimously well qualified.'' Now what that means is that every single member of the ABA committee evaluating Judge Southwick's credentials for the Fifth Circuit, every single one of them gave him the highest possible rating—a unanimous ''well qualified'' rating.

A party-line committee vote would not be a ''perceived'' flipflop or a ''perceived'' injustice but an actual one. This is not a question of perception; this is a question of actually ignoring the reality of this man's record. It would make clear that despite the promise of a new start on judicial nominations that the Senate majority leader and I have been hoping for all year, when push comes to shove, we will treat nominees unfairly based upon a manufactured perception.

This sad standard is not only unjust, but it is actually unwise. As we all know, once established, precedents in the Senate are extremely difficult to undo. Establishing a third-party perception standard on the Southwick nomination will be bad for this Congress and really, more importantly, I will say to our colleagues on the other side of the aisle, bad for future Congresses regardless of who is in the White House and which home State Senators support a nomination. The standard we set now with a Republican in the White House and a Democratic Senate might well be the standard applied in a future Congress if, for example, it were a Democrat in the White House and a Democratic Senate.

Because such a decision will affect us all, and for the worst, it is appropriate for the Senate collectively to express its view on whether it wishes to go down this path, whether it wishes to undo the good work and good will that brought us back from the precipice just a few years ago. It is for that purpose that I have offered the sense of the Senate on the Southwick nomination. I encourage my colleagues to review it, to review the record, and to think long and hard about whether we want to deny this good man an opportunity for a vote here in the Senate.

Again, Mr. President, at the risk of being redundant, let me just say that the majority leader and I have been working hard all year to try to improve the confirmation process. I think that is a very wise thing for the majority to do because someday they may have the White House again, in spite of the best efforts of people like me. Once we establish an unrealistic standard for the treatment of qualified judicial nominees for the circuit court, there will be a great temptation on the part of the other side of the aisle to apply the same standard in the future.

There are plenty of grievances from the past. We have had Republican complaints about Democrats and Democratic complaints about Republicans. I guess the fundamental question is, When do we stop it? When do we stop it? For the sake of the institution, for the sake of the country, and for the sake of the party that may not currently occupy the White House, when do we stop?

It strikes many of us that the Leslie Southwick nomination is a good time to stop it because we all know he is extraordinarily well qualified. There is really no serious argument otherwise. And if we can't stop it now, Mr. President, when will we stop it?

So I think this will give us an opportunity to let all of the Senate express themselves, rather than just a few in one committee, on the appropriateness of this nominee.

With that, I yield the floor.

Mr. REID. Mr. President, it is my understanding the distinguished Senator from West Virginia is going to be recognized now; is that right?

The PRESIDING OFFICER. That is correct.

Mr. BYRD addressed the Chair.

Mr. REID. Mr. President, if I can interrupt my friend for a minute, will the Senator yield to me to make a brief statement regarding the statement made by the distinguished Republican leader, to be followed by 5 or 6 minutes by the Senator from Vermont, the chairman of the Judiciary Committee, and then the Senator from West Virginia would, of course, have all of his time?

Mr. BYRD. Yes. Yes, I will do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it appears at this time that we will move to table this sense-of-the-Senate resolution offered by my friend, the distinguished Republican leader. I appreciate his advocacy for Judge Southwick. Some of us have a different opinion about Judge Southwick, and that has been made a part of the record already. I would refer to the CONGRESSIONAL RECORD of July 20, where I gave an extended statement on Judge Southwick and why I thought he should not be confirmed, but there will be more time to talk about this.

We have done a very good job, working with Senator LEAHY, in clearing judges. We have a bump in the road with this one, there is no question, and the bump is still there. I admire and appreciate the work done by the Senator from Vermont because we have been through some difficult times in recent years with the Judiciary Committee. Senator LEAHY will make a brief statement about some of the travails we have had.

Judge Southwick has had a hearing. It is up to the Republicans—namely, Senators Lott and Cochran—whether they want to vote in that committee. That is so much more than was given to Senator CLINTON's nominees, where about 70 never even had a hearing.

So we will have more time to debate this at a subsequent time, and sometime later today I will confer with my distinguished Republican colleague, the minority leader, to determine when I will offer a motion to table or Senator LEAHY will offer a motion to table.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. First, Mr. President, I thank the distinguished Senator from West Virginia for his usual courtesy and giving me some time to speak. I have had the privilege of serving almost 33 years—a third of a century—with the distinguished Senator from West Virginia. Of course, I know my 33 years pale in comparison with the time he has served.

While the distinguished Republican leader is on the floor, he and I have worked closely together on many things. I will not make comments about crocodile tears and all that, but it is interesting that he spoke of Judge Southwick being passed out unanimously last year. He forgot the fact that when he was being cleared for a vote by the Republican-controlled Senate, a Republican objected.

The Republican leader has forgotten that the Senate has confirmed 25 nominations for lifetime appointments this year—more than were confirmed, for example in all of 2005 with a Republican chairman and a Republican majority.

The leadership over there has forgotten that we Democrats—we Democrats—have confirmed more of President Bush's nominees for any given period of time while we have been in

charge than the Republicans did. We have had three different leaderships in the Senate Judiciary Committee and the Senate itself during the time President Bush has been in office. During the time that the Democrats have been in charge, we have actually confirmed more of President Bush's nominees than the Republicans did.

The weeping and gnashing of teeth going on makes me think that congressional Republicans love to shut down the Government and seem intent on manufacturing excuses to do so. In 1995 Newt Gingrich was so upset by the door he had to use on Air Force One—most people would be thrilled to fly on Air Force One—that he shut down the Government. When they were in the Senate majority a few years ago, Senate Republicans insisted on a 40-hour debate on their own President's court-packing scheme. And then we found out that during that time they were stealing our computer files. The then Republican leader had to fire one of his own aides for stealing computer files from the Democrats. So the weeping and gnashing of teeth that is going on leaves a little bit to be thought about.

The Senate has confirmed 20 circuit court nominations and 125 Federal judicial nominees during the 2 years I have been Judiciary Committee chairman. Compare that to the numbers of the Republicans. During the Bush presidency, more circuit judges, more district judges and more total judges have been confirmed, in less time, while I served as Judiciary Chairman than during the longer tenures of either of the two Republican Chairmen working with Republican Senate majorities. Yet you would think that somehow we are holding up everybody.

I would point out that it was the Republicans who pocket-filibustered over 60 of President Clinton's nominees. I think we have stopped two or three of President Bush's. Sixty-one. The distinguished Republican leader said he hoped all this would stop. Well, we are not going to do what they did. Incidentally, 17 of those were circuit nominees. Let me mention their names for those that have short memories: Barry Goode, Helene White, Alston Johnson, James Duffy, Elena Kagan, James Wynn, Kathleen McCree Lewis, Enrique Moreno, Allen Snyder, Kent Markus, Robert Cindrich, Bonnie Campbell, Stephen Orlofsky, Roger Gregory, Christine Arguello, Andre Davis, and Elizabeth Gibson. These are just some of the ones they pocket-filibustered.

Now, on Judge Southwick, I had him on the agenda. I took him off the agenda at the request of the Republicans. We actually had him on one time, and we did not get enough Republicans to show up to make a quorum to vote on him. I took Judge Southwick's nomination off the agenda at the request of Republican Senators. Neither the junior Senator from Mississippi nor the senior Senator from Mississippi nor the distinguished Republican leader has asked me to put him back on the agenda.

I am growing somewhat tired of the statements being made publicly about delay, many of which I do not attribute, of course, to my colleagues, so I put Judge Southwick's nomination back on the agenda for tomorrow.

I must say—and I will close with this—this makes me think about the first time I was chairman of this committee in the first Bush administration, knowing that we come from a time when the Republicans had pocket-filibustered 61 of President Clinton's nominees and one they had voted out almost unanimously from the committee whom they then ambushed on the floor, the distinguished James Graves, an African American who then became chief justice of the Missouri Supreme Court, the distinguished African American whom they humiliated by voting him out of committee, with no real objections, and then, in lockstep, with no notice, voted him down on the floor of the Senate. One of the most distinguished African-American jurists in the country, the Republican leadership decided to vote him down. But notwithstanding that, I tried to change that.

I remember when the Republicans asked me to have a hearing on a controversial nominee of theirs. They were very concerned about it. I actually came back from Vermont, which is not an easy thing to do in August, to leave that beautiful State—it is like leaving the beautiful State of West Virginia during the month of August, one of our prettiest times—but I left Vermont, came back, and held a hearing on that nominee so we could arrange in the first week of September to get him passed. Do you know what happened, Mr. President? Do you know what the reaction of the Republicans was? They trotted out a member of their leadership to tell the press how terrible it was that I held a hearing during August, even though that was the only way they were going to get their nominee through. That was hypocrisy.

Mr. President, with that, I will just point out again that there is no question of the numbers. The Democrats have moved more of President Bush's nominees more quickly than his own Republicans have when they have been in charge. If we are able to confirm just the five nominations for lifetime appointments to the federal bench currently on the Senate's executive calender, I will have presided over the most productive 2-year period for judicial confirmations in the last 20 years, with 130 confirmations. Let us stop the crocodile tears. Let us stop the hypocrisy. Let us stop the grandstanding and worry about what is best for the courts. This administration has played politics with the judiciary more than any of the six administrations I have served with—not for but with—and I think one example of their knowing what is best for law enforcement, what is best for the judiciary, is this administration's strong support of the current Attorney General.

With that, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

IRAQ

Mr. BYRD. Mr. President, it was 122 degrees in Baghdad today. The Iraqi Parliament thinks it is too hot to work and has gone on vacation. Our soldiers don't have that luxury. Our brave men and women continue to patrol the hot streets of Baghdad in full battle gear. They will get no vacation. They continue to risk their lives in the sand and in the heat, supposedly to give the Iraqi politicians ''breathing room'' to build a political consensus. Those politicians are now on vacation.

A majority of Iraqis now say that we are doing more harm than good by staying in their country. Perhaps I should say that again. A majority of Iraqis now say that we are doing more harm than good by staying in their country.

Every day brings more terrible news of American casualties. What has the response from this administration been? ''Wait. Wait. Give us more time.'' Our President has been saying that for the last 4 years, and it is clear that he will keep on saying it for as long as we keep on accepting it. So I am angry. This is my 49th year in the Senate. I believe it is the first time I have said that. I am angry. Every Member of this body should be angry, angry that the Iraqi Government is on vacation while our troops, American troops, U.S. troops—your troops, my troops, our troops—fight and die in their civil war.

Everyone, including General Petraeus, agrees that there is no military solution in Iraq. None. Iraqis will have to make the hard political compromises necessary to force a national consensus. Nothing the U.S. military does can force them to make those compromises. But, rather than work to craft a political solution, the Iraqi Government decided to take the entire month of August off.

And where has our Congress been? I am deeply disappointed that the Senate has once again failed to have a real debate on the issue of the war in Iraq. There is no issue currently facing our Nation that more deserves the attention of this body, and yet we continue to have empty procedural votes instead of passing legislation that would mandate a change of course, as a large majority of Americans want. We are, in fact, charged by the Constitution to have that debate, and yet we wait. ''Wait until September,'' the critics say. ''Wait until the new report.'' How many reports must this Congress read before we see the handwriting on the wall? I, for one, am tired of waiting. The American people are tired of waiting. Our brave soldiers and their families are tired of waiting.

The President and his supporters in Congress are fond of painting a picture of what would happen following a precipitous withdrawal from Iraq, and they paint with a pallet of fear. But

their picture is not reality. It is easy to win an argument against a straw man, but we are not calling for a precipitous withdrawal. The proposal that 53 Senators voted in favor of recently called for a phased redeployment of troops to focus on the threats that truly face us, not a hasty and radical complete pullout.

I opposed this terrible war from its beginning, but I recognize we are there now and some actions can't be so simply undone. Our first priority must be that of protecting U.S. interests, and the simple truth is that we do have vital interests in the region. The question is how to best protect those interests.

The President of the United States, President Bush—and I say this most respectfully—the President says that al-Qaida wins if we leave and that if we pull out the terrorists will follow us home. Let me say that again. The President says that al-Qaida wins if we leave and that if we pull out the terrorists will follow us home. Al-Qaida is our enemy, but are we really defeating them by trying to referee a sectarian civil war between Shia and Sunni that has been going on for over 1000 years? The President's own advisers now admit that al-Qaida is as strong today as it was before 9/11.

Al-Qaida is resurgent in Pakistan and Afghanistan. When the President of the United States took his eye off the ball and diverted our national attention from Osama bin Laden and his terrorist training operation in Afghanistan, the President dealt the security of the people, the American people, a major blow.

Iraq did not attack the United States on 9/11. No Iraqi, not one—not one—was involved in those attacks. Al-Qaida may now be in Iraq. But it was not there before we went in and handed them a new training ground for fresh recruits.

More importantly, al-Qaida is not the core of the problem in Iraq. Al-Qaida is not the core of the problem in Iraq, no matter how often the President says that it is. Former Secretary of State Colin Powell said recently that al-Qaida was only 10 percent of the problem in Iraq. The real problem in Iraq is not al-Qaida, the real problem is the multiple civil wars that are raging: Shiia versus Sunni, Shiia versus Shiia, Sunni versus Kurds.

The argument that if we lose in Iraq, they will follow us here is pure hogwash. Nonsense. Did you hear me? I say, did you hear me? Let me say it again. The argument that if we lose in Iraq, they will follow us here is pure hogwash. H-o-g-w-a-s-h. Hogwash.

I have heard that time and time again. If we lose in Iraq, they will follow us here. That is absolutely hogwash. Nonsense. What is keeping terrorists from coming here now? Tell me. So we heard the argument: If we lose in Iraq, they will follow us here. Well, what is keeping the terrorists from coming here now? Certainly not the fact that our military is in Iraq. Our military was not in Iraq when hijackers with box cutters flew planes into the Pentagon and the World Trade Center. Have we such short memories? I saw those planes attack the World Trade Center. I have not forgotten it.

Keeping our troops in Iraq is not what is going to keep a terrorist attack from happening again. So I repeat that. Keeping our troops in Iraq is not what is going to keep a terrorist attack from happening again. The real threat, the real threat, the real threat is in Pakistan and Afghanistan, as the President's own advisers admit.

Principled people in this country, let me say that again, principled people—in other words, people of principle in this country and in the Congress are calling for a change in strategy, not because they are weak, not because they are scared, not because they are callously political, they are calling for a change because it has become patently obvious that what we are doing is not making us safer, it is making us less safe.

They are calling for a change because it has become patently—p-a-t-e-n-t-l-y—obvious that what we are doing is not making us safer, it is making us less safe.

Now, as U.S. officials absolutely wake up to the resurgence of al-Qaida in Afghanistan and urge President Musharraf's Government to crack down in Pakistan, we confront great anger in the region. I think that statement is entitled to a rehearing.

Now, as U.S. officials slowly wake up to the resurgence of al-Qaida in Afghanistan and urge President Musharraf's Government to crack down in Pakistan, we confront great anger in the region.

Our continuing occupation of Iraq has damaged our credibility and aroused suspicions about the depth of the U.S. commitment to the sovereignty of other nations. There is a lesson here. It is this: If you are marching in the wrong direction or if you are fighting the wrong fight, unflinching persistence is not a sign of strength, it is a sign of stupidity.

If you are marching in the wrong direction or fighting the wrong fight, unflinching persistence is not a sign of strength, it is a sign of stupidity. Yet amazingly we hear plans of continuing for 2 more years our pointless, senseless occupation in Iraq.

I said it was wrong in the beginning. It was wrong from the start. It amazes me when we hear plans of continuing for 2 more years our pointless, costly, senseless occupation in Iraq.

The seas are rising and our present course is headed for an iceberg. Turn around. Turn around, Mr. President. Turn around.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I wish to speak on the current health care discussion on the floor and take a few minutes to address this very important issue.

SCHIP is a great program that is called Kid Care in the State of Florida, where it has very successfully, over the past many months, been a good program in reducing the amount of children without health insurance.

I support its reauthorization as proposed in the McConnell-Lott amendment. I support a straight reauthorization because the alternative, the Democratic bill before us, greatly steers the program away from the original intent. The intent of this program is to provide health care for low-income children.

Instead, the underlying bill redefines SCHIP. It redefines the program to make SCHIP cover more adults and people well outside poverty. This bill will make families make a choice. A family of four making $82,000 a year could remain on private insurance, paid out of pocket, or they could take public-funded insurance.

That kind of choice will cost Americans about $37 billion a year by the year 2012. This kind of expansion of Government-controlled health care is counter to any effort to reform our health care system. The question comes: Why are we considering this expansion? Why take the focus away from the children SCHIP was intended to serve? SCHIP has successfully achieved what it set out to do and has significantly reduced the number of uninsured children.

Last year, 6.6 million children received health insurance through SCHIP. Rather than change the purpose of the program, as Democrats have proposed, we should refocus SCHIP on finding and covering the low-income children who are eligible for the program but are not yet enrolled.

The McConnell-Lott bill turns the focus to the original purpose, helping ensure children from low-income families have health insurance.

Instead of an expansion toward Government-run health care, the Republican alternative authorizes the program to keep the focus on children and invests an additional $14 billion into the program.

Additionally, the Republican alternative provides important practical and easily implemented reforms to make health insurance more affordable for the uninsured. Part of the problem with SCHIP right now is we can't find all the kids who need it. The Republican alternative commits $400 million over the next 5 years for improved outreach programs. This money targets enrolling low-income children. These funds target the low-income children SCHIP was meant to help. We have a problem when we have children who have no health insurance but yet we have not reached out and touched them. This new reauthorization will put the funds behind going out and doing the outreach necessary to ensure that all children who are uninsured

who could be covered under this program are reached.

The Congressional Budget Office projects that the Baucus plan will cover 600,000 new uninsured individuals at higher income levels, but then the plan would also cause 600,000 privately insured individuals at these income levels to drop their private coverage. Ironically, the Baucus bill drives people out of private insurance and into Government-sponsored health care. Under the Baucus plan dependency on government health care will increase significantly. In total, CBO says that 2.1 million individuals will move from private coverage to Government dependency if the Baucus plan is implemented. This isn't the health care reform Americans want. This isn't in the best interest of our country.

Before we take this step of moving people on to Government plans, let's have a broader debate. Let's think about the ramifications and the opportunities. We can do better by providing Americans with more individual freedom and more choice while increasing health care coverage and security. We can help more Americans to own their own health care, take it with them from job to job, and partner with States to make that policy more affordable. That is why some of my colleagues and I have introduced the Every American Insured Health Act.

The principles for health care reforms our bill addresses include tax equity. It is indefensible that Americans who buy insurance on their own are treated differently than those who buy insurance through their employer. Our bill amends the Tax Code to treat all Americans equally when it comes to the purchase of health insurance. The effect will be that health care will be accessible and affordable whether an employer offers coverage. As the name implies, the Every American Act provides everyone in America, regardless of income or employer, refundable flat tax credits—$2,160 per individual or $5,400 per family. The Wall Street Journal wrote in a recent editorial that restoring the tax parity of health in dollars would go a long way to improving the system and increasing access and affordability for everyone, including the 16 percent or so who today find themselves uninsured. It would also allow individuals to buy policies themselves rather than rely on their employers and take those policies with them wherever they work.

The flexibility the bill we propose is founded on the belief that Government's role should be to organize the health care marketplace and then let consumers make choices. We provide the opportunity for every individual family to choose the health care policy that best meets their needs. When you have a competitive marketplace, you get more choices, better care, and lower prices.

To get that market, our bill improves health insurance affordability in State marketplaces. It gives incentives, not mandates, for State insurance marketplace reform to create more options and more competition. The bill provides States the incentive to make health insurance more affordable and accessible by establishing a process to assist States in ensuring competitiveness. States will be given a menu of choices such as the incentive to establish a statewide insurance pool or establish high-risk mechanisms such as high-risk pools or reinsurance and improve their markets to enable insurance plans to offer at least one affordable policy valued at 6 percent of median income. This approach achieves the goals of universal coverage in a way that is truly American, by decreasing the number of uninsured Americans, thereby lowering health care costs for all Americans. This provides every American the right to choose their own health insurance plan.

Finally, our approach authorizes incentives for States to reform their health insurance markets to ensure the availability of affordable, high quality health insurance for individuals and for families. For too long Congress has skirted the real issue that affects Americans and their health insurance. It is time to start finding solutions to the problems instead of putting Band-Aids on programs and systems that are truly failing all Americans.

I ask my colleagues to reject the Baucus amendment, reject efforts to redefine and socialize our health care system. I ask my colleagues to support the McConnell-Lott amendment because it helps ensure that children in SCHIP continue to be served by the system and the program that was intended to serve them, broadening those who today could benefit from the program but are not there utilizing the opportunity before them because we have not reached out to them, and then also, as we do this, let's broaden the debate over fixing our entire health care system. It is a debate that is long overdue. It is a debate America yearns for. I look forward to engaging in that debate, how we continue to provide America the best and most sophisticated health care in the world but to make sure that every American participates in the opportunity to receive that best of health care we have to offer anywhere in the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, Senator CANTWELL is on her way to speak. She is not here. I see the Senator from Pennsylvania on the floor. I know he desires to seek time. I urge the Chair recognize the Senator from Pennsylvania who I think is going to speak about 8 to 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished chairman.

AMENDMENT NO. 2599

I have sought recognition to speak briefly on the nomination of Judge Leslie Southwick to the Court of Appeals for the Fifth Circuit. I have spoken extensively about Judge Southwick in the past, but I do want to address a few remarks on the pending amendment offered by Senator MCCONNELL and myself on the sense of the Senate that Judge Southwick ought to have an up-or-down vote on the floor of the Senate. It is my hope that we will proceed on judicial confirmations in a spirit of bipartisanship. Senator LEAHY, chairman of the Judiciary Committee, and I have worked very closely on that in this Congress, as he and I did in the 109th Congress when I was chairman and he was ranking member.

This body has seen some very controversial moments: in 2005, with filibusters against President Bush's nominees and the threat at that time to invoke the ''nuclear'' or ''constitutional option'' which would have brought the Senate to a standstill. We avoided that showdown and then worked harmoniously, in a dignified way, with Supreme Court nominations in 2005 and 2006. It is my hope we will find a way through on the Southwick nomination. I hope we do not have this vote degenerate back to a party-line vote without the kind of independent thought the Senate ought to exercise in evaluating the question which is whether Judge Southwick ought to have an up-or-down vote.

Judge Southwick has an extraordinary record. I do not use that word lightly. He served on the Mississippi State appellate court for some 12 years. He has been a party to some 8,000 decisions. He has written 985 opinions himself. He is rated unanimously well qualified by the American Bar Association. He passed out of the Judiciary Committee, unanimously, for a district court judgeship. He has been an adjunct professor at a law school. He was clerk of the Court of Appeals for the Fifth Circuit, so he has experience there. In a very unusual way, in his fifties, he volunteered for the Judge Advocate General's Corps, volunteered to go to Iraq and served there in a heavy combat zone.

I have had occasion to talk to him at great length, and he is a scholarly, intellectual, experienced lawyer, an experienced jurist. I have put into the RECORD detailed statements about many of his decisions where he has found in favor of the so-called little guy, finding in favor of people who have tort claims for injuries sustained, in favor of employees in employment cases.

The only two situations which have been brought up in opposition to Judge Southwick are two cases where he concurred in an opinion, two opinions which he did not write. In one of the opinions, it was a custody case, and the court found in favor of the father. There was a reference to the ''homosexual lifestyle'' of the mother which is a term that is used with some frequency. I think there could be more discretion in that language, but the

court found in favor of the father because of his community roots, because of the home he could provide for the child, and because of the father's income. The important thing about that case was its procedural posture. That was the sum and substance of that matter.

There was a second case where the issue involved a racial slur which admittedly was reprehensible. It was said by an individual, a public employee, about a fellow worker who was not present at the time. The subject did not hear the slur. There was an immediate apology. There was no workplace disturbance. The issue then came before an administrative review board that found that although the comment was reprehensible, under these facts it was not sufficient to support termination of employment. That issue then came back before the appellate court on a very narrow question. The question was whether the decision by the administrative board was arbitrary and capricious, which is lawyer talk for whether there was any evidence to support the board's ruling. The court felt that there was evidence to support the conclusion that there was not sufficient grounds for firing. The case then went to the State Supreme Court, and the State Supreme Court remanded on the limited question about having more detailed factual findings. But the Supreme Court of Mississippi agreed that the incident was not sufficient to warrant a permanent firing.

That is the sum and substance of the objections. When you look at the full record, you see that Judge Southwick ruled in a case where the trial judge had excluded evidence that the victim of a crime was gay, and Judge Southwick upheld the ruling that that would have been prejudicial, defense counsel should not have been permitted to ask that of a victim, seeking only to prejudice the jury. It did not having any bearing on the issue involved in the case. This supports the conclusion that Judge Southwick, in the custody case to which I referred, did not have any demonstrate traits or indications that he was biased or prejudiced or unjudicial in his approach to that particular issue.

It is my hope we will take a careful look at Judge Southwick's record before casting votes. I understand there will be a tabling motion. We should look at the underlying merits.

When we had the controversy in 2005, I urged my colleagues in the strongest terms to take a look at whether they thought individually filibusters were warranted against Priscilla Owen and Bill Pryor and Janice Rogers Brown. I asked my Republican colleagues to take a look on the merits as to whether it was warranted to talk about a ''nuclear'' or ''constitutional option.'' I make the same plea here today. Let's not be bound by a party-line vote, ignoring the merits.

There have been comments on the floor today, as there have been in the past, about President Clinton's nominees being improperly treated. I agree with that today, and I agreed with that when it happened, and I crossed party lines. I have crossed party lines to vote for President Clinton's judicial nominees when they were qualified. I hope we will come in the Senate, take a look at the individuals, take a look at the merits, and not move for a party-line consideration, and not avoid a vote, to have the man bottled up in committee. That smacks of the days of Senator Jim Eastland, when the Judiciary Committee bottled matters and prevented the Senate from voting on them.

I can understand there are some Senators who do not want a vote on Judge Southwick, but that is what we are here for. That is the pay grade—to vote. So I urge my colleagues to look at this matter on the merits. I hope we do not have our actions disintegrate to the kind of controversy we had a couple years ago, but that we can move beyond this to the kind of bipartisanship which Senator LEAHY and I have been able to muster for the Judiciary Committee.

I thank the Senator from Montana for allowing me to speak. I know the Senator from South Carolina, Mr. LINDSEY GRAHAM, has a few comments. I expect he will be very brief on the subject.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I might inquire of the Senator from South Carolina, how long does he wish to speak? We have been trying to go back and forth.

Mr. GRAHAM. Mr. President, I say to the Senator, about 5 minutes.

Mr. BAUCUS. Because that will be three on your side in a row before we go back to this side. Is the Senator speaking on the same subject?

Mr. GRAHAM. Yes.

Mr. BAUCUS. I urge the Presiding Officer to recognize the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I will try to be brief. I appreciate the recognition. I wish to speak very briefly on the matter pending before the Senate.

The whole idea of the confirmation process of judges has taken a kind of wrong turn for many years now. There is plenty of blame to go around from both parties. But one thing I wish to have happen in the Senate—for the good of the country—is to make sure when well-qualified people come before this body, they are put through their paces about their qualifications, their abilities, their disposition, their demeanor, inquiring as to how they think and what drives their thinking, but, at the same time, understanding that our job is to confirm people who are sent over by the President—elections do matter—and that when we look at a nominee, we part the politics of the last election, of the next election, and focus on the individual who will serve for a lifetime.

It is important to understand the nominee before this body, Mr. Southwick, has been serving as a judge in Mississippi since 1995. As Senator SPECTER indicated, he has been involved in thousands of decisions in a concurring role, and he has offered hundreds of decisions.

He joined the military, and volunteered, as a lieutenant colonel to go serve in Iraq at the age of 52.

The American Bar Association unanimously considered him well qualified, saying very glowing things about his temperament, his disposition. This is someone who has been looked at by people outside of politics and found to be extremely well qualified.

Mr. DURBIN. Mr. President, will the Senator from South Carolina yield for a question?

Mr. GRAHAM. Yes, sir.

Mr. DURBIN. I want to ask the Senator two or three questions about this nominee after he completes his remarks. I would be glad to wait until the Senator finishes.

Mr. GRAHAM. Absolutely. I will be glad to.

I do not want to infringe on the 5 minutes. But the bottom line, I guess to my good friend from Illinois, is, I do not think this is about qualifications at all. I think this man has lived a good life in the law and seems to be a good person, from what I understand from everyone who has spoken on his behalf. It is not a question about a character flaw or a lack of legal ability. It is about two cases.

As Senator SPECTER said, one case involved a racial slur that is a horrible term. The administrative review board, which took up that matter—should the person be fired because of this racial slur—found it was not a repeated event—under Mississippi law, it has to be more than an isolated event—it did not disrupt the workplace, there was an apology made and accepted, and the board found that this was not sufficient to terminate the person.

It went to the Mississippi Court of Appeals, and they, under Mississippi law, had to determine whether the administrative review board made an arbitrary and capricious decision, whether there is any evidence to support the court's finding, and they upheld the court's determination.

Judge Southwick, in that case, commented many times about how offensive the word was, and there is no place in society for this word to be used without it being considered to be offensive. But judges have to apply the law, not emotions.

I guess the question I have is, is there any belief on anyone's part that his concurrence in this upholding of the administrative review board suggests that he, as a person, is racially biased? Does this suggest he is defective as a person, that he harbors animosity against one group or another? I

do not think anybody can reasonably conclude that.

Judges sometimes have to be involved in emotional decisions. If people want to march through Jewish communities holding the Nazi flag, that is horrible, but under the law that is allowed on certain occasions.

The second case is about the term ''homosexual lifestyle.'' It was a custody case, and he was in an appellate review situation. That term was used in the underlying decision by the judge in terms of custody, but that term has been used in many other cases throughout the country in different jurisdictions.

I guess my question is, do you take these two cases, where he concurred, to say there is something wrong with him? Did he do something out of the mainstream of the law? And does it show that he, Judge Southwick, is somehow not the type person you would want to sit in judgment of your case or your family?

I think what we are doing to him is incredibly unfair. There is no real evidence at all this man, as a person, harbors animosity against one group versus the other. Quite to the contrary, from everything I see in the record, he has been a very decent, scholarly man who has applied the law in an admirable fashion.

So I wish we could allow an up-or-down vote on this fine fellow.

I will yield for a question.

Mr. DURBIN. Mr. President, if the Senator from South Carolina will yield for a question.

Mr. GRAHAM. Yes.

Mr. DURBIN. Under the previous administration of President Clinton, there was considerable controversy in the Judiciary Committee about whether President Clinton's nominees would receive a hearing and a vote. In scores of instances, nominees were given neither.

Can the Senator from South Carolina put in the RECORD now whether Judge Leslie Southwick was given a hearing before the democratically controlled Senate Judiciary Committee?

Mr. GRAHAM. I believe he was, yes. I believe so.

Mr. DURBIN. I say to the Senator, he did receive such a hearing.

Mr. GRAHAM. Yes.

Mr. DURBIN. I attended the hearing. I thought it was very fair at allowing both parties to ask Judge Southwick questions.

Mr. GRAHAM. All right.

Mr. DURBIN. Since the sense-the-Senate resolution before us suggests Judge Southwick's name be removed from the Senate Judiciary Committee and brought directly to the floor, I wish to ask the Senator from South Carolina, has there been any effort by any Democrat on the committee to stop Senator SPECTER or any Republican from calling Judge Southwick's name for a vote in the committee?

Mr. GRAHAM. As I understand it, the problem with Judge Southwick is that it appears there has been some effort to try to get the Mississippi Senators to nominate someone else. And there has been the suggestion he could be a district judge but we want someone else to be the court of appeals nominee. I do not think that is a process we should engage in. So there are a lot of politics behind this nomination. We should not allow that to happen. We should not basically hold hostage the ability of the Senators from Mississippi and the President to put someone forward. If we think they are not qualified, vote them down. But playing politics, trying to change the nominating process, I do not think is kosher. And I think that is what is going on.

Mr. DURBIN. My question directly is this: Is the Senator aware of any effort to stop Senator SPECTER or any Republican Senator from calling Judge Southwick's nomination for a vote in the Senate Judiciary Committee?

Mr. GRAHAM. No. But I am aware of an effort to get Judge Southwick replaced with another person more acceptable to the Democratic majority and, basically, to take away from the President the ability to nominate a well-qualified person for this slot and, basically, neutralize the two Mississippi Senators, who I think have chosen wisely. I think that is politics that is dangerous for us to play, and I wish we would not do it.

Mr. DURBIN. I am going to ask the Senator to yield for a question. I see Senator LEAHY has come to the floor.

I can say for the record—he can back me up—not only was Judge Southwick given a hearing—which many nominees in the previous administration were not given a fair hearing, I believe; and I think all present would say—there has been no effort to stop Senator SPECTER or any Republican from calling this nomination for a vote.

I wish also to ask the Senator from South Carolina, is he aware of the fact that the only African-American Congressman from the State of Mississippi, the Magnolia Bar Association, which represents most African-American attorneys in Mississippi, and the major civil rights group have expressed their opposition to the nomination of Judge Southwick?

Mr. GRAHAM. Yes, I understand there is some opposition from African-American elected officials. What I would say to that is, being a son of the South, I am very sensitive to all of this. I have lived all my life in South Carolina, and I understand the sins of the past. They are very real. I can remember growing up. My dad owned a bar where African Americans came into our bar and they had to buy their products to go. I remember that very well as a young man. I see things changing for the better, and we have a long way to go.

But what I see here, I say to my good friend from Illinois, is a man who has lived his life very well, who has been part of the solution, not the problem, who has never used the robe to impose arbitrary justice, who is trying to be a constructive member of the Mississippi judicial community, who has worked hard to make something of himself, and he is being accused of something he is not.

I do not care where the criticism comes from. What I am going to evaluate is what the facts are about this man. This is a good man, who has been a good judge, who is well qualified, and who is being unfairly labeled based on two cases that are being turned upside down. We are going to ruin the judiciary if we continue to play this game.

Mr. LEAHY. Mr. President, will the Senator yield for another question?

Mr. GRAHAM. Absolutely.

Mr. LEAHY. Mr. President, is the Senator aware of the fact that, formerly, when Judge Southwick was on the calendar as a nominee to be a district judge—Republicans were in charge—that when he was up for a vote, agreed to by the Democrats, he did not get a vote because of a Republican objection to a slate of judges? Is he aware of that?

Mr. GRAHAM. No, I was not. It is my understanding there was no objection on your side about him being a district court judge. Is that correct?

Mr. LEAHY. To answer that question, he was voted out for a district court judgeship, an entirely different type of judgeship than a court of appeals judgeship. It was in a package to be confirmed, I guess by unanimous consent, with the Republicans in leadership, and a Republican Senator from Kansas objected to one of the nominees, and, of course, it brought down the package.

If I understood the Senator correctly, he was worried about political actions. Was he aware—I know he was not able to make a couple recent markups of the Senate Judiciary Committee, although he is a member. Is he aware of the fact that Mr. Southwick is on the agenda for tomorrow's markup?

Mr. GRAHAM. Yes, I believe I am aware of that.

Mr. LEAHY. Was he aware of the fact that he was taken off the agenda earlier at the request of the Republicans?

Mr. GRAHAM. Yes, I am, because it is my understanding, if I could reclaim my time—and I am sorry to run over, I say to my good friend from Ohio—here is what I think is happening. I think everybody was OK with him being a district court judge, except maybe somebody on our side, and if the problem with this man is he has associated himself in a way that disqualifies him because of a racial problem, why should he be a district judge? If his problem is that he is against people because of sexual orientation unfairly, why would he ever be a district judge? So the point is that if he was good enough for a district judge based on his qualifications, why shouldn't we give him an up-or-down vote in a fair way in terms of the court of appeals?

So I think what is going on here is that we are trying to replace the discretion of the President and the two

Senators from Mississippi to play with a court of appeals nomination of Mississippi in a way that will come back to haunt all of us, and I just wish we wouldn't do it. Give this man an up-or-down vote on the floor.

Mr. LEAHY. Mr. President, if the Senator would yield on that point, when the Republicans were in charge of the responsibility of bringing forth his record, they never brought forth either the sexual or the racial issues that have been raised when he was up for district court judge. But we will discuss this tomorrow. I hope the Senator will be able to join us at the markup tomorrow. We have had a couple of occasions when the President's nominees for judges have been on our agenda and Republicans did not show up to make a quorum. I don't know if this helps to keep their numbers—I remind the Senator, however, that with the Democrats in charge, the time the Democrats have been in charge, President Bush's judges have been confirmed at a far more rapid pace and in greater numbers—in greater numbers—than they have been under a Republican-controlled committee or Senate.

Mr. GRAHAM. Mr. President, we will be there at the committee tomorrow, and I will yield the remainder of my time so we can get on with other business.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, we now have had three speakers from the Republican side of the aisle, three in a row, so I ask unanimous consent that the following speakers be recognized: Senator HARKIN immediately, and following Senator HARKIN, Senator CANTWELL will speak, and that would be the request at this point.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, in the decade since it was first authorized, the Children's Health Insurance Program has been an extraordinary success story. It has reduced the number of uninsured low-income children by a third, providing basic health insurance to 6.6 million children whose parents cannot afford private insurance but who do not qualify for Medicaid.

In my State of Iowa, the Children's Health Insurance Program has brought health insurance to nearly 50,000 children. Think about that: 50,000 kids who otherwise have had no health insurance have had access to regular checkups and prompt treatment of illnesses and injuries. By any measurement, this is a stunning success.

Let me introduce to my colleagues one of those 50,000 success stories. Her name is Jenci Ruff. She lives in Knoxville, IA. When she was in the third grade, she began having trouble seeing the blackboard. The school nurse recommended that she have her eyes tested, but her parents couldn't take her to a doctor; they were living paycheck to paycheck; they had no health insurance. By fourth grade, Jenci still couldn't see the blackboard and she began having headaches.

Fortunately, Mrs. Ruff learned about the Children's Health Insurance Program. She enrolled Jenci and her little brother. Jenci was referred to an eye specialist and received treatment. A year and a half later, her vision has greatly improved and her headaches have gone away. Mrs. Ruff believes that the treatment made possible by the Children's Health Insurance Program saved her daughter from going blind. In addition, Jenci's brother, prior to starting school, was able to get the necessary shots and physicals he needed.

As Mrs. Ruff told the Des Moines Register:

> Before, Jenci was having such a hard time to get through her reading. Her grades have improved. Her attitude about school has improved. But if she hadn't had this program—

The Children's Health Insurance Program—

> we never would have made it to a specialist.

I am very happy for Jenci Ruff and her brother and her family. But I have to ask, Don't we owe it to all of America's kids? Surely, in a humane, decent society, no child should go uninsured. No child should go without regular checkups and prompt treatment of illnesses and injuries.

That is why it is incomprehensible—incomprehensible—to me that President Bush is pledging to veto this bill because it would extend coverage of the CHIP program to too many kids. How could we extend it to too many kids? Instead, the President proposed $4.8 billion in additional funding over the next 5 years. That is less than what is needed just to maintain current enrollments. According to the Congressional Budget Office, the President's proposed funding would cut 1.4 million children and pregnant women from the Children's Health Insurance Program. How could anyone say that Jenci Ruff should have been cut from the children's health program? It saved her. It saved her from going blind. Yet we are told we don't have the money for this? Nonsense. Just think what it would have cost society if Jenci had gone blind, God forbid. What would the cost to society have been for her lifetime of special education, special schools, seeing-eye dogs, and all of the other things? How much more productive is she going to be now? Talk about penny wise and pound foolish.

The President just doesn't get it. Sometimes, when people are born with a silver spoon in their mouths and they have had all the accoutrements, they have had all the wonderful hospitals and doctors all their lives, they somehow—and I don't say this of everyone, but some people just can't imagine that everyone is not like them. Well, there are a lot of people who do not have the kind of wherewithal you may have had growing up.

So it is not just a public policy choice. I think the choice we have is a very moral choice: Do we go forward and extend health insurance to more kids from low-income families or do we cut these children from the rolls, condemn them to a childhood without checkups, without decent health care, without necessary medical treatment—that is, until they show up in the emergency room.

We all know too well what it means when a child does not have health insurance, when they don't even have access to basic medical care. Earlier this year, the Washington Post reported on 8-year-old Deamonte Driver of Prince George's County, MD. Deamonte was suffering from an abscessed tooth, but his mother could not afford to take him to a dentist. Eventually, the abscess spread to Deamonte's brain. He was taken to an emergency room, but tragically, after two operations and more than 6 weeks of hospital care costing upwards of $250,000, Deamonte—this young guy right here, Deamonte Driver—died. He died from an abscessed tooth. In the 21st century in the United States of America, this child died because he had an abscessed tooth because he is so low-income, he didn't have health care and mom didn't have any money. Not until he got so sick that they rushed him to the emergency room, and he died.

Why in the world would President Bush want to cut more than a million children from the rolls of the Children's Health Insurance Program and put them in jeopardy—the kind of jeopardy that took Deamonte's life? What is the real cost of denying children access to basic health care? Well, in the case of Deamonte Driver, if you want to know just in money terms, a quarter of a million dollars in emergency hospital bills, and, most importantly, it deprived Deamonte of his life and a very happy future.

So you compare the positive fate of Jenci Ruff, who is covered by the Children's Health Insurance Program, to the tragic fate of Deamonte Driver, who was not. This is not just a tale of two kids and two very different outcomes; it is the tale of two choices, the two choices we have to make. So we must make the right choice. Surely some things are beyond partisan disputes and ideological obsessions. Surely we can come together here to support extending health insurance to more kids in low-income families.

Some have argued that the President's pledge to veto this Children's Health Insurance Program is the death knell of compassionate conservatism. We have all heard about compassionate conservatism. Well, I would just point out that the President's threat of a veto is disappointing. But I would like to note on the positive side that this bill enjoys the strong support of a large number of conservatives, moderates, and liberals here in the Senate and in

the other body, and it has no more outspoken champion than my distinguished senior colleague from the State of Iowa, Senator GRASSLEY, who I see just arrived on the floor. So, as I said, this cuts across ideological lines. This is no conservative, liberal, moderate, up, down, sideways kind of issue; it is a basic moral issue that we have to confront.

I would say on behalf of my colleague from Iowa and so many Republicans who are supporting the Children's Health Insurance Program that compassion and common sense is alive and well with these Republicans. I applaud them for it. With their support, we intend to move forward with a bill that is not only strongly bipartisan but that, according to a recent Georgetown University poll, is supported by 9 in 10 Americans, including, I might add, the poll said 83 percent of self-identified Republicans. So again, this is not a partisan issue. Now, it may be an issue with this President and his ill-conceived notions, but it is not a partisan issue.

Lastly, this program has been a Godsend to my State of Iowa. As I said earlier, 50,000 kids in Iowa are covered who obviously would not have been. We call it the HAWK-I Program in Iowa, the Healthy and Well Kids in Iowa—the HAWK-I Program. The top income limit for Iowa families is 200 percent of the Federal poverty level, which comes to about $34,000 for a family of three, and, along with Medicaid, provides primary and preventive services to 3 out of every 10 Iowa kids. Yet, even with these programs I am talking about—Medicaid and HAWK-I—even with those two, an estimated 30,000 to 55,000 Iowa children remain uninsured. With the new funding provided in this bill, Iowa could cover nearly 15,000 more children over the next 5 years.

Expanding this program to cover more low-income kids is not only the right thing to do, it is the smart and cost-effective thing to do. We know when children get access to preventive and primary care services, good things happen. Kids get better health outcomes. They stay out of the emergency room. They get better grades. They do better in school. One dollar spent on the CHIP program can save many more dollars in health care expenses.

When an asthmatic child is enrolled in the program, the frequency of attacks declines by 60 percent and the likelihood that they will be hospitalized for that condition declines by more than 70 percent. If anybody has been paying attention, you know that kids' asthma has been on a huge increase in this country, especially among poor kids. Well, this is one way of keeping them out of the hospital. It is providing them with this kind of preventive coverage.

I might also add that the Children's Health Insurance Program is vitally important to rural Americans—rural States such as Iowa. The simple fact is that rural kids are more likely to be poor. In the most recent survey, 47 percent of rural children—47 percent—live in low-income families. So they are not only more likely to be poor, their parents are less likely to have any access to an employer-based health insurance program. So in the absence of the CHIP program and Medicaid, millions of low-income rural families have no other health insurance option, period. They live in small towns. They work for small employers,—mom-and-pop places that employ two or three or four or five people. They don't have the wherewithal to provide employer-based health insurance. They don't pay a lot of money. But these people are hard-working. They go to work every day and they work hard; they just don't make a lot of money. They live in a rural area, so they don't qualify for Medicaid, but they don't have enough money to buy health insurance. That is why this program is so important to rural America.

Experience shows that rural children are also difficult to enroll in the Children's Health Insurance Program, even when they are eligible. Again, low-income parents are often required to travel long distances to enroll their kids. In addition to high travel costs, there are language and sometimes cultural barriers. For these reasons, I am pleased that this bill would establish a new grant program to finance outreach and enrollment efforts targeted to rural areas.

So not only has the Children's Health Insurance Program been a great success, it is more important today than ever. In the decade since the program was created, we know the cost of insurance has skyrocketed and the number of Americans covered has fallen dramatically. But this has been a safety net for millions of low-income American families.

The bill before us would maintain coverage for the 6.6 million children currently covered and would extend coverage to more than 3 million more low-income, uninsured children over the next 5 years. That is a good and noble goal.

Obviously, if I had my druthers, I would say we ought to cover all kids—every child in America whose family does not qualify, does not have employer-based insurance, and whose income is such that they cannot afford private insurance. They ought to be covered by this program. They said this would cost $50 billion over the next several years. Well, then they made an agreement to make it $35 billion instead of $50 billion. OK, fine. I understand compromise around here. But that doesn't remove the fact that, even with this bill, millions of low-income kids will still be left without health insurance coverage. That is our task—to fill that gap. We may not get it done this year, but at least we can get this done this year and, hopefully, we can finish the job next year and cover every kid in America with health insurance.

It is time to put partisanship, ideology, and politics aside and pass this bill. Hopefully, the President will see more clearly his obligation to sign it and not veto it.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I rise to talk about the Children's Health Insurance Program and why we need to reauthorize the program that is about to expire in September. I thank Chairman BAUCUS and Senators GRASSLEY, ROCKEFELLER, and HATCH for their countless hours of meetings before the Senate Finance Committee, which met to mark up this bipartisan package. The fact that the bill passed out of committee with such a bipartisan effort shows people are working on both sides of the aisle to make children's health care a priority.

While my colleagues have talked a lot about what the administration has threatened to do in vetoing this legislation, in fact, as my colleague from Iowa mentioned on the floor, the President's own budget request doesn't put enough money on the table to take care of those currently enrolled in the Children's Health Insurance Program. In a bipartisan effort in the Senate, we are working across the aisle to say we want to do more, we want to cover about 3.2 million more children.

I thank my colleagues and their staff for coming up with this comprehensive bill and moving us further down the way to covering more children in America, as it is such a priority.

Some of my colleagues have mentioned why this is such important timing, and many have mentioned the fact that the bill's authorization is expiring in September. I think there is a more important reason. The important reason is we are seeing the cost of health care continue to rise; the fact that premiums have doubled, probably, in the last 5 to 6 years; the fact that insurance now is somewhere between $12,000 and $14,000 a year. A family who is at an income of $40,000 a year for a family of four is finding it very hard to keep pace. Those premiums may have doubled, but I guarantee you their wages and salaries have not doubled. So more and more people are finding themselves in the unfortunate situation of not being able to provide health care for their children.

I can tell you, in talking to people from all over Washington State, there is nothing more concerning to the parents than the health of their child and nothing more scary than to think they may not be able to get the health care attention their child needs.

So for us, we have a choice—a very smart choice. This is a cost-effective bill. If you think about the costs of providing children's health insurance under this proposal, we are helping families who cannot afford private insurance, or cannot find it available in the marketplace, or maybe their employer is not providing it. Now, under this program, with State and Federal

matching dollars, these families can provide health insurance for roughly $2,000 a year per child—maybe a little more or a little less, in some instances, for those currently on the program to the new enrollees.

Think about that. Think about the fact that if you don't have health insurance and a child is delayed in getting that health care or has to wait until the last minute to go into an emergency room, I guarantee the cost of a child's visit to an emergency room is probably going to be at least $3,000. The fact that we can make this prudent investment for 3.2 million more children; not only is this about their health and safety for the future, but it is about a plan that helps us in making sure we have an efficient health care system, giving those children their due need.

Too many families, as I said, are being forced to go without this coverage. What does that mean? We talk about preventive care and maintenance care. It means that these children are going without regular checkups, that they are missing more school than other children, and that they have to wait in the emergency room to get an answer about something that is a basic illness. It means that if simple infections—such as an ear infection or cavities or asthma or diabetes—go untreated and they spiral out of control, that child may fall further and further behind in their academic career. I believe no child should be forced into a special education program because their health care needs haven't been provided for.

This bill provides better coverage so we can treat things such as injuries and infections, detect far worse things such as chronic illnesses and make sure we are managing the conditions of children before they get out of control.

I know it is upsetting to my colleagues to read things such as: Uninsured children are four times more likely to delay their health care or that uninsured children are four times more likely to go without a doctor visit for 2 years or that uninsured children admitted to hospitals due to injuries are twice as likely to die while in the hospital as their insured counterparts.

Those are horrible statistics that point to the dilemma of not providing health care coverage for children.

I know my colleagues have been out here on the floor debating this issue as it relates to fairness and geography. I tell you, no child knows they are somehow prohibited from getting access to health insurance because of geography. Nor should the Senate make the mistake in thinking we are making geographic choices.

This bill is about flexibility. It starts with the flexibility of individual States because this is a partnership between the States and Federal Government in deciding what percentage of the Federal poverty line they are going to cover.

You can see on this chart the States in white have been more aggressive in covering a higher percentage of the Federal poverty line, and those in the gold color are obviously below 200 percent of the Federal poverty line. It doesn't take a genius to figure out why certain States are more aggressive or active in covering their area. If you look at the income and cost of living in these areas, they are challenged by what it takes to maintain a household, to put their children in school, and to take care of their health care needs. For example, there are parts of the country such as New Jersey, which the Presiding Officer is from. If you look at what it takes to provide the same goods and services in New Jersey and compare that with someplace like Arkansas, you are talking about a $13,000 difference in what it costs to provide the same services. In Little Rock, it may cost $30,000 for those goods and services, compared to $43,000 in New Jersey. That is why this flexibility is so important in the program. The fact that we allow States to determine its costs and we match that with Federal dollars.

The second thing we have not focused enough on is the fact that we also have disparity in insurance costs. Look at what it costs to provide insurance. For example, it is expensive to provide health insurance in Seattle, which costs about $13,000 a year. If you look at New York, it is $16,542. So the notion that somehow New York or New Jersey are getting a better deal because they live in a high-expense area of the United States and somehow, even with that extra cost of insurance, we should prejudice legislation from serving those children, I say that is a mistake. Every child in America who is covered by this health insurance program will be healthier, and every child who is covered and healthy will not only be a more contributing citizen to our society, but also we are going to reduce our own health care costs in the future.

So it is a wise and prudent plan to have such diversity in this proposal. I ask my colleagues, before they come out and look at formulas and offer amendments that basically cut States from having the flexibility in these formulas, to consider the geographic disparity and the challenges those individual States face.

I believe the Children's Health Insurance Program provides a critical backstop to families. They would rather be in a situation where they could provide the health insurance and care, I am sure, for themselves. I have certainly met Washingtonians who have given up their own health insurance to provide health insurance for their children.

We need to prevent the number of uninsured children in this Nation from growing, and this bill, the Children's Health Insurance Program, should be reauthorized and expanded to make sure we do stop the number from growing and that we attach our principles of covering at least 3.2 million now and, as we see brighter budget days coming back, covering the rest of the children in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I thank my colleague from Washington for her usual very thorough and persuasive statement on the floor about the need for flexibility in this important program and the recognition that health care, similar to everything else, costs differently depending upon where you are in the country. I thank the Senator from Washington for reinforcing that important point.

The larger point is that today, in this Congress, we are on the verge of providing the greatest expansion of health coverage for our children since the creation of the Children's Health Insurance Program a decade ago. I believe—and I don't imagine anybody in this Chamber would argue with this belief—that every child deserves a healthy start in life. Certainly, we try to provide that healthy start for our own children, and we give a lot of lip service to the idea that we should provide it for all children. Yet far too many children in our Nation—more than 9 million—do not have health care.

I was very proud to help create the State Children's Health Insurance Program during the Clinton administration, working on this legislation during my time as First Lady. After the bill passed, I worked to get the word out to try to help more children and their parents understand what this new program could mean for them and encourage them to sign up in the first few years. In the Senate, I have continued that effort, fighting to ensure that health care for children has the priority in our budget that it deserves.

Today, thanks to the work of so many, CHIP provides health insurance for 6 million children. In New York alone, almost 400,000 children benefit from this program every month. With the legislation that Chairman BAUCUS and Senators GRASSLEY, ROCKEFELLER, and HATCH helped to craft, an additional 50,000 children in my State of New York will have access to health insurance coverage.

This legislation will also help enroll many of the 300,000 children in New York who live in families who are already eligible because their families make less than $52,000 a year, 250 percent of the poverty level for a family of four.

In total, across our country, 3.2 million children who are uninsured will gain coverage. That will reduce the number of uninsured children by one-third over the next 5 years.

If we can afford tax breaks for companies that ship jobs overseas and tax cuts for oil companies that are making record profits, I certainly think we can find it in our hearts and our budget to help cover millions of children who deserve a healthy start.

I want to be clear. If the President vetoes this bill, he will be vetoing

health care for more than 3 million children. And, once again, the President will have put ideology, not children, first.

Earlier this year, I was proud to introduce legislation with Congressman JOHN DINGELL to reauthorize and expand CHIP, and I am very pleased that a number of the ideas in our bill are included in this legislation, such as cutting the redtape and bolstering incentives to get eligible children into the program.

The legislation also improves access to private coverage and expands access to benefits, such as mental health and dental coverage.

This is so important, and I applaud the Finance Committee, under Chairman BAUCUS's leadership. Mental health and dental coverage are too often left out when we talk about health care.

Not far from where I am standing, in the State of Maryland last year, a young boy, Deamonte Driver, had a toothache. His mother sought help for him to get dental care. She called dentists, but they were not taking any more children on Medicaid or on CHIP. Then she got help from a legal aid group that helped poor families. They called around. I think they called 27 or 28 dentists who said: Look, our quota for poor kids is filled.

Deamonte Driver's toothache turned into an abscess, and the abscess burst, infecting his bloodstream, and he ended up in the hospital where doctors valiantly tried to save his life from the brain infection that resulted from the abscessed tooth that had not been treated. This young man died.

When one thinks about the loss of a child over something that started as a toothache, it is heartbreaking, but it is not by any means an isolated case. At the end of Deamonte's life, the State of Maryland and the U.S. Government ended up paying hundreds of thousands of dollars for emergency care, for intensive care, for life support, to no avail, for want of $80 to $100 to find a dentist who would care for Deamonte.

I commend the authors of this bipartisan bill for their work and for bringing forward a practical, fiscally responsible compromise that will allow us to reauthorize this important program and expand coverage. I am eager to see that it is signed into law.

I am disappointed, however, that the bill we are considering this week fails to include the Legal Immigrant Children's Health Improvement Act, which I introduced with Senator SNOWE. Senator SNOWE and I have been working on this legislation for a number of years. This bipartisan bill would give States the flexibility to provide the same Medicaid and CHIP coverage to low-income legal immigrant children and pregnant women as is provided to U.S. citizens. I underscore that. We are talking about legal immigrant children and legal pregnant women.

I believe we should provide this flexibility to States because the current restrictions prevent thousands of legal immigrant children and pregnant women from receiving preventive health services and treatment for minor illnesses before they become serious. Families who are unable to access care for their children have little choice but to turn to emergency rooms, and this hurts children and pregnant women, plain and simple.

I urge my colleagues to support my amendment to lift the ban on Medicaid and CHIP coverage for low-income legal immigrant children and pregnant women.

I also am disappointed that some of my colleagues have expressed concern about States, such as New York, New Jersey, and others, that have chosen to cover children above 300 percent of the poverty level. The legislation we are considering on the floor of the Senate would allow New York to continue doing this and receive the CHIP matching rate. We should not punish children and their families who live in high-cost areas and who need health care coverage.

I encourage my colleagues to vote against any effort to undermine the extension of health care in high-cost States where it costs more, as we heard from Senator CANTWELL in her statement on the floor, to provide the same coverage and treatment one would get elsewhere in our country.

I am proud we are debating a bill to expand health care to 3.2 million children, but the fact is, there should be no debating the moral crisis of 9 million children without health care, no debating the moral urgency of strengthening our health care system for children and all Americans.

Ultimately, the answer will be in a cost-effective, quality-driven, uniquely American program that provides health care to every single man, woman, and child in our country. But until we get to that point, it is imperative that the Congress pass this bill before we go out for recess and send it to the President, with the hope that he will sign it into law.

I also wish to mention another issue we urgently need to address. Last week, the bipartisan Commission on Care for America's Returning Wounded Warriors, chaired by former Senator Bob Dole and former Secretary of Health and Human Services Donna Shalala, issued its final report on the need to reform the medical care that our troops and veterans receive.

The Commission found in an excellent report—it is not one of these commission reports that just takes up a lot of space on the shelf. It is very pointed, with six specific recommendations, and it found that one of the most important ways to improve care for injured servicemembers is to improve support for their families. That is why I introduced a bipartisan bill, the Military Family and Medical Leave Act, with Senators DOLE, MIKULSKI, GRAHAM, KENNEDY, and BROWN, to implement a key recommendation of the Commission. We have offered this as an amendment to the CHIP legislation.

The Family and Medical Leave Act was the first bill signed into law under the Clinton administration. It came about because of a lot of hard work, led by Senator DODD in the Senate, and others, and it has proven to be enormously successful, helping more than 60 million men and women who try to balance the demands of work and family.

I believe it is time to strengthen the act for military families who find themselves in a very difficult situation. They should be given up to 6 months of leave to care for a loved one who has sustained a combat-related injury.

Currently, these spouses, parents, and children can receive only 12 weeks of leave under the Family and Medical Leave Act. All too often, this is just not enough time, as injured servicemembers grapple with traumatic brain injuries, physical wounds, and other problems upon returning from Iraq, Afghanistan, and elsewhere. In fact, 33 percent of active duty, 22 percent of reservists, and 37 percent of retired servicemembers reported to the Commission that a family member or close friend had to leave their home for extended periods of time to help them in the hospital. About 20 percent said family or friends gave up jobs to be with them to act as their caregiver. This is a step that we can take immediately that will make a real difference.

Many of us have been to hospitals in our own country—Walter Reed, Brook Army Medical Center—and other places in the world, such as Landstuhl in Germany, where we have seen our wounded warriors. There is absolutely no doubt that having the support, assistance, and comfort of a family member during that process when a young man or woman who has served our country is brought from the battlefield to the hospital makes a big difference in recovery and rehabilitation.

I think all of us agree that not only do our men and women in uniform make tremendous sacrifices on our behalf, so do their families. As a nation, we have a duty to provide them with the support they deserve.

Expanding access to health care for children and providing better support for our military families comes down to basic values that we as Americans hold dear. I think we all agree every child deserves a healthy start and every man or woman who wears the uniform of our country deserves more than words of support. The promise of America is rooted in these values, and I am very proud to support the bipartisan legislation expanding health care for children, and I urge my colleagues to join me and Senators from both sides of the aisle who are supporting our military families who are caring for those who have been injured in service to our country.

Finally, we hope on the other end of Pennsylvania Avenue there will be a

change of heart; that the President will decide to sign this legislation and relieve the burdens of ill health and inadequate access to health care that haunt the lives of so many American families.

Mr. President, please support this effort in every way possible by signing the legislation that will be sent to you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I know Senator HATCH wishes to speak on the underlying bill, the Children's Health Insurance Program. He is on his way to the floor. In the meantime, I see the Senator from Michigan is here, a very valuable member of the Finance Committee. She works very hard. She would like to speak on this bill. I thank her for coming to the floor. I urge the Chair to recognize the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, again, as I said when we first took up this bill on Monday evening, I thank the chairman of the committee for his passion in bringing us to this point, he and the ranking member, Senator GRASSLEY, as well as, of course, Senator ROCKEFELLER with his deep commitment, and Senator HATCH as well.

This is a truly bipartisan effort. It is the way we should be legislating—coming together. It is a compromise. If I were writing a bill by myself, I would add more dollars. There are Members on the other side of the aisle who would, in fact, do less. But it is a real compromise.

I start out today speaking to the fact that it is a compromise. As a member of the Budget Committee, having worked with our chairman and members very hard to produce a budget resolution that really does reflect a new direction in values and priorities, I worked very hard to have us achieve a set-aside of $50 billion for children's health care in the budget resolution.

In my heart of hearts, that is where I want to be. I also know that any significant expansion is a victory not only for us and for the Senate but, most importantly, for children and their families.

I know there will be an effort to expand to the full amount that we all wish to do—I think on this side of the aisle, certainly, that is where we want to be, and our House colleagues have focused on that as well. But I also know that we have a President of the United States who shockingly has said that he will veto providing children's health care, an expansion of more than 3.3 million children to receive health care, children of working parents. The vast majority of them have a mom or a dad working one job, two jobs, maybe three jobs trying to make ends meet, but who can't afford health insurance, don't qualify for Medicaid, but find themselves desperately wanting to make sure their children have all that they need, as all of us want as parents.

So we are in a situation where the President of the United States has indicated he does not share that view. His budget, in fact, is a budget that he proposed to us that would cut children. It would cut children who are currently being provided health insurance. It would eliminate their health insurance. So on the Finance Committee, we came together under very strong bipartisan leadership to find a common ground, the middle ground, to be able to increase the number of children who receive health insurance and be able to make sure that the 6 million children who currently have health insurance are allowed to maintain that insurance. We have come to a compromise, and it is a compromise I support.

As we face a potential veto from this President, it is critical that we have the strongest possible bipartisan vote coming from the Senate. If in fact the President follows through and vetoes this, I hope we will have enough votes to override that veto in a strong bipartisan spirit, the spirit that brought us together originally when the Children's Health Insurance Program was originally passed. I urge colleagues to support the Finance Committee version and what we have done as the best way to get us real health care expansion for children.

Then we will come back, and I will be right back as a member of the Budget Committee next year, proposing again that we expand what we are doing to make sure that every child who does not have health insurance, whose family is working hard but doesn't qualify for Medicaid and doesn't have the ability to get private insurance, has the health care they need.

We have, I understand, another proposal in front of us, an amendment that would take us backward. I understand Senator LOTT has offered an amendment that has actually been dubbed the CLIP amendment, instead of CHIP—Children's Health Insurance Program—CLIP meaning ''Children Losing Insurance Program.'' Again, we don't need anything that is going to take us backward and have fewer children receiving health insurance.

I want to see us make a major commitment to universal health insurance in the greatest country in the world so that everyone has the opportunity to be able to receive the health care they need. We should be striving to achieve nothing less than that.

The Lott amendment, first, will cut children's health care and take us down the road of debating the number of policies individually that Members may support, policies I find great concern about, and policies that will actually increase the number of uninsured, such as expanding the health savings accounts. I urge colleagues to oppose the Lott amendment because it takes us in absolutely the wrong direction if we want to cover children of low-income working families, and if we want to make sure they have what they need to be able to grow up and be successful in America.

I have also heard debate about the cost of this legislation, and it is important to look at what we are talking about in terms of our values and priorities when we debate any piece of legislation. Everything we do here is about values and priorities. Right now, every month, we are spending $12 billion in Iraq—$12 billion. Regardless of how any one individual feels about the war in Iraq, we are spending $12 billion—not paid for, not a part of the budget—$12 billion a month. This bipartisan effort to provide health insurance for more than 3 million more American children in this country is a cost of $7 billion a year—a year; less than what we are spending in 1 month in Iraq. That is the right value and the right priority. This is paid for, it is responsible and, most importantly, it is the moral thing to do in the greatest country in the world, in my opinion. This is not too much to invest in the future generation of America.

Yesterday, the chairman and I, a number of us, had an opportunity to be with a wonderful woman, Kitty Burgett, from Ohio, who spoke about the importance of children's health care in her family. I know it was a very moving experience to hear her, and I wanted to share her story. I have certainly other stories from Michigan as well, but Kitty came to the Nation's capitol to share what the Children's Health Insurance Program has meant to her and to her family.

Kitty is a widow whose husband died in 1990, leaving Kitty and her two young children without income or insurance. She had Social Security survivor's benefits, but even that little income put her and her children over the Medicaid eligibility levels, so they didn't qualify for low-income health insurance because of their survivor benefits. She started working but earned very little. Nonetheless, she purchased insurance for her children, because like all of us who are parents, she wanted to make sure her children had what they needed. She wanted to make sure if they were sick, she was able to care for them with health insurance. So she purchased that insurance, but the cost rose every 6 months, and she finally had to drop it because of the cost. That is an uncommon story in America today.

Then along came the Children's Health Insurance Program. Kitty immediately enrolled her children. She had a daughter who was 12. Her son was a bit younger. Her daughter then began to develop problems, and, ultimately, at age 15, was diagnosed with bipolar disorder. She was ill. She was hallucinating and she had major mood swings—as those of us who are familiar with that disease understand—from depression to highs and hallucinations. She couldn't concentrate at school. The Children's Health Insurance Program was there so Kitty could get her daughter some help. It covered her medications and therapy and eventually some new medicines that brought

her illness under control. Her daughter is now 22 years old. She is married, she is working, and she is insured. She has an 18-month-old daughter named Scarlet. Kitty says the Children's Health Insurance Program kept her daughter from a lifetime of institutionalization, and, instead, she is a productive, contributing member of society and a loving mother to Scarlet.

That is what this is all about, giving people in America—parents, the vast majority of whom are working—the ability to provide their children with the health care they need so they can go on to be successful, thriving, contributing adults in America.

I might also mention I am very pleased that the bill in front of us expands the opportunity for what is called mental health parity, so that if there is insurance provided, mental health care will be a part of that. I congratulate Senator KERRY and Senator SMITH, who have led that effort to expand us into the area of more adequately covering mental health care for children.

This program covers children all over the country. It is interesting to note that there are more children uninsured in rural areas than in urban areas. This will make sure that, in fact, all of the children who qualify under this program are able to receive the health care they need. Right now, in Michigan, we have about 60,000 children who are on the Children's Health Insurance Program and another 90,000 who are eligible—who qualify right now under the program we wrote—but because funds aren't available for outreach, funds aren't available to do what is necessary, we are not able to provide those families, those children, with health insurance. This bill goes a long way to making that happen.

I have heard so many stories from Michigan, and it touches your heart when you think about the way families are struggling to be able to care for their children at the same time costs are going up at every turn. We have folks who are working harder than ever: They turn around and gas prices go up; they turn around and their insurance premium goes up; they turn around again and look at the cost of college, and those costs have gone up. We addressed the cost of college last week. Those things go right to middle-income families—student loans and Pell grants and those programs that allow more people to have the opportunity to go to college and send their children to college.

The reality is that on every side families are feeling squeezed—working harder and costs going up and up and up. Children's health care is one way, another critical way, we can help families. I think of Chad, a gentleman in Michigan. He and his wife have two young children. He works for a small landscaping business with an ''off season'' of 3 to 4 months in the winter when he is not working. If the couple purchased insurance through Chad's employer, it would be an additional $300 a month, which for them is not affordable. Through MIChild, which is our children's health program, both his sons are able to get the inhalers they need for their asthma. How basic, in America, in the greatest country in the world, to make sure that children can handle their asthma.

I also heard from Pam, who is a full-time preschool teacher and mother. Her monthly premiums of $384 a month, or over $4,500 a year, take up over one-fifth, or 20 percent, of her pay. Through the MIChild program, she was able to get the specialized care she needed for her youngest daughter, who suffers from a rare seizure disorder.

I could go on and on, but I will not. We all have stories of families who are wanting the best for their children, who want the American dream. They do not want to go to bed at night and have to say, please, God, don't let the kids get sick, don't let something happen tonight or tomorrow because I don't know what I am going to do—we don't have health insurance. We are the greatest country in the world and there is no excuse for any family finding themselves in that situation.

We have in front of us a bill that is a true bipartisan compromise. For me, it is a step in the right direction to universal care, and an opportunity to come up with a uniquely American way to provide universal health care for everyone in America. I believe health care is a right, not a privilege, in the greatest country in the world, and we should act like that. This important legislation is part of keeping that promise.

We started down the road with covering children whose parents are working, who do not qualify for low-income help through Medicaid because they are just above that limit, but aren't able to get the insurance they need for their families. We have children who qualify today but, because the resources aren't there, they are not able to get the health insurance they need. This legislation will say that more than 3 million more children—families—in this country will not have to go to bed at night worrying about whether their kids are going to get sick tomorrow.

Finally, I say again that this is about values and priorities. Always it is about values and priorities. This is the right thing to do. It is the moral thing to do. When we find ourselves in the situation of spending $12 billion a month on the war in Iraq, not paid for, and in front of us we have the ability with $7 billion a year to cover over 3 million more children with children's health care, the 6 million who have insurance now and over 3 million more in America, responsibly done and paid for, this is the right thing to do. It is the moral thing to do.

This is a great success story, and I am very hopeful we will see a very strong bipartisan vote when this comes before the Senate for a vote.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mrs. DOLE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside in order that I may offer an amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator may proceed.

AMENDMENT NO. 2554 TO AMENDMENT NO. 2530

Mrs. DOLE. Mr. President, I call up amendment No. 2554, now pending at the desk, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mrs. DOLE] proposes an amendment numbered 2554 to amendment No. 2530.

Mrs. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Congressional Budget Act of 1974 to provide for a 60-vote point of order against legislation that includes a Federal excise tax rate increase which disproportionately affects taxpayers with earned income of less than 200 percent of the Federal poverty level)

On page 217, after line 25, add the following:

SEC. ___. BUDGET POINT OF ORDER AGAINST LEGISLATION THAT RAISES EXCISE TAX RATES.

Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''POINT OF ORDER AGAINST RAISES IN EXCISE TAX RATES

''SEC. 316. (a) IN GENERAL.—It shall not be in order in the Senate to consider any bill, resolution, amendment, amendment between Houses, motion, or conference report that includes a Federal excise tax rate increase which disproportionately affects taxpayers with earned income of less than 200 percent of the Federal poverty level, as determined by the Joint Committee on Taxation. In this subsection, the term 'Federal excise tax rate increase' means any amendment to any section in subtitle D or E of the Internal Revenue Code of 1986, that imposes a new percentage or amount as a rate of tax and thereby increases the amount of tax imposed by any such section.

''(b) SUPERMAJORITY WAIVER AND APPEAL.—

''(1) WAIVER.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

''(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.''.

Mrs. DOLE. Mr. President, nearly every Senator in this body agrees we should not increase the tax burden on low-income individuals and families. Unfortunately, the bill before us would do that by raising the tobacco tax by 156 percent. No other Federal tax hurts the poor more than the cigarette tax, according to the Tax Foundation. Of

the 20 percent of the adult population that smokes, around half are in families earning less than 200 percent of the Federal poverty level. Furthermore, a massive and highly regressive tax increase on an already unstable product is a terribly irresponsible way to fund the State Children's Health Insurance Program.

My amendment is very simple. It creates a 60-vote point of order against legislation that includes a Federal excise tax increase that would disproportionately affect low-income individuals, defined as taxpayers with earned income less than 200 percent of the Federal poverty level.

A majority of my colleagues say they oppose increasing the tax burden on lower income families, or even oppose tax increases outright. I, therefore, would expect that this commonsense amendment would receive tremendous support in the Senate.

I ask unanimous consent that my amendment now be laid aside, with the understanding we will return to it at a later time.

I yield the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I understand the Senator from Massachusetts, Mr. KERRY, is about to speak. As he gets ready to speak, there are a couple of points I wish to make. We are still working the numbers on the McConnell-Lott amendment. I wish to point out a couple of points.

No. 1, the McConnell-Lott amendment, although it is advertised to do this, does not put kids first. Despite prohibiting coverage of nonpregnant adults and limiting all State income disregards, this legislation does not cover substantial numbers of additional children.

On the surface, they think they may cover 700,000 additional kids, but we are trying to get the numbers from CBO and trying to determine the actual effect; whereas, the Finance Committee bill the CBO has analyzed very carefully it will cover an additional 4 million children. About two-thirds of those will be on Medicaid, and roughly a million will be under the Children's Health Insurance Program.

The big difference is the different effects between the Finance Committee-passed bill and the McConnell-Lott bill on uninsured Medicaid-eligible children; that is, children today who are not on Medicaid but are eligible—what is the effect of the two various approaches on those low-income kids.

Again, I give the caveat we do not have all the actual language and do not have all the numbers exactly crunched by CBO, but a first analysis essentially looks like this. It looks basically like the McConnell-Lott bill will not add many new kids to be covered under Medicaid; whereas, the Finance Committee bill has about 1.7 million children now not covered under Medicaid who will be covered.

It is complex legislation we are considering. This is a Children's Health Insurance Program. But as we work to get more kids covered under the Children's Health Insurance Program, by definition there are going to be more kids also covered under Medicaid—that is children whose income levels are so low they are covered under Medicaid as opposed to the Children's Health Insurance Program.

There is a huge difference there. It looks like the McConnell-Lott bill will not help the very low-income kids who are currently eligible under Medicaid to be covered. In fact, the Finance Committee bill covers at least five times more.

I might say a word about the so-called crowding out. Senators are concerned this legislation will have the net effect of encouraging some children, now under private health insurance, to drop their private health insurance coverage to take advantage of the Children's Health Insurance Program expansion. There are a couple of points about that.

No. 1, under the McConnell-Lott amendment, it looks like their so-called crowd-out ratio is even more adverse from their perspective than the crowd-out ratio under the Senate Finance Committee bill. I don't wish to belabor the point. It is roughly the same, roughly 30 percent, but their crowd-out rate is a little greater on a percentage basis as to how many kids are there who will drop private health insurance for the Children's Health Insurance Program. But theirs is no better in fact a little worse, from that perspective.

Also, it is important and worth noting that when Congress passed the Medicare Modernization Act a few years ago and it provided for the Part D benefits for senior citizens, CBO said the crowd-out rate for that program would be much higher—and it was. I think there is one estimate beginning at 75 percent. I think it dropped to around 40 percent. I might not be entirely accurate on those numbers, but it is much higher than the 30 percent predicted under the Finance Committee CHIP bill and also about the same under the McConnell-Lott substitute.

In addition to that, we on the Finance Committee wanted to reduce the so-called crowd-out as much as we possibly could. We asked the Congressional Budget Office, especially the Director of the Budget Office, Peter Orszag, to tell us on the committee what did we have to do on this legislation; tell us how we should write it to minimize crowd-out as much as we possibly can, be as efficient as we possibly can. He told us what to do and we did it.

In the Finance Committee markup, when asked about crowding out; that is, kids moving from private health insurance coverage over to the Children's Health Insurance Program, he said you have done it efficiently. You have done it as well as you can do it.

I wish to make the point very clear. While we are helping children, while we are helping low-income kids get health insurance—as we clearly should—we also do not want to disrupt the private industry any more than need be.

It is important to remember that States are given power to decide how they want to administer the Children's Health Insurance Program. It is up to the State. Some States add it to Medicaid. Some States have separate programs. Most States use health insurance companies to administer the health insurance program, the Children's Health Insurance Program, with copays and deductibles, and so forth. So those who on the surface might be concerned if their ideology is it should be private health insurance, not the Children's Health Insurance Program, should not be too concerned, frankly, because we have gone the extra mile to make sure that so-called crowd-out is minimized as much as we possibly could.

I will have other points to make later on about the McConnell substitute. Basically, I wish to say it states that if you are at 200 percent poverty or a little above 200 percent of poverty, despite what we anticipated when we passed this legislation in 1997, I am sorry, you can't go above 200 percent if you want to have the benefit of the Children's Health Insurance Programs match rate, which is a little more beneficial to the States than the Medicaid match rate. That is not right. So many States are at least above 200 percent of poverty. I think that is wrong.

The other major thrust of the McConnell substitute is if you are above 200 percent of poverty, you have to go into the private market. That encourages them very strongly. That is not right either. Fundamentally, the Children's Health Insurance Program was written first, in 1997—again, it is a block grant program that gives States flexibility and recognizes that every State is different.

So often Senators say we should not enact one size fits all. I have heard that 100 times around here. Basically, that is correct—not always but basically. Senators who are advocating McConnell-Lott say one size fits all, basically, not recognizing that different States have different costs of living, some States are much more expensive to live in than others.

I saw a chart the other day that showed if you take 200 percent of poverty and matched that against the cost of living in various States in our country, in some States, the parity level would be maybe down around, oh, say, 150 percent of poverty. But there is one State that was 300 percent. If you translate the 200-percent nationwide figure to what the cost of living is in that State, it comes out to 300 percent. I think that is fair because different States are so different.

I ask unanimous consent, now, that the pending amendment also be temporarily laid aside so Senator KERRY may offer an amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

AMENDMENT NO. 2602 TO AMENDMENT NO. 2530

(Purpose: To provide sufficient funding and incentives to increase the enrollment of uninsured children)

Mr. KERRY. Mr. President, I call up amendment No. 2602.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. BINGAMAN, Mr. SANDERS, Mr. CASEY, Mr. MENENDEZ, Mr. DURBIN, Mr. REED, Mr. BROWN, and Mr. WHITEHOUSE, proposes an amendment numbered 2602 to amendment No. 2530.

Mr. KERRY. I ask unanimous consent the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. KERRY. Mr. President, let me begin first of all by thanking the distinguished chairman of the finance committee on which I have the pleasure of serving, whose leadership has been critical in bringing this bill to the floor. He and Senator GRASSLEY, Senator ROCKEFELLER, and Senator HATCH deserve the thanks of children all across America, of all those advocacy groups fighting for children's health care, and certainly of our colleagues who care about it and have been fighting for it for a long time. They have shown real leadership in bringing about an important compromise by fashioning a bill that was reported out of committee with bipartisan support.

We all understand how difficult that can be, sometimes. Sometimes the negotiations in our committee are out of balance because of the membership of the committee and you may have a different feeling when you finally get to the floor. So I applaud the Senator from Montana. I will say up front, I know that if he had his druthers, he would vote for this on the floor of the Senate now. I also know when you are the chairman and you fashion a compromise in your committee, you have to stick with your compromises. Everybody here understands how that works. So I recognize that this is an amendment that is difficult for him in the context of this overall bill.

But I ask my colleagues to think about this amendment outside of the inside game of the Senate. I ask my colleagues to think about this amendment outside of the parliamentary agreements that have to be made in order to get something out of the committee and actually get it to the floor so we can all consider it. But I also ask my colleagues to remember that when it gets to the floor, we have a chance to vote as Senators, all of us—not as members of the committee. Certainly, the vast majority of the Senate is not bound by what happened in a committee. We are bound by our responsibility, each and every one of us, to our constituents in our States and to our beliefs about what is best for the country.

I believe, first of all, the legislation that the Senator from Montana and the Senator from Iowa, Senator GRASSLEY, have brought to the floor is important for the country. I think everybody agrees on that. I think this bill is going to pass with a pretty significant vote, ultimately, at its current $35 billion level. But as we debate the future of health for our children, I think we have a responsibility to think about it above and beyond the compromising process of the Senate.

I believe we have to think about it in macro policy terms and also—I know the word gets bandied around here on the floor, and it doesn't always have a lot of meaning anymore—in ''moral'' terms. We have a lot of difficulty sometimes translating what is moral in most people's eyes into legislation. But the fact is I heard Senators on both sides of the aisle, and particularly some of those most responsible for helping to negotiate this on the other side of the aisle—I have heard them say we have a moral imperative to take care of children's health care. I have heard them say we ought to be covering all children.

Of course, we ought to try to cover all children, but isn't it a shame that we can't seem to do that because it costs too much. The Senator from Mississippi came to the floor and spoke about this. He talked about how some want an increase of $50 billion or more and suggested that I approach this purely with an attitude where I say let's decide how many kids we ought to cover, and it does not matter what it costs, let's go pay for it. Well, that is a little bit of a misinterpretation of what I have actually said about it. I have said we ought to decide if we think it is worthwhile to cover all children, and then see if we can pay for it. I did not say pay for it no matter what. See if we can pay for it, but at least decide what your priority is.

If your priority is to cover children which is an important moral imperative, it has a value to our society, it makes a difference to the lives of children, to the lives of the community, the cost of hospitals, the cost of health care, the ability to learn, the ability to grow up and be a full citizen, you measure those and you come to the conclusion hey, this is a good idea, we ought to do this for all kids. Then, you have an obligation to begin to weigh where the money comes from and what the choices are with respect to what you spend money on.

The Senator from Mississippi suggested we have to worry about the cost of the program and who pays for it. Yep, we do, I say to my friend. And he is a good friend, the Senator from Mississippi. We do have to worry about it. But let's measure what people appear to be worried about. Let's measure about why children's health care is a priority.

First, I want to do the ''why.'' What we do here with respect to children is not a Democratic priority or Republican priority. It ought to be the priority of every single Senator. I know most of the Senators here have families, have children, and are deeply concerned about kids and understand these issues.

The real face of this debate does not belong to Senator BAUCUS or Senator GRASSLEY or Senator ROCKEFELLER or Senator HATCH or anyone else who is here arguing about this. The real face of this debate belongs to young kids all across our country who suffer enormous debits on a lifetime basis because they do not have health care.

The face of this is somebody like 9-year-old Alexsiana Lewis and her mother, Dedra, who come from Springfield, MA. Senator KENNEDY—incidentally, I honor Senator KENNEDY's work in this, as we all ought to, because it was his visionary leadership that helped to create the S–CHIP program in 1997. He has constantly been working to build bridges to bring people together to try to sustain and expand the program ever since.

Senator KENNEDY and I went to the Children's Hospital in Boston, a famous hospital where kids come from all over our country. And the stories of curing and caring that are exhibited in that hospital on a daily basis are just extraordinary. Well, we met there Alexsiana Lewis and her mother. Alexsiana, 9 years old, was losing her vision due to a very rare eye disease. Her mother, Dedra, had lost her health insurance, like millions of Americans. We have about 45 to 47 million Americans who have no health care at all right now; 9 million of them are children.

Dedra lost her health insurance. Why did she lose her health insurance? She lost her health insurance because she cut back on the hours she was working in order to be able to take care of her child who had this rare disease. And here is what she said at that meeting with Senator KENNEDY and myself.

She said: ''If I did not have Mass Health right now''—that is the Massachusetts health program we have in place now funded by S–CHIP—''my daughter would be blind.''

So my question to my colleagues in the Senate is very simple: Somewhere in your States all across this country there is another Alexsiana Lewis, or there is another Dedra who is cutting back on her job. There are going to be about 5.7 million children who do not get any coverage when we finish passing this legislation.

Now, my question is, is that the choice of the Senate measured against

the other choices that we could make? Is it our choice that it is OK for an Alexsiana to go blind? Is it OK in your State for some child to have a chronic ailment who will not get the early intervention, the early care, and as a result will probably wind up with a lifetime impairment that will require that child to have special needs education for the rest of their life?

I went out to the State of Washington a couple of years ago. I had recently introduced my Kids First Health Care Plan. And we had about 1,200 people show up. The chief pediatrician for the State of Washington came to this event in Seattle. She stood up and told the story of a 12-year-old child who was disruptive in the classroom. Ultimately, they kicked the child out of the classroom because the child was disruptive. They thought the child was just acting out. Ultimately, that child finally, for the first time, got to a doctor and they found that the child was suffering, not acting out. The child had a chronic infection which spread to the eardrum, and this chronic infection was creating such pain that the child was acting out due to the pain. Now, at the final moment where they diagnosed what was wrong, they found out that child indeed would have a hearing impairment for the rest of that child's life. No health insurance and acting out in class leads to teacher responding and the child finally gets diagnosed as hearing impairment and will require special needs education. What is the rationale? What is the rationale for saying all we can afford is $35 billion over five years, at a moment when people across this country are losing faith in the ability of Washington to be responsible and make responsible choices on their behalf?

I think it is important that we answer that question properly. And I will tell you, when I look at some of the choices we have, it is pretty hard to answer how we are answering it properly. Let me give a few examples to my colleagues. This is a choice the Senate is going to make. If the alternative minimum tax relief is extended, as everybody expects it will be, tax cuts for those earning over $1 million a year will cost $43 billion in 2007 alone. Think about that.

We are saying we cannot afford to cover children to the tune of an additional $15 billion over 5 years, but we can give $43 billion of tax cuts next year to people earning more than $1 million a year. That is obscene. It is ridiculous. It has absolutely no basis in economic argument, and it certainly has no basis in any kind of moral or decent argument.

If you were simply to restore the tax cut to the level before 2001, to only taxable income above $1 million, you would have $44 billion and you could insure children. You would be affecting 0.21 percent, of all taxpayers with positive tax liability in the United States. That is one choice.

Here is another choice Congress seems to be content to make. Currently, major integrated oil and gas companies are eligible for the domestic manufacturing deduction, which reduces their corporate tax rate. In other words, we know fossil fuel is contributing to global warming, but we nevertheless are willing to continue our own dependency on it and give a tax break that encourages people to be able to do what they are going to do anyway because the marketplace is showing that the price of energy is such. These are some of the most profitable companies in the world.

But oh, boy, give them a tax break instead. There is absolutely no valid reason whatsoever that the most profitable oil companies in the world ought to be receiving a subsidy, a deduction, at this time when they are reaping record profits. But guess what, the Finance Committee tried to repeal it and the rest of the Senate did not agree. This deduction cost $9.4 billion over the next 10 years, but we do not have enough money for children.

We didn't close a loophole in our Tax Code for the poor fuel economy—we actually reward gas-guzzling SUV manufacturers. They get $13 billion worth of tax breaks to produce the most gas guzzling cars on the road, the worst fuel efficiency of any car, and we are subsidizing that over children. I do not get it.

I think most Americans, if they had a list of the things that the U.S. Congress gives to big business over children, would laugh at the language they hear when they hear people say: Oh, we have to cover children. There is a real value to covering all of these children.

Here is another one. Most American families do not get this one. If you are a company, you can defer paying U.S. taxes on any foreign income. So you can be an American company and just keep your income drawing offshore, and you do not pay any tax. It can accrue year to year. And repeal of this provision is about $53 billion over 10 years. Also, it is a huge incentive for companies to take their, you know, subsidiaries and other companies offshore and just grow their profits offshore at the expense of American jobs.

There is a long list of choices, similar choices: $12 billion a month in Iraq, going into the sixth year of the war in Iraq; now we are in the fifth year of the war, now a policy that everyone in the world understands is not working. I believe there is a better proposal.

Now, again, I say $35 billion, of course, is better than nothing. But it is incredible to me that we are in this position where the administration is talking about vetoing $35 billion, and we are not willing to do what is necessary to really get the job done.

Let me say that I am pleased that there is a provision that I authored with Senator SMITH and Senators KENNEDY and DOMENICI to ensure that there is mental health parity in this State Children's Health Insurance Program. And parity for mental health treatment is a very significant and very much needed improvement in SCHIP.

Instead of discriminating against mental health, which is effectively what we are doing today, we can offer services that actually improve children's performance in school, that keeps them out of trouble in the juvenile justice system, and helps them lead better lives, filled with a lot more opportunity and promise.

But $35 billion over 5 years, let me ask colleagues to measure that. Why have we decided to spend $35 billion at all? Why do we have a program called the Children's Health Insurance Program? If it is worth spending $35 billion, doesn't the same rationale apply to the rest of the children who do not have health insurance?

Where is the big hand of God coming down and saying: You all over here, you get health insurance; and you over here, you do not because we think it is more important that millionaires get a tax cut. We think it is more important that gas-guzzling vehicles get a tax break, and we think it is more important that oil companies with the biggest profits in the country get their money. That is the choice. That is what is happening.

We have some colleagues who just do not want to bend. That is why this agreement had to be reached. I understand the Senator from Iowa—I am not blaming Senator GRASSLEY from Iowa. I respect what he has tried to do. He held the line to get the $35 billion.

I respect what Senator BAUCUS had to do because we are struggling to get votes. If you don't get over 60 votes, you can't do something. But I think some of those folks who are reluctant to sort of embrace reality ought to step back and question this.

Let me come to another point. I have told my colleagues how we pay for this. First of all, the $35 billion is paid for with a cigarette tax. The cigarette tax I am in favor of, but we know, unfortunately, it is also regressive in a certain way, though hopefully it deters people from smoking. But a whole bunch of poor folks and folks moving to the middle class or folks in the middle class are stuck with their habit and smoke, and they are going to pay a lot of that tax. We would love it if it stopped them from smoking, but we all know that is not going to happen automatically. So here we are looking at how else could you get more kids covered.

What is important about my amendment is that it covers the kids who are eligible for Medicaid. It has a more efficient avoidance of the topic we have heard debated, the crowd-out. People are talking about not encouraging people who currently have private insurance to drop the private insurance to get covered by the State insurance. We obviously don't want that to happen. The fact is that my amendment targets the coverage toward those at 200 percent of poverty or below. So you are mostly targeting Medicaid-eligible children. It is astonishing to me that those are the kids most in need of it, and they are still left out if we don't

pass this amendment. We are trying to get the poorest of the poor. We are trying to get the kids on Medicaid. We still don't fully cover the kids on Medicaid with the $35 billion, even though, obviously, it is an improvement. I will vote for the improvement, and I will vote for the bill. But I still believe we ought to be doing more.

I just went to Fall River, MA, the other day to visit a bunch of workers. We have 900 workers there who have been laid off permanently, let go from a plant, Quaker Fabric, that closed. It closed, incidentally, on a weekend's notice, despite the fact that we have a law about plant closings. They are supposed to let workers know ahead of time what is happening. I went to visit with these people. The biggest single question on their minds was: What am I going to do about my health care? How am I going to cover my kids? What am I going to do? I met people who worked there for 35 years, 27 years, 25 years, all at the same place. They were loyal to the plant, and their 2-week vacation started on a Friday. On Monday, they got a call and they were told: The plant is closing. Sorry. That is it. What is more important—covering their children or making sure people who earn more than $1 million a year get $43 billion worth of tax cuts?

Astonishingly, the President of the United States is threatening to veto new money for this program. Even at $35 billion, he is threatening that. That means the choice the President wants to offer is either Congress can do not enough or do nothing at all. I don't think that is the appropriate choice.

The President has also initiated a disinformation campaign—I guess disinformation campaigns are not new, but it is another disinformation campaign—to denounce this bill as a larger Democratic strategy or plot to somehow massively federalize medicine. I understand the President offered to veto it before he had even read it. Confronted with a bipartisan compromise to extend health coverage to half of the 9 million American children without insurance today, the President apparently only sees some sort of a leftwing conspiracy to try to federalize health insurance. It is almost laughable. I don't think anybody really believes that is what is about to go on, but it sure is one of those scary phrases that create a knee-jerk response in certain sectors of the body politic.

The SCHIP program is, like Medicaid before it, a Federal-State partnership. It is not a Federal program; it is a Federal-State partnership. Ironically, it happens to use private providers as the principal people involved to provide the service. So it is a Federal-State-private sector partnership. It is very hard to understand how the specter of ''federalism'' somehow can get in the way of that.

Another misleading statement we have heard is that SCHIP is a Democratic Trojan horse for socialized medicine. I have to laugh at that. I was here when we did the 1994 debate on health care. I did not sign on to the plan that was offered by the White House in 1994. There were a number of problems. It doesn't matter what they were. I didn't sign on. I worked hard with Senator Bill Bradley, with Senator John Chafee, Senator Bob Dole, and others. We had a compromise that, in fact, if it had been adopted, it had a back-end mandate with the private sector being tapped to provide additional health insurance to Americans. I believe we could have passed it, but there wasn't the mood for a compromise at that point in time. Had it passed 4 years ago, we would have been at about 99 percent of Americans covered by health insurance. That was the opportunity which was missed.

But one thing I learned, you ain't going to see socialized, Government-run health care in America probably during our lifetimes. It is just not in the makeup. There are plenty of ways to put health insurance out there that are more affordable. I offered one of those ways in 2004. That is as viable and as urgent today and, frankly, as compelling today as an approach where you can reduce the cost of all premiums, take catastrophic health insurance off the backs of businesses and Americans, and lower the cost of health insurance, provide unbelievable streamlining of the delivery of the system, and let every American choose where they want to go. It is far more efficient than what we have today.

This red herring, phony debate, straw debate is inappropriate to the cause of children. It doesn't do justice to any of us.

It also is ironic that some of the most significant efforts to expand the Children's Health Insurance Program have come from Republican Governors. The President's former budget director, Mitch Daniels, the current Governor of Indiana, has recently expanded eligibility for children's health insurance to 300 percent of the Federal poverty level or roughly $60,000 for a family of four. Something is seriously wrong when as good a numbers-cruncher as Mitch Daniels and as tough a budget critic, as we all know, can go out to Indiana, which is a pretty centrist conservative State, and wind up expanding health insurance for kids up to 300 percent of poverty. There is a real disconnect in this debate.

The President likes to claim the new program is somehow going to push families like those from private insurance to government health care. But Governor Daniels and a lot of Governors like him understand that is not the case. With the cost of private insurance for that same family approaching $12,000 a year, the real choice for most American families today is either SCHIP or no health care at all because of the current rise in costs. In fact, the National Governors Association this past week sent yet another bipartisan letter to the President stating their support for the bipartisan reauthorization bill that provides increased funding for SCHIP now moving through the Senate.

Finally, SCHIP is not Government run. The vast majority of SCHIP and of Medicaid enrollees receive their coverage through private insurance plans working under contract with the States to administer benefits. So, far from socialized medicine, it represents the kind of commonsense public-private partnership that ought to be a model for greater health care reform.

A lot of families I have met all across the country are scared they will not have adequate health care for their kids. The President's response to that was—I think about a week ago—Well, they have health care. They can just go to the emergency room. I don't know how many Senators have been to emergency rooms lately. First, they are all overcrowded. I know that at Mass General, which is one of the best hospitals in America, in Boston, sometimes it is so crowded it takes hours to get people processed except for the most traumatic who come in. You have people on gurneys in the halls of hospitals all across America, different waiting periods. It is extraordinary what has happened. The degree to which emergency rooms have become the primary care facility for Americans is shocking. Hospitalized children—this is important—without health insurance are twice as likely to die from their injuries as those with coverage. Uninsured kids are only half as likely to receive any medical care in a given year.

We all go to schools and talk to teachers, and we go into communities. We have townhalls, and we listen to voters. I can't tell my colleagues how many times I have heard a teacher tell me how difficult it is to teach a whole class of kids, which is usually an overcrowded class of kids, where many of those children don't have health care. We know that kids who have health care do 68 percent better in school. Here we are, a country that is struggling with an education system that is not keeping up with competitors around the world. We don't graduate enough scientists or engineers, researchers, and so forth. One of the things it is related to, in terms of the choices children have in their long-term education, is whether they get health care and screening early.

Someone who has health care is more likely to get an early diagnosis of whatever the problem is. If you are a child and you have an irregular heartbeat or a hole in your heart or you have some other disorder, early diabetes onset or even autistic tendencies, if you don't get to a doctor and the parent doesn't see those indices and isn't able to understand them for what they might be and get somewhere to get the care, the odds are that child is going to wind up costing everybody a lot more, not to mention what is going to happen to that child's life.

I hope my colleagues will take a hard look at this. I hope the President will

reconsider his decision to veto it. I know Senator BAUCUS and Senator ROCKEFELLER have negotiated the best bipartisan package they could. Again, I commend them for doing so. But here on the floor of the Senate, we have an opportunity to work our will as a Senate. We have an opportunity to make a different statement. I believe we ought to be investing at least $50 billion. The Senate passed in its budget—this is in the budget today—$50 billion for children's health care. The only reason it has come to the floor at $35 billion is because some people refuse to let it come out of committee or take any shape other than that at this moment in time.

The best way to finance that $15 billion is to do what is fair and to make one of those choices we are called on to make. There are countless choices in this budget. We have 27,000 pages or so—I think more than that now—of Tax Code that fill volumes. Most of those pages do not apply to average Americans. Most of those pages apply to those who have been able to lobby Washington, to those who have been able to bring their cause to this city.

These are children. Children's lobbies reflect a lot of different organizations, but it seems to me we have an opportunity to enroll the lowest income of uninsured children by increasing the bonus payments available to States so they meet or surpass their targets. We don't mandate them to do so. We leave the discretion up to the States. They have wide discretion with the waivers they have today as to how they administer the programs. They have proven themselves very capable and very creative in doing so.

I hope, as a matter of priority, we make a bipartisan down payment of no less than $50 billion toward health care coverage for all our children. The only excuse for not spending more is saying: Oh, we cannot afford that. When somebody says we cannot afford that, then you have to look at what we are choosing to afford. That is the real test of the balance of what we care about and of where we are willing to put our votes.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise for two reasons: one, to give the compromise that is before the Senate a defense against Senator KERRY's amendment; and then to comment on the bill generally, and mostly to comment to some of my fellow colleagues on the Republican side of the aisle in relation to what I consider unfair criticism of this compromise.

I do not rise to find fault with the goals Senator KERRY has put forth. I do not even find fault with some of his arguments about loophole closings. I might feel compelled to argue against the marginal tax increases he might want to have, but right now I will concentrate on his view of expanding this compromise, not questioning his motives, and not raising any question about the sincerity of his wanting to do more—except reflecting on the 4 or 5 months Senator BAUCUS and I have been putting this bill together, we have all had some rude awakenings.

Those rude awakenings are that what we put together as a $50 billion package, when it was first scored came back much higher than $50 billion. So to get everything everybody wants in $50 billion is very difficult. The other thing is a philosophy I had, that somehow with something less than $50 billion we would be able to cover every kid under 200 percent of poverty, and we found out that was not possible.

I am sure we both—from Senator KERRY's point of view and from my point of view—went into this whole discussion with a great deal of good intent and finding out that it may be a little more difficult than we anticipated.

So only with that caveat I ask Senator KERRY to consider, I now want to say why we ought to defend the compromise that is before the Senate.

I appreciate Senator KERRY's goal of covering more kids. The bill we have today insures 3.2 million kids who do not have coverage today. I am very proud of that effort, and I am not going to warm to any suggestion that we have not done enough. The Finance Committee bill does so through a new incentive fund, and it is a proposal both sides of the aisle support. It is a compromise.

The incentive fund is a product of months of work. We built on ideas that were formed by another bipartisan couple—Senator ROCKEFELLER on one hand for Democrats, Senator SNOWE on the other hand for Republicans. We took those ideas that Senator ROCKEFELLER and Senator SNOWE had and reshaped them into what we think represents a very efficient and cost-effective way to increase coverage for children.

As Senator KERRY may recall, during the markup of the Senate Finance Committee, the Congressional Budget Office Director Peter Orszag characterized the incentive fund "as efficient as you can possibly get per new dollar spent."

Simply throwing money at States is not an effective strategy for covering more kids. Cost is an object. The bill that is moving in the House does cover 1 million more kids who are not currently covered than the Senate bill. But they do so while spending $12.2 billion more than we do—getting back to the efficiency and effectiveness statement of the CBO Director Peter Orszag. I will leave it to my colleagues to decide for themselves whether they think $12.2 billion for a million kids is cost effective. But I can assure you, the cost will leave us then—if we do that—without a bipartisan bill, and maybe not the chance of getting anything through, other than an extension. It has been stated, even from our Republican colleagues who do not like the waiver process, that is bad policy.

The Finance Committee bill then—I am begging Senator KERRY to understand—is the best of the possible. The left wants more; the right wanted a lot less. We can make speeches or make legislation. Making speeches does not get any kids covered. Making legislation does. Our compromise does that.

I urge my colleagues to keep on the right track for making legislation; that is, doing the art of the possible. I oppose this amendment and urge my colleagues to do the same.

Now, Mr. President, I would like to speak on the bill. I start out by referring to a chart that I hope we have in the Chamber that has been used by a lot of Republican colleagues over the last 2 or 3 days. This was in relation to speeches that were given yesterday by many of my colleagues who are sincere in their approach.

They refer to this as the "cliff chart." Everything to the right of the green is after this legislation expires. They want you to believe we do not take into consideration anything about the future. They are making out this is an unrealistic proposal we have before you, because following that red line up into the future, they maintain it is going to cost more than we can afford. I want to say how this approach is intellectually dishonest.

I have a tremendous amount of respect for the Senators who have been giving these speeches, and I can identify a couple. There are probably more who have been giving these speeches, but I want my colleagues to know I respect Senator GREGG, the ranking Republican on the Senate Budget Committee. The Senator from Mississippi, Mr. TRENT LOTT, our assistant minority leader, I think has referred to it. I respect his views. But I think everybody ought to take into consideration what we are going to do. I have a chart that is going to lay this out.

In this particular instance, we clearly are on different sides of this argument. There has been a lot of talk around here about how the Senate Finance Committee bill is funded. This chart was used in that discussion. Taking a hard look at how bills are financed is a good thing. Maybe we do not do that often enough. So let me focus on the criticism that has been made about how this SCHIP bill is financed. We need to step back and look at the whole picture. That is what I am begging my colleagues to do. The SCHIP program is a pretty small part of that picture.

The thing about SCHIP is that it is not like Medicaid or Medicare. How many times have you heard the people using this chart refer to it as if it is an entitlement? It is not an entitlement we are discussing today. Or maybe if people do not understand the term "entitlement"—it is not a permanent program, such as Medicare and Medicaid because they are entitlements. SCHIP is not. So when the program expires, it truly ends. The day after the authorization ends, poof, there is no more SCHIP program. That is true of any program that sunsets. But Medicare

and Medicaid do not sunset. They are entitlements. SCHIP is reauthorized for 5 years. That is 5 years on top of the original 10 years it was authorized. So this year it is sunsetting. That is not an entitlement. It is an expiring program.

While I know most of us in this Chamber would no sooner let the Department of Defense expire than we would let SCHIP expire, that is a simple fact. And because it is an expiring program, it is subject to a very particular budget rule. That budget rule does not fit this chart. That budget rule says the Congressional Budget Office must score future spending for the program based upon the last year of the program's current authorization. So the baseline for SCHIP for the next year is $5 billion. That is under existing law. If we pass this legislation, that would not be true. But for what is law right now, in the future, they are going to score that at $5 billion. For the next 5 years, the baseline—let me say again—is $5 billion. For the next 10 years, the baseline for SCHIP is $5 billion. It is actually $5 billion a year forever.

Does anyone in this Chamber think the budget rule governing SCHIP is realistic? Well, of course it is not realistic. But that is the way the budget process and the Budget Office must work under existing law. So I am not here to kid anybody.

According to the Congressional Budget Office, 1.4 million children would lose coverage if we simply reauthorized SCHIP at the baseline of $5 billion into the future. Who among us would go home and tell our constituents that we individually voted to reauthorize the SCHIP program—reauthorize it, yes. If you stopped there, they would think: Well, you did a good thing. What you are doing right now, you continue to do. But if you did that, what you would be doing, without telling them—but they would soon find out; you do not fool the American people—1.4 million kids would lose coverage.

So when the Finance Committee went to work to reauthorize this bill—Senator BAUCUS and I, with the help of Senators HATCH and ROCKEFELLER—we had this problem: The baseline only assured $5 billion a year in spending into the future. It was unrealistic.

Let me digress and point to a problem the Agriculture Committee has this year exactly the same way. We did not spend all the money in the agriculture bill last year, so we are working on a baseline that is $15 billion less than it was in 2002, the last time we wrote a farm bill. So this is not just the case of health care for kids. A lot of committees get caught this way.

But we do have the realistic fact that costs continue to increase in SCHIP, even though the $5 billion was frozen in the baseline because of the budget rules.

So what did we have to do? We had to come up with the money to keep the current program afloat. That meant we had to find at least $14 billion to keep the current program afloat. That is right, of the $35 billion in funding in this bill, $14 billion is put into SCHIP to maintain the current program. That is $14 billion to maintain coverage for kids who are currently enrolled.

Do you know what the White House wanted us to believe all this year since they submitted their budget? That you could do that $14 billion—maintaining the current program—for the $5 billion they put in their budget.

Now, those people down at OMB have to be smart enough in advising the President that you cannot do for $5 billion a policy of doing what we are doing now, and even expanding a little bit, for $5 billion when, in fact, it costs $14 billion. To a very real extent, this is the same kind of situation my good friend from New Hampshire, Senator GREGG—when he was speaking—was complaining about. The current baseline was not realistic. That created a hole in the budget we had to fill. In our case, it was a $14 billion hole to fill, if you want to maintain current policy.

So what did we do? Well, we did what you have to do if you are responsible and deliver on what you say you are going to do. We filled it. It is that simple. We had to comply with the budget rules.

What people forget around here is the Director of the Congressional Budget Office is like God, and everybody who works in the Budget Office can also be little Gods because what they say has to be followed, and if you don't follow it, you know what you have to do? You have to do almost the impossible around here. You have to have 60 votes to get around it. Should they have that much power? Well, if you are going to have any budget discipline, they have to have that kind of power. But it is that simple. We had to fill that hole. We had to comply with the budget rules, so we did. Do those budget rules make sense? Well, I think I have indicated they probably don't, but that is a question for the Budget Committee to answer, Senator GREGG's committee, Senator CONRAD's committee, not the Finance Committee. We have to abide by it.

There is another budget rule that the Finance Committee was required to follow. That rule is called pay-go, which people around here know is short for pay-as-you-go financing. It means the bill needs to cover its 6-year costs and 11-year costs, and that makes sense after all. This bill proposes new spending, and because it proposes new spending, you have to pay for it, or have 60 votes. This bill does pay for it. This bill complies with the budget rules. It complies with the pay-go requirements.

Now, the SCHIP reauthorization we are debating is only a 5-year authorization. That means 5 years from now it will sunset. Congress will have to go through the process of reviewing it. To remind people it is not an entitlement, Medicare and Medicaid doesn't get a review every so often forced upon them. They may get a review by Congress but instituted by Congress, not forced upon Congress by a sunset.

As I think everyone knows, this bill is paid for with an increase in the tobacco tax. This is similar to the original SCHIP bill when it was created under the Republican-controlled Congress in 1997. Now, similar to 1997, when the Republicans did it, we had a problem with how the tobacco tax works. The revenue from the cigarette tax is not growing as fast as health care costs, so that means the revenue-raiser is not going to grow as fast as the cost of health care, generally, and specifically in this instance, the costs associated with the Children's Health Insurance Program.

So the Finance Committee did what was required to do to comply with the pay-go budget rule. The Finance Committee bill reduces SCHIP funding to just below the funding that is in the current baseline. That means the Finance Committee in 5 years will have the same problem we face in putting this bill together today. They will have to come up with the funds to keep the program running because the tobacco tax over the years is not going to bring in enough revenue to keep up with the increased costs of health care. That is just like the $14 billion we had to keep and find to keep the current program running with no changes.

It is true we are covering even more low-income kids in this bill. That is a good thing. But it also means the Finance Committee in 5 years will have a bigger job to keep the program running at that rate. They will have more kids to keep covering and health care costs will be even higher than they are today. This is for the Finance Committee to face in the next 5 years. Of course, during that 5-year period of time, I hope we get a lot of reform of health care in the United States that reduces costs, gets the uninsured covered, so we are not just dealing with SCHIP. Of course, what we have to face in 5 years is similar to the job the Finance Committee had today to continue the SCHIP program. So it is nothing new. But I think some are getting the impression from some of my colleagues who use this chart that this is something new—some gimmick to get around budget rules. But my good friend from New Hampshire, Senator GREGG, has expressed serious concern about the bill, and I think we should at least take a moment and look at his concerns in proper perspective.

So I go back to one of the charts Senator GREGG has used. Here is the chart used to raise the issue. It shows only the funding in the Finance Committee bill. I think looking at it like this paints a distorted picture. As we all know, the SCHIP program was created to supplement the Medicaid Program. The goal of the program was to encourage States to provide coverage to uninsured children with incomes just above Medicaid eligibility. So to put my colleagues' concerns in perspective, we

should look at SCHIP spending as it relates to Medicaid spending. So I would like to draw my colleagues' attention to a new chart that represents figures for the future from SCHIP, as well as from Medicaid, so everyone can fully appreciate the consequences of our SCHIP bill in the context of the Medicaid Program, which SCHIP supplements. So take a closer look.

Let's start with this little green line at the bottom. That is current law, the green line that goes along the very bottom of the chart. It is a pretty straight line across the chart. The green line represents the SCHIP baseline under current law. As I have already discussed, it is $5 billion each year for the next 10 years and as far into the future as you can go. If you don't change the law, that is the way it is.

Now let's look more closely and honestly at the actual problems we are facing. The massive orange area, as indicated, above the green line is Medicaid. This is the projected Medicaid spending for the next 10 years. It is a lot bigger than SCHIP. Then, on top of that, we are looking to add new spending for the SCHIP bill, and that is the blue line above the Medicaid indicated by the orange. Again, it is not very big. It is quite obvious it is not very big. As you can clearly see, costs are growing at a rapid pace overall. The overwhelming driver of the costs is what? It is Medicaid. We have a very big problem. Entitlement spending is growing, and in future years we are going to struggle to keep these programs afloat. That is why I would not agree to do a $50 billion SCHIP bill. I thought it was too much spending. I am not particularly happy with spending $35 billion, but as I have said, this bill is a compromise, and it is $15 billion less than what the Democratic budget approved.

So let's focus on the total obligations of the Federal program. This chart, when you look at the whole picture, puts things in perspective. Now, remember, all that fire and brimstone about the awful cliff that was on the previous chart, the awful cliff that this bill brings before the Senate, where is that cliff, you might ask, on the chart I put before my colleagues. If you look closely, right here where the blue line on top goes down gradually to beyond the green line, if you look at the blue there where it dips down a little bit, that little dip to the right of the dotted vertical line is what my good friend from New Hampshire is so exercised about. So this little blue line is what the debate is all about. The little blue line is this legislation before us. The little blue line is creating all this rancor. But it looks a little bit different here, doesn't it, than it did on that cliff chart I showed you ahead of time.

Let me tell my colleagues then what the Finance Committee bill—this little blue line—is not; not what it is but what it is not. Looking at this dip, this is not a government takeover of health care. Looking at this dip, this is not bringing the Canadian health care system to America. Looking at this dip in the blue line, this is not the end of the world as we know it.

While I concede that allotments under our bill in the years beyond the 5-year reauthorization do not behave as described in my friend's chart, I don't think it warrants the heated rhetoric we are hearing during this debate yesterday and today and probably tomorrow. SCHIP is not the real fiscal problem we have. The problem is the big orange area. That is Medicaid. The ranking member and I worked together—I am referring now to Senator GREGG, the ranking member of the Budget Committee. He and I worked together last year on the Deficit Reduction Act to try to rein in Medicaid, and I am proud of the work we did. We also found out how hard it is to dial back entitlement spending, even in a Republican-controlled Congress and even with special procedural protections we call reconciliation. We only succeeded in shaving $26 billion over a 10-year period on Medicaid spending.

The problem of entitlement spending is still there, and SCHIP is a pebble next to the boulders of Social Security, Medicare, and Medicaid. Do we have a funding issue? Yes. There is no denying that. We had one today that was the $14 billion hole that we had to fill if we were going to do what the President said he wanted to do with $5 billion. The Republican Congress created that hole in 1997, I am sad to say, but the Finance Committee filled that hole and produced a bill that complies with the budget rules. I am confident the Finance Committee in 5 years will do the same thing.

I think it is also important to point out we have so many far bigger problems in health care today that we need to deal with. If I am supposed to infer from Senator GREGG's speech that this is supposed to be the opportunity to do something about the problems of entitlement spending, I should point out the obvious: The substitute we expect to vote on does absolutely nothing about the entitlement spending but make a big deal out of it.

So I appreciate Senator GREGG's remarks. They are not without some merit, but you have to put them in context. I don't think they fit the crime we are accused of committing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I request time from the Democratic side.

The PRESIDING OFFICER. There are no controlled time limits at this time.

Mr. REED. Mr. President, first let me begin by commending Senator BAUCUS and Senator GRASSLEY and their colleagues, Senator HATCH and Senator ROCKEFELLER, for extraordinary work. This effort represents great legislating based upon principled compromise to achieve a noble objective, which is to provide health coverage to the children of America. I can't think of a more laudable effort than that which has been led and spearheaded by both Senator BAUCUS and Senator GRASSLEY. They deserve our praise and our support.

I am here today to lend my support to the expansion of the CHIP program, the Children's Health Insurance Program, to support this endeavor which is so critical to the health of the country, literally and figuratively. It is not only a sensible policy in terms of investing in children, it is also morally compelling.

What more lofty objective can we have than to give children access to health care, to be able to grow up in this country knowing they can receive medical attention when they need it?

We are in a situation now where, remarkably, the Nation's level of poverty is growing. It is higher now than it was in 1970. We have not had a President since Lyndon Johnson try to tackle this issue head on. This bill recognizes that there are families who don't have the resources to buy health insurance, but they have a claim as Americans and as citizens to at least have their children covered. I hope we can do that by passing this legislation.

It is estimated there are 37 million Americans in poverty, 13 million of whom are children. These are not merely statistics; they are our neighbors in every State in the Union. They are youngsters who we hope one day will grow up healthy and strong to participate not just as workers in this economy but as productive citizens of this great land. To do that they need access to health care.

We also know that children without access to health care fare very poorly in school and have difficulties. These difficulties become more and more complex, and they compound over the years. In fact, one of the strongest arguments for this legislation is that it makes sense as an investment. It is better to pay now rather than later, in terms of social disruption and serious health problems. That is something I hope even the most hard-nosed colleague in the Senate will appreciate.

One of the consequences of this issue of growing poverty and the bifurcation of income between the rich and the rest of us in what we all consider to be the ''land of opportunity,'' sadly, is that opportunity is not as evident or as palpable as it was in the past. One of the great engines of opportunity for any individual, in addition to education, is health and the ability to seize these opportunities—work, education, and service to others.

Again, I think this is an incredibly important piece of legislation. We have to do more. We have to recognize there are families who are working two jobs—mothers and fathers working 50, 60, 70 hours a week—and still they don't have the resources necessary to pay for the increasing cost of health care for their children or themselves. They are squeezed between paying the rent, providing food for the family, and

are looking, many times, for ways to cover the cost of health care for their children.

I am very proud to have been one of the original cosponsors of CHIP in 1997. We were fortunate in Rhode Island to have on the Finance Committee Senator John Chafee, who was one of the leading advocates of the program. As Senator GRASSLEY suggested, this program was crafted with a bipartisan effort in 1997, and one of the great leaders in that was John Chafee. In many respects, we are here today—both of us—to renew his commitment to the children of America.

Over the past decade, this program has been an unequivocal success. It has reduced the number of low-income uninsured children in this country. It has done what it said it would do, and it has done it well. In Rhode Island, we have a combined Medicaid/CHIP program called RIteCare. Our program has been instrumental in reducing uninsured children, and it made a difference for hard-working families in my State. While this program made great strides, there is still much more work to be done.

I want to take a few moments to address some of the issues raised about the Senate Finance Committee agreement and talk to some of the points raised in this Chamber criticizing that agreement. I believe this agreement is not only sound policy, but it addresses a major concern in the country. The proposal before us would achieve several key objectives supported by the overwhelming majority of Americans.

First, it preserves coverage for all 6.6 million children presently covered under the CHIP program. Second, it renews the original intent of the program by making a real commitment to cover an additional 3.2 million children who are eligible for coverage but not enrolled. These two important goals are achieved by allocating $35 billion over 5 years. The original program was financed through the Federal cigarette excise tax, and the proposal before us continues to use this mechanism.

The bill also addresses a problem with the formula that was beginning to plague a growing number of States, including my State of Rhode Island. Last December, I joined a number of my colleagues in crafting an agreement to redistribute unexpended funds from some States and redirect them to States, such as Rhode Island and Georgia and New Jersey, that were rapidly approaching budget shortfalls because they exceeded their CHIP allotment.

The Finance Committee, recognizing this issue, has made a proposal that institutes needed changes in the formula used to calculate State CHIP allotments so Congress is not required to resort to eleventh hour deals to shift money from one State that hasn't used it to other States. That is an important change to the legislation. The bill sets aside a portion of funds in case of contingencies, such as what was experienced during Hurricane Katrina.

Lastly, the bill tackles a challenge that States have been struggling with since the CHIP program began 10 years ago; that is, reaching children who are uninsured and eligible for coverage but are not enrolled. The bill provides incentive funds and flexibility for States to overcome the many economic, social, and geographic barriers that hinder millions of uninsured children who deserve health insurance coverage.

My home State of Rhode Island is a perfect case in point. While Rhode Island ranks 10th nationally in the lowest number of uninsured children—we are very proud of that; in fact, we would like to move up in the ranking from 10 to 1—a recent report by Rhode Island Kids Count indicates that of the estimated 18,680 uninsured children in the State, 11,275 of them were eligible for children's health insurance coverage but were not enrolled. We should enroll all eligible children; that should be our goal. We have to reach these children and, frankly, this legislation will help States become more proactive and successful in enrolling children.

There has been criticism directed at the bill. Let me take a moment to respond to some of the criticism. There has been concern about the cost of the package. I understand that alternative versions of the Children's Health Insurance Program reauthorization will be offered by others in the Chamber during this debate. Some of these bills will have very enticing names, like Kids First, but we should not be fooled by it. The substance of these amendments does everything but put kids first. It won't even maintain the minimum coverage that we have today. Some of the 6.6 million children who are enrolled today will lose out in these alternatives. Rather than expanding coverage, it will contract coverage. We don't want to head in the other direction; we want to move forward.

Similarly, others have balked about the $35 billion price tag. I remind my colleagues that our Senate budget resolution allocated $50 million for children's health insurance coverage. The Senate Finance Committee, the chairman and ranking member, labored mightily and came up with the best possible proposal they could get through the committee, and it is a principled proposal. I salute it. But I was disappointed that the committee left on the table $15 billion that could have been used to insure more children. I have joined Senator KERRY in his amendment to restore it. Again, in terms of our budget priorities, the proposal before us today is even less than what was supported in the budget resolution. For those who say it is too expensive, that suggests this hasn't been very carefully considered and indeed it was, unfortunately, somewhat winnowed down.

Perhaps the most poignant reference is that, while we were talking about $35 billion over 5 years for children's health, we are spending $10 billion a month in Iraq. That says a lot about how we have to begin to reshape our priorities. I don't believe we are spending too much on children when it comes to this particular legislation.

Some have expressed displeasure over using the Federal cigarette excise tax to finance the package. The bill would gradually raise the tax 61 cents, up to $1, over a 5-year period. This is consistent with the original financing mechanism for the Children's Health Insurance Program in 1997. But there is something else interesting here. Cigarette smoking has been identified for decades as one of the chief public health problems in this country, particularly when children start doing it. It is a threat to the health of the Nation, and I doubt if there is anyone in this Chamber who has not had at least one family member's health affected adversely by smoking. I listened to Senator ENZI speak passionately in the Senate Health, Education, Labor and Pensions Committee last week about his father's smoking, which led to his demise, and it also affected his mother.

When you raise the price of a product, you curtail the amount of it that is purchased. We are using market forces to help us do something that we should do: reduce the rate of cigarette smoking. Using market mechanisms in this way, not only to raise resources for health insurance for children, but to lower the number of people who engage in smoking will save public health dollars that are being spent to care for people who have lung cancer, emphysema, and other respiratory diseases caused by smoking.

There is another concern that has been raised, which is that the agreement grossly expands the CHIP program to parents and childless adults, when in fact the bill does quite the opposite. The bipartisan agreement actually ends the administration's practice of providing States waivers to cover parents and childless adults. To date, 14 States have received waivers to cover parents and childless adults, including my State of Rhode Island. In fact, Secretary Leavitt just approved a 3-year extension of Wisconsin's waiver allowing adult coverage. Frankly, I believe that States deserve the ability to take these steps. I am disappointed that more States won't be able to do it. This bill acts as a check on that administrative authority. It deliberately, at this time, restricts the number of parents and childless adults who can join this coverage.

As my colleague, Senator MENENDEZ, mentioned earlier, research shows a strong correlation between parental coverage and the enrollment of eligible children. Once again, the policy behind enrolling parents is sound. But this bill, rather than grossly expanding parental coverage, begins to restrict that coverage. Under the agreement, States with existing coverage expansion waivers will be given a period of transition, and no new States will be granted the opportunity to extend coverage under CHIP. This seems like a reasonable response to these concerns, but I hope as

we go forward we might be able to look at the logic behind parental coverage policies as a way to ensure that the whole family—particularly children—are covered.

The proposal also rightly grants States the option to cover pregnant women. Good prenatal care is essential to overall child health and well-being, as well as reducing the number of low birth weight and premature babies. Given the fact that the United States is actually behind most developed countries, and even some developing countries, in terms of these indicators, this step is certainly warranted and overdue.

Finally, Members seem to have great consternation over the fact that children's health coverage produces some level of crowding out of private insurance coverage, and the bill is a giant step toward Government-run health care. Again, the rhetoric seems to be at odds with the reality of what is in this bill. I note that most enrollees in public insurance are actually covered through private plans, where States take the money and reimburse the private insurer. The Finance Committee proposal takes the additional step of including something called premium support. It essentially gives States the ability to offer subsidies for children who are eligible for CHIP coverage but have access to employer-sponsored coverage.

In my State, we have had this experience. We have a program called RIteShare. The program has enabled thousands of Rhode Island families who otherwise could not afford to remain in private insurance coverage to do so with a little help from the State. It is a marginal contribution to their private health insurance, which allows them to stay in the private market. This proposal, again, goes a long way toward addressing the issue of potential crowding out.

I believe this bipartisan agreement represents a very strong step forward to facilitate outreach and enrollment of low-income children. It is not a perfect legislative proposal, but it is an important one based on principled compromise. It reinforces our commitment to children's health. I am amazed the President is already suggesting he might veto it, despite overwhelming public support, and despite the compelling economics that are behind investing in children's health.

I hope that we will by our votes demonstrate that this is a bill which should not be vetoed but should be passed quickly so children can continue to enjoy access to health care in our country.

We all understand that our future is really about our children. They will be the leaders years from now, and we all hope and wish that they will grow up strong, able to seize the opportunities of this Nation. Beyond hoping and wishing today, we can help make that a reality by voting for this important legislation. I urge all my colleagues to join me in doing so.

Finally, I would like to take another moment. As colleagues, we come to the floor, we debate issues and legislation we have sponsored, but the details are worked out by staff members long into the wee hours of the morning. We read speeches prepared by very dedicated staff members.

I have the rare privilege of saluting someone who has worked with me for so many years. Lisa German Foster has been with me since January 1996 when I joined the Senate. She is leaving to pursue other endeavors.

She started in my office as an unpaid intern and has become recognized here as one of the preeminent staffers with respect to health care issues and one of the most decent and humane individuals one will ever meet. I salute her for her work on this bill, on child health and immunization, on the bone marrow registry, on tobacco legislation.

She is a native of my home State of Rhode Island, in Narragansett, but I think she is firmly ensconced in Washington, DC, with her husband Bill and children Aidan and Brady.

Lisa, on behalf of all of us here, thank you for your good work.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I join with those who assert that working Americans are carrying too difficult a burden when it comes to health insurance, that the governmental supplements and assistance we provide to help people get health insurance are aberrational, unprincipled, counterproductive, bureaucratic, and often just unfair.

A person's health care is more dependent on where he or she works than anything else. If you happen to work for the Government, you are in pretty good shape. If you work for some big company, you are in good shape. But people live in fear that they might lose their job, and more than just losing their job, they may lose their health care. They don't like that. Families are worried about it. People sometimes refuse to take better jobs because of fears that they will lose their health insurance.

Prices are exceedingly high for people who are not part of big plans, Government programs and policies, and big company plans. That is just a fact. The same person can end up paying twice as much if they run a small business or work for a small business that doesn't provide insurance, and you cannot be guaranteed you will even get it. Sometimes the premiums are more than twice as much.

The President talked about this issue in his State of the Union Address when he talked about tax credits and ending the disparity we now have in health care. It is an absolute problem.

I was pleased to support the program offered by Senator ENZI, the small business health plans, the so-called associated health plans that would help small businesses to pool their resources and get cheaper rates. This could add 1 million people to our insured rolls without any increases in taxes.

We have a problem out there, we really do. So, sure, there is no doubt SCHIP is helping children in need, and there is no doubt our current system is not working fairly and something must be done to fix it. But just adding to this bureaucratic program without any principled fix in the abuses that are contained in it strikes me as very odd. I do not approve of it. I just do not approve of that at all.

It is a system that is brutal on the self-employed, brutal on the person who works for a small business that does not provide insurance. It is not legitimate, it is not right, and we absolutely need to do something to fix it. This odd program that came together some years ago was never, in my view, a particularly sound program. It is just maybe an attempt to fix something that won't work.

What we really need, if my colleagues want to know the truth, is a program to allow all Americans to have an insurance policy that is not dependent on where they work. We should allow them to pay tax-free dollars just like employers can. If they have lower income, the Government helps them make the premium payments and they keep that policy whether they are working or they are not working. They take it with them, and they are not being terrorized all the time by the fear of losing their health insurance.

We can do that. Senator COBURN has talked about this idea, I know, and Senator CORKER, Senator DEMINT all those who worked on this issue. The Department of Health and Human Services worked on it. We ought to be doing that. That is what we ought to be thinking about and talking about instead of putting new wine in old wine bottles, trying to reinvigorate a program that has some fundamental problems and, as I am going to point out, is unprincipled and counterproductive in a number of ways.

I believe we absolutely could have a portable plan of health insurance which would be something that would excite all Americans and make people feel so much more comfortable with their health insurance. That is what I would like to see us move to.

It is said that this is not an entitlement, but it is close to an entitlement. If we are not making needed reforms to preserve this benefit for those in need, why isn't it an entitlement? Who is going to cut and eliminate health care for children and those in need? We are missing an opportunity to have real reform now.

I know one can argue this case a lot of different ways, but I will just say, when we have my wonderful colleague, Senator GRASSLEY, whom I admire so much and who is personally a very frugal person, saying: Well, this chart which Senator GREGG, the former chairman of the Budget Committee, produced showing that when it is

scored out here, there is no money for it after the fifth year, as if it is going to drop to virtually zero—we know that is not going to happen, and, in fact, Senator GRASSLEY said we will have to find the money 5 years from now. But they wrote the bill in that way so it wouldn't score as costing as much as it is really going to cost. It is a gimmick. It is a classic gimmick, that is exactly what it is. It is a bit discouraging, I have to tell my colleagues, when I have a colleague I admire as much as Senator GRASSLEY taking that position on the bill.

Let me ask a few questions about this legislation that point out some of the failures in principle and good policy.

If this is a children's health insurance program, why does it cover adults? There is no ''A'' in it; it is SCHIP; it doesn't say adults. Clearly, SCHIP has been abused by some States that have expanded the program to cover adults when the goal of the program from the beginning was to cover children. That is what people talk about. In fact, there are 670,000 adults participating in SCHIP. Some States are spending over half of their SCHIP money on adults, including adults without children. One-third of covered adults are not even parents.

One might say: Why do you care that the State has this program? Because the Federal taxpayers are paying 65, 70, 80 percent of it. It is a federally conceived program and substantially federally funded program.

Fourteen States provide health insurance through SCHIP, the State Children's Health Insurance Program, for adults. The Government Accountability Office—that is our watchdog analysis group—reports that nearly 10 percent of SCHIP enrollees nationwide are adults. In Wisconsin, 66 percent of enrollees are adults. Seventy-five percent of the SCHIP funds are spent on adults, and we pay the bulk of that money. Sixty-one percent of the funds are spent on adults in Minnesota, where 87 percent of enrollees are adults, according to the Heritage Foundation. Illinois spends 60 percent of their money on adults; Rhode Island, 57 percent; and New Jersey, 43 percent.

This year, 13 percent of all SCHIP funds will go to adults who are not expectant mothers. About 30 percent of these adults are not even parents. Of the 14 States projected to spend more than they were given, allocated in 2007, 5 cover children not considered low income, and 5 cover adults other than expectant mothers.

The CMS goal and HHS goal was to end the adult waivers by 2009, but this bill basically blocks the ability for that to happen.

No. 2, I ask this question: If this program was created to help lower income children, why are some States covering middle- and high-income children and adults? Isn't this an indication that the program has gone far beyond what its original concept was? Isn't this typical of big Government programs, how they grow and take over more and more, and pretty soon become a Government-dominated system?

I don't think that is the way for us to go. Rich States are getting richer under this program. States are not stupid; they have figured out how to make the program work to their advantage. If they have the money, they make it work to their advantage, if they can make their match. The definition of low income, therefore, has been manipulated. The SCHIP statute defines a low-income child—this is what it says:

> A child whose family income is at or below 200 percent of the poverty line for a family of the size involved.

So it is supposed to be for, and was created in the fundamental statute to be for, those at or below 200 percent of poverty. I will talk about what that means in a minute. That is a pretty decent income, but we are going way above that. However, States are allowed to disregard parts of a family's income. They can just disregard it. These income disregards can mean, for example, that $50,000 of a family's income simply doesn't count, making many more children and adults eligible who are not low-income people.

New Jersey disregards all income between 200 and 350 percent of the poverty level. How do they do that? I am not sure. They got a waiver, apparently. Senator ALLARD presented an amendment to fix the problem of income disregards. It was defeated, of course. New Jersey just disregards the income between 200 and 350 percent of the poverty level.

Ten States and the District of Columbia now cover children in families with incomes of up to 300 percent of the Federal poverty level. In those States, SCHIP provides health insurance for children in a family of four earning up to $61,950. That is a pretty good income. The program, in its current form, provides health insurance for children in those families. New Jersey has extended eligibility to $72,000 for a family of four—350 percent of poverty level. New York recently voted to extend eligibility to families of four earning up to $82,000—400 percent of poverty level.

This is supposed to be a program for the poor. It basically is a program for the poor in most States—it is in my State. Some legislative proposals on SCHIP would allow all States to expand SCHIP. Some of these proposals we are floating around here would allow all States to go to 400 percent of poverty level, which would make 71 percent of all American children eligible for public assistance through Medicaid or SCHIP.

This bill will allow New York to cover people at 400 percent of the poverty level. Now, the bill says 300 percent, and that is what they will say here on the floor, that it is 300 percent, but the grandfathered-in program covers New York, and they are at 400 percent, which means we will be subsidizing that.

Mr. BAUCUS. Will the Senator yield for a question?

Mr. SESSIONS. Yes, I would be delighted. I hope I am wrong.

Mr. BAUCUS. Are there any States that cover 400 percent of poverty?

Mr. SESSIONS. That do what?

Mr. BAUCUS. That cover children at 400 percent of poverty.

Mr. SESSIONS. I understand New York has passed a law that would do that.

Mr. BAUCUS. No, that is not correct.

Mr. SESSIONS. It hasn't taken effect yet, but I understand they have passed it.

Mr. BAUCUS. No. Is it true if a State wants to cover, say, above 300 percent of poverty, is it true the State has to get concurrence with the Secretary of HHS?

Mr. SESSIONS. Yes.

Mr. BAUCUS. Has New York received that concurrence?

Mr. SESSIONS. My understanding is that under the current law, the Department of Health and Human Services believes it may have to grant that waiver, and nothing in this bill would prevent it; is that not correct?

Mr. BAUCUS. Actually, I would not say it is 100 percent incorrect, but HHS has discretion, as HHS had discretion granting other waivers which the Senator is concerned with, and, frankly, this Senator is concerned with. As the Senator knows, this bill is designed to crack down on the effect of those waivers and prevent any future waivers with a lot of the adults I know the Senator is concerned about.

I wished to make the point that no State covers at 400 percent of poverty today. Secondly, if New York does seek 400 percent—if any State seeks 400 percent, it has to get the concurrence of the Secretary of HHS.

Mr. SESSIONS. Well, I will say this without doubt, Mr. President. Amendments have been offered, I believe already and will be offered, to make sure New York would not be able to get the 400 percent. Because the Federal taxpayers in my State of Alabama, where we provide SCHIP to children under 200 percent of poverty, we are going to be subsidizing that, and I don't see any reason for us to do that. But under this bill it can continue, if Health and Human Services is correct, and their lawyers tell them they can't deny this request.

I will agree they probably should have been more aggressive in denying some of these things and litigating, if need be.

Mr. BAUCUS. Will the Senator yield for another question?

Mr. SESSIONS. I will do my best to answer the Senator's question.

Mr. BAUCUS. I appreciate the willingness of the Senator to engage in a dialogue. Is it true, first, that the match rates States are getting; that is, the Federal proportion and the State proportion, are more favorable to States under the CHIP program than it is under Medicaid?

Mr. SESSIONS. I believe that is correct.

Mr. BAUCUS. The Senator is correct. That is correct. Is it also true that, on average, the differential is about 30 percent? That is, the match rate that States get under the Children's Health Insurance Program is about 30 percent better, from the State's perspective, than the State gets from Medicaid; is that also true?

Mr. SESSIONS. I believe so.

Mr. BAUCUS. It is true.

Mr. SESSIONS. I know the distinguished committee chairman probably knows that pretty well.

Mr. BAUCUS. It is true it is about 30 percent. Is it also true that different States have different costs of living?

Mr. SESSIONS. That is correct.

Mr. BAUCUS. And so some States—

Mr. SESSIONS. Although as the days and years go by, less and less perhaps.

Mr. BAUCUS. Different States have different costs of living. Some are more expensive to live in than other States.

Although the Senator is correct that States have set their eligibility rates at 300 percent of poverty, that actually, at that point, States no longer receive the Children's Health Insurance Program match rate, which is 30 percent higher on average than they receive in Medicaid. They can go to 300 percent or above 300 percent, but if they do—if they do—isn't it also true they get a much lower match rate than they receive today; that is, at the CHIP rate rather than the Medicaid rate?

Mr. SESSIONS. My understanding is the Senator is correct; that is, at least in Medicaid those rates, as you cover certain extras, you get a lower percentage rate. I am unsure of the exact details about how that is applied in SCHIP, but I understand there is a differential.

I would suggest to my colleague, though, that what we have done is created a system that incentivizes States to spend because they are getting a very substantial—65 to over 80 percent—match to cover things they wouldn't otherwise cover because it is money given gratis from the Federal Government; is that not correct?

Mr. BAUCUS. Well, if the Senator is asking me the question, that is true, as in the case of Medicaid but reminding us that we are talking about very low-income kids here.

Mr. SESSIONS. Well, reclaiming the floor, the GAO did a study that criticized this aspect of Medicaid some time ago, and it made some news; that the net effect of all this is that, on a percapita basis, people in higher income States are getting more out of Medicaid than they are in poorer States, on a fairly substantial basis. They have criticized that policy. Some of those same policies based on that unprincipled approach to health care are at work in this bill.

Again, the Federal Government would pick up a substantial percentage of what New York may get if they go to 400 percent. But 350 and 300 percent is, I think, a bit much anyway. For example, about 70,000 upper-middle-class-income families who pay the alternative minimum tax would also qualify for SCHIP under this bill. The program, I think, as a matter of policy, encourages irresponsible spending.

Think about this: States who use up all their allotment, many of which obviously are those giving out their richest benefits, profit from States such as Alabama, who are very careful with their spending and stay within their allotments. In years past, if Alabama didn't use all the allotment given to them—and they have to match a portion of it to get that money—that money was redistributed to States who spent more. This is, I think, unfair and not good, sound policy. It has encouraged States to overspend while punishing States who have been conscientious about controlling spending.

Of the States which exceeded their allotment and that have asked for bailouts, adults accounted for 55 percent of those States' enrollees, according to the Government Accountability Office. Those States that have exceeded their allotment, that have reached back into the pool and have gotten more money, the GAO has found that about 55 percent of what they pay out goes to adults. Not to children—adults. This bill does not stop that in an effective way. It had an opportunity to, and it did not.

Of the 18 States projected to have shortfalls for 2007, 7 have SCHIP eligibility that is above 200 percent of the poverty level. So the 18 States who were projecting they were going to spend above their eligible amount, they are the ones that have the highest eligibility rate. Four of those States—Maryland, Massachusetts, Missouri, and New Jersey—are at or above 300 percent of the poverty level, so you are talking about subsidizing health care for a family of four earning $60,000 per year.

In addition to taking leftover money from fiscally responsible States such as Alabama, some States that have expanded their programs beyond the scope of the original program have asked the Government to bail them out with new money. In other words, there is not enough leftover money. Not enough leftover money now that they can scoop up from frugal States such as Alabama to take care of their spending, so now they are asking and demanding more money from the Federal Government to match whatever they want to do.

It is a classic example of an out-of-control Federal program running amok. I have to tell you that is not good policy.

Five States have taken 83 percent of Government bailout funding for 2006 and 2007, and 14 States received part of this funding. This is the extra money Congress has appropriated to fill their deficits. Only 5 States have gobbled up 83 percent of these funds, with 14 States receiving part of this funding. But out of $720 million, Illinois received $237 million, New Jersey $164, Rhode Island—small Rhode Island—$84 million—high-income State, that is—Maryland $31 million, and Massachusetts $77 million.

So it is the high-benefit, high-tax States that are sucking up money out of the fund, and they want more and more. This bill does not deal with that.

The bill only worsens the problem of States who are overspending as it creates a contingency fund. Now, the contingency fund is specifically designed to provide this additional funding to States that run out of money because they have covered too much and there is not enough Federal matching money for them. I think we better name this contingency fund the ''Federal Fund to Encourage SCHIP Overspending.'' Maybe that would be the right title for it.

As Secretary Leavitt has said, this section indicates that either the allocation formulas that determine how much money States get are wildly inaccurate or we do want States to overspend. It seems like that is our goal. That is why people are suggesting this is a subtle way to have the Federal Government take over a larger and larger portion of health care in America.

A further example of bad SCHIP policy is federally subsidizing infrastructure for States to develop government-sponsored universal health care. Many States, such as Pennsylvania and Vermont, have already begun the process of instituting a universal health care program. I think it is unfair to tax people in the frugal States to pay for rich health care plans for the wealthy in other States. That is not a good policy.

About 45 percent of American children are currently enrolled in Medicaid or SCHIP, though only 37 percent are in families earning less than 200 percent of the Federal poverty level.

This is the third question I would ask. CBO estimates that about half of new SCHIP enrollees from this legislation now have private insurance. So my question is: Why would we spend taxpayers' money to insure people who are already insured? This bill would decrease private health insurance coverage. It would encourage people to leave their plans. It seeks to take kids away from private coverage and move them to government-run health care. Parents would be financially motivated to take their children off private, usually employer-sponsored plans, and put them on a taxpayer-supported plan. Those children would then have to be supported by the taxpayers; whereas, before they were covered by their own private insurance plan.

A recent report by CBO estimates that SCHIP has reduced the uninsured in the target population—those we wanted to reach who are uninsured, low-income children—by only 25 percent. That is the CBO saying that. The target group that was uninsured—low-

income children—we have reduced those uninsured by only 25 percent. I think this is because a lot of children now in SCHIP, and in many States adults, are people who used to be on private health plans. Between 50 percent and 75 percent of Medicaid expansion funds in the 1990s were spent on people who would have been privately insured, according to the economist Jonathan Gruber. That is a big number. I don't know if it is accurate, but that is what he concluded—between 50 percent and 75 percent of Medicaid expansion funds—were spent on people who would have been privately insured.

One study found that 60 percent of the children who became eligible for SCHIP had private coverage in the year before the SCHIP plan began. That is a stunning number; 60 percent of the children who became eligible for SCHIP had private insurance the year before. CBO found that among newly eligible populations—the higher income families who would be covered by this bill—one child will drop private coverage for every new uninsured child who is enrolled in the public program. That is a stunning number.

Overall, for every 100 children whom this bill would enroll in SCHIP, 50 of those children would come from private insurers. So half of the children we are going to be covering would be coming from private insurance plans. I don't think that is good policy, unless it is your goal to diminish private insurance and further take over the private sector with Federal plans.

These are conservative estimates, since the studies failed to calculate the crowd-out effect for adults who switched to Government plans. A recent study——

Mr. BAUCUS. Will the Senator yield on that point for a question?

Mr. SESSIONS. I will be pleased.

Mr. BAUCUS. A question designed for Senators to have more information about the basic point the Senator was talking about, crowd-outs, which the Senator understands is people on private insurance leaving private health insurance to go to the program that Congress may have enacted.

Does the Senator have any idea—I found this very interesting—when Congress passed the Medicare Modernization Act, which included Part D drug benefits—I don't know whether the Senator voted for that bill. I assume the Senator voted for that.

Mr. SESSIONS. I did vote for that.

Mr. BAUCUS. Does the Senator know at that time what the so-called crowd-out was? In fact, put it this way: Does the Senator know what percent of people who at that time were on private health insurance who might then have gone to a program the Government offered? Does the Senator have any idea—I am not saying the Senator should know. Does the Senator have any idea what was estimated at that time when we passed that bill what the crowd-out would be?

Mr. SESSIONS. Responding to the question of the Senator, I do know that you, as one of the authors of that bill which I did support, did create provisions to minimize that and deliberately took steps to reduce the amount of crowd-out that would occur.

Mr. BAUCUS. The Senator is correct.

Mr. SESSIONS. I am sure some would occur. Of course there was a feeling and observation on that from the beginning that this was a trend in the country.

Mr. BAUCUS. Correct. There is no real official conclusion of what the actual crowd-out has been. But does the Senator know the basic unofficial statistic is about 66 percent; there was about a 66-percent crowd-out under the Medicare Modernization Act?

Mr. SESSIONS. I am not aware of that. I know my mother didn't have any coverage. She was glad to get the prescription drug benefits.

Mr. BAUCUS. I want to ask another question. Does the Senator know what the anticipated crowd-out was when this Children's Health Insurance Program was originally enacted in 1997? What was the estimated crowd-out then, when we passed this bill in 1997?

Mr. SESSIONS. I am curious. I don't know.

Mr. BAUCUS. It is about 40 percent. And does the Senator know what the actual experience has been? About between 25 and 50 percent are the best numbers we can get.

Mr. SESSIONS. That is not so much—

Mr. BAUCUS. Between 25 and 50.

Mr. SESSIONS. I am pretty close to the estimate.

Mr. BAUCUS. You are close. Does the Senator know that when we wrote this bill we asked the CBO Director, Peter Orszag, to tell us in the Finance Committee what we have to do to minimize the phenomenon of crowding out? Of course the Senator doesn't know we asked him, but does the Senator know when we asked Peter Orszag during the markup—it is on the public record—were we extremely efficient and minimized the crowd-out as much as we possibly could, does the Senator know Mr. Orszag said, Yes, we were extremely efficient and minimized crowd-out as much as we possibly could?

Mr. SESSIONS. I didn't. But I will respond by asking this question: If we have crowded out prescription drug coverage for seniors, if we crowd out private insurance in Medicaid for low-income people, if we crowd out regardless of income concerns in general Medicare, and if we now crowd out more children and even adults under a children's plan, who is going to be left in private coverage?

Mr. BAUCUS. Let me answer that question by asking this question in return: Would the Senator want even more crowd-outs under a different approach? All experts say if we try to address more coverage for low-income kids through private coverage that the crowd-out would be even greater. Would the Senator want that greater crowd-out to occur, compared with the Children's Health Insurance Program?

Mr. SESSIONS. I would respond with this question: Isn't it true, if you are setting eligibility at 400 percent of poverty, or 350 percent, or 300 percent of poverty, you are going to crowd out more people with insurance than if you are actually taking care of poor people who are less likely to have insurance?

Mr. BAUCUS. I respond to the Senator, I have forgotten the exact statistic, but intuitively the answer is the one the Senator is suggesting, but actually the fact is, as we established earlier, no State has 400 percent of poverty. No State does. No State does. But for those States above 300 percent, the kids who are actually covered, the greatest preponderance of kids covered is still low-income kids. I say of all the beneficiaries to date under the Children's Health Insurance Program today, 91 percent are children at or below 200 percent of poverty.

This program is for kids. I know all this concern about adults and I share the Senator's concern about adults. I share it very strongly. We worked very hard on this bill to cut down adults, as the Senator knows. Childless adults are phased out after 2 years and parents are much lower—get a poorer rate. The third category of adults, pregnant women, there is a State option.

But the biggest concern, I am sure, of the Senator from Alabama is childless adults. This is supposed to be a kid's program, not an adult's program. We say, OK, after 2 years you are off. As the Senator also knows, back in the Deficit Reduction Act, when that was passed, we prevented HHS from granting any waivers for childless adults in the future.

Mr. SESSIONS. I thank the distinguished chairman for his insights. It has been a good dialog. I would go back, fundamentally, to the remarks I made at the beginning. Our present health care system is not working well. I believe a simpler system, if taken as part of the idea of equalizing tax deductions and tax credits for all Americans—and it would require spending from the Government to do that—if we did that in an effective way, every person could then choose their own insurance policy covering themselves as they wish. I think it would be a far more preferable way than taking a children's program and expanding it in a significant way.

There is no doubt. CBO has scored that for every child who is in this bill who would be enrolled in SCHIP, 50 percent of those children would come from private insurance coverage. That is a conservative estimate. It is a big deal. Fifty percent of the people who would be picked up under this plan would come from families where they are already covered.

The National Bureau of Economic Research, an independent group, estimates the crowd-out rate for SCHIP to be as high as 60 percent. Of 10 million children, about 50 percent of the children in families with incomes below 200 percent of the poverty line have insurance. This is the number for the lowest

income group. We would normally expect and do expect that higher income levels would have higher crowd-out effects. In fact, CBO—our own Congressional Budget Office—the one we have to rely on for information, estimates that 77 percent of the children in families at 200 percent to 300 percent of the poverty level already have private coverage. How about that? And 89 percent of children in families with incomes between 300 percent and 400 percent of poverty have private coverage, as do 95 percent of children in families above 400 percent of the Federal poverty level, according to our own Congressional Budget Office, which I assume our distinguished chairman does not disagree with. I mean he doesn't dispute those numbers.

Our goal should not be to take insurance away.

I will conclude. I know others are here prepared to speak. I have enjoyed the dialog.

I am not comfortable with the some of the ways we are proposing to take care of children and the way we are taking care of adults in a children's program and the way we are dealing with a broken Federal tax policy with regard to the uninsured. I was on a task force appointed by former majority leader Bill Frist, Dr. Bill Frist, to deal with the uninsured. We wrestled with it a number of ways. One of the ways we could have gotten a million people covered was through the association health plans, the small business health plans that my colleagues on the other side of the aisle managed to block.

Now we are moving more money, more, I guess, new wine in old wine bottles here. I think we need to break out of this mentality and create a system where you own your health insurance policy and you take it with you if you change jobs. I would note that the average American worker has had nine jobs by the time he or she is 35. Likewise, we ought to have savings accounts that people can take with them whenever they move from job to job and provide as much security and stability and assurance as we can possibly provide the working American families today.

Middle-class families are getting hit at both ends here. They are required to pay more taxes. They are not getting the benefits. They are working hard. If they are not working for a big company or the Government, they are paying a very high price for their health insurance.

We ought to work on these things, and if we did so, we might be surprised how many people might come on the insured rolls.

I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Montana.

Mr. BAUCUS. I am not going to belabor this crowd-out issue. A lot of people watching are probably asking what in the world is crowd-out. For those wondering what in the world crowd-out is that we are talking about here, basically it is how many people of those this legislation covers—how many people would be crowded out of private health care insurance. That is, if they are on private health care insurance today, how many would leave private health insurance to go to the Government program.

A couple of points here. No. 1, those who might be inclined to vote for the McConnell substitute know this, but actually the so-called crowd-out is greater in the McConnell-Lott proposal than it is on a percentage basis under my bill. On a percentage basis, under the McConnell-Lott bill, more people would be leaving private health insurance to go to the Children's Health Insurance Program.

Second, the figure we hear is 1 to 1. That is not accurate. That is selective use of the tables. If you look at the real facts, at the bottom line under CBO's estimates, they actually say it is more in the neighborhood of—it is not 50 percent that is represented here, but actually it is about 30 percent.

It also has been represented here that maybe under tax credits, which is a better way to go to cover health insurance, the implication is there will be less crowd-outs. Well, let me just point out that there is a fellow named John Gruber, and he is an MIT professor, a health economist. He is often quoted by the President. Professor Gruber is often quoted by President Bush in this general area. What does Professor Gruber say? He says that the tax credit crowd-out is, in his estimate, 77 percent. Much higher.

So for those concerned about the so-called crowd-out, I would think they would like the underlying bill because of all of the approaches we have discussed here, there is less crowd-out in the underlying bill than in the substitute or under the Kyl-Lott amendment and much less than would be the case under a tax credit approach to help low-income kids. I think the record should show that so Senators have full information and those watching this debate, wherever they may be, also have the facts before them.

Madam President, I suggest that the Chair recognize Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, all children should be able to see a doctor when they are sick, and all children should be able to get the medicine they need to make them better. When a kid gets a cut or requires stitches or comes down with a fever or an earache or with any imaginable problem, they should be able to get help, period. Unfortunately, today in America, the richest and most successful country ever, that is not the case. In fact, millions of American children do not have health insurance today, which means millions of American children cannot see a doctor when they are sick and millions of American children do not get the medicine they need to get better. As wages remain stagnant, as the cost of living—heat, food, clothing, college tuition, doctor's visits—increases, more and more parents today are unable to afford health care, and the ranks of uninsured children are growing.

This tragedy can only be described as a shame. It is unquestionably our moral obligation as Americans to correct it. It does not matter if you are Republican or Democrat, progressive or conservative—making sure our children get health care is the moral thing to do. Now, most of us in the Senate know this, and we are working now to do the moral thing—support reauthorizing and improving the Children's Health Insurance Program, or CHIP, which takes massive steps forward to giving our kids better health insurance in this country.

This bill will ensure that the 6.6 million children who are enrolled in CHIP continue receiving care, and it provides 3.2 million uninsured children with coverage. As a result, over the next 5 years, the number of uninsured children in America will drop by more than a third. It also strengthens the program by increasing funding for States that need the most help. You know, in recent years under President Bush's watch, many of our States have faced funding shortfalls, jeopardizing the coverage of countless children.

This bill also provides an emergency fund to cover unexpected shortfalls arising from economic downturns or emergencies. In fact, the Congressional Budget Office, which is a nonpartisan group of experts, predicts that 800,000 children now covered by CHIP or children's health insurance will lose coverage over the next 5 years unless there is an increase in funding above the base amount required.

This legislation which is before the Senate today provides $100 million as well for outreach and enrollment efforts that increase the participation of children in the Children's Health Insurance Program. It includes a national campaign to help raise awareness of the Children's Health Insurance Program and the targeting of our children in rural areas with high populations of eligible but unenrolled children today. Another outreach effort will provide funds for translation and interpretation service for CHIP, so minority children, especially Native Americans and Hispanics, will become more aware of this program.

Finally, this authorization plan provides my home State of Washington with the funding and flexibility we need to provide more children with quality health care.

This bill is a big win-win for Washington State and the many families who struggle to provide care for their children today. One of the smartest parts of this plan is that the money for these initiatives—$35 billion over 5 years—comes solely from a 61-cent excise tax increase on cigarettes and

other tobacco products. No other programs are cut; Social Security is not raided; the deficit will not be increased.

Not only will this bill provide millions of American children with health care, but it is estimated that it will lead 1.7 million adult smokers to quit smoking, and that will cause a 9.2-percent decline in youth smoking and will prevent over 1.8 million kids from becoming smokers. So when you provide health care to millions of children and lead millions of young people to stop smoking or to never pick up a cigarette, this bill is a win-win for our country and for our children.

I think it is very important that I thank my colleague, Senator Max Baucus, for his tireless work on this issue and for all of America's children. Without his determination, we would not be so close to providing more of our kids with health care.

It is also important to note that this bill is bipartisan. Senator GRASSLEY has worked very hard, along with Senator BAUCUS, in creating this legislation. It was passed out of committee on a commendable bipartisan basis.

Another big supporter of this bill on the floor has been Senator HATCH, who was a cosponsor, actually, of the original 1997 bill.

I listened to him as he recently said:

> We are trying to do what is right by our children who are currently not being helped by our health care system. If we cover children properly, we will save billions of dollars in the long run. Even if we did not, we should still take care of those children.

Senators GRASSLEY and HATCH are not alone on their side of the aisle. Many of our colleagues realize that supporting this legislation is the moral thing to do. Unfortunately, however, President Bush does not agree, and he has, amazingly, threatened to veto this bill. Now, he is going to be out there giving his reasons for the veto. He is going to make complicated arguments and throw some numbers around. But the bottom line is, the moral line is that vetoing this bill will endanger coverage for millions of children who are currently enrolled in our Children's Health Insurance Program, and a veto will deny millions of kids who would become covered under the bill a chance to see a doctor when they are sick. It seems, sadly, the moral light President Bush says guides his decisions has dimmed.

I wish to share the following story with President Bush and with any Senators who might be thinking about voting against this bill.

This is Sydney. Sydney and her mom Sandi DeBord live in Yakima, WA. Sydney has cystic fibrosis. Sydney's mom recently wrote to me. She talked about her daughter and the importance of the Children's Health Insurance Program, which allowed Sydney to get the care she needed, which extended her life and allowed her to live her short life to the fullest.

Mrs. DeBord wrote to me, and I want to read to you what she said. These are her words:

> My daughter has a life-shortening genetic condition called Cystic Fibrosis. With quality health care I believe her life has been extended and she has been able to enjoy 9 years of quality life.
>
> Of course, she spent many weeks in the hospital on life-saving IV antibiotics during those 9 years, and not a day goes by that she does not have to endure taking a bucket full of medicine. But despite the obstacle in her way, she is a happy child living life to the fullest.
>
> She is active, she does well in school, has many friends, and loves to sing and dance. However, none of that would be possible if it was not for the quality health care she receives as part of the CHIP health care. I know for a fact that without this bit of assistance, her life would end much sooner due to the inability to afford quality health care for her.
>
> As her parent, it frightens me to even think some day she may be without health care coverage if programs like CHIP are no longer available.

She said:

> I write to ask you to reauthorize the State Children's Health Insurance Program and ensure the program is adequately funded to provide high quality health care for children with Cystic Fibrosis.

I hope President Bush and opponents of this bill will listen to this story. I hope they take a chance to look at Sydney and the life in her eyes and the life she has been able to live. I know Mrs. DeBord hopes they are listening as well.

It is our moral duty as Americans to ensure our kids can see a doctor when they are sick. The bill in front of us today fulfills that duty. It ensures that children covered by CHIP remain covered, and it ensures that millions without insurance today are going to get it.

I strongly urge my colleagues to do the moral thing and support the reauthorization of this Children's Health Insurance Program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, as everybody knows, I have been in the CHIP battle since the beginning. I just want to pay a great deal of tribute to the distinguished chairman of the committee, Senator BAUCUS; the distinguished ranking member, Senator GRASSLEY; and, of course, Senator ROCKEFELLER.

In the beginning instance of CHIP, my good friend, Senator KENNEDY, and also Senator SNOWE, my dear friend—all of these people had a lot to do with the CHIP bill from the beginning. And I have to say that the original Hatch-Kennedy bill became the CHIP bill back in 1997, and, of course, it has come all of this way to today where we are looking for renewal.

There are some facts that really ought to be put into the equation here today, and I thought I would just spend a few minutes on some of the facts regarding CHIP.

No. 1: The Children's Health Insurance Program reauthorization is not full of budget gimmicks. The Senate Budget Committee has certified that this legislation complies with pay-go rules of both the 6- and 11-year base under the pay-go rule. The Congressional Budget Office has reviewed its 5-year and 10-year expenditures and revenue raisers and believes they are balanced on an on-budget basis. This bill is a 5-year authorization and is fully paid for with offsets. This bill is not a 10-year reauthorization, and that is an important point to remember. The CHIP program must be reauthorized in 5 years.

Fact two: Some have indicated that the Children's Health Insurance Program reauthorization imposes up to a $10 tax on a cigar. Well, the tobacco tax included in our bill prorates tobacco rates or taxes on cigars. The tax imposed on cigars is based on the price of a cigar. In very few instances will an individual cigar be taxed at $10.

Another fact: The Children's Health Insurance Reauthorization Act does not increase the crowd-out rate. There is crowd-out because there is always going to be crowd-out when you try to solve some of these very serious problems. Although, because we are covering more children, some have concern that the crowd-out rate will increase, according to CBO, the fact is that the crowd-out rates will not increase.

Another fact: The Children's Health Insurance Reauthorization Act prohibits the Federal Government from granting future State waivers to cover nonpregnant adults through CHIP. Our bill puts the emphasis back on low-income, uninsured children. Simply put, our bill puts an immediate stop to States being granted future waivers to cover nonpregnant adults.

Let me give you another fact: The Children's Health Insurance Program Reauthorization Act eliminates enhanced Federal matching rates for nonpregnant adults. At the beginning of fiscal year 2009, States will receive lower Federal matching rates for childless adults, and in fiscal year 2010, childless adults will not be covered under CHIP. At the beginning of fiscal year 2010, only States with significant outreach efforts for low-income uninsured children will receive enhanced match rates for parents; others will receive the lower Medicaid match rate, or FMAP, for adults.

Starting in fiscal year 2011, all States will receive a lower Federal match rate for parents. Those States covering more lower income kids will receive REMAP—that is the mid-point between the CHIP matching rate and the lower Medicaid matching rate. Other States will receive FMAP for CHIP parents.

Another fact: The Children's Health Insurance Program Reauthorization Act provides lower matching rates to States for those individuals 300 percent of the Federal poverty level and above who are covered under CHIP, thus penalizing States that want to cover higher income children.

Under the current CHIP bill, States receive an enhanced Federal matching rate for all income levels. Our bill discourages States from covering higher income individuals in the CHIP program. After enactment of our bill, States that have new waivers approved to cover 300 percent of the Federal poverty level and above would only receive a lower FMAP payment for higher income individuals.

Let me give one more fact, and then I will make some other points. The Children's Health Insurance Program Reauthorization Act is an effective children's health program and a small part of the overall cost of health. CHIP is not an entitlement program. That is something a lot of people don't understand. We drafted it that way because I didn't want it to be an entitlement program. Now some say we will never be able to stop it. That may be because it works. It has saved literally millions of children. It is a capped block grant program, where States are given flexibility to cover their low-income uninsured children.

According to CMS, the agency that has a lot to do with health care, in 2005, we spent a total of $1.98 trillion on our Nation's health care system. Private expenditures were $1.08 trillion. The Federal Government's expenditures were $900 billion. Total Medicare spending was $342 billion in 2005, according to CMS, and Medicaid was $177 billion in Federal dollars. Our bill today funds CHIP at $60 billion over 5 years. That is the $25 billion base figure and an additional $35 billion to cover more children. This is a fraction of the total cost of health care in our country to provide care for low-income, uninsured children. Covering these children is worth every cent. We spend almost $2 trillion on health care, and the equivalent of $12 billion a year is what this program will cost, out of $2 trillion in health care, $900 billion of which happens to be Federal dollars. Only $12 billion goes to these kids, mainly children of the working poor who earn enough that they don't qualify for Medicaid but don't have enough money to buy private health insurance.

That is what a lot of people don't seem to understand. The CHIP bill, up to now, has worked quite well in spite of the waivers, which I believe should not have been granted in many respects by the last two Administrations. But I have to say this program has worked very well.

I also wish to let everybody know that I support S. 1893, the Children's Health Insurance Program Reauthorization Act. Over the past few days, I have been listening to the floor debate on the bill being considered on the Senate floor this week. I have to admit, at some points during the debate, the descriptions I am hearing don't even sound like the bill I introduced with Senators BAUCUS, GRASSLEY, and ROCKEFELLER. Indeed, I believe there have been many allegations by opponents of S. 1893 that are not accurate. Therefore, I would like to take a few minutes to correct the record so my Senate colleagues hear from both sides before making a final decision on how to vote on this bill later this week.

First, I take issue with the point that our legislation is full of budget gimmicks. I made that point before, but I will remake some of these points. The Senate Budget Committee has certified this legislation does comply with pay-go rules on both the 6-year and 11-year bases under the pay-go rule. In addition, the Congressional Budget Office Director, Dr. Peter Orszag, told us in last week's Finance Committee markup that CBO reviewed the bill's 5-year and 10-year expenditures and revenue raisers, and CBO believes they are balanced on an onbudget basis. In addition, this bill is a 5-year authorization that is fully paid with offsets. This is how our rules operate. Those who talk about its 10-year impact fail to note this bill is not a 10-year reauthorization. That is an important point to remember. They argue that it will be very expensive in 10 years. Who knows? I can't tell you what it is going to cost in the remaining 6, 7, 8, 9, 10 years not covered by this bill, but we should all be working to try and keep costs down. We have to look at the CHIP program again in 5 years and reauthorize it.

I assure my colleagues that when writing this bill, we did everything possible to comply with the budget rules, and any assertion to the contrary is plain false. Further, I wish to remind my colleagues that when CHIP was established in 1997, we had a set amount of money and, as a result, the budget baseline did not assume any rate of growth for the CHIP program. Additionally, the budget rules did not consider the fact that health care costs are rising by 9 percent each year. That is not CHIP's fault. In many respects, that is our fault in the Congress due the way we run things around here.

Some would say that is why we shouldn't have CHIP. I guess that is why we shouldn't have any Federal programs, if that is the argument. The fact is, CHIP has worked abundantly well to help the most vulnerable people in our society, our children. I want to see that continue.

The budget rules also did not consider the increasing number of children enrolling in the CHIP program. Therefore, there is only $5 billion per year for the CHIP program in the budget baseline. To me, this number is unrealistic, and I think anybody who looks at it would agree. It creates a situation which is extremely frustrating because health care costs continue to increase in the CHIP program just like every other health care program is going up 9 percent a year. That is somewhat of a victory because it used to go up 13 percent a year. As a result, we had to come up with the money to keep the current program functioning, not to mention additional sums for providing coverage to uninsured, low-income children without health care. There are many incidents of young children who don't have health care beyond the CHIP program or that haven't been covered by the CHIP program.

To keep the program running as it currently exists, it will cost the Federal Government $14 billion. We fixed the problem by addressing the shortfall. Simply put, we had to comply with the budget rules in this bill, and we did. So in 5 years, the Congress will have to come up with money to keep the program operating, similar to the challenge we are facing with our $14 billion deficit right now.

We need to be realistic. Since CHIP is not a permanent program and not an entitlement program, we in Congress have an even bigger job to keep the program running efficiently in the next 5 years. The current budget rules do not include a realistic rate of growth after the program expires. I can only conclude, then, with this bill, we are doing the best we can under very difficult circumstances for some of the most vulnerable people in our society, our children, the ones left out of the Medicaid process and whose parents don't earn enough money to buy insurance.

Another issue I have heard being raised is that our legislation will raise tobacco taxes on cigars to $10 a cigar. Let me make one thing perfectly clear. The Children's Health Insurance Program Reauthorization Act does not impose a $10 tax on each cigar. In fact, the tobacco tax included in our bill prorates tobacco taxes on cigars. The tax imposed on cigars is based on the price of the cigar. In very few instances will an individual cigar be taxed at $10, and those who can afford that kind of cigar can afford the taxes.

I know Senators are concerned about what some term ''crowd-out.'' Crowd-out is having individuals who are currently covered by private health insurance drop their private health insurance to be covered by a government program.

This was my concern, as it was for Senator KENNEDY, when we enacted CHIP originally. It is a valid concern today as well. But allegations that this bill increases the crowd-out rate are untrue. According to CBO, the fact is, the crowd-out rate will not increase for the basic CHIP program. While crowd-out does remain a serious problem, the crowd-out rate is not worsened by our bill. People will turn to whatever is better for them. If the CHIP bill is better for these kids, they are going to turn to it. I don't think we can blame them for that. Of course, the argument is that this is the camel's nose under the tent for one-size-fits-all socialized medicine. No, it isn't. But some want to make it that type of a program. I believe the House may be well on its way to trying to make it that, but we don't in this bill.

In fact, during the Senate Finance Committee markup last week, CBO Director Peter Orszag told us the crowd-out rate for this bill is the same as the

crowd-out rate for the original CHIP program. In addition, the CBO Director told us that in the absence of a mandate, this approach is as efficient as you can possibly get per dollars spent to get a reduction in the number of uninsured children, the goal of the CHIP program. This is because the incentive fund which was created in this bill to reward States for lowering the number of uninsured, low-income kids is designed so it provides a payment per child only for new Medicaid children as opposed to new CHIP children. This is helpful with crowd-out, first, because Medicaid is for lower income kids who are less likely to have the option of private coverage, so tilting toward Medicaid is beneficial. Second, the payments for the incentive fund payments are graduated. In other words, they are not based on random noise. The combination of these two is an efficient outcome.

According to CBO, the approach we take in our bill is probably the most efficient way to have new dollars spent to reduce the number of uninsured children.

Another issue that continues to be raised is adult coverage under CHIP. Unfortunately, the opponents of the bill have not been very clear about how adults are treated under this legislation. If I were the only one drafting the bill, which obviously I am not, I would like to see all adults removed from the CHIP program today, or tomorrow, to be a little more precise. I don't think they have any business receiving health care through a program created for low-income, uninsured children. In fact, I am very disappointed with our administration for continuing to grant Federal waivers to States to cover adults through CHIP. This has been extremely frustrating to me. Of course, our original language allowed them to do it, but we never dreamed for a minute they would allow some States to have more adults on this program than children. Not only is that ridiculous, that was never contemplated. But that is what has happened.

This legislation addresses this matter by phasing childless adults off the CHIP program and lowering the Federal matching rate for parents and States who currently are covered under the CHIP program. Recently, Senators GRASSLEY, ROBERTS, and I wrote both the President and my good friend, Health and Human Services Secretary Mike Leavitt, urging the administration to stop granting States any new adult waivers. I was pleased to hear back from Secretary Leavitt regarding adult waivers. I truly believe the letter Senators GRASSLEY, ROBERTS, and I sent to the President and Secretary Leavitt, along with the CHIP reauthorization bill we drafted, made some impact with the administration. I am encouraged that the administration says it does not intend to approve any new adult waivers or renew any waivers for adults. I am also encouraged to see the administration is making progress toward removing adults from the CHIP program. However, these decisions should have been made a long time ago. I take issue with the point that our legislation will actually reverse the progress the administration is making with the States. I truly believe that one of the reasons the administration is finally moving forward on this is due to the pressures it has received from Congress to remove adults from the program. I look forward to working with the administration to make this a reality.

To be fair, most of these waivers were granted before Secretary Leavitt took over at that position. I don't want to particularly blame him, but some waivers have been approved afterwards as well. I think the same crowd down there has been doing it and, of course, Secretary Leavitt has been the one who some would blame, although I think unjustifiably.

The Children's Health Insurance Program Reauthorization Act prohibits the Federal Government from granting future State waivers to cover nonpregnant adults through CHIP once and for all. Simply put, our bill puts an immediate stop to States being granted future waivers to cover nonpregnant adults. Our bill puts the emphasis back on low-income, uninsured children. As one of the original authors of the CHIP program, I am here to tell Senators we did not create CHIP for adults. I wish we could do more for the working poor adults, but we do not have the money, and this program was not created for adults. We created CHIP for low-income uninsured children.

On a related matter, our legislation also eliminates enhanced Federal matching rates for adults, with the exception of pregnant women.

Today, under CHIP, States receive an enhanced Federal matching rate for those covered under CHIP. The Medicaid Federal medical assistance percentage, known as FMAP, ranges between 50 percent and 76 percent in fiscal year 2006; the CHIP FMAP ranges from 65 percent to 83.2 percent.

At the beginning of fiscal year 2009, States will receive lower Federal matching rates for childless adults, and in fiscal year 2010, childless adults will no longer be covered under CHIP. With regard to parents, at the beginning of fiscal year 2010, only States that have covered more low-income uninsured children or have undertaken significant outreach efforts for low-income uninsured children will receive enhanced match rates for parents; the others will receive the lower Medicaid match rate, or FMAP, for adults.

Starting in fiscal year 2011, all States will receive a lower Federal matching rate for parents. Those States covering more lower income kids or with significant outreach efforts will receive REMAP. That is the midpoint between the CHIP matching rate and the lower Medicaid matching rate. The other States will receive FMAP for CHIP parents.

Many have also raised concerns about the income eligibility level of those covered by CHIP.

The Children's Health Insurance Program Reauthorization Act provides lower matching rates to States for those individuals with incomes at 300 percent of the Federal poverty level and above who are covered under CHIP, thus penalizing States that want to cover higher income children.

I might add, the original bill had us at 200 percent of the Federal poverty level, and approximately 90 percent of the children covered by CHIP were 200 percent of the federal poverty rate and below.

Today, States receive an enhanced Federal matching rate for all income levels. Our bill discourages States from covering higher income individuals in the CHIP program. Once our bill is enacted, States that have new waivers approved to cover individuals 300 percent of the Federal poverty level and above would only receive the lower FMAP payment for these higher income individuals.

To me, this is dramatic improvement over current law which allows higher income individuals to receive the same Federal matching rate provided to States for covering low-income children through the CHIP program.

Finally, I emphasize that the CHIP program is an effective children's health program and a small part of overall health care costs. I make that point one more time. CHIP is not an entitlement program. It is a capped, block-granted program where the States are given flexibility and control, to cover their low-income uninsured children. It is totally voluntary on the part of a State to participate and offer CHIP program benefits to its residents.

According to CMS, in 2005 we spent a total of $1.98 trillion on our Nation's health care system. Private expenditures were $1.08 trillion, and $900 billion in Federal dollars. Total Medicare spending was $342 billion in 2005, and Medicaid was 177 billion in Federal dollars.

Our bill today funds CHIP—for 5 years—at $60 billion over the 5-year period. It is a fraction of the overall health care costs. If you want to divide it by 5, it is $12 billion a year out of a $2 trillion expenditure in this country for total health care, and out of a $900 billion Federal expenditure for health care. This $12 billion per year is a fraction of the cost, or should I say, this $60 billion over 5 years is a fraction of the cost to provide care for low-income uninsured children.

Now, I think it is pathetic for people to argue that this is running out of control when we are trying to cover kids who have not been covered, as well as those who have—when it costs, like I say, $12 billion a year out of $900 billion spent by the Federal Government. I wish we had a better system in the sense that the private sector could take care of everybody. I think part of

our problem is we have too much Federal Government involvement. But the fact is, for the CHIP program to be reauthorized, it is a very minuscule amount of money compared to the $900 billion, every year, the Federal Government pays for health care coverage.

Covering these children is worth every cent. If we do not take care of these children, these low-income uninsured children, these kids are going to have serious health care problems in the future, and it is going to cost the federal government a lot more than what reauthorizing the CHIP program is going to cost us. We have to look forward to the future and do everything in our power to help these children.

It is my hope that I have cleared up some of the misconceptions that my colleagues may have regarding the bill the Senate is considering this week.

Mr. President, I will yield the floor. I apologize that I have taken so long, but I wanted to clear up some of these misconceptions about the CHIP bill that have been stated on the floor by some of my colleagues. I know they are very sincere, and I know they want to be fiscally responsible. But to argue that $12 billion a year or $60 billion over 5 years is too much money to pay for our children—when we are spending $2 trillion on health care—I think that makes our point, the distinguished Senator from Montana and I have been trying to make, even more resilient and effective.

The PRESIDING OFFICER (Mr. OBAMA). The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I thank Senator HATCH. He has been very hardworking and dedicated to the goal of trying to find a balanced, bipartisan solution to help expand the Children's Health Insurance Program. I compliment him very deeply for all of his terrific work.

Mr. HATCH. I thank my colleague.

Mr. BAUCUS. He has just gone above and beyond. Senators and the people from the State of Utah, I think, should know that. He has done a super job.

I know a number of Senators have been seeking to speak, and I want to protect them. So I ask unanimous consent that the following Senators be recognized in the following order: first, Senator NELSON of Florida, then Senator THUNE of South Dakota, and then Senator LAUTENBERG of New Jersey.

Mr. KERRY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I will not object. I would just like to ask if I might be recognized first to simply make a unanimous consent request on a modification and send it to the desk. I will not speak.

The PRESIDING OFFICER. Are there any objections?

Without objection, it is so ordered.

AMENDMENT NO. 2602, AS MODIFIED

Mr. KERRY. Mr. President, I ask unanimous consent that my amendment No. 2602 be modified, as sent to the desk, and that be the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end, add the following:

TITLE IX—IMPROVED INCENTIVES TO ENROLL UNINSURED CHILDREN AND PROTECT EXISTING COVERAGE OPTIONS

SEC. 901. IMPROVEMENTS TO THE INCENTIVE BONUSES FOR STATES.

Paragraphs (2) and (3) of section 2104(j), as added by section 105(a), are amended to read as follows:

''(2) PAYMENTS TO STATES INCREASING ENROLLMENT.—

''(A) IN GENERAL.—Subject to paragraph (3)(D), with respect to each of fiscal years 2008 through 2012, the Secretary shall make payments to States from the Incentive Pool determined under subparagraph (B).

''(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) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as determined under paragraph (3)(A)(i)) under title XIX for the State and fiscal year multiplied by 6 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) 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 paragraph (3)(A)(ii)) under title XIX for the State and fiscal year multiplied by 35 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(iii) THIRD TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of third tier above baseline child enrollees (as determined under paragraph (3)(A)(iii)) under title XIX for the State and fiscal year multiplied by 90 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(3) DEFINITIONS AND RULES.—For purposes of this paragraph and paragraph (2):

''(A) TIERS ABOVE BASELINE.—

''(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under 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 (C)) enrolled during the fiscal year under the State plan under title XIX; exceeds

''(II) the baseline number of enrollees described in clause (iv) for the State and fiscal year under title XIX, respectively;

but not to exceed 2 percent 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 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 (C)) enrolled during the fiscal year under title XIX, as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iv) for the State and fiscal year under title XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i),

but not to exceed 7 percent of the baseline number of enrollees described in clause (i)(II), reduced by the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i).

''(iii) THIRD TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under 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 (C)) enrolled during the fiscal year under title XIX, as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iv) for the State and fiscal year under title XIX, as described in clause (i)(II), the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i), and the maximum number of second tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (ii).

''(iv) BASELINE NUMBER OF CHILD ENROLLEES.—The baseline number of child enrollees for a State under title XIX—

''(I) for fiscal year 2008 is equal to the monthly average unduplicated number of qualifying children enrolled 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.

''(B) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—For purposes of subparagraph (A), 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.

''(C) 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.''.

SEC. 902. OPTIONAL COVERAGE OF OLDER CHILDREN UNDER MEDICAID AND CHIP.

(a) MEDICAID.—

(1) IN GENERAL.—Section 1902(l)(1)(D) (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, under such higher age, not to exceed 21 years of age, as the State may elect)''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(e)(3)(A) (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 (l)(1)(D))'' after ''18 years of age''.

(B) Section 1902(e)(12) (42 U.S.C. 1396a(e)(12)) is amended by inserting ''or such higher age as the State has elected under subsection (l)(1)(D)'' after ''19 years of age''.

(C) Section 1905(a) (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 (l)(1)(D)'' after ''as the State may choose''.

(D) Section 1920A(b)(1) (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(l)(1)(D)'' after ''19 years of age''.

(E) Section 1928(h)(1) (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(l)(1)(D)''.

(F) Section 1932(a)(2)(A) (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) (42 U.S.C. 1397jj(c)(1)) is amended by inserting ''(or, at the option of the State, under such higher age as the State has elected under section 1902(l)(1)(D))''.

SEC. 903. MODERNIZING TRANSITIONAL MEDICAID.

(a) FOUR-YEAR EXTENSION.—

(1) IN GENERAL.—Sections 1902(e)(1)(B) and 1925(f) (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking ''September 30, 2003'' and inserting ''September 30, 2010''.

(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 (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) (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 (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. 904. REPEAL OF TOP INCOME TAX RATE REDUCTION FOR TAXPAYERS WITH $1,000,000 OR MORE OF TAXABLE INCOME.

(a) IN GENERAL.—Section 1(i) of the Internal Revenue Code of 1986 (relating to rate reductions) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) EXCEPTION FOR TAXPAYERS WITH TAXABLE INCOME OF $1,000,000, OR MORE.—

''(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of taxable years beginning in a calender year after 2007, the last item in the fourth column of the table under paragraph (2) shall be applied by substituting '39.6%' for '35.0%' with respect to taxable income in excess of $1,000,000 (one-half of such amount in the case of taxpayers to whom subsection (d) applies).

''(B) INFLATION ADJUSTMENT.—In the case of the dollar amount under subparagraph (A), paragraph (1)(C) shall be applied by substituting '2008' for '2003' and '2007' for '2002'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

(c) APPLICATION OF EGTRRA SUNSET.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. KERRY. I thank the Chair and thank my friend.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, first of all, before the Senator from Utah leaves the Chamber, I want to say that I listened to him, and I appreciate his leadership. This is one of the most important programs. It was created back in 1997, when the Senator from Utah took a leading role, along with the Senator from Montana. It is truly a bipartisan program, and it is one that has met with great success.

As it was created in 1997, this Senator happened to be the elected State treasurer and insurance commissioner of Florida, of which in that position I chaired the health insurance program for children that had been set up separate from this program. This program just all the more enabled us in Florida to add that many more children to receive health care, particularly health care at a time that is so important in their lives, when those little minds are beginning to learn and those little bodies are beginning to build.

So I just want the two Senators on the floor to know how much I appreciate it.

Since 1997, even as the percentage of uninsured adults has increased, the rate of low-income uninsured children has decreased by over a third. As a result, these insured children, in large part because of this program, have been afforded better access to primary and preventive care, better quality of care, improved health, and even improved school performance.

In our State, over 300,000 children received health insurance through Medicaid or CHIP last year, and those children were able to enjoy these benefits. But over 700,000 children in Florida remain uninsured. This legislation before us is the best opportunity to expand coverage to a significant portion of those 700,000 children in Florida and millions of low-income uninsured children throughout the country.

We have seen how successful this program can be, and we are aware of how many more children should be allowed to participate. So 10 years after the creation of the program, now we have the opportunity to pass this bipartisan bill that reauthorizes and further strengthens this very popular program.

This legislation is bipartisan. It is going to bring health care to millions of children. While many of us in this Chamber have supported an additional $50 billion for this program, I believe the $35 billion allocated in this legislation is a fair compromise. With that money, we can still accomplish an increase of more than 3 million children newly insured under the program.

I also support the inclusion of legal immigrant children and pregnant women in the program, and I was disappointed to see it was not included in this legislation. Under current law, legal immigrants who have been in this country for less than 5 years are not eligible to participate in Medicaid or CHIP, despite the fact they pay taxes to support those programs. As a result, the preventive effects of health insurance are not being realized for them. I am concerned, as so many of us are, that we are going to end up paying much more in the future for health problems that could have been treated

early on. I understand there will be an amendment that will be offered to include legal—legal—immigrants in this reauthorization, and I am going to support that amendment.

Now, another concern I have is a portion of the tobacco tax. It is not the tobacco tax. If you have to find a source of revenue, then this is the place to do it. But I want to emphasize the increase in the tobacco tax, as a whole, is quite appropriate as a funding mechanism for this legislation. It is going to have significant, positive impacts on health. It is going to save billions of dollars in health care costs, and it is going to reduce the prevalence of smoking among kids, whom this bill is designed to protect. But there is a portion that is not fair, and that is the tax that is applied with some inequity across product lines. Unbeknownst to most people, Florida is the largest cigar manufacturing State in the country and serves also as the main port of entry for premium handmade cigars into the United States. There are approximately 30 cigar manufacturers and importers based in Florida which employ 4,000 workers and thousands more in support industries. I hope some of these problems with the tax which cause many multiple thousands of a percentage increase in the tax on those cigars is going to be addressed in this bill, and what is not addressed in this bill can be addressed in conference.

Despite some concerns, this bipartisan legislation is a strong bill with much to its credit. It will institute a more streamlined funding process and it will provide for improved child health quality measures, and will give States such as ours important opportunities for expansion.

We have the opportunity to do something that is morally unassailable, and that is to expand access to health care to a significant number of low-income children. I believe this bipartisan legislation is the best way forward, and I look forward to casting my vote in favor.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

MODIFICATION TO AMENDMENT NO. 2593

Mr. THUNE. Mr. President, I ask unanimous consent that the Lott amendment be modified with the changes at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

MODIFICATION TO LOTT AMDT. NO. 2593

Strike TITLE III.

AMENDMENT NO. 2579 TO AMENDMENT NO. 2530

Mr. THUNE. Mr. President, I ask unanimous consent to call up amendment No. 2579.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for himself, Mr. LOTT, Mr. CORNYN, and Mr. DEMINT, proposes an amendment numbered 2579 to amendment No. 2530.

Mr. THUNE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exclude individuals with alternative minimum tax liability from eligibility for SCHIP coverage)

At the end of title VI, add the following:

SEC. _____. EXCLUSION OF INDIVIDUALS WITH ALTERNATIVE MINIMUM TAX LIABILITY FROM ELIGIBILITY FOR SCHIP COVERAGE.

(a) IN GENERAL.—Section 2102(b), as amended by this Act, is amended by adding at the end the following new paragraph:

''(6) EXCLUSION OF INDIVIDUALS WITH ALTERNATIVE MINIMUM TAX LIABILITY.—Notwithstanding any other provision of this title, no individual whose income is subject to tax liability imposed under section 55 of the Internal Revenue Code of 1986 for the taxable year shall be eligible for assistance under a State plan under this title for the fiscal year following such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. THUNE. Mr. President, I am pleased to be here today in support of the Kids First Act, which is being referred to as the McConnell-Lott or Lott-McConnell alternative, which will in the long run, in my view, do more to lower health care costs and help the underlying expansion bill we are debating here today. Let me say also it is frustrating that instead of debating a reauthorization of a very popular program—the SCHIP program—Members on both sides of the aisle are being asked to support a new program, a brandnew program, that will cover children and adults at 300 percent of the poverty level—and some at even higher levels.

Let me tell my colleagues a little bit about the makeup of the uninsured population in my State of South Dakota. Right now, approximately 2.6 percent of the children in my State are uninsured, or approximately 5,000 children. This percentage does not include the approximately 5,000 Native American children who receive their health care from the Indian Health Service. It is very important to break down these statistics in each State since the needs vary greatly in each State and from region to region.

For example, of the approximately 5,000 uninsured children in South Dakota, a number of these children are currently eligible but not enrolled in Medicaid or SCHIP. In other words, in my State, a number of our uninsured children are actually at or below 200 percent of the Federal poverty level. This SCHIP expansion bill under consideration doesn't focus on these children. Instead, it channels more money to cover children from families at higher incomes.

I mention these facts because I am concerned that the underlying bill misses the most key problems in my State for the uninsured, and it misses the basic goal to make sure that eligible low-income children are able to take full advantage of our safety net health care programs. If our goal is to simply put all children—or even all families, for that matter—in South Dakota, insured or uninsured, into Government health insurance, and make thousands more families in my State dependent on the Government for their health care, and limiting more choices for families and parents in my State, then that is an entirely different goal, and it is a goal I don't share.

Let me expand on that a little bit, if I might, to give an idea of what the uninsured problem is in its totality in South Dakota. Currently, according to our State, there are approximately 61,000 uninsured individuals—an uninsured rate of the adult population of about 9 percent. I have already discussed the statistics for children, so let me do so for adults. In a recent survey done by the State of South Dakota, the adult uninsured population breaks down in the following way: Of the total number of uninsured adults—approximately 53,390—13,401 are not employed. That amounts to about 25 percent. This means that approximately 70 percent of the uninsured adults in my State are actually working. If you break down that number even further, most of that number—31,000 out of 37,000—are employed, working 30 or more hours a week. They are not part-time workers.

About 10,500 of these employed and uninsured individuals are self-employed. We happen to have a large number of self-employed farmers and ranchers and business owners in my State who simply cannot afford health insurance.

But the uninsured population in my State could purchase insurance if it were more affordable. There are huge steps we could take to bring down the cost of insurance in my State for all of those small business employees and self-employed and cover even more uninsured, and without expanding a government program with tax increases.

Also, the cost to insure a child or adult under the SCHIP program is three to four times the cost of insuring a child with private insurance. That is an inefficient way of covering people who are uninsured. Already today, about half of our country's children are on public insurance. That is not sustainable, and it makes it nearly impossible in the State of South Dakota—a very rural State—already with more limited options than others when it comes to health care access to have a vibrant health care insurance market.

I was in the House of Representatives when the current SCHIP bill passed in the Balanced Budget Act of 1997. I voted for that. I voted for other reforms as a Member of the House of Representatives and since coming to the Senate. Frankly, I think the debate over health care needs to be engaged in this country, because we have way too many people who are uninsured. Our

health care costs in this country now are a couple billion dollars—we have heard that repeated throughout the debate on the floor today—or about 16 to 17 percent of our gross domestic product. That is an enormous amount of money that is spent on health care in this country.

I think we have to ask ourselves: What can we do to make reforms in the health care system that will lower costs, make health care more accessible to more people in this country, and make sure that the ranks of the uninsured decrease rather than increase?

One of the things I supported as a Member of the House of Representatives is small business health plans—expanding access to tax-advantaged accounts that allow people to own and take control of their own health care, such as health savings accounts. In fact, small businesses make up most of the employers in my State. In 2003, according to the Small Business Administration, there were 20,400 employer firms with fewer than 500 employees, which represented 96.9 percent of employer businesses in my State and employed approximately 63 percent of the nonfarm private workforce. The alternative I referred to—the McConnell-Lott alternative that will be offered—will allow for small business health plans, a proposal that will do much more for my State in the long run and strengthen our private health insurance market in the future. Small business health plans would allow small business associations to band their members together to purchase more affordable insurance, which increases their bargaining power to get better benefits at better prices such as big businesses currently get.

This proposal also gives small business health plans the flexibility to provide a variety of uniform benefit packages across State lines, which is the only way small business associations could provide new options affordably. As a result, this proposal would reduce the cost of health insurance for small employers by about 12 percent, or $1,000 per employee, according to a respected actuarial firm. The bill would also cover more than 1 million uninsured Americans and working families or 1 out of every 12 people who live in a family headed by someone who works for a small company. The Congressional Budget Office states that three out of every four small business employees would pay lower premiums under the McConnell-Lott alternative than under current law.

What I want for South Dakota is for more people to have control over their health care, more options for their care, and more competition in the insurance market to help bring prices down. In fact, last week I introduced a bill to expand access to private long-term care insurance by allowing individuals with IRAs or 401(k)s to withdraw funds penalty free to pay for long-term care premiums. This is extremely important in South Dakota and across the country where many seniors have to spend down their life savings to pay for long-term care or to qualify for Medicaid.

Mr. REID. Mr. President, could I ask the distinguished Senator from South Dakota if I could interrupt for a unanimous consent request?

Mr. THUNE. I yield to the majority leader.

Mr. REID. I yield a couple of minutes to Senator BAUCUS for the unanimous consent request.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 6 p.m. the Senate vote in relation to Senator DOLE's amendment No. 2554; that following that vote the Senate vote in relation to Senator BUNNING's amendment No. 2547; that following that vote the Senate vote in relation to Senator LOTT's amendment, as modified, No. 2593; and following that vote the Senate vote in relation to Senator KERRY's amendment No. 2602, as modified; that there be 2 minutes for debate, equally divided, prior to each vote; that no other amendments be in order prior to these votes; that any amendment not disposed of remain debatable and amendable, and that the time between now and 6 p.m. be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Is there objection?

The Senator from Idaho is recognized.

Mr. CRAIG. Reserving the right to object, I only want to speak to the division of the time between now and the proposed schedule of votes. I had come to the floor hoping to gain 10 minutes, and I wonder—the Senator obviously who is speaking now and the other Senator who has time reserved, if we could have some understanding in the allocation if it is possible for me to be able to speak for up to 10 minutes?

Mr. BAUCUS. First, Mr. President, I modify the unanimous consent request to say that after the first vote, there be 10 minutes between votes—that they be 10-minute votes.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I will do my best to allocate time from one of the remaining speakers so that the Senator from Idaho could speak as much as he can. We are trying to use the time as best we can between now and 6 o'clock.

Mr. REID. Mr. President, if I could interrupt, Senator THUNE was speaking and I would ask, how much more time does the Senator need?

Mr. THUNE. I say to the majority leader that I can wrap up my remarks speaking to the amendment specifically, but I am sure within the next 10 minutes.

Mr. REID. How much time does Senator CRAIG need?

Mr. CRAIG. I would hope to have somewhere near 10 minutes, if possible.

Mr. LAUTENBERG. Mr. President, I would ask whether it is understood that I would have up to 15 minutes, and I don't think I will need that long, but I do make that request.

Mr. BAUCUS. Mr. President, the order has been Senator NELSON and Senator THUNE—excuse me, the Senator from Florida, Senator THUNE, and Senator LAUTENBERG. I think given the time, if the Senators understand the three remaining speakers have a total of a half hour, we can work that out. The Senator would get at least 10 minutes, and depending upon the length of time other Senators speak, he may get more. Senator THUNE still has the floor.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. Reserving the right to object, Mr. President, I thought we had carved out an understanding.

The PRESIDING OFFICER. Under the current agreement, Senator THUNE has the floor, and the Senator from New Jersey, Senator LAUTENBERG, will follow. We are free to modify that agreement if there is no objection to add the Senator from Idaho for additional time.

Mr. CRAIG. Mr. President, I will not object. Let's get these Senators talking so we don't burn up any more slack time.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

The Senator from South Dakota may proceed.

Mr. THUNE. Mr. President, let me again pick up where I left off in regard to the cost of health care, both health care in the sense that we all need it, and as we get into retirement age, Medicare, but I was also making reference to long-term care in some legislation I introduced recently with regard to that.

It is important that affordable, long-term care insurance allow individuals to plan for their later years as well. More competition in the long-term care insurance market would mean more options for South Dakota's families and seniors, not to mention reductions in Federal spending. So putting the politics of Government on health care versus private insurance aside—and again, I believe that is a debate this Senate is going to have to join in the not too distant future, because I believe this is where the debate actually today is taking us. We are growing the amount of Government health care out there, pushing aside the options for private health care insurance. Frankly, I believe the thing that differentiates our country from those around the world and why people come here for health care rather than going to other countries is because we have the best health care in the world.

We have a robust free market-based system that allows for innovation and for research and comes up with literally the best therapies in the world.

I want to continue to make that market work. I don't want to make it harder for citizens in my State to get health insurance in the private marketplace. I fear that as we go down this road, we are starting to look at what, in effect, will be a major debate raging; it is raging across the country, but it will ultimately be dealt with here, and we will decide whether we want to have a government-run, bureaucratic health care system or whether we want to preserve the market-based system that has worked so well for us in the past. I don't want to make it harder for citizens in my State to choose and afford the insurance plan that is best for them.

Finally, I don't want to support doubling the size of this particular program, which, after 5 years, is going to have to be paid for with substantial tax increases on all Americans, because I think as we all know when you reach 2013, there is a cliff there, and at some point that issue is going to have to be dealt with because there is a huge funding shortfall under the proposal that is on the floor before us today.

I support the McConnell-Lott alternative, which reauthorizes the current SCHIP program and also helps lower health care costs for all Americans and because it allows for small business health plans and other types of alternatives that can be used by allowing South Dakotan small businesses to pool together to purchase more affordable health insurance and make further needed improvements to the underlying SCHIP program for children, as well as providing long-term solutions for lowering the cost of health care for all Americans.

I also wish to speak on amendment No. 2579, which I offered. Under this bill, the Congress will be making it possible, as my colleague from Montana pointed out earlier—it is not the case today, but there are some States around the country where this bill expands the underlying amount, or income eligibility, up to 300 percent of the Federal poverty level. But there are States which have waiver requests that would allow them to go to 400 percent of the poverty level. There is not anything in the underlying bill that prevents that from happening. That would make it possible for people to be put on the rolls of the SCHIP program for health care who are not only low income but who at the same time are subject to the alternative minimum tax, or the AMT, which is a tax intended for individuals and families who are wealthy.

Let me repeat that. Under the bill, individuals eligible for SCHIP—one of our Nation's safety net health insurance programs—may also be hit with the alternative minimum tax, which is meant to ensure that the wealthy in our society are paying their fair share of taxes. Effectively, the Federal Government could consider you poor under the SCHIP program for the purpose of providing you free health insurance, while at the same time the Internal Revenue Service considers you wealthy because of the level of income you make, so that you would have to pay higher taxes.

My amendment is pretty straightforward. It simply says that if a family finds out when they file their taxes that they are subject to the AMT, then the State in which they reside has to remove them from its SCHIP program by the following fiscal year. In other words, you cannot be eligible for both. You cannot be both rich and poor at the same time.

The SCHIP program should be preserved as a program for low-income children, for those who need it. This amendment is simply intended to ensure we continue focusing on that fact.

I remember, as I said, this debate from 1997, when we decided to create the SCHIP program. I was in the House at that time, and I supported the creation of this program to help the uninsured who have incomes too high to qualify for Medicaid. But I also remember the concerns of my colleagues that down the road we would be faced with pressure to expand the program. That is what has happened for decades with entitlement spending in this country. We know we are facing a fiscal crisis already in Medicare and Medicaid that cannot be solved with more Government expansion. Yet here we are today debating how much to expand a government safety net program for the uninsured, which originally was supposed to serve only low-income children.

Of course, my amendment today also points out the fallacy of the alternative minimum tax. Under current law, if we don't enact another ''patch'' or comprehensive AMT reform, middle-income families everywhere will be hit with this tax, and some people on SCHIP might even hit both. This amendment is not simply to point out we have a looming AMT problem, which we all know must be paid for, my amendment points out the mixed intentions of the underlying bill. If you want to make this debate about low-income children, let's do that, but if we want to expand eligibility for SCHIP for families making up to $62,000 or $82,000 for a family of four, if waivers are granted, then let's have a debate on the uninsured. Let's not kid ourselves that this bill doesn't take us closer to government-run, government-dominated universal health care for lower, middle, and upper income families.

I welcome the debate on the uninsured. There are so many things we can do to help lower the cost of prescription drugs and increase competition and portability in the health insurance market and help our small businesses and the self-employed in our States afford their health insurance. It is these ideas we need to discuss in a debate in this Chamber—an open and honest debate on the merits of a government-run system or one with competition, choice, and affordability. The estimated 61,000 uninsured adults and children in my State and the over 40 million uninsured around the country makes it imperative to this Congress to have that debate.

The amendment I offered, amendment No. 2579, would make it very clear under this bill that if somehow someone gets to an income level where they are running afoul of the alternative minimum tax or are considered wealthy or rich in this country, they are not also then considered poor in a sense that they qualify for the SCHIP program. That seems to be an inherent contradiction in this particular legislation.

I hope the Members of the Senate will support my amendment. It will improve the underlying bill.

I yield back the remainder of my time.

Mr. BAUCUS. Mr. President, I know the Senator from New Jersey wishes to speak. He has a very deep interest in one of the amendments. He wants to speak for 15 minutes. Maybe he can speak a little less than that. I would appreciate it.

Mr. LAUTENBERG. I will try to do that.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 2547

Mr. LAUTENBERG. Mr. President, we are going to soon be voting on an amendment proposed by Senator BUNNING. I rise to register my opposition to that amendment, and I hope my colleagues will follow me.

I come to the floor to defend the health and well-being of 3,000 children in the State of New Jersey who would have their children's health insurance stripped away from them by the Bunning amendment.

Our mission this week is to pass a bill to expand health coverage for our Nation's children. But instead of focusing on providing more coverage for children, the Senator from Kentucky has targeted 3,000 children in my State to take their coverage away.

None of us has any asset we treasure more than our children. None of us enjoys anything more than the smiles of our kids when they are feeling good and are in good health. That is why, when we see an attempt to remove health care from a modest-income family's children, who care so deeply about them, I wonder what it is that we are truly about.

This amendment is an assault on children from working families who require health care coverage. To think that while we spend $3 billion each and every week on the Iraq war, there is an unwillingness to provide the necessary funding to keep all our kids healthy regardless of their income situation. This one focuses on modest-income people. It is amazing that while we pledge to protect our people from harm, we shun the opportunity to shelter our children.

I wish to make our request clear to my colleagues, and I want them to recognize that we in New Jersey always

pay our way fully; we more than pay for the incredibly high cost of living in New Jersey. Our health care costs are among the highest in the Nation. Keeping our people healthy is a primary mission in our State. We have had stem cell research going back decades. Our pharmaceutical companies constantly research for new medicines to benefit the well-being of people across this country and the world.

The Bush administration has recognized the higher costs in New Jersey and explicitly granted our State the right to provide health care to children at the level it currently does. New Jersey is not trying to beat the system or get health coverage for its children in a way that is unfair to other States—not at all. The State of New Jersey is legitimately trying to provide health insurance to children, recognizing the distinct economic characteristics of our State.

The Bunning amendment is particularly discouraging, given New Jersey's support when it comes to helping other States in need. We know that other States have different needs than we do, and we have unique challenges we face as well. Time and again, New Jersey taxpayers are asked to shoulder the burden and help other areas of the country that are in need. In fact, for every dollar New Jersey gives to the Federal Government, we only get back 55 cents in Federal spending programs. Compare that with States such as Kentucky, for example, which for every dollar paid gets $1.45 back. Some States get up to $2 back for each dollar they pay.

Whether it is the universal service fund for telephones, essential air service in aviation or other programs, New Jersey gives far more than it gets back.

I want to be clear. I support many of these programs for other States. I recognize this occurs because New Jersey is a State with a higher-than-average income and higher-than-average costs compared to other States.

But we care as much about our children as other people do across the country. More than anything, we want our kids to be healthy.

There are 3,000 children in New Jersey who are depending on Senators to oppose the Bunning amendment—3,000 children who are looking to all of us to let them continue to have health care.

The Bunning amendment is contrary to everything we are trying to accomplish on the floor this week. If that amendment is adopted, this bill will be tainted with the legacy of taking health insurance away from children who need it but whose families cannot afford to supply it on their own.

I have many families who come in to see me and bring their children with them. I welcome them with open arms. There is nothing I find more satisfying than to see parents and their children together. They come in often with diseases that are difficult, such as autism, diabetes, and asthma. Not only do these children require a lot of love, affection, and attention but, unfortunately, very often it is at a cost that few families can bear. I want to help those kids, those families, and I reach out to them in any way I can. I want stem cell research to be available. I want more money spent on general health research.

I hope my colleagues will reject this amendment on a bipartisan basis. I commend the chairman of the Finance Committee and the ranking member for the work they did. They overwhelmingly rejected the amendment of the Senator from Kentucky on a bipartisan vote. This amendment that has been authored by the Senator from Kentucky flies in the face of the good judgment of the Finance Committee. I hope my colleagues will reject this amendment, the Bunning amendment, once again when it gets to the Senate floor.

I am pleased to yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 2593

Mr. KYL. Mr. President, I will speak briefly to the Republican alternative—the amendment that will be voted on later as a comprehensive alternative to the bill. Unlike the Finance Committee bill, the Republican alternative achieves the following goals:

First, it reauthorizes SCHIP and preserves health care coverage for millions of low-income children.

Secondly, it adds 1.3 million new children to SCHIP coverage.

Third, it provides $14 billion in new SCHIP allotments over the $25 billion baseline over the next 5 years.

Fourth, the offset is with no new tax increases and, importantly, in contrast in the committee bill, no gimmicks to meet the budget considerations.

Next, it includes funds for SCHIP coverage from fiscal year 2013 to 2017. This is important because the Finance Committee bill, in comparison, uses a budget gimmick to reduce the SCHIP funding spending over that critical period of time. As a result, the Republican alternative includes more money for SCHIP over 10 years—$85.1 billion as compared to the Finance Committee bill of $81.7 billion.

Next, it minimizes the reduction in private coverage by targeting SCHIP funds to low-income children. It doesn't provide the coverage for the adults or children for higher income families who may have access to private health care insurance, as does the committee bill. In fact, I note that according to CBO, for the newly eligible people to be covered, there is a one-for-one crowd-out effect by the committee product. That is to say, for every new family brought on for SCHIP coverage, there is one that goes off private health insurance coverage. That is not a goal to which we should be aspiring.

Next, the Republican alternative promotes market-based health reforms, such as small business health plans and health savings accounts.

Finally, it requires a Treasury Department study on ways to make the tax treatment of health care more equitable, something the President raised in his State of the Union speech earlier this year and which we do need to study to come up with a more equitable tax system.

For all these reasons, I urge my colleagues to support the Republican alternative. I note that it is very simple in terms of the two choices that confront the Senate: one, a budget buster that does not protect SCHIP coverage over 10 years and represents an open-ended financial burden on American taxpayers and takes a significant step toward Government-run health care, or a fiscally responsible SCHIP reauthorization that preserves coverage for millions of low-income children that is fully offset without budget gimmicks or tax increases and promotes market-driven health reforms.

To me, the choice is very clear. The Republican alternative is the right solution for everyone. I urge its adoption by my colleagues.

The PRESIDING OFFICER. Who yields time? The Senator from Vermont.

AMENDMENT NO. 2602

Mr. SANDERS. Mr. President, I will be very brief. I rise in support of the Kerry amendment. I do so for two reasons. No. 1, while I applaud Senator BAUCUS and Senator GRASSLEY for their work on expanding health insurance to 3.2 million more children, we should be aware that expansion only increases coverage for one-third of children in this country who are uninsured. This is the United States of America, and we should not continue to be embarrassed by the fact that we remain the only country in the industrialized world that does not provide health insurance for all of our children. Going forward for 3.2 million children is undoubtedly a step forward. We have, however, a long way to go, and the Kerry amendment would take us closer.

The second point I wish to make deals with national priorities and the direction in which we believe our country should go.

I hear that a lot of my friends are talking about the expense involved in providing health insurance to our children. This particular bill would cost us $35 billion over a 5-year period. Is $35 billion a lot of money? It is. Is it worth spending that money to cover 3.2 million children? It is. Yet I find it ironic that the President of the United States and others are telling us we cannot afford this expenditure at the same time that many—the President, certainly—are telling us we need to repeal completely the estate tax, which only applies to the wealthiest two-tenths of 1 percent of our population. If we were to repeal the estate tax, one family, the Walton family who owns Wal-Mart, would receive tax breaks worth $32.7 billion for one family. So the debate today is whether we spend $35 billion to

cover, over a 5-year period, 3.2 million children or, as the President and others would have us do, give $32.7 billion in tax breaks to one family. This is an issue of national priorities.

Very briefly, because I see my friend from Iowa standing, it seems to me we have to move not only to provide health insurance for all our children, but, in fact, we need to move to a national health care program that guarantees health care for every man, woman, and child in this country, and we can.

I conclude on that note. This is a moral issue. We have to cover our children. This is an issue of national priorities. For all of those who think we are spending too much money, they may want to think twice about the hundreds of billions of dollars in tax breaks they have given to the wealthiest 1 percent and the ideas they have for the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, if it is OK, I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, this week the Senate is engaged in an extremely important debate about the direction we as a Congress want to take in ensuring health care for all Americans.

I recognize that the bill we are debating this week is literally one that focuses on children's health. But, I believe the design of this legislation and who we are targeting tells us something about how the majority in the Senate believes we should provide health care for all of our citizens.

This bill lays out one way to provide health care coverage in this Nation. It says ''increase taxes, increase government spending, and have the Government provide all health care plans.''

That is a failing formula. And now we are going to use that tax-and-spend formula to move further down the road towards socialized medicine.

Under this bill, middle-class taxpayers in Idaho will be supporting health insurance for some families making more money than they are.

I strongly oppose the Finance Committee legislation. Instead, I will vote for the McConnell-Lott alternative bill.

Let me make it clear that I support reauthorizing the SCHIP program to ensure that low-income children have health insurance. No one should conclude that my vote against this bill is a vote against insuring poor children. My vote is a vote against massive tax increases and out-of-control spending. It is against a tax-and-spend policy that more than doubles the cost of a program for poor children so we can cover those with higher income. And it is against a budget gimmick that leaves an unfunded liability of $40 billion in just 5 years.

A little history and few facts are in order.

When a Republican Congress and a Democratic President set out in 1997 to insure low-income children, we talked about 10 million uninsured.

At that time, there were about 20 million children on Medicaid. So we needed to cover about 10 million kids with the SCHIP program or Medicaid.

Today, there are 36 million children enrolled in either Medicaid or SCHIP. Sounds like we achieved our goal and more.

Yet some of my colleagues on the other side of the aisle say we are still 9 million short. Somehow, we insured 16 million more kids in the last 10 years and we have made no dent in the problem? Or have we moved the goal post? I think we have moved them.

That is why I am pleased that Senators MCCONNELL, LOTT, and others have offered an alternative that keeps this program focused on the group it was created to serve—low-income children.

The Republican alternative will reauthorize the SCHIP program for another 5 years. Again, all of us favor providing health insurance to low-income children. It will also correct some of the policy problems with the current program and make some changes to the Finance Committee approach.

First and foremost, the Republican alternative will provide, coverage for all children at or below 200 percent of the Federal poverty level. That is the goal of the Children's Health Insurance Program.

The Finance Committee bill will increase the coverage allowance to 300 percent of the poverty level and, in some cases, allow coverage of even higher incomes than that.

In addition, the Republican alternative will stop the waivers that have led to the current situation where a children's health insurance program covers about 700,000 adults.

Also, the Republican alternative will provide $400 million in outreach funding. This funding represents the key to the philosophical difference between the Republican bill and the Finance Committee bill.

Our bill demands that Government stay focused on the population in need. We shouldn't just raise the coverage ceiling. Let's go out and find the one's who are already eligible and have no insurance. And then let's enroll them.

Further, the Republican alternative would make sure that we have a consistent definition of income. No longer can States simply ''disregard'' all kinds of income in an effort to enroll higher income people. Frankly, the practice of disregarding income so that nonpoor citizens qualify for poverty programs is fairly offensive.

The other important aspect of the Republican alternative is that it addresses health care coverage in a larger context.

Let's face it, uninsured children are just the tip of the health insurance problem in this Nation.

We are once again tinkering around the edges rather than taking on systemic reform. The Democratic tinkering moves us in the direction they want for the Nation—socialized medicine.

Republicans have a better idea.

The bill will provide much needed relief to small business to allow them to provide health care benefits to their employees.

Nearly 60 percent of the 45 million uninsured Americans today are employed by, or reliant on, small business. In other words, if we can help small business insure their employees, then we can make a significant dent in the total number of uninsured Americans.

I just do not see how we can take up the issue of health care and health insurance and not talk about one way we can truly help insure Americans. Of course, my colleagues on the other side of the aisle don't want to do that because it doesn't take us further down their road towards socialized medicine.

I don't want to go down that road. So I will vote for the Republican alternative. It is fiscally responsible, it focuses the SCHIP program on those it was created to help, and it takes a larger look at the problem of health insurance for all Americans.

I urge my colleagues to support the McConnell-Lott amendment.

Mr. President, I ask my colleagues to support the McConnell-Lott alternative so we do not begin a progressive march down a road toward socialized medicine.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the alternative Senator CRAIG just spoke about is the amendment I wish to speak against. I am a Republican, but I am part of the bipartisan effort to pass this SCHIP bill. So I will tell my colleagues on both sides of the aisle why the Lott amendment, or the Republican alternative, should not be accepted.

First of all, I commend the people who authored the alternative because all ideas ought to be considered. It is creative, and it is thoughtful. It certainly contributes to the debate. In reading through it, I am struck by the similarities between this proposal and the bipartisan bill before the Senate that I am backing. Both proposals increase funding for State allotments. Both proposals largely base the new allotments on State projections. Both proposals limit the availability of allotments to 2 years. Both proposals restrict coverage for nonpregnant adults. Both proposals prohibit new waivers for adult coverage. Both proposals provide funds for outreach and enrollment activities. Both proposals include additional State options for premium assistance.

Lest my colleagues think I am attacking them with faint praise, I do acknowledge there are significant differences in the approaches between the Republican alternative and our bipartisan bill that is before the Senate.

The position taken by the Lott amendment is that SCHIP has been a successful small program that covers about 6 million kids in 2007 and should not cover many, if any, more. The position of the Lott amendment is that any increase in the enrollment of children should be limited to the relatively better off SCHIP kids and not cover the poorer Medicaid kids. That is a perfectly reasonable position for them to take, but that is the biggest difference between the Lott amendment and the bipartisan proposal that is referred to as Grassley-Baucus.

The difference is that the amendment supporters cannot claim that it increases coverage for any of the 4 million uninsured children who are eligible and entitled to Medicaid, the kids who need it most. In fact, not only does the Lott amendment do virtually nothing to improve coverage for the 4 million children eligible for Medicaid, but it adds insult to injury by reducing the Medicaid Program by over $10 billion to pay for an expansion of SCHIP.

Let me put this another way. The Lott amendment drains billions out of the Medicaid Program, which is a program that covers the poorest of the poor, and it redirects that funding to SCHIP, a program that covers kids and families who make too much to qualify for Medicaid. It is the old issue of robbing Peter to pay Paul. The Senate Finance Committee bill, on the other hand, covers 1.7 million kids eligible for Medicaid but not enrolled.

At this point, it is important to reiterate for colleagues that the Senate Finance Committee bill does not expand Medicaid. The bill does not change eligibility for Medicaid one single bit.

The Senate Finance Committee bill does include the very precise and targeted incentive funds that Director Peter Orszag of CBO concluded is ''as efficient as you can possibly get per new dollar spent.'' This incentive fund helps increase coverage of 3.2 million uninsured children. The Lott amendment, however, does not increase coverage for the lowest income children and actually causes some individuals, including children currently enrolled in SCHIP, to lose coverage.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I yield whatever time the Senator from Iowa desires.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, we simply, then, have an honest disagreement on whether we want to cover additional low-income kids. Some Members do; some Members do not. I am on the side that wants to cover additional low-income children who are eligible for coverage. It is as simple as that.

The other main difference is the income eligibility for children. Right now, 91 percent of the SCHIP funds are being spent on kids at or below 200 percent of poverty. Under current law, States have the flexibility to adjust their income eligibility to respond to rising health care costs and the cost of living within a particular State because it differs so much between California and Iowa, to name two States.

The Lott amendment imposes a ''Washington knows best'' mentality regarding a State's ability to determine what income within that State is most appropriate. And then it goes one step further: It reduces the Federal match for covering kids above 200 percent of poverty. There are 18 States that currently cover kids above 200 percent of poverty. Under this proposal, a State currently receiving the enhanced match under SCHIP for coverage of eligible children would see that match reduced for those very same children.

While I would prefer that all States focus on children at or below 200 percent of poverty, the fact remains that $42,000 a year for a family of four is a lot harder to get by on in some States than in other States. By imposing this new requirement that States limit eligibility, the Lott amendment would cause kids to lose coverage. The table CBO sent us on the Lott amendment confirms that. I am sorry, but in a bill designed to cover kids, cutting them off is a step in the wrong direction.

The Finance Committee bill takes a different approach. The committee bill would lower the Federal payments to States that choose to cover kids over 300 percent of poverty level. States that go above that limit would only get the regular Medicaid match. Those States wouldn't get the enhanced Federal match under SCHIP for these higher income kids. So the Finance Committee bill creates a disincentive for States to go in that direction.

Some have alleged that the Senate Finance Committee bill would permit States to cover kids and families who make over $80,000. That is false. What the Finance Committee bill does is allow States that have passed State laws to increase eligibility to be grandfathered at the SCHIP match as it is right now. There are no States that do that today. So it is incorrect to say that the Finance package expands coverage for these higher income kids. That just is not accurate.

Right now, the only State that is even proposing to go as high as 400 percent of poverty is New York, and their State plan amendment still must be approved by the Bush administration. The Bush administration, not Congress, has to decide whether to approve that coverage.

So let me repeat. The Senate Finance bill would only permit New York to get an enhanced match for kids and families over 83 percent a year if this administration approves their plan, and it gives my colleagues on this side of the aisle who don't want that to happen a chance to lobby the Secretary of HHS to make sure it doesn't happen.

Given the criticism they leveled against the Finance plan, I would be shocked if they did approve it. I will wait and see, however, if their actions match their rhetoric.

Wrapping up, let me just say again that the Lott amendment has many similarities that I have delineated for the Senate—many similarities to the Finance Committee package. I commend them for their work in putting together this proposal, and I would hope that since their amendment has so many similarities to the Senate Finance Committee bill, perhaps they will take another look at the policies in our bipartisan package. There are key differences in the two approaches, however. I appreciate my colleagues' work in pointing out these differences. I, for one, am happy to stand on the side of covering kids rather than cutting them out, and I support giving States flexibility.

AMENDMENTS NOS. 2540 AND 2541 TO AMENDMENT NO. 2530

Madam President, I call up for consideration two amendments by Senator ENSIGN, amendments Nos. 2541 and 2540.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. ENSIGN, proposes amendments numbered 2540 and 2541 to amendment No. 2530.

Mr. GRASSLEY. Madam President, I ask that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2540

(Purpose: To prohibit a State from using SCHIP funds to provide coverage for nonpregnant adults until the State first demonstrates that it has adequately covered targeted low-income children who reside in the State)

On page 58, between lines 16 and 17, insert the following:

''(d) COVER KIDS FIRST IMPLEMENTATION REQUIREMENT.—Notwithstanding the preceding subsections of this section, no funds shall be available under this title for child health assistance or other health benefits coverage that is provided for any other adult other than a pregnant woman, and this title shall be applied with respect to a State without regard to such subsections, for each fiscal year quarter that begins prior to the date on which the State demonstrates to the Secretary that the State has enrolled in the State child health plan at least 95 percent of the targeted low-income children who reside in the State.''.

AMENDMENT NO. 2541

(Purpose: To prohibit a State from providing child health assistance or health benefits coverage to individuals whose family income exceeds 200 percent of the Federal Poverty Level unless the State demonstrates that it has enrolled 95 percent of the targeted low-income children who reside in the State)

At the end of title I, add the following:

SEC. 112. COVER LOW-INCOME KIDS FIRST.

Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 602, is amended by adding at the end the following new paragraph:

''(12) NO PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE OR HEALTH BENEFITS COVERAGE FOR INDIVIDUALS WHOSE GROSS FAMILY INCOME EXCEEDS 200 PERCENT OF THE POVERTY LINE UNLESS AT LEAST 95 PERCENT OF ELIGIBLE LOW-INCOME CHILDREN ENROLLED.—

Notwithstanding any other provision of this title, for fiscal years beginning with fiscal year 2008, no payments shall be made to a State under subsection (a)(1), or any other provision of this title, for any fiscal year quarter that begins prior to the date on which the State demonstrates to the Secretary that the State has enrolled in the State child health plan at least 95 percent of the low-income children who reside in the State and are eligible for child health assistance under this State child health plan with respect to any expenditures for providing child health assistance or health benefits coverage for any individual whose gross family income exceeds 200 percent of the poverty line.''.

Mr. GRASSLEY. Madam President, I yield the floor.

Mr. BAUCUS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Madam President, I am going to proceed just for a few moments on my leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISA MODIFICATION EFFORT

Mr. MCCONNELL. Madam President, the ranking member of the Intelligence Committee, Senator BOND, and I, will be introducing and later placing on the calendar a bill related to the FISA modification effort that has been underway on a bipartisan basis over the last few weeks.

Senator BOND and I will be, as I said, placing in the RECORD, and then subsequently doing a rule XIV placing it on the calendar, a proposal that the administration thinks makes sense to deal with the modifications that everyone seems to agree in principle need to be made to the FISA procedure.

With that, I don't know that I can yield leader time to somebody who isn't a leader, so let me just say that having given that notice, we will be placing that on the calendar for later this evening.

Mr. REID. Madam President, just a brief comment on the distinguished Republican leader's statement.

As we speak, there are meetings going on to see if we can resolve this matter in a manner that is acceptable to Republicans and Democrats in the Senate, and of course then we have to also be concerned about the House. Senator MCCONNELL and I were in a meeting early this morning with individuals, including Admiral McConnell, and we hope something can be worked out.

We waited a little longer than I wanted, waiting for Admiral McConnell's papers to come here this afternoon, but they are here and they are being reviewed. I spoke to Senator LEVIN just a few minutes ago. There is nothing serious, but Senator ROCKEFELLER has been with his wife today on a minor problem, but it was necessary he not be here. So we are trying to work our way through this.

Hopefully, we can resolve this. It is something important, we are going to do everything we can, and we hope all sides will be reasonable. At this point they have been. It is an issue we certainly need to resolve, if at all possible, before we leave for our August recess.

Mr. MCCONNELL. Madam President, if I may, let me just commend the majority leader on his observations. I know people on both sides of the aisle are working intensely on this issue, and I, too, hope and believe we will get it resolved by the end of the week.

I did, however, want all Members of the Senate to be aware of a proposal that the administration feels very strongly would get the job done in the hopes that it would enjoy bipartisan support. Senator BOND and I will address the details of it after the votes, and I will rule XIV it onto the calendar at that point.

I yield the floor.

AMENDMENT NO. 2554

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided on amendment No. 2554, offered by the Senator from North Carolina.

Mrs. DOLE. Madam President, increasing the tax on tobacco unfairly burdens low-income Americans. My amendment is simple: It creates a 60-vote budget point of order against any legislation that includes a Federal excise tax increase that would unfairly affect low-income individuals, defined as taxpayers with earned income less than 200 percent of the Federal poverty level.

According to the Centers for Disease Control report from 2003 to 2005, 28.5 percent of smokers were classified as poor—below 100 percent of the Federal poverty level—and 25.9 percent of smokers were classified as near poor—between 100 and 200 percent of the Federal poverty level. As these numbers clearly show, the tax increase proposed in this bill unfairly falls on the shoulders of those who can least afford it.

I am urging my colleagues to acknowledge that the proposed tax increase is an irresponsible and fiscally unsound policy. I urge my colleagues to support the fact that this has a negative impact and is disproportionately hard on the poor.

Madam President, I ask for the yeas and the nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I understand the Senator does not like the way we are paying for this bill. The more appropriate response would be for the Senator to offer an amendment to strike it or to find some other way to pay for it. I do not think it is wise for this body to enact another procedural hurdle as we consider legislation generally here; that is, another hurdle that would block attempts for us to help people in the States we represent. I don't think that is needed.

Secondly, this is the wrong time to consider changing Senate procedure. The more appropriate time is during consideration of the budget resolution, when the Senate has all the budget issues before it. I don't think it makes any sense to put another procedural obstacle before us to make it more difficult for Congress to respond to the needs of the American people.

I encourage Senators to, therefore, not support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 32, nays 64, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—32

Allard	Crapo	Lott
Barrasso	DeMint	Martinez
Bond	Dole	McConnell
Bunning	Ensign	Nelson (NE)
Burr	Enzi	Sessions
Chambliss	Graham	Shelby
Cochran	Hagel	Thune
Coleman	Hutchison	Vitter
Collins	Inhofe	Voinovich
Cornyn	Isakson	Warner
Craig	Kyl	

NAYS—64

Akaka	Feingold	Murray
Alexander	Feinstein	Nelson (FL)
Baucus	Grassley	Obama
Bayh	Gregg	Pryor
Bennett	Harkin	Reed
Biden	Hatch	Reid
Bingaman	Inouye	Roberts
Boxer	Kennedy	Salazar
Brown	Kerry	Sanders
Byrd	Klobuchar	Schumer
Cantwell	Kohl	Smith
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Clinton	Levin	Stevens
Coburn	Lieberman	Sununu
Conrad	Lincoln	Tester
Corker	Lugar	Webb
Dodd	McCaskill	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The amendment (No. 2554) was rejected.

Mr. BAUCUS. Madam President, I move to reconsider the vote.

Mr. GRASSLEY. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2547

The PRESIDING OFFICER. Under the previous order, there will now be 2

minutes equally divided on amendment No. 2547 offered by the Senator from Kentucky.

Mr. BUNNING. Madam President, my amendment is simple. It strikes the exemption for New York and New Jersey to get Federal dollars for covering families above 300 percent of poverty. No other State in the country gets that kind of an exemption. New Jersey's SCHIP program covers families up to $72,000 a year, 350 percent. New York is planning on covering families making up to $82,000 a year. It has not yet been approved by HHS.

Why should people in every other State subsidize Government health care for families in New York and New Jersey at these higher incomes? My amendment does not kick kids off SCHIP. The State can still cover them at their Medicaid matching rate. It is the State's choice. If people in these two States think this is a priority, then they should be willing to pay more for this type of benefit. I am sure New York and New Jersey are expensive areas to live. But those States have more resources and a larger tax base than others. I urge a ''yes'' vote on my amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, we listened to the comments from our colleague from Kentucky about how much New Jersey or New York can afford. But I will tell you this, New Jersey, for each dollar that it sends down to the Federal Government, it gets barely half of it back. But not in Kentucky. In Kentucky, if they send in a dollar, they get $1.45 back. We cannot compare things. We cannot compare costs of living. The poverty level for a four-person family is $20,000. That means their income is about $5,000 a month. In New Jersey, after taxes, housing, and other costs, they're left with about $865. And yet their health care costs average above $2,000.

As a consequence, with $2,000 a month for health care costs, every family is burdened up until almost the highest of incomes. So we ask fairness. Here we are trying to expand health care for children, and our colleague wants to take that away. This is not fair, it is not right, and I hope we will defeat this soundly.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana.

Mr. BAUCUS. Madam President, I move to table the Bunning amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—53

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Grassley	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Hatch	Obama
Boxer	Inouye	Pryor
Brown	Kennedy	Reed
Byrd	Kerry	Reid
Cantwell	Klobuchar	Salazar
Cardin	Kohl	Sanders
Carper	Landrieu	Schumer
Casey	Lautenberg	Snowe
Clinton	Leahy	Stabenow
Conrad	Levin	Tester
Dodd	Lieberman	Webb
Domenici	Lincoln	Whitehouse
Dorgan	McCaskill	Wyden
Durbin	Menendez	

NAYS—43

Alexander	Crapo	McConnell
Allard	DeMint	Murkowski
Barrasso	Dole	Roberts
Bennett	Ensign	Sessions
Bond	Enzi	Shelby
Bunning	Graham	Smith
Burr	Gregg	Specter
Chambliss	Hagel	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Thune
Coleman	Isakson	Vitter
Collins	Kyl	Voinovich
Corker	Lott	Warner
Cornyn	Lugar	
Craig	Martinez	

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The motion was agreed to.

Mr. BAUCUS. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2593

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 2593, as modified, offered by the Senator from Mississippi.

Mr. LOTT. Madam President, the Baucus bill we have before us is a $35 billion increase over the current $25 billion, a $60 billion bill. Our Kids First alternative amendment targets children. SCHIP does not have an A in it. We should not move steadily toward more and more higher income children and adults being included in the program. This one is targeted to children. The cost is $9 billion above the $25 billion in the baseline. It will cover an additional 1.3 million children over the next 5 years. This 40-percent increase would maintain children currently enrolled and insure 2.2 million more children by 2017 than is in the underlying Baucus bill. It also includes the small business health plans, which I believe would lead to the coverage of an additional 10 or 20 million people who work for small businesses that now cannot get coverage. There is no tax increase in this provision. It is paid for by equalizing the State match for Medicaid administrative expenses at 50 percent.

Mr. MCCONNELL. Madam President, the State Children's Health Insurance Program was created to target the health care needs of poor children whose families made too much to be eligible for Medicaid but were still in danger of not being able to afford private health insurance.

SCHIP is in many ways successful, as last year, 6.6 million children had health care coverage thanks to it, including more than 50,000 in the Commonwealth of Kentucky. From 1996 to 2005, the rate of children living without health insurance in America dropped by 25 percent.

So as the Senate turned to debate the reauthorization of this Federal/State partnership, I had hoped that all of my colleagues would focus on SCHIP's true goal: covering children. Unfortunately, that is not what the Finance Committee's bill does. This bill is a dramatic departure from current SCHIP law that will significantly raise taxes, increase spending, and lead to Government-run health care.

At a time when the people of America have made clear that they want us to reduce Government spending, Democrats are going to spend $112 billion of the taxpayers' money. And part of this increase will go toward people that SCHIP was never meant to cover, as this proposal will allow more adults to piggyback onto a children's health program.

So Senators LOTT, KYL, GREGG, BUNNING, and I have proposed an alternative measure I hope all of my colleagues will consider. Our Kids First Act will refocus SCHIP to help the people it was designed to help: low-income children.

The Kids First Act will reauthorize SCHIP for 5 years and would ensure that children enrolled in SCHIP stay covered by adding $14 billion in funding above and beyond the baseline SCHIP budget.

Our alternative will add 1.3 million new kids to the SCHIP program by 2012. By contrast, the Finance Committee bill actually begins reducing kids' coverage in 2012 and results in fewer children having SCHIP coverage in 2017.

Our alternative also provides $400 million over the next 5 years for States to spend on outreach and enrollment for low-income children who are eligible but not on SCHIP, so we can enroll them. This money will help guarantee that SCHIP dollars go toward the low-income kids the program is meant to help.

The Kids First Act takes several measures to make health insurance more affordable and cost-effective. For

instance, it encourages premium assistance to aid parents in buying private health insurance for their children.

It also includes the small business health plan legislation we considered in the 109th Congress. Of the 20 million working Americans who do not have health insurance, nearly half work in firms of 25 or fewer.

Small business health plans would allow those firms to band together across State lines, increase their bargaining power and afford better health care coverage for their employees.

Finally, our alternative ensures that the taxpayers' dollars are spent appropriately by decreasing the number of adults who can take advantage of the program.

While considerably less expensive to the taxpayers than the Finance Committee's bill, it is worth noting, that many States, including Kentucky, would fare better next year under the Kids First Act than under the committee bill.

Our plan is fiscally responsible and focuses Government assistance on those who really need it. It reauthorizes and improves upon a program that works instead of transforming it into a license for higher taxes, higher spending, and another giant leap toward Government-run health care.

It can receive a Presidential signature, and it deserves this Senate's support.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, effectively, the Lott amendment is actually going to cause in some States a reduction in kids who are covered. It is very nominal, a slight increase overall. It does not begin to address the 6.6 million kids we need to cover under CHIP, as I think most of us want to. The basic point is, this amendment has lots of other provisions in it which I do not think we should appropriately consider at this point. The small business health plans, HSAs, is a debate for another day. It has nothing to do with the Children's Health Insurance Program. I don't think it is wise to put those battles on the backs of kids. We should get this legislation passed. It helps kids. It cuts back adults. It is moderate. It cuts back on some excessive coverage in some States, but it is unwise to radically restructure health insurance with the health insurance provision as well as HSAs.

Mr. LOTT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER (Mr. CASEY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 61, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—35

Alexander	Crapo	Lott
Allard	DeMint	Martinez
Barrasso	Dole	McConnell
Bennett	Ensign	Sessions
Bunning	Enzi	Shelby
Burr	Graham	Stevens
Chambliss	Gregg	Sununu
Coburn	Hagel	Thune
Cochran	Hutchison	Vitter
Corker	Inhofe	Voinovich
Cornyn	Isakson	Warner
Craig	Kyl	

NAYS—61

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Grassley	Nelson (NE)
Biden	Harkin	Obama
Bingaman	Hatch	Pryor
Bond	Inouye	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Roberts
Byrd	Klobuchar	Salazar
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Smith
Casey	Leahy	Snowe
Clinton	Levin	Specter
Coleman	Lieberman	Stabenow
Collins	Lincoln	Tester
Conrad	Lugar	Webb
Dodd	McCaskill	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The amendment (No. 2593), as modified, was rejected.

Mr. REID. I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I have spoken to the distinguished Republican leader. I have spoken to the two managers of the bill. I think it would be appropriate to announce at this time there will be no more rollcall votes tonight. However, if people have a desire to offer amendments, the managers are willing to talk to you about those amendments. They need some idea of who else wants to offer amendments. You can hear from them.

My main purpose in making this statement is announcing there will be no more rollcall votes tonight, after this next vote, of course.

AMENDMENT NO. 2602

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 2602, as modified, offered by the Senator from Massachusetts, Mr. KERRY.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, in the underlying bill, we have made a decision to insure some 3.3 million kids who are among the poorest in the country. But we still have about 5.7 million kids who will not get covered. So you have 9 million kids without coverage, and this bill will seek to insure 3.3 million.

What my amendment seeks to do is recognize that if you have a rationale that says it is worthwhile to insure all those kids, we also ought to be insuring the additional 1 million kids who are Medicaid eligible who will not be insured under this bill.

So my amendment seeks to do what we said we would do in the original budget resolution, where we allocated $50 billion to insure children. It pays for it by not granting to those earning more than $1 million a year a continuation of their tax cut next year. That is how you pay for it.

Mr. President, .18 percent of all Americans will be affected in an effort to guarantee that the poorest of the poor children in America—Medicaid eligible—will be eligible for health care coverage.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am not going to speak to the substance of the amendment but to the process. This bill is a bipartisan approach where a lot of different points of view were brought together to a bill that can pass this Senate. We have people on the left for whom $50 billion might not be enough money. We have people on the right for whom anything over $5 billion was too much money. We have come out at $35 billion. This is a well-balanced, well-thought-out compromise.

Compromise is the essence of getting things done. You have to bring people in the Senate to the center to get things done or nothing is going to get done. In order to get this job done, we have to defeat this amendment, regardless of the merits of it.

I yield back.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 60, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—36

Akaka	Durbin	Menendez
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Inouye	Obama
Brown	Kennedy	Pryor
Cantwell	Kerry	Reed
Cardin	Lautenberg	Reid
Casey	Leahy	Sanders
Clinton	Levin	Schumer
Collins	Lieberman	Tester
Dodd	Lincoln	Whitehouse

NAYS—60

Alexander	Dole	McCaskill
Allard	Domenici	McConnell
Barrasso	Dorgan	Murkowski
Baucus	Ensign	Nelson (NE)
Bennett	Enzi	Roberts
Bond	Graham	Salazar
Bunning	Grassley	Sessions
Burr	Gregg	Shelby
Byrd	Hagel	Smith
Carper	Hatch	Snowe
Chambliss	Hutchison	Specter
Coburn	Inhofe	Stabenow
Cochran	Isakson	Stevens
Coleman	Klobuchar	Sununu
Conrad	Kohl	Thune
Corker	Kyl	Vitter
Cornyn	Landrieu	Voinovich
Craig	Lott	Warner
Crapo	Lugar	Webb
DeMint	Martinez	Wyden

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The amendment (No. 2602), as modified, was rejected.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2558, 2537, AND 2562, EN BLOC

Mr. GRASSLEY. Mr. President, en bloc, I want to do for Senator GRAHAM and for Senator KYL three amendments, and I call up en bloc amendments Nos. 2558, 2537, and 2562.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2558

(Purpose: To sunset the increase in the tax on tobacco products on September 30, 2012)

Beginning on page 218, strike line 5 and all that follows through page 220, line 2, and insert the following:

(a) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''($1.594 cents per thousand on cigars removed during 2000 or 2001)'' in paragraph (1) and inserting ''($50.00 per thousand on cigars removed after December 31, 2007, and before October 1, 2012)'',

(2) by striking ''(18.063 percent on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''(53.13 percent on cigars removed after December 31, 2007, and before October 1, 2012)'', and

(3) by striking ''($42.50 per thousand on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''($10.00 per thousand on cigars removed after December 31, 2007, and before October 1, 2012)''.

(b) CIGARETTES.—Section 5701(b) of such Code is amended—

(1) by striking ''($17 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (1) and inserting ''($50.00 per thousand on cigarettes removed after December 31, 2007, and before October 1, 2012)'', and

(2) by striking ''($35.70 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (2) and inserting ''($104.9999 per thousand on cigarettes removed after December 31, 2007, and before October 1, 2012)''.

(c) CIGARETTE PAPERS.—Section 5701(c) of such Code is amended by striking ''(1.06 cents on cigarette papers removed during 2000 or 2001)'' and inserting ''(3.13 cents on cigarette papers removed after December 31, 2007, and before October 1, 2012)''.

(d) CIGARETTE TUBES.—Section 5701(d) of such Code is amended by striking ''(2.13 cents on cigarette tubes removed during 2000 or 2001)'' and inserting ''(6.26 cents on cigarette tubes removed after December 31, 2007, and before October 1, 2012)''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of such Code is amended—

(1) by striking ''(51 cents on snuff removed during 2000 or 2001)'' in paragraph (1) and inserting ''($1.50 on snuff removed after December 31, 2007, and before October 1, 2012)'', and

(2) by striking ''(17 cents on chewing tobacco removed during 2000 or 2001)'' in paragraph (2) and inserting ''(50 cents on chewing tobacco removed after December 31, 2007, and before October 1, 2012)''.

(f) PIPE TOBACCO.—Section 5701(f) of such Code is amended by striking ''(95.67 cents on pipe tobacco removed during 2000 or 2001)'' and inserting ''($2.8126 on pipe tobacco removed after December 31, 2007, and before October 1, 2012)''.

(g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of such Code is amended by striking ''(95.67 cents on roll-your-own tobacco removed during 2000 or 2001)'' and inserting ''($8.8889 on roll-your-own tobacco removed after December 31, 2007, and before October 1, 2012)''.

AMENDMENT NO. 2537

(Purpose: To minimize the erosion of private health coverage)

At the end, add the following:

SEC. ____. DELAY IN EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall not take effect until the day after the date on which the Director of the Congressional Budget Office certifies that this Act and the amendments made by the Act, will not result in a reduction of private health insurance coverage greater than 20 percent.

AMENDMENT NO. 2562

(Purpose: To amend the Internal Revenue Code of 1986 to extend and modify the 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements and to provided a 15-year straight-line cost recovery for certain improvements to retail space)

On page 217, after line 25, insert the following:

SEC. 61__. EXTENSION AND MODIFICATION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS; 15-YEAR STRAIGHT-LINE COST RECOVERY FOR CERTAIN IMPROVEMENTS TO RETAIL SPACE.

(a) EXTENSION OF LEASEHOLD AND RESTAURANT IMPROVEMENTS.—

(1) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) of the Internal Revenue Code of 1986 (relating to 15-year property) are each amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2007.

(b) MODIFICATION OF TREATMENT OF QUALIFIED RESTAURANT PROPERTY AS 15-YEAR PROPERTY FOR PURPOSES OF DEPRECIATION DEDUCTION.—

(1) TREATMENT TO INCLUDE NEW CONSTRUCTION.—Paragraph (7) of section 168(e) of the Internal Revenue Code of 1986 (relating to classification of property) is amended to read as follows:

''(7) QUALIFIED RESTAURANT PROPERTY.—The term 'qualified restaurant property' means any section 1250 property which is a building (or its structural components) or an improvement to such building if more than 50 percent of such building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any property placed in service after the date of the enactment of this Act, the original use of which begins with the taxpayer after such date.

(c) RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.—

(1) 15-YEAR RECOVERY PERIOD.—Section 168(e)(3)(E) of the Internal Revenue Code of 1986 (relating to 15-year property) is amended by striking ''and'' at the end of clause (vii), by striking the period at the end of clause (viii) and inserting '', and'', and by adding at the end the following new clause:

''(ix) any qualified retail improvement property placed in service before January 1, 2009.''.

(2) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Section 168(e) of such Code is amended by adding at the end the following new paragraph:

''(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified retail improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

''(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

''(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefitting a common area, or

''(iv) the internal structural framework of the building.''.

(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) of such Code is amended by adding at the end the following new subparagraph:

''(I) Qualified retail improvement property described in subsection (e)(8).''.

(4) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of such Code is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

(E)(ix) ..... 39''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I thank the Senator from Maryland for allowing me to proceed, and I will not be too long.

I ask unanimous consent that I be allowed to proceed as in morning business, to be followed by Senator BOND.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 1927

Mr. MCCONNELL. Mr. President, I understand that S. 1927 is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1267) to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes.

Mr. MCCONNELL. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

Mr. BAUCUS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

Mr. MCCONNELL. Mr. President, yesterday the Director of National Intelligence came to Capitol Hill and implored Congress once again to modernize the Foreign Intelligence Surveillance Act. He was echoing the warnings of the entire intelligence community, which has told us that current law—current law—prevents us from collecting a significant amount of intelligence that could be vital in protecting us from another terrorist attack.

The latest National Intelligence Estimate makes clear that the greatest terrorist threat to the United States is al-Qaida. Their intent to attack us is undiminished since 9/11. They have gained recruits and strength in the Middle East. They continue to adapt and improve their capabilities, and we must continue to adapt and improve our ability to swiftly detect their movements and their plots.

One of the most effective tools we have had in doing this over the last 6 years is our electronic surveillance program. The Foreign Intelligence Surveillance Act gives us the legal framework for monitoring terrorists electronically without impinging on the civil liberties of Americans. But the law is badly out of date.

Since FISA was enacted, sweeping advances in technology have upset the balance that Congress struck in 1978, and the law that was written to protect Americans while ensnaring terrorists must be changed as well.

The targeting of a foreign terrorist overseas should not require a FISA warrant. That was never the intention of the original legislation. Yet this is what the law, as written, currently requires. The intelligence community has told us they are hamstrung by the existing law, and in a significant number of cases, our intelligence professionals are in the unfortunate position of having to obtain court orders to collect foreign intelligence concerning foreign targets located overseas.

The facts here are not in dispute. Our Nation faces an alarming intelligence gap, a situation in which the intelligence community every day is missing—missing—a significant portion of what we should be getting in order to protect the American people here at home. We should not adjourn until we have closed this gap. We must act quickly in a bipartisan manner and let the appropriate committees come back and review FISA and other matters related to the legislation in a more comprehensive manner.

We should not return in September knowing that we have failed in our duty, and we pray that we don't have cause to regret our inaction. Let there be no doubt: If we had the foresight in August of 2001 to enact a law that would have exposed the plot that was being hatched against us then, the vote to approve that law would have been cast unanimously and without hesitation—unanimously and without hesitation. None of us would have shrunk from that duty. Six years later, the duty remains.

There is little we can do in the Senate from day to day that can immediately and decisively improve the security of this country. But by passing a FISA modernization bill that the President can sign before we go home for recess, we will have done just that. We need to act on this legislation now. We should not adjourn until we have closed this gap, until we have fixed this outdated law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank the minority leader because he has brought to the attention of this body a measure of critical importance. Right now, we are missing a very significant portion of the signals and intelligence we could capture on al-Qaida and other terrorist organizations threatening to do harm to the United States. The reason is because the existing Federal Foreign Intelligence Surveillance Act doesn't fit in with today's technology.

The Director of National Intelligence has asked us—begged us—to make these changes. He submitted a proposal to the Intelligence Committee in April, and then he came before our committee in May. He came and briefed as many Members of the Senate who wanted to show up last month, and 42 members did, and they understood the importance.

In my tenure as a member of the Intelligence Committee, I have spent a considerable amount of time looking at issues regarding FISA modernization. Since I became vice chairman, I have worked closely with Chairman ROCKEFELLER to ensure that our oversight of this measure and this program has been comprehensive. We have held numerous hearings. Most of us have gone out and watched how the protections are implemented and where the information is collected at the NSA.

The DNI's proposal came up to us, and in April he warned that the current text of FISA is causing significant intelligence gaps during a period of increased threat. We all know that the threat of al-Qaida is severe now. We cannot afford to go home, to leave this place, and not take off the artificial barriers that prevent NSA from keeping our country safe.

The DNI has now provided us with a bare-bones FISA modernization proposal. It doesn't deal with all of the problems we in the Intelligence Committee must deal with later on in this session. We must do it.

Last night, we had a proposal delivered by Senator ROCKEFELLER that did not come from the members of the Intelligence Committee. It was a counterproposal to provide what he argued was a temporary legislative fix to FISA. Unfortunately, the counterproposal will not close these significant intelligence gaps that the DNI has told us about. Instead, it requires the Government to get a FISA order when a foreign target communicates with a significant number of persons and calls into the United States. That, to me, is going in the wrong direction. We don't need to stop and get a court order to protect the privacy of a terrorist who is making lots of calls into the United States. That is moving in the wrong direction.

Our enemies are not naive. They understand our laws sometimes better than we do. They would realize that all they had to do, if they wanted to cover their tracks while a lengthy FISA court application procedure was done, is make a whole lot of calls to people in the United States to trigger the requirement.

It would be an unnecessary and enormous burden on the intelligence assets and operators. We don't want people who play an essential role in fighting terrorism to spend the bulk of their time processing stacks of FISA applications on foreign targets. We want them to do the intelligence work to keep our country safe.

Well, as a result of the proposal made by Senator ROCKEFELLER, and others, the DNI was able to accommodate a number of these proposals and adopted their proposal for FISA court review of the procedures. They put a 6-month sunset on it. They added the DNI, Director of National Intelligence, to the authorizing process for acquisition of foreign intelligence. This is what is before us. The minority leader has presented it. I am proud to be a cosponsor.

The debate is about whether targeting foreigners overseas should require a FISA order. That was never the intent of the FISA legislation. It was intended solely to protect the fourth amendment rights of persons inside the United States—not foreign targets.

FISA needs to be modernized. Technology has changed. It is now no longer covered. The DNI's approach takes into account the changing technology and has adopted the reasonable suggestions made in the proposal made by Senator ROCKEFELLER, and others.

Congress needs to act on this legislation, please, before we get out of town. Don't leave town leaving the NSA deaf to significant terrorist information that might save our country from attack.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I want to move things along here and set an order of speakers. I ask unanimous consent that Senator MIKULSKI be recognized to speak for 5 minutes; following that, Senator CHAMBLISS be recognized to speak for 5 minutes. Following him, Senator BROWN be allowed to speak for 8 minutes; following him, Senator COBURN, for 10 minutes; following that, Senator WEBB be allowed to speak for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I, too, rise to comment on the FISA situation in which we find ourselves, because we want to be very clear that patriotism, adherence to the Constitution to defend the Nation against all enemies foreign and domestic, is not a partisan issue; that as our distinguished colleague from Missouri has spoken to—and I know the Senator from Georgia will—we are all on the Intelligence Committee, and we know what the real deal is in the sense of a very dangerous time facing our country.

We on this side of the aisle want to assure both our colleagues and the American people that we want to make the reforms in FISA before we go out as intensely as do our colleagues who are speaking tonight. We want to make those reforms so that we, too, give the intelligence community the power to go after and catch the terrorists and to be able to pump for the information they need to protect us, rather than a bureaucracy.

As a member of the Intelligence Committee, I feel it is my first duty to make sure they have the tools they need to protect the Nation. That means not only the financial resources to hire the best people and have the best technology, but it also means they have the legal framework in which to operate. But, indeed, a legal framework is what we need. We believe that in functioning within a legal framework, we are able to bring to bear all of the very important resources that are needed, both from the private sector as well as from the public sector.

I agree with my colleagues that as we come into August, we have a certain level of anxiety. All of us know, as we look back on 2001, that if in fact we could have done something to protect or stop what happened on that terrible day, September 11, we would have done it. We know that right now, this minute, we have another rendezvous with destiny and we will meet that. In meeting that rendezvous, we will arrive at a legal framework that is constitutionally compliant, that will enable the Intelligence Committee to be able to do what it needs, without being shackled by more bureaucratic mandates. There are many proposals. The details of why we would support them or raise a question are better discussed in a more classified forum.

Should the approach be bipartisan? You bet. I have worked with the Senator from Missouri. I know how he brings pragmatism, common sense, and very sound legal analysis to the discussion. This is not about politics. This is about the people and protecting the people we were sworn to protect. So I believe we will be proceeding. I am prepared, if necessary, to cancel my plans. But I believe if we work hard and are inclusive and approach it with common sense, we will focus on what is the end game here, which is to do the right thing to protect us.

Mr. President, I have fought for children's health care for a very long time, going back to my days as a social worker and also as a young House Member. This bill is what we hoped for and dreamed for—those of us who worked in social work and foster care and child abuse—to make sure kids had eyeglasses and hearing aids and so forth. And for all those adolescents who need to discuss things with doctors, this would be an open door. For all those handicapped children, this is what we need.

I salute the chairman and ranking member on this bipartisan solution. We have done this in a way that we can pay for it. At the end of the day, over an additional 3 million children will have health care. I salute my colleagues.

A few months ago, we had a little boy die in Maryland because he didn't have access to dental care. He had an oral infection that spread through his blood. So tomorrow when I vote, I vote for Deamonte, and for all others like him. I support the bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I ask the Senator from Georgia to yield so that I may speak for a few minutes. I am sorry I wasn't on the floor to listen to the speech of the Senator from Kentucky, the Republican leader, dealing with FISA.

Let me say briefly, we got the bill and the rule XIV late this afternoon. Ours is almost completed. We are working on it in my office, and the Speaker has to sign off on some of these things. It could take a little while before we are able to file this.

I so appreciate the Senator from Maryland. She is a woman who takes tremendously difficult jobs as a Senator. She has been a valued member on more than one occasion on the Ethics Committee, doing some of the most difficult work we have had to do on ethics in the entire history of the country. And then as far as her serving on the Intelligence Committee, she has been exemplary. I depend on her for information on what to do. A lot of times these meetings are held, and you need direction as to what we need to do on the Senate floor because what goes on in the Intelligence Committee is all secret. I admire and respect her so much because she helped us get to the point where we are.

We are going to come back with the proposal that we will file, a rule XIV, as the Republicans did theirs. It is meeting the expectations of the American people. One of the things we have going for us with this repair of FISA is Admiral McConnell. We trust this man. He is a man who speaks in a language we understand. He is direct and concise. Because of that, I think we can work something out. I just spoke to the vice chair of the Intelligence Committee, Senator BOND. We talked about the fact that ours will be laid down, and theirs is already laid down. Certainly, we should be able to work something out. We are all trying to obtain the same goal: to be able to protect ourselves from the evil people in the world who are trying to do harm to us as a country and individually and others from around the world.

We are going to proceed in good faith to try to get this done, and hopefully sometime in the next little bit, we will be able to file our legislation and what we call rule XIV so we are matching what the Republicans did this afternoon.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2557 TO AMENDMENT NO. 2530

Mr. BAUCUS. Mr. President, if I may have the indulgence of the Senator from Georgia, I ask unanimous consent that the pending amendment be set aside, and on behalf of Senator SPECTER, I call up amendment No. 2557.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. SPECTER, proposes an amendment numbered 2557 to amendment No. 2530.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to reset the rate of tax under the alternative minimum tax at 24 percent)

On page 217, after line 25, insert the following:

SEC. 61__. REDUCTION IN RATE OF TENTATIVE MINIMUM TAX FOR NONCORPORATE TAXPAYERS.

(a) IN GENERAL.—Clause (i) of section 55(b)(1)(A) of the Internal Revenue Code of

1986 (relating to noncorporate taxpayers) is amended to read as follows:

''(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is—

''(I) 24 percent of the taxable excess, reduced by

''(II) the alternative minimum tax foreign tax credit for the taxable year.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 55(b)(1) of such Code is amended by striking clause (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

Mr. BAUCUS. I thank my friend from Georgia. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

FISA MODERNIZATION

Mr. CHAMBLISS. Mr. President, I rise tonight to support the McConnell legislation that has been submitted relative to FISA modernization and say, first, that I associate myself with the remarks of the Senator from Maryland. She has been a huge asset on the Intelligence Committee. She does her homework, she works hard, she studies the issues. She is exactly right. This is not a partisan issue by any means. This is truly an American issue because it is an issue that allows us to continue to protect Americans and allows us to do the best job we possibly can in the intelligence community to ensure we do not suffer another attack on American soil.

Unfortunately, we cannot guarantee that will not happen, but the fact is, we need this updated, even though it is temporary, FISA modernized to allow our intelligence community to gather the type of information from the bad guys who are certainly out there getting up every day and making plans to attack assets of America, whether they are abroad or whether they are assets in the United States.

It is simply necessary that we take advantage of the technology that is available today that was not available at the time the original FISA statute was implemented and passed into law, and that we make sure we are giving our intelligence community all the tools they need to do their job in a very professional manner.

There is a threat out there. The Secretary of the Department of Homeland Security has expressed recently that a threat exists, that he has a gut feeling something may happen. There are a lot of factors timewise and otherwise that make us feel that might be the case. Who knows. We cannot step into the minds of the bad guys who are out there.

I will say one thing about this legislation. It does not invade the privacy of any group except one, and that is the terrorists. We need to invade the privacy of the terrorists. This bill is something that if it had been in place, if the tools had been in place in 2001, who knows whether we could have stopped the attack that took place on September 11. But what we do know is that certain phone calls were made by some of the 9/11 hijackers, and if we had in place a program that we now are operating under, it is very likely that we might have picked up on some of those phone calls.

This legislation, again, gives our intelligence community tools which they can use to gather information only from those people who are making plans to carry out a terrorist attack against the United States or against our allies or in some country where we have assets.

I appreciate the cooperative spirit that, obviously, we are seeing from folks on the other side of the aisle. This is truly one of those times we need to come together in a bipartisan way and, obviously, we are going to make this fix to make sure our intelligence community can do their job in a very professional way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I begin by thanking Chairman BAUCUS for his terrific work on perhaps the most important domestic legislation this year, and that is the Children's Health Insurance Program. I thank the Senator from Pennsylvania also, the Presiding Officer tonight, for his terrific work leading our freshman class on this issue. We know how important it is to the people, whether it is Montana, Pennsylvania, Maryland, Georgia, or any of the States represented here tonight.

The children's health insurance bill meets the most basic need of American families. Nothing should stand in the way of this bill moving forward. Children too often suffer and some die because they do not have access to health care. In a nation as wealthy as ours, that is not just irresponsible, it is immoral.

Today we have the opportunity to do the right thing for American families, for parents, for children. Without health insurance for their children, parents too often face impossible choices—go to the doctor when their child is sick or pay the grocery bill or the electric bill or the rent. These are the choices that families are forced to make—cruel choices.

In 1996, when Congress created the Children's Health Insurance Program, with a Democratic President and a Republican Congress, there were nearly 11 million uninsured children in the United States. In Ohio, my State, there were roughly 305,000 uninsured children. Today, thanks in large part to the Children's Health Insurance Program, those numbers have been reduced substantially—fewer than 9 million nationwide and roughly 236,000 in Ohio.

The Children's Health Insurance Program is directly responsible for covering 6.6 million children across the country and more than 200,000 children in Ohio in Athens, in Ashtabula, in Warren and West Lake, in Marion and Maple Heights. That is good, but it is not good enough. Mr. President, 150,000 low-income children, most of whom have working parents, in Ohio, do not have health insurance. This bill does the right thing on mental health, requiring parity between mental and physical health benefits.

I would like to share a story I heard yesterday that should remind us of the importance of this provision. In 1990, Kitty Burgitt's husband died suddenly, leaving her to care for her 5-year-old daughter and 2-year-old son as a single mother in Canton, OH, a city in the northeast part of my State. Her Social Security survivor benefits were considered too much to qualify for Medicaid. Six years later, Congress created the Children's Health Insurance Program. Kitty immediately enrolled her children in that program.

Given the initial strict income eligibility provisions of the program, Kitty was forced to turn down raises and refuse the additional hours at work that she wanted to work to keep her children enrolled, to keep them insured.

When her daughter was in the eighth grade, she started experiencing mental health problems. Then her daughter became suicidal. The Children's Health Insurance Program covered her treatment, which then was extensive. Imagine what it would have been like for Kitty if she had no way to help her daughter. No parent should ever feel that helpless. No parent should ever be forced to watch powerlessly as her child, or his child, suffers.

Thankfully, because of the Children's Health Insurance Program, Kitty's daughter did receive the treatment she needed. Today her daughter is healthy and happy. As Kitty herself wrote recently:

> Today my daughter is 22, happily married with a beautiful daughter of her own—
>
> Kitty's granddaughter—
>
> and has a good job as a restaurant manager.

If we do our job this week and pass this bill, we will hear more success stories such as this one in the future.

Some of my colleagues raise concern over this bill's income eligibility levels. I believe it is important, however, for each State, with its own unique set of circumstances, to have the flexibility to offer coverage to those it deems in need. The State makes that determination.

In my State of Ohio, for instance, Governor Strickland and the State legislature have taken it upon themselves to raise the eligibility limit for the Children's Health Insurance Program to 300 percent of poverty level. That 300 percent is not living in the lap of luxury. It means a parent still cannot afford health insurance in a job where they are 300 percent of poverty without some help from the Children's Health Insurance Program.

This means little boys, such as Marco Rodriguez, will finally have health insurance. Marco lives in Marion, 20 to 30 miles from where I grew up. He is 9½

years old. His father died last year. His mother works full time. This is Marco's mother. But her job does not offer health insurance. She cannot afford private coverage. Her income is just over 200 percent of poverty, roughly $24,000 a year. She works hard, is raising her child, she is widowed, and she makes $24,000 a year. Of course she cannot afford health insurance on that income. It is not enough to pay for food, rent, and clothing—barely—and private health insurance.

So Marco, like all too many children, has been going without health insurance. What if something happens? One major medical emergency for Marco could mean financial catastrophe for his mother, his family—for both of them.

If we do our job this week, Ohio will be able to cover Marco come January 2008.

Others have voiced concern over the cost of this reauthorization. It was a bipartisan initiative 10 years ago, with a Democratic President and a Republican Congress and an overwhelming number of Democrats, myself included, in the House of Representatives and Senate voting for it. We all agree this program has been a success.

The investment we made in 1996 has proven to be a wise one. And still too many of my friends on the other side of the aisle hesitate. They hesitate about our Nation's children. They say: We like the program, but it is too expensive or, We have other priorities. But this is about priorities. And the questions are pretty simple.

Should Congress provide for billionaire tax breaks or health insurance for our children? Should we provide for billions, literally billions in no-bid contracts in Iraq or health insurance for our children? Should we provide for Medicare privatization and oil company subsidies or health insurance for our children?

It is time for Congress to get its priorities straight. We should pass the Children's Health Insurance Program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 2618 TO AMENDMENT NO. 2530

Mr. WEBB. Mr. President, I ask unanimous consent that the pending amendment be laid aside in order that I might bring up my amendment No. 2618 to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WEBB] proposes an amendment numbered 2618 to amendment No. 2530.

Mr. WEBB. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To eliminate the deferral of taxation on certain income of United States shareholders attributable to controlled foreign corporations)

At the end of title VII, insert the following:

SEC. ____. ELIMINATION OF DEFERRAL OF TAXATION OF CERTAIN INCOME OF CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 952 (relating to subpart F income defined) is amended by adding at the end the following new subsection:

''(e) SPECIAL APPLICATION OF SUBPART.—

''(1) IN GENERAL.—For taxable years beginning after December 31, 2007, notwithstanding any other provision of this subpart, the term 'subpart F income' means, in the case of any controlled foreign corporation, the income of such corporation derived from any foreign country.

''(2) APPLICABLE RULES.—Rules similar to the rules under the last sentence of subsection (a) and subsection (d) shall apply to this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after December 31, 2007, and to taxable years of United States shareholders with or within which such taxable years of such corporations end.

Mr. WEBB. Mr. President, I strongly support this bill. As an initial matter, I express my thanks to Senators BAUCUS and GRASSLEY for their hard work on this bipartisan bill which will help provide health insurance to millions of children nationwide and hundreds of thousands of children in my home State of Virginia.

For too long in this country, low-income families have been unable to afford health insurance for their children. Reauthorizing this program helps meet this urgent need. But, unfortunately, this bill does so by singling out one form of conduct, tobacco smoking, and then taxing many of the very same people the program is intended to assist.

Not only are lower income workers more likely to smoke, they spend a greater percentage of their income on tobacco when they do because an estimated half of American smokers come from the same income groups as those families who are eligible for this program. In my view, this amounts to robbing Peter to pay Paul.

Additionally, the very form of conduct that we are supposedly attempting to discourage has become the same form of conduct that we are implicitly hoping will continue to finance this program. I find this logic odd. At some level, I find it counterproductive to the very goals of the legislation that is before us.

And here is another problem. This is a targeted tax on commercial transactions that are disproportionately engaged in by people with lower incomes. At the same time, our country is experiencing a vast accumulation of wealth amongst our highest income earners.

Income disparities in this country are at levels that we have not seen for at least 70 years. Moreover, corporate profits are at an all-time high as a percentage of our national wealth, while wages and salaries on our working people are at an all-time low.

There is, in my view, a better way, a fairer way to pay for this program. That is why I have offered this amendment.

Under the Federal Tax Code, American corporations are allowed to defer payment of American taxes on the profits earned by their overseas subsidiaries. Under current law, taxes on the business income of foreign subsidiaries are not payable until the profits are repatriated back to the American parent corporation and, in reality, this means they are not going to be paid at all.

Companies can defer ever paying taxes in the United States by keeping their income overseas and making money from it indefinitely. The Tax Code, in other words, creates an incentive to move jobs overseas, to not invest in American operations, and also provides a method to shelter overseas profits from fair taxation.

In just one recent example reported by the New York Times, a major biotech corporation—Amgen—with offshore subsidiaries used American tax laws to escape hundreds of millions of dollars in taxes, taxes that should have gone into the American treasury. Although this corporation reported that 80 percent of its billions of dollars of sales occurred in the United States, it paid only 22 percent of American taxes on its profits. This corporation got away with this specifically because of American tax policies, like many other corporations do today.

My amendment would eliminate this deferral provision in the Tax Code. This critical reform would discourage these companies from moving American investments and jobs to foreign tax havens and raise the revenue necessary to expand the Children's Health Insurance Program. This reform also would protect American workers by reversing the consistent flow of American jobs that corporations are outsourcing abroad.

I have been unable at this point to receive an official estimate of the revenues this amendment would raise, but I have consulted multiple credible sources and have no doubt this amendment would raise the new funds needed under the new policy, which are approximately $7 billion a year. These sources include the Joint Committee on Taxation, which estimated last year that deferral would raise $6.4 billion in 2008 and rise to $7.5 billion by 2010. It also includes the President's own budget proposal for fiscal 2008, which estimates that tax expenditures for the deferral of income of this sort would be $12.8 billion in 2008 and rise to $16.7 billion in 2012.

Opponents of this amendment would argue that deferral is needed to avoid corporate exposure to double taxation. However, in my view, that is a disingenuous argument. American corporations investing overseas currently receive a tax credit, a Federal tax credit, for their payment of foreign taxes of

up to 35 percent. My amendment does not affect the availability of this credit and therefore would not result in double taxation, nor does my amendment affect in any way the current provisions regarding allocation of corporate expenses, which are related but separate.

Some opponents might contend this is a new tax. But this is not a new tax. This is a way to reclaim monies that already should have been paid into the National Treasury by companies earning skyrocketing profits. This amendment closes a loophole.

The Children's Health Insurance Program is probably the greatest achievement of our Congress in terms of health care insurance in the past decade. It has provided cost-effective health coverage to more than 137,000 children in Virginia in 2006 and millions of children across the country, reducing the number of uninsured children by one-third. We must, however, further strengthen our investment in children's health coverage. Millions of children remain uninsured. That is why this legislation is important.

I urge my colleagues to seize this opportunity to help children from America's low-income families, but I respectfully argue that we need to do so not with a regressive tax on people who have little ability to pay but, instead, by eliminating a corporate tax provision that would be one small step toward restoring fairness in our society and reinforcing the proper notions of how our Government should operate.

I ask my colleagues to support this amendment.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 2530 to Calendar No. 58, H.R. 976, the Small Business Tax Relief Act of 2007.

Harry Reid, Max Baucus, Bernard Sanders, Jeff Bingaman, Ted Kennedy, Maria Cantwell, B.A. Mikulski, Barbara Boxer, Daniel K. Inouye, Christopher Dodd, Patty Murray, Benjamin L. Cardin, Barack Obama, Kent Conrad, Dick Durbin, Ken Salazar, Blanche L. Lincoln, Jack Reed.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

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Harry Reid, Max Baucus, Bernard Sanders, Jeff Bingaman, Ted Kennedy, Maria Cantwell, B.A. Mikulski, Barbara Boxer, Daniel K. Inouye, Christopher J. Dodd, Patty Murray, Byron L. Dorgan, Barack Obama, Kent Conrad, Dick Durbin, Ken Salazar, Blanche L. Lincoln, Jack Reed.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SALAZAR). Without objection, it is so ordered.

AMENDMENT NO. 2537

Mr. KYL. Mr. President, I know the majority leader is going to be coming here shortly to conclude today's activities. Prior to that, let me comment a little bit on an amendment that has been offered on my behalf by Senator GRASSLEY, amendment No. 2537. It is an amendment which deals with the so-called crowd-out effect of the Finance Committee bill.

The crowd-out effect has to do with the people who are covered by private insurance today who would be crowded out of private insurance and going onto the SCHIP program, the Government program under the bill. The problem is that under the bill, all of the newly eligible people under the program are replaced literally one for one from private insurance to the Government program. In other words, a child or a family who is on private insurance today, for every one of those children or families who is on private insurance, when the Government program is expanded, they will leave the private insurance market. It is a one-for-one transfer. We should not be offering more Government benefits for insurance to cover children or anyone else when the effect of that is for every new person covered to have somebody leaving the private insurance market. The object here is to cover people with insurance, to allow them to have access to good care through insurance. We do not solve any problem at all when we take somebody who already has insurance and bring them into a new program.

The CBO estimates that between 25 percent and 50 percent of all the eligible SCHIP recipients are crowded out of the private insurance market. In other words, for every 100 people on private insurance today, between 25 and 50 of them will leave private insurance to go to the SCHIP program as it is expanded. As I said, for the newly eligible, it is a one-for-one transfer. Why is that a good idea?

This amendment which I have offered says that if the effect is more than 20 percent in the crowd-out, that is to say that through this program, more than 20 percent of the people who are covered leave private insurance to be covered by this new program, then it does not go into effect. But it does go into effect if the so-called crowd-out effect is less than 20 percent.

For the life of me, I don't know why we would spend an additional $35 billion to replace people who are already covered. That does not represent a sound and efficient use of taxpayer dollars.

Let me make it clear that I support the reauthorization of SCHIP. I have supported the Republican alternative. But I believe the Finance Committee bill represents not just a reauthorization but an expansion of the program which, as the chairman himself acknowledged, is another step toward universal coverage.

We do not need to be taking people off private insurance to enroll them into this program. The problem, and I will be very brief, is that the people who are added are people generally of higher income, and we are adding a group of adults as well. Those are people who generally are more covered by insurance today. So it is logical that, as CBO says, for every one person who is covered today, one person leaves that coverage to go to the SCHIP program under the committee bill. It is estimated that there will be about 600,000 in this category. In fact, CBO shows that a one-for-one replacement means that for 600,000 newly insured individuals, 600,000 individuals go off their private coverage.

As I said, that simply makes no sense. It seems to me what we should be doing instead is providing coverage for people who do not have private insurance coverage. That would be a much better use of taxpayer dollars.

To conclude the point, there are two reasons why this is happening that are not problems with the alternative, the Republican alternative that was voted on that failed. But they are problems with the Finance Committee bill. The first one is that the Finance Committee bill allows States to enroll children from higher income families, the very ones who have greater insurance coverage today. We have already talked about the New Jersey experience, for example, and the New York experience, in that regard—people at 350 percent to 400 percent of the poverty level, between $60,000 and $80,000 in income for a family of four. Those people, by and large, are already covered by insurance. Not only is there no reason to provide them SCHIP coverage, but we are simply crowding people out of the private sector into this program.

If my colleagues want to avoid the crowding-out effect, it seems to me we

should be focusing on the truly needy, the low-income children, not children from higher income families.

Second, the Finance Committee bill allows States with existing waivers to continue enrolling parents. CBO stated:

No studies have estimated the extent to which SCHIP reduces private coverage among parents so the available estimates probably underestimate the total reduction in private coverage.

According to CBO's own numbers, this is a big problem. It seems to me we should be focused on solving that problem rather than simply adding to the problem as the Finance Committee does. If we are serious about minimizing the erosion of private coverage, then we should direct SCHIP funds to low-income children and not add adults; as the Budget Committee chairman said not too long ago, there is no ''A'' in SCHIP. Otherwise, CBO estimates that over 2 million individuals will go off private coverage under the Finance Committee bill.

Let me state that again: 2 million individuals who currently have private insurance will go off that private insurance onto this new program or onto the program that is added to by the Finance Committee bill. Why would we do that? It doesn't make sense.

My amendment will be dealt with tomorrow. We will have a chance to further debate it and, as I said, all it provides essentially is if more than 20 percent of the people who are enrolled come from the private insurance sector already, then the program would be in abeyance until that number is reduced below 20 percent.

I also note there were several articles recently written that I think describe the general problem as well as this specific problem. There are three in particular I would like to have printed in the RECORD at the conclusion of my remarks.

I will ask unanimous consent that the following pieces be printed in the RECORD. One is a piece by John Goodman called ''Insurance Folly,'' in the Wall Street Journal; another is a Wall Street Journal opinion in the ''Review & Outlook'' section, dated July 30, called ''The Newest Entitlement,'' and third is a column in my hometown newspaper, the Arizona Republic, an editorial, August 1, by Bob Robb, which I think correctly notes the problem I have discussed and issues with the Finance Committee bill.

I ask unanimous consent these three published items be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

INSURANCE FOLLY

(By John C. Goodman)

The State Children's Health Insurance Program (Schip) was originally a Republician program to provide health insurance to children in near-poor families who did not qualify for Medicaid. Democrats now want to expand Schip to children of the middle class.

Their efforts to do so are rightly being resisted by the White House, but Senate Finance Committee Republicans have already caved on an unwise compromise to make more people eligible for Schip.

On the surface, congressional Democrats appear to be rescuing children from the scourge of uninsurance. The reality is quite different. If they get their way, millions of children will have less access to health care than they do today, and the same will surprisingly be true for many low-income seniors.

Studies by MIT economist Jonathan Gruber show that public insurance substitutes for private insurance and the crowd-out rates is high. In general, for every extra dollar spent on Medicaid, private insurance contracts by 50 cents to 75 cents. For Schip, depending on how it is implemented, private insurance could contract by about 60 cents.

These findings make sense. Why pay for something if the government offers it for free? Under congressional proposals to expand Schip, the crowd out would likely be much worse. The reason: Almost all the newly eligible beneficiaries already have insurance.

The Senate bill would expand the eligibility for coverage under Schip to families with incomes 300% above the federal poverty level ($62,000), from its present ceiling, 200% above the poverty level. House Democrats want to push coverage to 400% ($83,000 annual income).

Yet almost eight of every 10 children whose parents earn from 200%–300% more than the poverty level already have private health-care coverage, according to the Congressional Budget office (CBO). At incomes between 300% and 400% more than poverty, nine of every 10 children are already insured.

What about the eight to nine million children currently uninsured? Nearly 75 percent of them are already eligible for Medicaid or Schip, according to the CBO. So the main result of the Democrats' proposal to expand Schip will be to shift middle-class children from private to public plans.

Why is that bad? One reason is that most Schip programs pay doctors at Medicaid rates—rates so low that Medicaid patients are having increasing difficulty getting access to health care. Anecdotal evidence suggests that U.S. Medicaid patients already must wait as long for specialist care and hospital surgery as in Canada.

Many doctors won't see Medicaid patients. Among those that do, many will not accept new patients. As a result, children who lose private coverage and enroll in Schip are likely to get less care, not more.

There is also the issue of who exactly will be covered. Republicans want to restrict Schip to children. The Democrats want adults covered as well. Even under the current system, children's health insurance is increasingly a ruse to cover adults. Minnesota spends 61% of Schip funds on adults. Wisconsin spends 75%.

Seniors will suffer from Schip expansion too. When millions shift from private to public coverage, not much happens to the overall rate of uninsurance. But the government's cost soars. Where's the money to come from? One idea popular with some House Democrats is to reduce federal payments to Medicare Advantage plans. These plans provide comprehensive coverage to low-income seniors who can't afford supplemental insurance to fill all the gaps in Medicare. One in five seniors has enrolled in these plans and one in four of those is a minority. In the House of Representatives, health care for this group is a great risk.

The proposal to expand Schip comes at a time when health-care spending already poses a serious threat to the federal budget. The Medicare trustees tell us that the program's unfunded liability is six times that of Social Security. The CBO predicts that on the current course income tax rates paid by the middle class will reach 66% by midcentury and the top marginal rate will reach 92%.

So what do congressional Democrats plan to do about this problem? Ignore it.

A key provision of the 2003 Medicare Modernization Act says that when Medicare's finances deteriorate to a certain level (that level is already reached), the president must propose an appropriate reform and Congress must fast-track the proposal. Yet one senior Democratic legislator—as yet unidentified—wants the Schip bill to repeal that provision.

In a way, repeal makes a certain sense. If the ship is going down anyway, why spoil the fun?

[From the Wall Street Journal, July 30, 2007]

THE NEWEST ENTITLEMENT

The State Children's Health Insurance Program sounds like the epitome of good government: Who could be against health care for children? The answer is anyone who worries about one more middle-class taxpayer entitlement and a further slide to a government takeover of health care. Yet Schip is sailing toward a major expansion with almost no media scrutiny, and with Republicans in Congress running for cover.

Schip was enacted in 1997 to help insure children from working-poor families who make too much to qualify for Medicaid. In the intervening years, the program reduced the rate of uninsured kids by about 25% but has also grown to cover the middle class and even many adults—and it gets bigger every year. Schip expires in September without reauthorization, and Congressional Democrats want to enlarge its $35 billion budget by at least $60 billion over five years.

State Governors from both parties are also leading the charge—and for their own self-interested reasons. Schip money is delivered as a block grant, which the states match while designing their own insurance programs. All cost overruns, however, are billed to the federal government, which is on the hook for about 70% of Schip's ''matching rate.'' This offers incentives for state politicians to make generous promises and shift the costs to the feds, or to toy around with costly universal health-care experiments. And since the states only get 57 cents on the dollar for Medicaid, they are working hard to transfer those recipients to Schip.

This self-interest explains a recent letter from the National Governors Association demanding ''urgent action'' on Schip, which got lots of favorable play in the press. Yet these are the same Governors who have been moaning for years about rising entitlement burdens, which is what Schip will be soon enough. Particularly egregious was the signature on the letter of Minnesota Governor Tim Pawlenty, a Republican who regards himself a conservative health-care maven and should know better.

This ''bipartisan'' cover is serving Democrats in Congress, who want to liberalize Schip eligibility as part of their march to national health care. The Senate Finance Committee has voted 17–4 to increase Schip spending to at least $112 billion over 10 years. Not only does it use a budget trick to hide a payment hole of at least $30 billion, it proposes to offset the increase by bumping up the cigarette tax by 61 cents to $1 pack.

House Democrats are putting the finishing touches on their own plan, making the cigarette tax somewhat lower to win over tobacco state members. Instead, the House is proposing to steal nearly $50 billion from Medicare Advantage, the innovative attempt

to bring private competition to senior health care.

Michigan's John Dingell explains that ''these are not cuts'' but ''reductions in completely unjustified overpayments''—which will come as news to insurers that offered coverage plans based on certain funding expectations. The ''overpayments'' he's referring to were passed expressly as an incentive for companies to offer Medicare Advantage in rural areas with traditionally fewer insurance options—and are intended to be phased out over time. Democrats apparently want to starve any private option for Medicare.

In any case, the actual costs of Schip will overwhelm these financing gimmicks. Like all government insurance, Schip is ''covering'' more children by displacing private insurance. According to the Congressional Budget Office, for every 100 children who are enrolled in the proposed Schip expansion, there will be a corresponding reduction in private insurance for between 25 and 50 children. Although there is a net increase in coverage, it comes by eroding the private system.

This crowd-out effect is magnified moving up the income scale. In 2005, 77% of children between 200% and 300% of the poverty level already had private insurance, which is where the Senate compromise wants to move Schip participation. New York State is moving to 400% of poverty, or some $82,000 in annual income. All of this betrays the fact that the real political objective of Schip is more government control—HillaryCare on the installment plan.

We'd have thought Capitol Hill Republicans would understand all this, especially with the White House vowing to veto any big Schip expansion. But we hear the GOP lacks the Senate votes for a filibuster and perhaps even to sustain a veto. GOP Senators Mitch McConnell and Jon Kyl are backing an alternative to account for population growth and reach the remaining 689,000 uninsured children that Schip was intended to help. Republicans would be wise to support this version, or they'll take one more step to returning to their historic minority party status as tax collectors for the welfare state.

[From the Arizona Republic, Aug. 1, 2007]

DEM HEALTH PLAN A BURDEN ON POOR

(By Bob Robb)

The reauthorization of the State Children's Health Insurance Program illustrates the difficulty of having a sensible policy discussion in the context of American politics, as currently practiced.

According to congressional Democrats, opposition to their reauthorization proposals means support for allowing low-income children to go without health care.

According to Republicans, the Democrats are proposing socialized medicine on the installment plan.

A sensible policy discussion begins with what the debate isn't about: health insurance coverage for low-income children.

SCHIP was intended to provide federal subsidies to insure children up to 200 percent of the federal poverty level, or a family income of about $40,000 a year. The program expires this year and needs to be reauthorized.

No one opposes reauthorization for its intended purpose. The Bush administration has proposed reauthorization for this targeted population with an extra $5 billion in funding over the next five years, over the current base of $25 billion.

The problem is that SCHIP has expanded beyond its original scope, as so often happens with federal programs. In the early years, many states couldn't use all their SCHIP money, so the feds permitted excess funds to be used by other states to extend coverage to children beyond 200 percent of the poverty level and even adults.

In Arizona, the SCHIP plan is called KidsCare. A Government Accountability Office study found, however, that 56 percent of the people enrolled in ''KidsCare'' were actually adults.

Fifteen states now provide SCHIP coverage for children above 200 percent of the federal poverty level, and 14 states cover adults.

Congressional Democrats propose not only to fund these existing expanded programs but provide enough funding for other states to substantially expand eligibility, as well. In all, Democrats are proposing to more than double SCHIP funding, allowing universal coverage up to 300 percent of the federal poverty level, as Gov. Janet Napolitano has proposed for Arizona.

That would provide coverage up to a family income of about $60,000 a year. Since the median family income in the United States is just over $46,000, this reaches well into the middle class.

Here, a confusion surfaces between the issues of universal access and federal subsidies. There are a lot of middle-class American families that have difficulty obtaining health-insurance coverage. Every state, however, can provide universal access by allowing buy-ins to its Medicaid program.

The question SCHIP reauthorization poses is whether the federal government should be subsidizing the health insurance of middle-class families. There doesn't seem to be any justification for it, particularly funded the way congressional Democrats are proposing.

To pay for the SCHIP expansion, Democrats are proposing to raise tobacco taxes by up to 61 cents a pack.

Tobacco taxes are highly regressive. So, basically, Democrats are proposing to tax the poor to pay for the health care of the middle class.

Tobacco taxes are also highly uncertain. Health-care advocates like them because the evidence is that they do reduce consumption. However, states and the federal government have already loaded up various programs, many involving health care and children, on their backs. The odds are very strong that tobacco taxes will not produce the revenues being obligated.

Now, Republicans are making these points. But they also are employing a scare tactic of their own, that Democratic proposals are basically socialized medicine on the installment plan.

However, government programs to provide subsidized access to what is still a private system of health-care providers are very distinct from European-style national health-care systems. Moreover, federal tax policy also heavily subsidizes private, employer-provided health insurance. So, this is not a clean choice between public and private approaches.

At the end of the rhetoric, however, congressional Democrats aren't proposing to reauthorize a program to insure low-income children. Instead, they are proposing a massive expansion of subsidized health care to middle-class families, funded by a large increase in heavily regressive tobacco taxes.

That's an unwise, unfair and fiscally risky scheme.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, we are going to close for the night. I do wish to make a couple references to my friend from Arizona on this issue. I know he will be offering his amendment tomorrow. We will discuss and debate it more. But I have to say we have been hearing a lot of these arguments all week about crowd-out. I would say, respectfully, a lot of Americans feel crowded out right now because they have no health insurance. It is a terrible crisis in the life of too many Americans. We can debate this, and I think the numbers show there is a lot more crowd-out in Medicare Part D, and that was voted overwhelmingly by the last Congress.

I think there is still a lot of debate to go on this, but I have to say there are still some people on the other side of the aisle who have been debating different points of this legislation all week—but they have their insurance. They are called Senators and their families. They have insurance. I do, the Presiding Officer does, the Senator from Arizona has insurance as a Member of the Senate. I am tired of some of the arguments we have heard. I do not attribute them to this Senator, but too often arguments have been made all during this week as a way to block this legislation from going forward. I think it is about time we got to a vote.

Too often, in the last couple days, all we have heard are ways to slow this down, to impede the progress. We have heard misinformation about poverty level numbers, that people above 300 percent of poverty are getting children's health insurance right now. That is not true under this program.

I think we will have more time to debate this, but we have seen a lot of crowding out already. The American people have had to suffer. I think it is a question worthy of debate. But I hope when all the debating is over, all the speeches and all the debates on both sides lead to what the American people expect from this legislation, which is that we cover 3.2 million more American children. That is the question before the Senate. We are either going to do that or not.

Unfortunately, there are some people here who want to agree with the President. If the President's proposal on children's health insurance—make no mistake; if we rubberstamp the President, 1.4 million American children will lose their health insurance. That is the choice. That is the choice for people on both sides of the aisle.

I am pleased that in the Finance Committee we had consensus, a 17 to 4 vote. The choice is very clear: Support the President's proposal, 1.4 million kids lose their coverage; support the bipartisan children's health insurance initiative, 3.2 million children more than the 6.6 are covered. That is the way to go for America.

We can have a debate tomorrow about a couple of points. But this debate is going to end this week, and we better leave this town having supported 3.2 million American children getting their health insurance.

Mr. SPECTER. Mr. President, I voted against Senate amendment 2538 to the State Children's Health Insurance Program reauthorization because of the critical need to provide health insurance to 3.3 million additional children

under this program. This vote should not be misconstrued as a vote against National Institutes of Health, NIH, funding but as recognizing the need to provide health insurance to children.

This amendment would transfer the additional $35 billion for children's health insurance into a fund for NIH to increase medical research. As ranking member and chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I have ardently supported doubling funding for NIH. The fiscal year 2008 Senate Labor, Health and Human Services, and Education appropriations bill provides $29.9 billion for NIH.

While I support an increase in NIH funding, it cannot be at the expense of providing much needed health care to America's children.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CASEY. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIEUTENANT GENERAL ROBERT ALLEN BREITWEISER

Mr. STEVENS. Mr. President, I missed the 10:30 a.m. vote today because I was at Arlington Cemetery for the interment services for LTG Robert Allen Breitweiser. Lieutenant General Breitweiser was one of the commanding officers of the Fourteenth Air Force when I served in the China-Burma-India theater, and he turned into a good friend when he was assigned to the Alaskan North American Air Defense Command from 1967 to 1969. It was also an occasion for me because Lieutenant General Breitweiser's assistant was Tony Langhorn Motley, who, along with me, survived the airplane crash in which my wife and four others were killed in 1978.

Mr. President, I ask unanimous consent that Lieutenant General Breitweiser's full biography be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIEUTENANT GENERAL ROBERT ALLEN BREITWEISER

Lt. Gen. Robert Allen Breitweiser is commander in chief, Alaskan Command, and commander, Alaskan North American Air Defense Command Region.

General Breitweiser was born in St. Joseph, Mo., in 1916. He graduated from South Denver High School in Denver, Colo., in 1932 and attended the Colorado School of Mines at Golden, Colo., for two years where he majored in Petroleum Engineering. He obtained an appointment to the U.S. Military Academy in 1934 and received a bachelor of science degree in military science and engineering, ranking third in a class of 301.

The general completed primary and advanced flying schools at Randolph and Kelly fields, Texas, in August 1939. He remained at the Advanced Flying School as an instructor until he went to Maxwell Field, Ala., as training group operations officer. He was designated commandant of the Contract Primary Flying School at Bennettsville, S.C. in August 1941. The following February he was assigned to Headquarters, Southeast Training Center, Maxwell Field, Ala.

Transferred to the China-Burma-India Theater in August 1943, General Breitweiser served with the Fourteenth Air Force and the 68th Composite Wing. While with the Fourteenth Air Force he served as General Chennault's personal representative to General Wedemeyer, the China Theater commander. During his duty tour in China, General Breitweiser flew 120 combat hours on 22 combat missions, accounting for numerous enemy trucks and river craft destroyed, plus one 6,000-ton freighter.

Returning to the United States in July 1945, he was appointed deputy chief and later, chief of the Requirements and Resources Branch, Military Personnel Division of Army Air Force Headquarters, Washington, D.C. In August 1947, General Breitweiser was transferred to Ramey Air Force Base, Puerto Rico, and served as assistant executive officer, 24th Composite Wing. He was appointed commander of the base in July 1948, and served in that capacity until May 1949.

After graduating from the Air War College at Maxwell Air Force Base, Ala., in 1950, General Breitweiser became executive officer to the assistant secretary of the Air Force for management in Washington, D.C. He served in that position until November 1951, when he was appointed vice commander of the 34th Air Division (Defense), Kirtland Air Force Base, N.M.

Transferred to Ent Air Force Base, Colorado Springs, Colo., in May 1952, he was named assistant deputy chief of staff for operations for the Air Defense Command.

In July 1954, the general returned to Washington, D.C., as a student in the National War College. Upon his graduation in June 1955, he was assigned as special assistant to the deputy director for estimates, Directorate of Intelligence, Headquarters, U.S. Air Force, and became chief of the policy and management group the following February. In June 1956, he was named deputy director of estimates, office of the assistant chief of staff, intelligence, U.S. Air Force.

In February 1957, General Breitweiser was designated the director for intelligence, Joint Chiefs of Staff, Washington, D.C.

In July 1961, General Breitweiser became assistant chief of staff, intelligence, Headquarters U.S. Air Force, and in September 1963 he assumed command of the U.S. Air Force Southern Command in Panama, Canal Zone. In August 1966, he became vice commander, Military Airlift Command.

Among the general's awards and decorations are the Distinguished Service Medal, Legion of Merit, Bronze Star Medal, Air Medal, Army Commendation Medal with oak leaf cluster, American Defense Service Medal, American Campaign Medal, Asiatic-Pacific Campaign Medal, World War II Victory Medal, National Defense Service Medal with bronze star, Air Force Longevity Service Award with silver and two bronze oak leaf clusters, Order of Yunhui (Special Breast) of China, Friendship Medal with Citation (Argentina), Royal Order of the Sword (Grade of Knight Commander)—Sweden, National Order of the Condor of the Andes (Grade of Commander—Certificate of Honor)—Bolivia, Grand Star of Military Merit (Chile), Order of Aeronautical Merit (Grade of Great Officer)—Brazil. He is rated a command pilot.

CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, section 301 of S. Con. Res. 21, the 2008 budget resolution, permits the chairman of the Senate Budget Committee to revise the allocations, aggregates, and other appropriate levels for legislation that reauthorizes the State Children's Health Insurance Program, SCHIP. On July 30, 2007, I filed revisions to S. Con. Res. 21 pursuant to section 301 for Senate amendment No. 2530, which Senator BAUCUS offered as a substitute to H.R. 976.

I find that Senate amendment No. 2602, as modified, offered by Senator KERRY to Senate amendment No. 2530 satisfies the conditions of the deficit-neutral reserve fund for SCHIP legislation. Therefore, pursuant to section 301, I am further adjusting the aggregates in the 2008 budget resolution, as well as the allocation provided to the Senate Finance Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 21 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008.—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In billions of dollars]

Section 101:	
(1)(A) Federal Revenues:	
FY 2007	1,900.340
FY 2008	2,032.346
FY 2009	2,136.133
FY 2010	2,191.807
FY 2011	2,362.185
FY 2012	2,494.778
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−18.450
FY 2009	29.207
FY 2010	28.086
FY 2011	−32.365
FY 2012	−102.318
(2) New Budget Authority:	
FY 2007	2,376.360
FY 2008	2,503.590
FY 2009	2,525.926
FY 2010	2,579.993
FY 2011	2,697.660
FY 2012	2,734.343
(3) Budget Outlays:	
FY 2007	2,299.752
FY 2008	2,470.680
FY 2009	2,572.427
FY 2010	2,610.470
FY 2011	2,705.388
FY 2012	2,718.644

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008.—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In millions of dollars]

Current Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,086,142
FY 2008 Outlays	1,081,969
FY 2008-2012 Budget Authority	6,064,784
FY 2008-2012 Outlays	6,056,901
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	300
FY 2008 Outlays	311
FY 2008-2012 Budget Authority	7,877
FY 2008-2012 Outlays	14,527
Revised Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,086,442
FY 2008 Outlays	1,082,280
FY 2008-2012 Budget Authority	6,072,661
FY 2008-2012 Outlays	6,071,428

FURTHER CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, earlier today, pursuant to section 301 of S. Con. Res. 21, the 2008 budget resolution, I filed revisions to S. Con. Res. 21. Those revisions were made for amendment No. 2602, as modified, an amendment offered by Senator KERRY to amendment No. 2530 regarding the reauthorization of the State Children's Health Insurance Program, SCHIP.

The Senate did not adopt amendment No. 2602, as modified. As a consequence, I am further revising the 2008 budget resolution and the adjustments made today pursuant to section 301 to the aggregates and the allocation provided to the Senate Finance Committee for amendment No. 2602.

I ask unanimous consent that the following revisions to S. Con. Res. 21 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In billions of dollars]

Section 101:	
(1)(A) Federal Revenues:	
FY 2007	1,900.340
FY 2008	1,022.084
FY 2009	2,121.502
FY 2010	2,176.951
FY 2011	2,357.680
FY 2012	2,494.753
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−28.712
FY 2009	14.576
FY 2010	13.230
FY 2011	−36.870
FY 2012	−102.343
(2) New Budget Authority:	
FY 2007	2,376.360
FY 2008	2,503.290
FY 2009	2,524.710
FY 2010	2,577.981
FY 2011	2,695.425
FY 2012	2,732.230
(3) Budget Outlays:	
FY 2007	2,299.752

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION—Continued

[In billions of dollars]

FY 2008	2,470.369
FY 2009	2,570.622
FY 2010	2,607.048
FY 2011	2,701.083
FY 2012	2,713.960

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In millions of dollars]

Current Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,086,442
FY 2008 Outlays	1,082,280
FY 2008–2012 Budget Authority	6,072,661
FY 2008–2012 Outlays	6,071,428
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	−300
FY 2008 Outlays	−311
FY 2008–2012 Budget Authority	−7,877
FY 2008–2012 Outlays	−14,527
Revised Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,086,142
FY 2008 Outlays	1,081,969
FY 2008–2012 Budget Authority	6,064,784
FY 2008–2012 Outlays	6,056,901

IRAQ

Mr. SPECTER. Mr. President, it continues to be my hope that there will be a consensus reached among Senators as to how to move forward in Iraq. This is indispensable if there is to be an accommodation between the President and Congress.

I had hoped to make a floor statement on Iraq during the Senate's consideration of the DoD authorization bill, but the majority leader took that bill off the floor after there was only consideration of the Levin-Reed amendment. That action deprived the Senate of an opportunity to consider the Warner-Lugar and Salazar-Alexander amendments and perhaps other amendments which might have secured the requisite 60 votes to structure a new U.S. policy for Iraq.

When a tally is made of the Senators who have voted for or cosponsored legislation aimed at altering or reevaluating U.S. policy in Iraq, the total is 62. When Senators are added who have made public statements critical of the President's policy, the number could possibly reach or exceed two-thirds of the Senate membership.

A July 2007 vote, had it been successful, would have had no binding effect since the President already had sufficient funding to continue until September 30 and would need additional funding only in the next fiscal year, 2008, beginning October 1.

The time for Congress to have asserted its constitutional power of the purse to withhold funding was this spring during consideration of supplemental funding for approximately $120 billion. On April 26, 2007, following a vote in the House of Representatives of 218–208, the Senate passed the conference report to H.R. 1591, the fiscal year 2007 Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act on a vote of 51–46. However, because this bill contained target dates for withdrawal, on May 1, 2007, the President vetoed the bill.

After the House failed to gather the two-thirds majority required to override the President's veto, on May 24, 2007, the Congress approved a bill, H.R. 2206, which did not include targeted dates for withdrawal and which was subsequently signed into law by President Bush on May 25, 2007, Public Law 110–28.

When the Levin-Reed amendment was considered, it was a forgone conclusion that there were not anywhere near 60 votes to invoke cloture, let alone the 67 votes needed to override a veto. With the removal of the bill from the floor, the Senate was prevented from considering alternatives to the Levin-Reed proposal, and denied the opportunity to have a vote or votes to demonstrate dissatisfaction with the President's policy.

This action deprived the Senate of an opportunity to craft a compromise around Warner-Lugar or Salazar-Alexander to get the 60 votes and put the president squarely on notice that funding in September was unlikely unless the President's policy showed significant progress. Perhaps the Levin-Reed proponents would have rejected the other amendments as being insufficiently forceful, but Senators never know for sure how they will ultimately vote until there is floor debate, careful analysis, informal discussions on the floor and corridors, and talk in the cloakroom. Much of the Senate's productive work occurs during quorum calls when Members hassle and jawbone on the issues. Since so many Senators demonstratively want a change, it was at least worth a try in daylight compared to the futile all-nighter.

Of particular interest to me were the provisions of the Warner-Lugar proposal on having a contingency plan and redefining the mission. For three decades, Senators LUGAR and WARNER have served on the Foreign Relations Committee and Armed Services Committee, respectively, with both rising to chairman. Their combined tenures in the Senate are more than 60 years. To say these colleagues bring a significant amount of thought and authority to this debate is an understatement.

Regrettably, we did not have the opportunity to debate and vote on their proposal.

The Warner/Lugar amendment is an attempt to ensure that the U.S. is prepared to implement changes to U.S. policy following the September report, to be provided by General Petaeus and Ambassador Crocker, on the progress

of the President's current strategy in Iraq.

The Warner-Lugar amendment recognizes that conditions in Iraq have changed considerably since the initial invasion to topple Saddam Hussein's regime and States that the joint resolution passed by Congress in 2002 to authorize ''the use of the Armed Forces of the United States against Iraq'' requires ''review and revision.''

In addition, the amendment calls for enhanced U.S. diplomatic efforts to work with the Government of Iraq to establish a consistent diplomatic forum related to Iraq that is open to all parties in the Middle East. Because of the potential for the Warner-Lugar amendment to provide a basis for a Senate consensus, I am cosponsoring this amendment.

As explained on the floor by Senator LUGAR on July 13, 2007:

> The purpose of the forum would be to improve transparency of national interests so that neighboring states and other actors avoid missteps . . . Such a forum could facilitate more regular contact with Syria and Iran with less drama and rhetoric. The existence of a predictable and regular forum in the region would be especially important for dealing with refugee problems, regulating borders, exploring development initiatives, and preventing conflict between the Kurds and Turks.

This type of planning and diplomatic engagement should be occurring today. I believe a vote confirming this could have led the President to do that.

Prior to the 2002 U.S. invasion of Iraq, I publicly stated my concerns about the potential fallout from such an action. On February 13, 2002, I took to the Senate floor to express my belief that there should be a comprehensive analysis of the threat posed by Saddam Hussein and what an invasion would amount to in terms of U.S. casualties:

> We need to know, with some greater precision, the threat posed by Saddam Hussein with respect to weapons of mass destruction. There also has to be an analysis of what the costs would be, some appraisal in terms of casualties. Then there is the issue as to what happens after Saddam Hussein is toppled.

As I stated on the Senate floor on December 6, 2006:

> It has been my view that had we known Saddam Hussein did not have weapons of mass destruction, we would not have gone into Iraq.

Eight months after my February 13 statement, on October 7, 2002, I returned to the floor to express my concerns over the lack of a comprehensive plan for Iraq:

> What happens after Saddam Hussein is toppled has yet to be answered in real detail.
>
> What was the extent of Saddam Hussein's control over weapons of mass destruction? What would it cost by way of casualties to topple Saddam Hussein? What would be the consequence in Iraq? Who would govern after Saddam was toppled? What would happen in the region, the impact on the Arab world, and the impact on Israel?
>
> In previous briefings, I have sought the administration plan as to what will be done after Saddam Hussein is toppled, and I think that is an area where a great deal more thought needs to be given. The situation in Iraq would obviously be contentious, with disputes between the Sunnis and the Shi 'ites, with the interests of the Kurds in an independent state, and it means a very long-term commitment by the United States.

Five years later, we are in the midst of a highly controversial troop surge in Iraq.

Following the announcement of the President's plan to surge, I met with President Bush on two occasions. Following these meetings I told the President directly that I could not support a troop surge. I also had extensive discussions on the President's plan with the highest ranking members of his national security team including Secretary of State Condoleezza Rice, National Security Adviser Stephen Hadley and Director of National Intelligence John Negroponte.

I met with GEN David Petraeus on January 31, 2007, who has been confirmed as the United States' top commander in Iraq. Following these meetings, I was not convinced the administration possessed a comprehensive plan to deal with the situation in Iraq and too many uncertainties persisted to warrant my support for a surge of U.S. personnel.

On February 5, 2007, I spoke on the Senate floor regarding the surge:

> On this state of the record, I cannot support an additional allocation of 21,500 troops because it is my judgment that would not be material or helpful in what is going on at the present time. This comes against the backdrop of extensive hearings in the Armed Services Committee and Foreign Relations Committee, and in the context of the military having given many estimates with many of those in key command position saying that no more troops are necessary. This comes with the Iraqi Prime Minister Maliki saying a variety of things but at some times saying he doesn't want any more troops.

At this time, I have not seen a plan that sufficiently addresses a strategy for victory in Iraq. Various reports indicate military advisers differ on the impact of an increased troop level in Iraq. It is not clear what the surge will ultimately accomplish and if it will be successful. Nonetheless, there are indicators that mandate we create contingency plans and consider other options. The Iraqi Government has failed to deliver on prior pledges which makes me hesitant to think they have the ability to deliver on new ones. According to many measurements, progress in Iraq has been poor and the situation is deteriorating. What is clear is that any solution will necessarily include political compromises by Iraq's various sects as well as an emphasis on a regional dialogue—something for which the Iraq Study Group advocated.

Another proposal offered by Senators SALAZAR and ALEXANDER would have used the work of the Iraq Study Group, which was led by former Secretary of State James Baker and former Representative Lee Hamilton, as a guide for our policy in Iraq. This legislation garnered bipartisan support including five Republicans and seven Democrats.

The amendment states that U.S. support should be conditioned on the Government of Iraq's political will and substantial progress towards national reconciliation, revision of de baathification laws, equitable sharing of Iraqi oil revenues, free and fair provincial elections and mechanisms to ensure the rights of woman and minorities.

Like the Warner-Lugar proposal, this amendment calls for enhanced diplomatic efforts. Specifically, the measure calls for a new ''Diplomatic Offensive'' to deal with the problems in Iraq and the region; energize other countries to support reconciliation in Iraq; engage directly with the Governments of Iran and Syria to obtain their commitment to constructive policies towards Iraq and the region, encourage the holding of a conference in Baghdad of neighboring countries and convey to the Iraqi Government that continued American support is contingent upon substantial progress toward and assist in the achievement of the milestones.

Because of the potential for the Salazar-Alexander amendment to provide a basis for a Senate consensus, I am cosponsoring this amendment. There is no inconsistency in cosponsoring both Warner-Lugar and Salazar-Alexander. They complement each other.

Both the Warner-Lugar and Salazar-Alexander proposals address the issue of diplomacy in the region. I have consistently urged the administration to work with Iraq's neighbors, including Iran and Syria, in order to develop cooperative stabilization efforts. To that end, I have met with President Bashar Assad of Syria. I have met with Iran's Ambassadors to the United Nations, Seyed Muhammed Hadi Nejad Hosseinian and Muhammad Javad Zarif, on four occasions in New York and Washington, DC. Additionally, I was the only Member of Congress to attend the September 2006 address by former President Khatami at the National Cathedral.

During my meetings with Iranian officials, I developed a proposal for an exchange of visits by Members of Congress to Iran and Iranian parliamentarians to the United States to try to open dialogue between our two countries. In January 2004, my efforts to foster such a dialogue were successful. There was a tentative agreement for U.S. Members of Congress to meet with Iranian parliamentarians in Geneva. Regrettably, this parliamentary exchange never came to fruition.

In an effort to jumpstart this exchange, on May 3, 2007, I sent a letter, with support from Senators BIDEN, HAGEL and DODD and Representatives LANTOS, ENGLISH, MORAN, GILCHREST and MEEKS, to the Speaker of Iran's Parliament suggesting we convene a meeting of U.S. and Iranian parliamentarians.

I have amplified my strong belief that dialogue with nations such as Iran and Syria is necessary in an extensive Senate speech on June 16, 2006 and most recently in an essay ''Dialogue

With Adversaries'' published in the winter edition of The Washington Quarterly. While we can't be sure that dialogue will succeed, we can be sure that without dialogue there will be failure.

I am not alone in calling for enhanced dialogue with U.S. adversaries. Of the many suggestions gleaned from the Baker-Hamilton commission, one passage crystallizes their conclusion:

> Our most important recommendations call for new and enhanced diplomatic and political efforts in Iraq and the region, and a change in the primary mission of U.S. forces in Iraq that will enable the United States to begin to move its combat forces out of Iraq responsibly. We believe that these two recommendations are equally important and reinforce one another.

However, the President's plan places a disproportionate emphasis on military force while neglecting the needed diplomacy and political efforts.

Having served in the Senate for 26 years, holding the chairmanship of the Intelligence Committee and senior positions on the Appropriations subcommittees on Defense and Foreign Operations, I am aware of what challenges nations like Iran and Syria pose to the United States. A world in which Iran seeks nuclear weapons and supports terrorist groups such as Hezbollah is not a safe world. A world in which Syria provides refuge for Hamas and Hezbollah and permits its territory to be used as a conduit for terrorism is counterproductive to peace and stability. I expressed my views on the danger the connectivity between Iran, Syria and Hezbollah poses to peace and security in an August 2, 2006, floor statement.

Today, however, Americans are not dying from nuclear weapons or from direct attacks by Hamas and Hezbollah. Many are dying policing a civil conflict.

President Assad, during our December 2006 meeting in Damascus, suggested that a conference with regional players and the United States would be beneficial to addressing the issues confronting Iraq. On January 22, 2007, I conveyed this proposal and my support for it to Secretary Rice in a meeting in her office at the State Department. One month later, on February 27, 2007, during her testimony before the Senate Appropriations Committee, Secretary Rice announced such a proposal:

> Before I discuss our specific request for Iraq, I would like to take this opportunity to announce a new diplomatic initiative relating to Iraq's future. I am pleased to tell Members of Congress that there is now being formed a neighbors' conference to support Iraq. Invitees will include Iraq's immediate neighbors, as well as representatives from other regional states, multilateral organizations, and the UN Permanent Five (the U.S., France, Britain, Russia and China). I would note that both Syria and Iran are among Iraq's neighbors invited to attend.
>
> The violence occurring within Iraq has a decided impact on Iraq's neighbors. Iraq's neighbors have a clear role to play in helping Iraq to move forward, and this conference will provide a needed forum in order to do just that.

Very little has happened to effectuate that ''new diplomatic initiative.'' The Iraq Study Group clearly states:

> Given the ability of Iran and Syria to influence events within Iraq and their interest in avoiding chaos in Iraq, the United States should try to engage them constructively.

It would have been my hope that these types of meetings would have occurred frequently in the intervening months. However, I am pleased that the President has recently indicated a commitment to ramp up diplomatic efforts in the region.

Had there been Senate consideration and debate on the Warner-Lugar and Salazar-Alexander proposals, there would have been an opportunity for more senators to explicitly put the President on notice that funding beyond September was in jeopardy without significant improvement.

I think this time would have also allowed Members to share concerns about the overall struggle to combat terrorism. While considering U.S. policy in Iraq, it is important we do not neglect other threats to U.S. security.

Waziristan is a semi-autonomous tribal region in Pakistan's mountainous Northwest Frontier province that shares a porous border with Afghanistan. It is populated primarily by ethnic Pashtuns who do not recognize the authority of President Musharrafs government in Islamabad. Many of the Taliban who fled Afghanistan in 2001 found safe haven in Waziristan with their Pashtun brethren.

Some accounts, including the 9/11 Commission report, indicate Pakistan's willingness to assist the United States. Following direct U.S. engagement with Pakistan after the September 11 attacks, the 9/11 Commission report stated that, ''Secretary of State Powell announced at the beginning of an NSC meeting that Pakistani President Musharraf had agreed to every U.S. request for support in the war on terrorism.''

However, that was 6 years ago. According to the Congressional Research Service, CRS, ''Despite clear successes in disrupting al-Qaida and affiliated networks in Pakistan since 2001, there are increasing signs that anti-U.S. terrorists are now benefiting from what some analysts call a Pakistani policy of appeasement in western tribal areas near the Afghan border.''

GEN Pervez Musharraf took a largely hands-off approach to the region after signing a truce with tribal leaders in September 2006. The truce came after 4 years of unsuccessful army operations into the region in which the government forces suffered heavy casualties and achieved little. Some accounts indicate this policy has enhanced al-Qaida's abilities: ''By seeking accommodation with pro-Taliban leaders in these areas, the Musharraf government appears to have inadvertently allowed foreign (largely Arab) militants to obtain safe haven from which they can plot and train for terrorist attacks against U.S. and other Western targets.''

Assistant Secretary of State Richard A. Boucher confirmed that al-Qaida thrived under the truce between the tribal leaders and General Musharraf: ''they were able to operate, meet, plan, recruit, and obtain financing in more comfort in the tribal areas than previously.''

Bruce Riedel, a senior fellow at the Brookings Institution, who served for 29 years with the CIA and held various positions such as Special Assistant to the President and Senior Director for Near East Affairs at the National Security Council, 1997–2002, stated in his May/June 2007 essay in Foreign Affairs:

> Al Qaeda is a more dangerous enemy today than it has ever been before and the organization now has a solid base of operations in the badlands of Pakistan and an effective franchise in western Iraq.

Riedel further suggests that:

> The United States and its partners, including NATO, also need to take a firmer position with the Pakistani government to enlist its help in tracking down al-Qaeda leaders. President Pervez Musharraf has taken some important steps against al-Qaeda, especially after its attempts to assassinate him, and he has promised more than once a full crackdown on extremism. But mostly he has sought to tame jihadists—without much success—and his government has tolerated those who harbor bin Laden and his lieutenants, Taliban fighters and their Afghan fellow travelers, and Kashmiri terrorists. Many senior Pakistani politicians say privately that they believe Pakistan's Inter-Services Intelligence (ISI) still has extensive links to bin Laden; some even claim it harbors him. Apprehending a few al-Qaeda officers would not be enough, and so a systematic crackdown on all terrorists—Arab, Afghan, and Kashmiri—is critical. Hence, Pakistan should no longer be rewarded for its selective counterterrorism efforts.

Since September 11, 2001, the United States has provided Pakistan with roughly $9 billion in aid. According to the Congressional Research Service, CRS:

> The outcomes of U.S. policies toward Pakistan since 9/11, while not devoid of meaningful successes, have neither neutralized anti-Western militants and reduced religious extremism in that country, nor have they tributed sufficiently to the stabilization of neighboring Afghanistan.

As Congress considers administration's request for an additional $785 million for fiscal year 2008, it is incumbent upon us to evaluate our relationship with them and their performance in the war on terror.

Waziristan provides al-Qaida with much of what it lost in Afghanistan after September 11, 2001: safe haven; territory to train and base operations in Pakistan, Afghanistan, and beyond; and a populace sympathetic to their aims. Failing to recognize and address the situation in Waziristan risks negating the costly advances made in Afghanistan over the past 6 years and jeopardizes U.S. security.

As the Senate continues to deliberate, it is my hope that we will return to the proposals offered by Senators WARNER, LUGAR, SALAZAR and ALEXANDER. These should have been debated in great length as they make more

sense in the context of not infringing on the President's authority as Commander in Chief. Rather, these bipartisan efforts would allow the President to fulfill a congressional requirement that he ought to be considering and planning for the next steps.

The Senate is known as the most deliberative body in the world. Regrettably, the Senate was not permitted the opportunity to demonstrate this as we did not debate the various options before us.

As I stated on the Senate floor on March 14, 2007, during a similar debate on whether to continue with the status quo in Iraq or to legislate a date certain for withdraw:

It is equally undesirable, however, to view the current situation in Iraq, which looks like an endless tunnel—a tunnel without a light at the end. We are faced with very considerable discomfort in this body. I think it is very important that we debate this matter, that we exchange our views, that we stimulate discussion that will go beyond this Chamber and will resound throughout the country, resound throughout the editorial pages and the television and radio talk shows, and by our colleagues in the corridors and in the cloakroom so that we can try to work our way through an extraordinarily difficult situation where, as I see it, there is no good answer between the two intractable alternatives to set a timetable where our opponents simply have to wait us out or to keep proceeding down a tunnel which, at least at this juncture, appears to be endless and has no light. We don't know where the end is, let alone to have a light at the end of the tunnel.

In a democracy, the voters ultimately decide U.S. policy. As detailed in Federalist No. 57, elected representatives must be responsive to the people:

Duty gratitude, interest, ambition itself, are the chords by which [representatives] will be bound to fidelity and sympathy with the great mass of the people. Hence, the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

If this is not understood and reflected by elected representatives, the framers placed elections into the system to remind them. Federalist No. 57 further states:

The elective mode of obtaining rulers is the characteristic policy of republican government . . . The means relied on in this form of government for preventing their degeneracy are numerous and various. The most effectual one, is such a limitation of the term of appointments as will maintain a proper responsibility to the people.

This was the case last November when the electorate spoke loudly disagreeing with United States policy in Iraq. As I stated on March 14, 2007:

Last November, the American people spoke in a resounding manner, in a way that could only rationally be interpreted as rejecting the conduct of the war in Iraq.

I am making this extensive floor statement at this time to put the administration on notice of my reservations on supporting open-ended appropriations for the Iraq war in September. This statement further urges the majority leader to structure the Senate debate in September to consider the Warner-Lugar amendment, the Salazar-Alexander amendment, and other possible amendments, as well as the Levin-Reed amendment, to give the Senate the full range of alternatives to provide the basis for 60 or more votes to change U.S. policy in Iraq.

Mr. KYL. Mr. President, during the recent debate of the Defense authorization bill, we saw attempt after attempt to declare the new strategy, General Petraeus' strategy, in Iraq a failure. The other side of the aisle wanted to declare that the strategy, which had been in full force only a couple of weeks, had failed and direct the President to begin withdrawing troops from Iraq, which is today the central front in the war against terrorists. Indeed, after the other side lost a vote to withdraw the troops, the majority leader pulled the bill from the floor, thus leaving important business for our military unfinished.

The Democratic majority's insistence that the General Petraeus' strategy has failed makes it easy to overlook what the strategy has accomplished and what the strategy seeks to accomplish.

In that regard, I ask unanimous consent to have an article by Michael Gordon from New York Times of July 24 printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From nytimes.com, July 24, 2007]

U.S. IS SEEN IN IRAQ UNTIL AT LEAST '09

(By Michael R. Gordon)

BAGHDAD, July 23.—While Washington is mired in political debate over the future of Iraq, the American command here has prepared a detailed plan that foresees a significant American role for the next two years.

The classified plan, which represents the coordinated strategy of the top American commander and the American ambassador, calls for restoring security in local areas, including Baghdad, by the summer of 2008. ''Sustainable security'' is to be established on a nationwide basis by the summer of 2009, according to American officials familiar with the document.

The detailed document, known as the Joint Campaign Plan, is an elaboration of the new strategy President Bush signaled in January when he decided to send five additional American combat brigades and other units to Iraq. That signaled a shift from the previous strategy, which emphasized transferring to Iraqis the responsibility for safeguarding their security.

That new approach put a premium on protecting the Iraqi population in Baghdad, on the theory that improved security would provide Iraqi political leaders with the breathing space they needed to try political reconciliation.

The latest plan, which covers a two-year period, does not explicitly address troop levels or withdrawal schedules. It anticipates a decline in American forces as the ''surge'' in troops runs its course later this year or in early 2008. But it nonetheless assumes continued American involvement to train soldiers, act as partners with Iraqi forces and fight terrorist groups in Iraq, American officials said.

The goals in the document appear ambitious, given the immensity of the challenge of dealing with die-hard Sunni insurgents, renegade Shiite militias, Iraqi leaders who have made only fitful progress toward political reconciliation, as well as Iranian and Syrian neighbors who have not hesitated to interfere in Iraq's affairs. And the White House's interim assessment of progress, issued on July 12, is mixed.

But at a time when critics at home are defining patience in terms of weeks, the strategy may run into the expectations of many lawmakers for an early end to the American mission here.

The plan, developed by Gen. David H. Petraeus, the senior American commander, and Ryan C. Crocker, the American ambassador, has been briefed to Defense Secretary Robert M. Gates and Adm. William J. Fallon, the head of the Central Command. It is expected to be formally issued to officials here this week.

The plan envisions two phases. The ''near-term'' goal is to achieve ''localized security'' in Baghdad and other areas no later than June 2008. It envisions encouraging political accommodations at the local level, including with former insurgents, while pressing Iraq's leaders to make headway on their program of national reconciliation.

The ''intermediate'' goal is to stitch together such local arrangements to establish a broader sense of security on a nationwide basis no later than June 2009.

''The coalition, in partnership with the government of Iraq, employs integrated political, security, economic and diplomatic means, to help the people of Iraq achieve sustainable security by the summer of 2009,'' a summary of the campaign plan states.

Military officials here have been careful not to guarantee success, and recognized they may need to revise the plan if some assumptions were not met.

''The idea behind the surge was to bring stability and security to the Iraqi people, primarily in Baghdad because it is the political heart of the country, and by so doing give the Iraqis the time and space needed to come to grips with the tough issues they face and enable reconciliation to take place,'' said Col. Peter Mansoor, the executive officer to General Petraeus.

''If eventually the Iraqi government and the various sects and groups do not come to some sort of agreement on how to share power, on how to divide resources and on how to reconcile and stop the violence, then the assumption on which the surge strategy was based is invalid, and we would have to re-look the strategy,'' Colonel Mansoor added.

General Petraeus and Ambassador Crocker will provide an assessment in September on trends in Iraq and whether the strategy is viable or needs to be changed.

The previous plan, developed by Gen. George W. Casey Jr., who served as General Petraeus's predecessor before being appointed as chief of staff of the Army, was aimed at prompting the Iraqis to take more responsibility for security by reducing American forces.

That approach faltered when the Iraqi security forces showed themselves unprepared to carry out their expanded duties, and sectarian killings soared.

In contrast, the new approach reflects the counterinsurgency precept that protection of the population is the best way to isolate insurgents, encourage political accommodations and gain intelligence on numerous

threats. A core assumption of the plan is that American troops cannot impose a military solution, but that the United States can use force to create the conditions in which political reconciliation is possible.

To develop the plan, General Petraeus and Ambassador Crocker assembled a Joint Strategic Assessment Team, which sought to define the conflict and outline the elements of a new strategy. It included officers like Col. H. R. McMaster, the field commander who carried out the successful ''clear, hold and build'' operation in Tal Afar and who wrote a critical account of the Joint Chiefs of Staff role during the Vietnam War; Col. John R. Martin, who teaches at the Army War College and was a West Point classmate of General Petraeus; and David Kilcullen, an Australian counterinsurgency expert who has a degree in anthropology.

State Department officials, including Robert Ford, an Arab expert and the American ambassador to Algeria, were also involved. So were a British officer and experts outside government like Stephen D. Biddle, a military expert at the Council on Foreign Relations.

The team determined that Iraq was in a ''communal struggle for power,'' in the words of one senior officer who participated in the effort. Adding to the problem, the new Iraqi government was struggling to unite its disparate factions and to develop the capability to deliver basic services and provide security.

Extremists were fueling the violence, as were nations like Iran, which they concluded was arming and equipping Shiite militant groups, and Syria, which was allowing suicide bombers to cross into Iraq.

Like the Baker-Hamilton commission, which issued its report last year, the team believed that political, military and economic efforts were needed, including diplomatic discussions with Iran, officials said. There were different views about how aggressive to be in pressing for the removal of overtly sectarian officials, and several officials said that theme was toned down somewhat in the final plan.

The plan itself was written by the Joint Campaign Redesign Team, an allusion to the fact that the plan inherited from General Casey was being reworked. Much of the redesign has already been put into effect, including the decision to move troops out of large bases and to act as partners more fully with the Iraqi security forces.

The overarching goal, an American official said, is to advance political accommodation and avoid undercutting the authority of the Iraqi prime minister, Nuri Kamal al-Maliki. While the plan seeks to achieve stability, several officials said it anticipates that less will be accomplished in terms of national reconciliation by the end of 2009 than did the plan developed by General Casey.

The plan also emphasizes encouraging political accommodation at the local level. The command has established a team to oversee efforts to reach out to former insurgents and tribal leaders. It is dubbed the Force Strategic Engagement Cell, and is overseen by a British general. In the terminology of the plan, the aim is to identify potentially ''reconcilable'' groups and encourage them to move away from violence.

However, groups like Al Qaeda in Mesopotamia, a Sunni Arab extremist group that American intelligence officials say has foreign leadership, and cells backed by Iran are seen as implacable foes.

''You are not out there trying to defeat your enemies wholesale,'' said one military official who is knowledgable about the plan. ''You are out there trying to draw them into a negotiated power-sharing agreement where they decide to quit fighting you. They don't decide that their conflict is over. The reasons for conflict remain, but they quit trying to address it through violence. In the end, we hope that that alliance of convenience to fight with Al Qaeda becomes a connection to the central government as well.''

The hope is that sufficient progress might be made at the local level to encourage accommodation at the national level, and vice versa. The plan also calls for efforts to encourage the rule of law, such as the establishment of secure zones in Baghdad and other cities to promote criminal trials and process detainee cases.

To help measure progress in tamping down civil strife, Col. William Rapp, a senior aide to General Petraeus, oversaw an effort to develop a standardized measure of sectarian violence. One result was a method that went beyond the attacks noted in American military reports and which incorporated Iraqi data.

''We are going to try a dozen different things,'' said one senior officer. ''Maybe one of them will flatline. One of them will do this much. One of them will do this much more. After a while, we believe there is chance you will head into success. I am not saying that we are absolutely headed for success.''

Mr. KYL. Mr. President, I wanted to insert this article in the RECORD because it provides an objective description of the Petraeus plan and how it came to be. The goals of the strategy are ''ambitious,'' as the article notes, but that is all the more reason to support the plan and not undermine it in the Senate.

Those who have criticized the surge at this early stage have offered few options for dealing with the aftermath. One option is to follow the recommendation of the Baker-Hamilton Commission.

At this point, I request unanimous consent to print in the RECORD a column by Steven Biddle that appeared in the July 11 Washington Post.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From washingtonpost.com, July 11]

IRAQ: GO DEEP OR GET OUT

(By Stephen Biddle)

The president's shaky political consensus for the surge in Iraq is in danger of collapsing after the recent defections of prominent Senate Republicans such as Richard Lugar (Ind.), Pete Domenici (N.M.) and George Voinovich (Ohio). But this growing opposition to the surge has not yet translated into support for outright withdrawal—few lawmakers are comfortable with abandoning Iraq or admitting defeat. The result has been a search for some kind of politically moderate ''Plan B'' that would split the difference between surge and withdrawal.

The problem is that these politics do not fit the military reality of Iraq. Many would like to reduce the U.S. commitment to something like half of today's troop presence there. But it is much harder to find a mission for the remaining 60,000 to 80,000 soldiers that makes any sense militarily.

Perhaps the most popular centrist option today is drawn from the Baker-Hamilton commission recommendations of last December. This would withdraw U.S. combat brigades, shift the American mission to one of training and supporting the Iraqi security forces, and cut total U.S. troop levels in the country by about half. This idea is at the heart of the proposed legislative effort that Domenici threw his support behind last week, and support is growing on both sides of the aisle on Capitol Hill.

The politics make sense, but the compromise leaves us with an untenable military mission. Without a major U.S. combat effort to keep the violence down, the American training effort would face challenges even bigger than those our troops are confronting today. An ineffective training effort would leave tens of thousands of American trainers, advisers and supporting troops exposed to that violence in the meantime. The net result is likely to be continued U.S. casualties with little positive effect on Iraq's ongoing civil war.

The American combat presence in Iraq is insufficient to end the violence but does cap its intensity. If we draw down that combat presence, violence will rise accordingly. To be effective, embedded trainers and advisers must live and operate with the Iraqi soldiers they mentor—they are not lecturers sequestered in some safe classroom. The greater the violence, the riskier their jobs and the heavier their losses.

That violence reduces their ability to succeed as trainers. There are many barriers to an effective Iraqi security force. But the toughest is sectarian factionalism. Iraq is in the midst of a civil war in which all Iraqis are increasingly forced to take sides for their own survival. Iraq's security forces are necessarily drawn from the same populations that are being pulled apart into factions. No military can be hermetically sealed off from its society—the more severe the sectarian violence, the deeper the divisions in Iraqi society become and the harder it is for Americans to create the kind of disinterested nationalist security force that could stabilize Iraq. Under the best conditions, it is unrealistic to expect a satisfactory Iraqi security force anytime soon, and the more severe the violence, the worse the prospects.

The result is a vicious cycle. The more we shift out of combat missions and into training, the harder we make the trainers' job and the more exposed they become. It is unrealistic to expect that we can pull back to some safe yet productive mission of training but not fighting—this would be neither safe nor productive.

If the surge is unacceptable, the better option is to cut our losses and withdraw altogether. In fact, the substantive case for either extreme—surge or outright withdrawal—is stronger than for any policy between. The surge is a long-shot gamble. But middle-ground options leave us with the worst of both worlds: continuing casualties but even less chance of stability in exchange. Moderation and centrism are normally the right instincts in American politics, and many lawmakers in both parties desperately want to find a workable middle ground on Iraq. But while the politics are right, the military logic is not.

Mr. KYL. Mr. Biddle provides a need evaluation of the flaws in the Baker-Hamilton. Among those flaws, as he explains, our combat forces are restraining the intensity of the violence in Iraq, and removing them would cause the violence to rise. This rise in violence would put the safety of Americans who remain to train Iraqis in even greater jeopardy.

Of course, prematurely withdrawing our troops would have many other consequences. Indeed, a sobering assessment of the risks of withdrawal is too often missing from debates about the U.S. mission in Iraq.

In this regard, I ask unanimous consent that an article from the July 17 Washington Post be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the Washington Post, July 17, 2007]

EXIT STRATEGY: WOULD IRAN TAKE OVER IRAQ, WOULD AL-QAEDA? THE DEBATE ABOUT HOW AND WHEN TO LEAVE CENTERS ON WHAT MIGHT HAPPEN AFTER THE U.S. GOES

(By Karen DeYoung and Thomas E. Ricks)

If U.S. combat forces withdraw from Iraq in the near future, three developments would be likely to unfold. Majority Shiites would drive Sunnis out of ethnically mixed areas west to Anbar province. Southern Iraq would erupt in civil war between Shiite groups. And the Kurdish north would solidify its borders and invite a U.S. troop presence there. In short, Iraq would effectively become three separate nations.

That was the conclusion reached in recent ''war games'' exercises conducted for the U.S. military by retired Marine Col. Gary Anderson. ''I honestly don't think it will be apocalyptic,'' said Anderson, who has served in Iraq and now works for a major defense contractor. But ''it will be ugly.''

In making the case for a continued U.S. troop presence, President Bush has offered far more dire forecasts, arguing that al-Qaeda or Iran—or both—would take over Iraq after a ''precipitous withdrawal'' of U.S. forces. Al-Qaeda, he said recently, would ''be able to recruit better and raise more money from which to launch their objectives'' of attacking the U.S. homeland. War opponents in Congress counter that Bush's talk about al-Qaeda is overblown fear-mongering and that nothing could be worse than the present situation.

Increasingly, the Washington debate over when U.S. forces should leave is centering on what would happen once they do. The U.S. military, aware of this political battlefield, has been quietly exploring scenarios of a reduced troop presence, performing role-playing exercises and studying historical parallels. Would the Iraqi government find its way, or would the country divide along sectarian lines? Would al-Qaeda take over? Would Iran? Would U.S. security improve or deteriorate? Does the answer depend on when, how and how many U.S. troops depart?

Some military officers contend that, regardless of whether Iraq breaks apart or outside actors seek to take over after a U.S. pullout, ever greater carnage is inevitable. ''The water-cooler chat I hear most often . . . is that there is going to be an outbreak of violence when we leave that makes the [current] instability look like a church picnic,'' said an officer who has served in Iraq.

However, just as few envisioned the long Iraq war, now in its fifth year, or the many setbacks along the way, there are no firm conclusions regarding the consequences of a reduction in U.S. troops. A senior administration official closely involved in Iraq policy imagines a vast internecine slaughter as Iraq descends into chaos but cautions that it is impossible to know the outcome. ''We've got to be very modest about our predictive capabilities,'' the official said.

MISTAKES OF THE PAST

In April of last year, the Army and Joint Forces Command sponsored a war game called Unified Quest 2007 at the Army War College in Pennsylvania. It assumed the partition of an ''Iraq-like'' country, said one player, retired Army Col. Richard Sinnreich, with U.S. troops moving quickly out of the capital to redeploy in the far north and south. ''We have obligations to the Kurds and the Kuwaitis, and they also offer the most stable and secure locations from which to continue,'' he said.

''Even then, the end-of-game assessment wasn't very favorable'' to the United States, he said.

Anderson, the retired Marine, has conducted nearly a dozen Iraq-related war games for the military over the past two years, many premised on a U.S. combat pullout by a set date—leaving only advisers and support units—and concluded that partition would result. The games also predicted that Iran would intervene on one side of a Shiite civil war and would become bogged down in southern Iraq.

T.X. Hammes, another retired Marine colonel, said that an extended Iranian presence in Iraq could lead to increased intervention by Saudi Arabia and other Sunni states on the other side. ''If that happens,'' Hammes said, ''I worry that the Iranians come to the conclusion they have to do something to undercut . . . the Saudis.'' Their best strategy, he said, ''would be to stimulate insurgency among the Shiites in Saudi Arabia.''

In a secret war game conducted in December at an office building near the Pentagon, more than 20 participants from the military, the CIA, the State Department and the private sector spent three days examining what might unfold if the recommendations of the Iraq Study Group were implemented.

One question involved how Syria and Iran might respond to the U.S. diplomatic outreach proposed by the bipartisan group, headed by former secretary of state James A. Baker III and former congressman Lee H. Hamilton (D-Ind.). The gamers concluded that Iran would be difficult to engage because its divided government is incapable of delivering on its promises. Role-players representing Syria did engage with the U.S. diplomats, but linked helping out in Baghdad to a lessening of U.S. pressure in Lebanon.

The bottom line, one participant said, was ''pretty much what we are seeing'' since the Bush administration began intermittent talks with Damascus and Tehran: not much progress or tangible results.

Amid political arguments in Washington over troop departures, U.S. military commanders on the ground stress the importance of developing a careful and thorough withdrawal plan. Whatever the politicians decide, ''it needs to be well-thought-out and it cannot be a strategy that is based on 'Well, we need to leave,'" Army Maj. Gen. Benjamin Mixon, a top U.S. commander in Iraq, said Friday from his base near Tikrit.

History is replete with bad withdrawal outcomes. Among the most horrific was the British departure from Afghanistan in 1842, when 16,500 active troops and civilians left Kabul thinking they had safe passage to India. Two weeks later, only one European arrived alive in Jalalabad, near the Afghan-Indian border.

The Soviet Union's withdrawal from Afghanistan, which began in May 1988 after a decade of occupation, reveals other mistakes to avoid. Like the U.S. troops who arrived in Iraq in 2003, the Soviet force in Afghanistan was overwhelmingly conventional, heavy with tanks and other armored vehicles. Once Moscow made public its plans to leave, the political and security situations unraveled much faster than anticipated. ''The Soviet Army actually had to fight out of certain areas,'' said Army Maj. Daniel Morgan, a two-tour veteran of the Iraq war who has been studying the Soviet pullout at Fort Leavenworth, Kan., with an eye toward gleaning lessons for Iraq. ''As a matter of fact, they had to airlift out of Kandahar, the fighting was so bad.''

War supporters and opponents in Washington disagree on the lessons of the departure most deeply imprinted on the American psyche: the U.S. exit from Vietnam. ''I saw it once before, a long time ago,'' Sen. John McCain (R-Ariz.), a Vietnam veteran and presidential candidate, said last week of an early Iraq withdrawal. ''I saw a defeated military, and I saw how long it took a military that was defeated to recover.''

Sen. Joseph R. Biden Jr. (D-Del.), also a White House hopeful, finds a different message in the Vietnam retreat. Saying that Baghdad would become ''Saigon revisited,'' he warned that ''we will be lifting American personnel off the roofs of buildings in the Green Zone if we do not change policy, and pretty drastically.''

THE AL-QAEDA THREAT

What is perhaps most striking about the military's simulations is that its post-drawdown scenarios focus on civil war and regional intervention and upheaval rather than the establishment of an al-Qaeda sanctuary in Iraq.

For Bush, however, that is the primary risk of withdrawal. ''It would mean surrendering the future of Iraq to al-Qaeda,'' he said in a news conference last week. ''It would mean that we'd be risking mass killings on a horrific scale. It would mean we'd allow the terrorists to establish a safe haven in Iraq to replace the one they lost in Afghanistan.'' If U.S. troops leave too soon, Bush said, they would probably ''have to return at some later date to confront an enemy that is even more dangerous.''

Withdrawal would also ''confuse and frighten friends and allies in the region and embolden Syria and especially Iran, which would then exert its influence throughout the Middle East,'' the president said.

Bush is not alone in his description of the al-Qaeda threat should the United States leave Iraq too soon. ''There's not a doubt in my mind that Osama bin Laden's one goal is to take over the Kingdom of the Two Mosques [Saudi Arabia] and reestablish the caliphate'' that ended with the Ottoman Empire, said a former senior military official now at a Washington think tank. ''It would be very easy for them to set up camps and run them in Anbar and Najaf'' provinces in Iraq.

U.S. intelligence analysts, however, have a somewhat different view of al-Qaeda's presence in Iraq, noting that the local branch takes its inspiration but not its orders from bin Laden. Its enemies—the overwhelming majority of whom are Iraqis—reside in Baghdad and Shiite-majority areas of Iraq, not in Saudi Arabia or the United States. While intelligence officials have described the Sunni insurgent group calling itself al-Qaeda in Iraq as an ''accelerant'' for violence, they have cited domestic sectarian divisions as the main impediment to peace.

In a report released yesterday, Anthony H. Cordesman of the Center for Strategic and International Studies warned that al-Qaeda is ''only one part'' of a spectrum of Sunni extremist groups and is far from the largest or most active. Military officials have said in background briefings that al-Qaeda is responsible for about 15 percent of the attacks, Cordesman said, although the group is ''highly effective'' and probably does ''the most damage in pushing Iraq towards civil war.'' But its activities ''must be kept in careful perspective, and it does not dominate the Sunni insurgency,'' he said.

'SERIOUS CONSEQUENCES'

Moderate lawmakers such as Sen. Richard G. Lugar (R-Ind.) have concluded that a unified Iraqi government is not on the near horizon and have called for redeployment, change of mission and a phased drawdown of

U.S. forces. Far from protecting U.S. interests, Lugar said in a recent speech, the continuation of Bush's policy poses ''extreme risks for U.S. national security.''

Critics of complete withdrawal often charge that ''those advocating [it] just don't understand the serious consequences of doing so,'' said Wayne White, a former deputy director of Near East division of the State Department's Intelligence and Research Bureau. ''Unfortunately, most of us old Middle East hands understand all too well some of the consequences.''

White is among many Middle East experts who think that the United States should leave Iraq sooner rather than later, but differ on when, how and what would happen next. Most agree that either an al-Qaeda or Iranian takeover would be unlikely, and say that Washington should step up its regional diplomacy, putting more pressure on regional actors such as Saudi Arabia to take responsibility for what is happening in their back yards.

Many regional experts within and outside the administration note that while there is a range of truly awful possibilities, it is impossible to predict what will happen in Iraq—with or without U.S. troops.

''Say the Shiites drive the Sunnis into Anbar,'' one expert said of Anderson's wargame scenario. ''Well, what does that really mean? How many tens of thousands of people are going to get killed before all the surviving Sunnis are in Anbar?'' He questioned whether that result would prove acceptable to a pro-withdrawal U.S. public.

White, speaking at a recent symposium on Iraq, addressed the possibility of unpalatable withdrawal consequences by paraphrasing Winston Churchill's famous statement about democracy. ''I posit that withdrawal from Iraq is the worst possible option, except for all the others.''

Mr. KYL. Mr. President, a premature withdrawal would have severe consequences, all of which would pose severe risks. Clearly, we should allow General Petraeus's plan time to succeed.

Finally, Mr. President, as I noted previously, by setting the aside the Defense authorization bill because he lost a vote to withdraw our troops, the Majority Leader left important business for our military undone. Recently, the Senate passed parts of the bill—a pay raise and ''wounded warriors'' provisions—but more needs to be done.

For instance, the Defense authorization bill should be the vehicle for setting our national security priorities, one of which is how we should deal with antisatellite weapons the Chinese could use against us.

I, therefore, ask unanimous consent that an article on China's space weapons that appeared in the July 23 Wall Street Journal be inserted into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the Wall Street Journal, July 23, 2007]

CHINA'S SPACE WEAPONS

(By Ashley J. Tellis)

On Jan. 11, 2007, a Chinese medium-range ballistic missile slammed into an aging weather satellite in space. The resulting collision not only marked Beijing's first successful anti-satellite (ASAT) test but, in the eyes of many, also a head-on collision with the Bush administration's space policies.

As one analyst phrased it, U.S. policy has compelled China's leaders to conclude ''that only a display of Beijing's power to launch . . . an arms race would bring Washington to the table to hear their concerns.'' This view, which is widespread in the U.S. and elsewhere, misses the point: China's ASAT demonstration was not a protest against the Bush administration, but rather part of a maturing strategy designed to counter the overall military superiority of the U.S.

Since the end of the Cold War, Chinese strategists have been cognizant of the fact that the U.S. is the only country in the world with the capacity—and possibly the intention—to thwart China's rise to great power status. They also recognize that Beijing will be weak militarily for some time to come, yet must be prepared for a possible war with America over Taiwan or, in the longer term, over what Aaron Friedberg once called ''the struggle for mastery in Asia.'' How the weaker can defeat the stronger, therefore, becomes the central problem facing China's military strategy.

Chinese strategists have struggled to find ways of solving this conundrum ever since the dramatic demonstration of American prowess in Operation Desert Storm. And after carefully analyzing U.S. operations in the Persian Gulf, Kosovo and Afghanistan, they believe they have uncovered a significant weakness.

The advanced military might of the U.S. is inordinately dependent on a complex network of space-based command, control, communications, and computer-driven intelligence, surveillance and reconnaissance capabilities that enables American forces to detect different kinds of targets and exchange militarily relevant information. This network is key to the success of American combat operations. These assets, however, are soft and defenseless; while they bestow on the American military definite asymmetric advantages, they are also the source of deep vulnerability. Consequently, Chinese strategists concluded that any effort to defeat the U.S. should aim not at its fundamental strength—its capacity to deliver overwhelming conventional firepower precisely from long distances—but rather at its Achilles' heel, namely, its satellites and their related ground installations.

Consistent with this calculus, China has pursued, for over a decade now, a variety of space warfare programs, which include direct attack and directed-energy weapons, electronic attack, and computer-network and ground-attack systems. These efforts are aimed at giving China the capacity to attack U.S. space systems comprehensively because, in Chinese calculations, this represents the best way of ''leveling the playing field'' in the event of a future conflict.

The importance of space denial for China's operational success implies that its counterspace investments, far from being bargaining chips aimed at creating a peaceful space regime, in fact represent its best hope for prevailing against superior American military power. Because having this capacity is critical to Chinese security, Beijing will not entertain any arms-control regime that requires it to trade away its space-denial capabilities. This would only further accentuate the military advantages of its competitors. For China to do otherwise would be to condemn its armed forces to inevitable defeat in any encounter with American power.

This is why arms-control advocates are wrong even when they are right. Any ''weaponization'' of space will indeed be costly and especially dangerous to the U.S., which relies heavily on space for military superiority, economic growth and strategic stability. Space arms-control advocates are correct when they emphasize that advanced powers stand to gain disproportionately from any global regime that protects their space assets. Yet they are wrong when they insist that such a regime is attainable and, therefore, ought to be pursued.

Weaker but significant challengers, like China, simply cannot permit the creation of such a space sanctuary because of its deleterious consequences for their particular interests. Consequently, even though a treaty protecting space assets would be beneficial to Washington, its specific costs to Beijing—in the context of executing China's national military strategy—would be remarkably high.

Beijing's attitude toward space arms control will change only given a few particular developments. China might acquire the capacity to defeat the U.S. despite America's privileged access to space. Or China's investments in counterspace technology might begin to yield diminishing returns because the U.S. consistently nullifies these capabilities through superior technology and operational practices. Or China's own dependence on space for strategic and economic reasons might intensify to the point where the threat posed by any American offensive counterspace programs exceed the benefits accruing to Beijing's own comparable efforts. Or the risk of conflict between a weaker China and any other superior military power, such as the U.S., disappears entirely.

Since these conditions will not be realized anytime soon, Washington should certainly discuss space security with Beijing, but, for now, it should not expect that negotiation will yield any successful agreements. Instead, the U.S. should accelerate investments in solutions that enhance the security of its space assets, in addition to developing its own offensive counterspace capabilities. These avenues—as the Bush administration has correctly recognized—offer the promise of protecting American interests in space and averting more serious threats to its global primacy.

Mr. KYL. I asked that this article be printed in the RECORD because it is a wake-up call to a new threat we need to take seriously. By setting aside the Defense authorization bill, we missed an opportunity to deal with this threat from China.

FOREIGN INTELLIGENCE SURVEILLANCE ACT

Mr. SPECTER. Mr. President, I have sought recognition to comment on proposed legislation to revise the Foreign Intelligence Surveillance Act of 1978 to facilitate the electronic surveillance of targets reasonably believed to be outside the United States in order to obtain foreign intelligence information relating to international terrorism. When the act was passed in 1978, communications outside the United States were characteristically transmitted via satellite and were not covered by the act which applied to wires. In the intervening 29 years, such communications now travel by wire and are covered by the act.

The civil and constitutional rights of U.S. persons would ordinarily not be involved in electronic surveillance of targets outside the United States. If persons inside the United States were surveilled while targeting outside the United States, then the minimization procedures would reasonably protect

civil and constitutional rights of persons inside the United States.

As the Director of National Intelligence, Michael McConnell, outlined the current threat, there is an urgent need to enact this legislation promptly, certainly before the Congress adjourns for the August recess. Such modifications to FISA should have been enacted long ago and legislation has been pending for months as proposed by Senator DIANNE FEINSTEIN and myself.

I am concerned by provisions of the proposed legislation which would give extensive authority to the Attorney General. Regrettably, Attorney General Gonzales does not enjoy the confidence of many, if not most, Members of Congress. There is in the Congress generally considerable skepticism about the administration's Terrorist Surveillance Program because it was kept secret for so long and concerns continue to be expressed that some portions have still not been adequately explained to the public, even where that might be done consistent with national security.

There has been considerable discussion among Members of the Senate raising at a minimum serious concerns and, beyond that, objections to giving Attorney General Gonzales any additional, even if temporary, authority.

Discussions have been undertaken with the Director of National Intelligence to substitute his position for that of the Attorney General; or, in the alternative, to substitute the Secretary of Homeland Security or some other official outside of the Department of Justice who has been confirmed by the Senate.

I am putting these concerns on the record now so that they may be considered and resolved at the earliest time so that legislation can be concluded before Congress adjourns for the August recess.

ADDITIONAL STATEMENTS

REMEMBERING GEORGE EDWARD ''SKIP'' PROSSER

• Mr. BURR. Mr. President, I wish to honor the life of George Edward ''Skip'' Prosser, head coach of the Wake Forest University basketball team.

As a Demon Deacon alumni myself, I join the entire Wake Forest University community in mourning his untimely passing.

I knew Skip personally. Skip was a friend of mine. And before I mention many of his accomplishments as a basketball coach, perhaps Skip's most admirable achievement in life was that he was a good husband and good dad.

When I first heard the news of Skip's passing, my first thoughts were not of basketball but of his wife Nancy and his sons, Scott and Mark. My heartfelt thoughts and prayers go out to Skip's family and to the Wake Forest community that adored him.

Coach Prosser had countless basketball accomplishments, and as I stand here today, I can only scratch the surface of what he has achieved.

When he joined Wake Forest University for the 2001 to 2002 season, after successful coaching at Loyola, Maryland, and Xavier, he added a much needed spark to our basketball program that yielded immediate success.

Coach Prosser is the only coach in NCAA history to take three different schools to the NCAA Tournament in his first season at each of those schools.

In his first four seasons coaching at Wake Forest, Coach Prosser led the Demon Deacons to the NCAA tournament, and in 2003 he led the team to its first outright regular season ACC title in over 40 years.

In the 2004 to 2005 season, Coach Prosser's Demon Deacons rose to No. 1 in the national rankings for the first time in school history.

One of his most impressive statistics was his career wins percentage of .666 that is among the highest winning percentages of active coaches.

More impressive, however, is the statement Coach Prosser often made about his personal coaching record. It personified the kind of man Skip was. When his record was applauded, he often responded by saying, ''I don't have a career record. The players won those games.''

In addition to the honor and praise Coach Prosser got for his achievements on the court, his work off the court also deserved high marks.

Coach Prosser always emphasized that academic success was the first priority for his athletes. In fact, every senior on Coach Prosser's team graduated with a diploma in 4 years.

The Wake Forest student body embraced him as one of their own because he took every opportunity to spend time with them—frequently walking through the Wake Forest Quad, talking with students, and game after game filling our home basketball coliseum with Demon Deacon pride.

Skip Prosser will be missed. He was an outstanding man who brought a community together through the game he so loved.

Again, I send my deepest condolences to Skip's family, his athletes, his fans, and his friends.•

COMMENDING WEYERHAEUSER CORPORATION

• Mr. COCHRAN. Mr. President, I wish to recognize the Weyerhaeuser Corporation for its assistance in the relief efforts and the rebuilding of the gulf coast that was devastated by Hurricane Katrina in August of 2005. This outstanding company has gone well beyond the call of duty, truly exemplifying community service.

Weyerhaeuser was incorporated in 1900 and is one of the world's largest integrated forest product companies. Headquartered in Federal Way, WA, Weyerhaeuser employs over 49,000 people in 18 countries. In 2005, Weyerhaeuser recorded sales of $22.6 billion and managed more than 6.5 million acres of timberland in nine States.

On November 29, 2006, Weyerhaeuser received the Ron Brown Award, the only Presidential award to honor companies ''for their exemplary quality of their relationships with employees and communities.'' The Ron Brown Award, originally established by President Bill Clinton, is named after the late Secretary of Commerce who believed that ''businesses do well by doing good.''

I am honored to have such a dedicated company operating in Mississippi in places such as Magnolia, Philadelphia, Richland, Columbus and Bruce. Weyerhaeuser has been operating in Mississippi since 1956 with approximately 1,700 employees at 14 locations, as well as 776,000 acres of timberland.

To date, over 300 employees and retirees from across the United States have volunteered more than 42,000 hours of their time, helped rebuild more than 50 homes, and contributed more than $2.8 million for disaster relief. Weyerhaeuser has a generous policy of allowing employees 2 to 4 weeks of paid leave to help volunteer in the rebuilding efforts of the gulf coast.

The people touched by Weyerhaeuser's response say it best. As one family wrote in response to help from Weyerhaeuser volunteers, ''Because of all your efforts, we are home! Words cannot truly express the outpouring of love we have received. We are eternally grateful to our Weyerhaeuser family.''

The high caliber of Weyerhaeuser employees can be seen in their comments after volunteering on the gulf coast. One man noted, ''The days were long and hot, the work was intense, but the rewards were immeasurable. This has been an experience I won't soon forget.'' Another volunteer employee commented, ''This experience was such a blessing. I got so much more from it than I felt I gave.'' One Weyerhaeuser retiree said, ''Having once more the opportunity to work side by side with other Weyerhaeuser employees and retirees made me realize anew why I enjoyed working for Weyerhaeuser so much. It's all about the people and the values the company ascribes to. Thanks again.'' Testimonies such as these speak volumes about Weyerhaeuser's dedication to its employees and others.

I cannot thank the company enough for the work they have done and continue to do. It is truly deserving of such a prestigious award, and I am delighted to see Weyerhaeuser's efforts have been recognized.•

NATIONAL NIGHT OUT

• Mr. DOMENICI. Mr. President, I wish to recognize the statewide effort my great State of New Mexico will put forth for the National Night Out. National Night Out is a community event

designed to bring awareness to preventing crime while building partnerships between communities and local law enforcement agencies. Crime is not limited to urban areas anymore; it affects every person in every town, big and small. Communities need to be proactive in fighting it. National Night Out is a great step locals can take to curb violence and crime in their areas.

Activities for the night out include barbeques, block parties, downtown rallies and townhall meetings and vary by community; each event in an attempt to gain support for local law enforcement and create camaraderie amongst citizens. When communities come together, they can do great things, even fight crime. Some New Mexico communities participating in National Night Out are Albuquerque, Belen, Bernalillo, Bosque Farms, Carlsbad, Gallup, Isleta, Jal, Las Cruces, Los Lunas, all of Sandoval County, Santa Fe, and Truth or Consequences. Each town will celebrate with its own flair, and each night out will succeed in bring awareness to crime in their area.

I applaud these neighborhoods for being proactive in their local fight on crime.●

15TH ANNUAL NAVAJO FAIR AND RODEO

● Mr. DOMENICI. Mr. President, almost 40 years ago, the Ramah Navajo School Board was incorporated in New Mexico as a means to provide education, health, job training, and social services to the Ramah Navajo people. This private, not-for-profit group was created in 1970 and has since strengthened the community through its involvement. As they have done for the past 15 years, the School Board organizes a fair and rodeo as a celebration of Ramah Navajo culture and the culture of New Mexico.

To name a few of the events this year, there is a Pow Wow, kid's carnival, traditional dance performances, and roping competitions. I want to recognize the Ramah Navajo School Board, Inc., and their efforts to promote these public events, specifically the landmark of the 15th annual Ramah Navajo Fair and Rodeo. These events strengthen bonds in the community with the people and their traditions.

Because of their location and separation from the contiguous Navajo Nation, the Ramah Navajo community stands on a mission of self-determination and self-reliance, setting up programs like the School Board to deal with all their people's needs. The Ramah Navajo School Board helped create the first Indian-controlled contract school in the United States, currently educating 600 students.

I would like to bring to the attention of the country how the Ramah Navajo people have kept their cultural identity strong while building on their community through events like this fair and rodeo.●

TRIBUTE TO DELORES TOLLEFSON

● Mr. DORGAN. Mr. President, most of us look back on our high school years as a wonderful time of learning, growing and maturing.

And also, most of us remember fondly one special teacher that gave us a nudge or an encouraging pat on the back or maybe even some discipline at the right moment.

For me, that teacher was Delores Tollefson. She was a big presence in a small school. She was the English teacher who virtually did it all in my small school of 40 students in all four high school grades. She put on all the class plays; she helped run the school newspaper and spearheaded the school annual; and she taught speech and English, and much more.

But most important to me was that she had the patience to see potential in her students. At just the right time she would offer either encouragement or disapproval and say, ''You can do that, you've got a lot of talent,'' or ''You're better than that. Come on—get busy and work up to your potential,'' or ''Great job!''

Most of us who were fortunate enough to have a teacher that saw potential and pushed us to reach it seldom took the time to say thank you.

This year marks the 90th birthday of Delores Tollefson and I want to pay tribute to a wonderful teacher who affected my life in a very positive way. It is time to say a very special ''Thank you.''

Happy Birthday, Delores Tollefson! And thank you for dedicating your life to teaching young people. It made a big difference in the life of this former student.●

HONORING SUPERLATIVE TECHNOLOGIES, INC.

● Ms. SNOWE. Mr. President, today I recognize an outstanding small business from my home State of Maine that has established itself as one of New England's leading information technology engineering firms. Headquartered in East Machias, Superlative Technologies Inc., SuprTEK, provides effective information technology solutions and engineering services to the diverse clientele it has established during its 11 years in operation.

As an 8(a) and HUBZone certified small business, SuprTEK supplies private industries, as well as local, State, and Federal Government, with support solutions in a wide variety of areas, including information assurance, network management, systems development, operation management, wireless solutions, and enterprise architecture. The 8(a) and HUBZone programs often allow small businesses, such as SuprTEK, greater access to Federal Government opportunities. The HUBZone program, in particular, benefits rural communities by ensuring the business itself, and a portion of its employees, reside in the HUBZone. By enabling each client to utilize its support solutions effectively and efficiently, SuprTEK demonstrates its strong commitment to improving its clients' businesses. Employing highly qualified business and technical specialists averaging almost 10 years of experience, SuprTEK demands high standards for themselves and their clients.

SuprTEK has consistently fought to bring jobs and economic vitality to the Machias region and all of downeast Maine. With the closing of the Naval Computer and Telecommunications Station in Cutler, and fears of the loss's effect on the local economy, SuprTEK was awarded a contract to build a first-of-its-kind Navy Human Resources Benefits Call Center in July of 2001. The employees at SuprTEK provided health, insurance, and retirement assistance to nearly 40,000 U.S. Navy civilian employees throughout the Northeast in 2001. Currently, 30 employees aid the full 186,000 member Navy civilian workforce worldwide. In May 2005, SuprTEK completed the construction of a new and improved facility in East Machias to house its call center. And in October of 2006, the U.S. Navy announced a new contract for SuprTEK's call center to continue providing these vital resources to the Navy through 2011.

In 2005, the Army Surface Deployment and Distribution Command presented SuprTEK with its Small Disadvantaged Business Outstanding Achievement Award. This award is emblematic of the U.S. military's appreciation for the work that SuprTEK has done and continues to do. Having visited SuprTEK myself, I have seen firsthand the dedication and commitment of the employees at SuprTEK and the tremendous impact that they are having on the lives of the Navy's civilian employees. Furthermore, SuprTEK plans to expand its operation by creating a business park that would also include low-cost office space for light industry, such as manufacturers of clothing and household items. This is a welcome and reassuring sign for a region whose prosperity has suffered. I thank everyone at SuprTEK for the magnificent job they have done so far, and wish them luck in their future endeavors.●

DECLARATION OF A NATIONAL EMERGENCY RELATIVE TO THE THREAT IN LEBANON POSED BY THE ACTIONS OF CERTAIN PERSONS TO UNDERMINE LEBANON'S LEGITIMATE DEMOCRATIC INSTITUTIONS—PM 23

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to the International Emergency Economic Powers Act, as amended (50 U.S.C. 1701 et. seq.) (IEEPA), I hereby report that I have issued an Executive Order declaring a national emergency to deal with the threat in Lebanon posed by the actions of certain persons to undermine Lebanon's legitimate and democratically elected government or democratic institutions, to contribute to the deliberate breakdown in the rule of law in Lebanon, including through politically motivated violence and intimidation, to reassert Syrian control or contribute to Syrian interference in Lebanon or to infringe upon or undermine Lebanese sovereignty, contributing to political and economic instability in that country and the region. Such actions constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.

This order will block the property and interests in property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to have taken, or to pose a significant risk of taking, actions, including acts of violence, that have the purpose or effect of undermining Lebanon's democratic processes or institutions or contributing to the breakdown of the rule of law in Lebanon, supporting the reassertion of Syrian control or contributing to Syrian interference in Lebanon, or infringing upon or undermining Lebanese sovereignty. The order further authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to block the property and interests in property of those persons determined to have materially assisted, sponsored, or provided financing, material, logistical, or technical support for, or goods or services in support of, such actions or any person whose property and interests in property are blocked pursuant to the order; to be a spouse or dependent child of any person whose property and interests in property are blocked pursuant to the order; or to be owned or controlled by, or to act or purport to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the order.

I delegated to the Secretary of the Treasury, in consultation with the Secretary of State, the authority to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of my order.

I am enclosing a copy of the Executive Order I have issued.

GEORGE W. BUSH.

THE WHITE HOUSE, *August 1, 2007*.

MESSAGES FROM THE HOUSE

At 12:39 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 176. An act to authorize the establishment of educational exchange and development programs for member countries of the Caribbean Community (CARICOM).

H.R. 180. An act to require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes.

H.R. 957. An act to amend the Iran Sanctions Act of 1996 to expand and clarify the entities against which sanctions may be imposed.

H.R. 986. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Eightmile River in the State of Connecticut as components of the National Wild and Scenic Rivers System, and for other purposes.

H.R. 2347. An act to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, companies that sell arms to the Government of Iran, and financial institutions that extend $20,000,000 or more in credit to the Government of Iran for 45 days or more, and for other purposes.

H.R. 2722. An act to restructure the Coast Guard Integrated Deepwater Program, and for other purposes.

H.R. 2831. An act to amend title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973 to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

ENROLLED BILL SIGNED

At 2:36 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1. An act to provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1384. An act to designate the facility of the United States Postal Service located at 118 Minner Street in Bakersfield, California, as the ''Buck Owens Post Office''.

H.R. 2688. An act to designate the facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, as the ''Dolph S. Briscoe, Jr. Post Office Building''.

H.R. 3034. An act to designate the facility of the United States Postal Service located at 127 South Elm Street in Gardner, Kansas, as the ''Private First Class Shane R. Austin Post Office''.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2831. An act to amend title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973 to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

S. 1927. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2754. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to progress in building interagency capacity for national security missions; to the Committee on Armed Services.

EC–2755. A communication from the Under Secretary of Commerce (Oceans and Atmosphere), transmitting, pursuant to law, a report relative to the administration of the Coastal Zone Management Act for fiscal years 2004 and 2005; to the Committee on Commerce, Science, and Transportation.

EC–2756. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Michigan'' (FRL No. 8449–6) received on July 28, 2007; to the Committee on Environment and Public Works.

EC–2757. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of Boyd County, Kentucky Portion of the Huntington-Ashland 8-Hour Ozone Nonattainment Area to Attainment for Ozone'' (FRL No. 8449–5) received on July 28, 2007; to the Committee on Environment and Public Works.

EC–2758. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Extension of Cross-Media Electronic Reporting Rule Deadline for Authorized Programs'' ((RIN2025–AA07) (FRL No. 8449–8)) received on July 28, 2007; to the Committee on Environment and Public Works.

EC–2759. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2007–143—2007–152); to the Committee on Foreign Relations.

EC–2760. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, ''Letter Report: Review of Advisory Neighborhood Commission 2C Grant Awards for the Period March 2005 Through December 2006''; to the Committee on Homeland Security and Governmental Affairs.

EC–2761. A communication from the General Counsel, Office of Management and

Budget, Executive Office of the President, transmitting, pursuant to law, the report of a rule entitled ''Applicability of Cost Accounting Standards Coverage'' (Docket No. 3110–01) received on July 28, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2762. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a rule entitled ''Time and Material and Labor Hours Contracts for Commercial Items'' (Docket No. 3110–01) received on July 28, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2763. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a rule entitled ''Changes to Acquisition Thresholds'' (Docket No. 3110–01) received on July 28, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2764. A communication from the Under Secretary for Management, Department of Homeland Security, transmitting, pursuant to law, a report relative to the Department's commercial activities inventory for fiscal year 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–2765. A communication from the Secretary of Veterans Affairs, transmitting, the report of a draft bill entitled, ''Veterans' Pride Initiative Act''; to the Committee on Veterans' Affairs.

EC–2766. A communication from the Secretary of Veterans Affairs, transmitting, the report of a draft bill entitled, ''Agent Orange Equitable Compensation Act''; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–193. A resolution adopted by the Legislature of Rockland County, New York, urging Congress to schedule a public hearing in Rockland County with the Federal Aviation Administration and to not close the public comment period on the proposed airspace redesign; to the Committee on Commerce, Science, and Transportation.

POM–194. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to provide funding for the Louisiana University of Medical Sciences, Inc., College of Primary Care Medicine; to the Committee on Health, Education, Labor, and Pensions.

SENATE CONCURRENT RESOLUTION NO. 137

Whereas, Louisiana suffers with one of the worst health environments in the country, including a high infant mortality rate, a high rate of low birth weight babies, and an incidence of stroke that is 1.3 times that of the rest of the country, outside of the ''stroke belt''; and

Whereas, despite the best efforts of medical education institutions in Louisiana, the deficit of primary care physicians continues; and

Whereas, less than one-half of the 1998 graduates of medical education institutions in Louisiana selected a primary care specialty; and

Whereas, Louisiana University of Medical Sciences, Inc., College of Primary Care Medicine, is a non-profit organization designed to address the shortage of primary care physicians in small towns, rural areas, and underserved areas; and

Whereas, the faculty and staff of the College of Primary Care Medicine are committed to a teaching program that addresses the shortage of primary care physicians both in Louisiana and nationwide; and

Whereas, throughout the educational experience at the College of Primary Care Medicine of the Louisiana University of Medical Services, Inc., the student will be exposed to a wide variety of primary health care settings; and

Whereas, through the program at the College of Primary Care Medicine of the Louisiana University of Medical Services, Inc., the traditional basic medical sciences will be thoroughly presented, and students will be given all the tools necessary to be successful on the United States Medical Licensing Examination. Therefore, be it

Resolved, That the Legislature of Louisiana hereby memorializes the Congress of the United States to provide funding for the Louisiana University of Medical Services, Inc., College of Primary Care Medicine. Be it further

Resolved, That a copy of this Resolution be transmitted to the President of the United States, the secretary of the United States Senate, the clerk of the United States House of Representatives, and each member of the Louisiana delegation to the Congress of the United States.

POM–195. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to act on legislation that would ensure the safety and well-being of the returning veterans who face mental illness caused by their fulfillment of their duties; to the Committee on Veterans' Affairs.

Whereas, A significant growth in Post-Traumatic Stress Disorder (PTSD) has been identified over the past few years with the escalation of combat veterans returning home from the Iraq and Afghanistan conflicts; nation-wide calls for more assistance for those returning with mental issues as a result of combat have been growing, and this resolution is in response to those calls; and

Whereas, As of January 2007, more than 1.6 million U. S. Servicemen and women had served in Afghanistan and Iraq; and

Whereas, In October 2005, the U.S. Department of Veterans Affairs reported that more than 430,000 U.S. soldiers have been discharged from the military following service in Afghanistan and Iraq; more than 119,000 have sought help for medical or mental health issues from the Department of Veterans Affairs to date; and

Whereas, In January 2006, the Journal of the American Medical Association reported that 35% of Iraq Veterans have already sought help for mental health concerns; a 2003 New England Journal of Medicine Study found that more than 60% of Operation Iraqi Freedom/Operation Enduring Freedom veterans showing symptoms of PTSD were unlikely to seek help due to fears of stigmatization or loss of career advancement opportunities; and

Whereas, In 2005, the Department of Veterans Affairs reported that 18% of Afghanistan Veterans and 20% of Iraq Veterans in their care were suffering from some type of service-connected psychological disorder; and

Whereas, The Department of Veterans Affairs has seen a tenfold increase in PTSD cases in 2006; according to the VA, more than 37,000 Vets of Iraq and Afghanistan are suffering from mental health disorders, and more than 16,000 have already been diagnosed with PTSD; and

Whereas, According to the Army, since March 2003, at least 45 U.S. soldiers and 9 Marines have committed suicide in Iraq; at least 20 soldiers and 23 Marines have committed suicide since returning home, though exact numbers are not available; and

Whereas, The United States Congress is currently considering H.R. 612, H.R. 1538, S. 713, and H.R. 1268, which address the tragic Post-Traumatic Stress Disorder situation among our returning veterans; therefore, be it

Resolved, by the House of Representatives of the Ninety-fifth General Assembly of the State of Illinois, that our returning veterans deserve the very best in healthcare, including mental care, and that both the Federal Government and State Governments must work together to provide this healthcare; and be it further

Resolved, That the State of Illinois wishes to be a model State for the medical care that we offer to our returning soldiers in joint partnership with the Federal Government; and be it further

Resolved, That we urge Congress to act on H.R. 612, H.R. 1538, S. 713, and H.R. 1268 for the safety and well-being of our returning veterans who face mental illness caused by their fulfillment of their duties; and be it further

Resolved, That suitable copies of this resolution be sent to the Majority Leader and the Minority Leader of the U.S. Senate, the Speaker and the Minority Leader of the U.S. House of Representatives, the Illinois Congressional Delegation, and the Director of the Illinois Department of Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 793. A bill to provide for the expansion and improvement of traumatic brain injury programs (Rept. No. 110–140).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 1260. A bill to designate the facility of the United States Postal Service located at 6301 Highway 58 in Harrison, Tennessee, as the ''Claude Ramsey Post Office''.

H.R. 1335. A bill to designate the facility of the United States Postal Service located at 508 East Main Street in Seneca, South Carolina, as the ''S Sgt Lewis G. Watkins Post Office Building''.

H.R. 1425. A bill to designate the facility of the United States Postal Service located at 4551 East 52nd Street in Odessa, Texas, as the ''Staff Sergeant Marvin ''Rex'' Young Post Office Building''.

H.R. 1434. A bill to designate the facility of the United States Postal Service located at 896 Pittsburgh Street in Springdale, Pennsylvania, as the ''Rachel Carson Post Office Building''.

H.R. 1617. A bill to designate the facility of the United States Postal Service located at 561 Kingsland Avenue in University City, Missouri, as the ''Harriett F. Woods Post Office Building''.

H.R. 1722. A bill to designate the facility of the United States Postal Service located at 601 Banyan Trail in Boca Raton, Florida, as the ''Leonard W. Herman Post Office''.

H.R. 2025. A bill to designate the facility of the United States Postal Service located at 11033 South State Street in Chicago, Illinois, as the ''Willye B. White Post Office Building''.

H.R. 2077. A bill to designate the facility of the United States Postal Service located at 20805 State Route 125 in Blue Creek, Ohio, as the ''George B. Lewis Post Office Building''.

H.R. 2078. A bill to designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio,

as the ''Staff Sergeant Omer T. 'O.T.' Hawkins Post Office''.

H.R. 2127. A bill to designate the facility of the United States Postal Service located at 408 West 6th Street in Chelsea, Oklahoma, as the ''Clem Rogers McSpadden Post Office Building''.

H.R. 2563. A bill to designate the facility of the United States Postal Service located at 309 East Linn Street in Marshalltown, Iowa, as the ''Major Scott Nisely Post Office''.

H.R. 2570. A bill to designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado, as the ''Dr. Karl E. Carson Post Office Building''.

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment:

S. 1011. A bill to change the name of the National Institute on Drug Abuse to the National Institute on Diseases of Addiction and to change the name of the National Institute on Alcohol Abuse and Alcoholism to the National Institute on Alcohol Disorders and Health.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 1539. A bill to designate the post office located at 309 East Linn Street, Marshalltown, Iowa, as the ''Major Scott Nisely Post Office''.

S. 1596. A bill to designate the facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, as the ''Dolph S. Briscoe, Jr. Post Office Building''.

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1693. A bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 1732. A bill to designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado , as the ''Dr. Karl E. Carson Post Office Building''.

S. 1772. A bill to designate the facility of the United States Postal Service located at 127 South Elm Street in Gardner, Kansas, as the ''Private First Class Shane R. Austin Post Office''.

S. 1781. A bill to designate the facility of the United States Postal Service located at 118 Minner Avenue in Bakersfield, California, as the ''Buck Owens Post Office''.

S. 1896. A bill to designate the facility of the United States Postal Service located at 11 Central Street in Hillsborough, New Hampshire, as the ''Officer Jeremy Todd Charron Post Office''.

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1923. An original bill to authorize appropriations for assistance for the Housing Assistance Council, the Raza Development Fund, and for the Housing Partnership Network (HPN) and its members, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs:

Jim Nussle, of Iowa, to be Director of the Office of Management and Budget.

*Dennis R. Schrader, of Maryland, to be Deputy Administrator for National Preparedness, Federal Emergency Management Agency, Department of Homeland Security.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

NOMINATIONS DISCHARGED

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

Eric G. John, of Indiana, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

Nominee: Eric G. John.

Post: Thailand.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date; and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses, none.
4. Parents: Patricia John, $25.00, 9/2004, George W. Bush.
5. Grandparents, none.
6. Brothers and spouses, Robert John, $250.00, 11/2003, John Edwards.
7. Sisters and spouses, none.

Michael W. Michalak, of Michigan, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of Vietnam.

Nominee: Michael W. Michalak.

Post: Washington, D.C.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self, none.
2. Spouse, none.
3. Children and spouses, none.
4. Parents, none.
5. Grandparents, none.
6. Brothers and spouses, none.
7. Sisters and spouses, none.

The Senate Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of the following nominations and the nominations were confirmed:

Jill E. Sommers, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2009.

Bartholomew H. Chilton, of Delaware, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2008.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REED (for himself, Ms. SNOWE, Mr. KERRY, and Mr. KENNEDY):

S. 1910. A bill to amend the Internal Revenue Code of 1986 to provide that amounts derived from Federal grants and State matching funds in connection with revolving funds established in accordance with the Federal Water Pollution Control Act and the Safe Drinking Water Act will not be treated as proceeds or replacement proceeds for purposes of section 148 of such Code; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mrs. DOLE, Mrs. BOXER, Mr. LAUTENBERG, and Mr. KERRY):

S. 1911. A bill to amend the Safe Drinking Water Act to protect the health of susceptible populations, including pregnant women, infants, and children, by requiring a health advisory, drinking water standard, and reference concentration for trichloroethylene vapor intrusion, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BROWN:

S. 1912. A bill for the relief of Maha Dakar; to the Committee on the Judiciary.

By Mr. CRAPO (for himself and Mrs. LINCOLN):

S. 1913. A bill to improve the amendments made by the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. DURBIN, Mr. KENNEDY, Mr. FEINGOLD, and Mr. CASEY):

S. 1914. A bill to require a comprehensive nuclear posture review, and for other purposes; to the Committee on Armed Services.

By Mr. SUNUNU:

S. 1915. A bill to amend title XVIII of the Social Security Act to provide incentives to physicians for writing electronic prescriptions; to the Committee on Finance.

By Mr. BURR (for himself, Mr. VITTER, and Ms. LANDRIEU):

S. 1916. 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 Health, Education, Labor, and Pensions.

By Mr. CRAPO (for himself, Mr. CRAIG, Mr. BAUCUS, and Mr. TESTER):

S. 1917. A bill to include Idaho and Montana as affected areas for purposes of making claims under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) based on exposure to atmospheric nuclear testing; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. LEAHY, and Mr. CASEY):

S. 1918. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mr. HATCH, and Ms. STABENOW):

S. 1919. A bill to establish trade enforcement priorities for the United States, to strengthen the provisions relating to trade remedies, and for other purposes; to the Committee on Finance.

By Mr. REID:

S. 1920. A bill to award competitive grants to eligible partnerships to enable the partnerships to implement innovative strategies

at the secondary school level to improve student achievement and prepare at-risk students for postsecondary education and the workforce; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WEBB (for himself, Mr. SESSIONS, Ms. LANDRIEU, Mr. PRYOR, Mr. CORNYN, Mr. BUNNING, Mr. LOTT, Mr. CARDIN, Mr. WARNER, Mrs. LINCOLN, Mr. BURR, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. DURBIN, Mrs. MCCASKILL, and Mrs. CLINTON):

S. 1921. A bill to amend the American Battlefield Protection Act of 1996 to extend the authorization for that Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY (for himself and Ms. SNOWE):

S. 1922. A bill to apply basic contracting laws to the Transportation Security Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 1923. An original bill to authorize appropriations for assistance for the Housing Assistance Council, the Raza Development Fund, and for the Housing Partnership Network (HPN) and its members, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. CARPER (for himself, Mr. WARNER, and Mr. MENENDEZ):

S. 1924. A bill to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty; to the Committee on Homeland Security and Governmental Affairs.

By Mr. KOHL (for himself, Mr. SANDERS, Mrs. MCCASKILL, Mr. DURBIN, and Mr. SMITH):

S. 1925. A bill to amend the Truth in Lending Act, to prevent credit card issuers from taking unfair advantage of college students and their parents, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD (for himself and Mr. HAGEL):

S. 1926. A bill to establish the National Infrastructure Bank to provide funding for qualified infrastructure projects, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCONNELL (for himself and Mr. BOND):

S. 1927. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes; read the first time.

By Mr. KENNEDY (for himself, Mr. DODD, Mrs. MURRAY, Mrs. CLINTON, Mr. OBAMA, Mr. LEAHY, Mr. FEINGOLD, and Ms. CANTWELL):

S. 1928. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available under that section; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1929. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to conduct a feasibility study of water augmentation alternatives in the Sierra Vista Subwatershed; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself, Mr. ALEXANDER, Mr. KERRY, Ms. SNOWE, Mr. FEINGOLD, Mr. BIDEN, Mr. DODD, and Mr. OBAMA):

S. 1930. A bill to amend the Lacey Act Amendments of 1981 to prevent illegal logging practices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TESTER:

S. 1931. A bill to amend the Mineral Leasing Act to ensure that development of certain Federal oil and gas resources will occur in a manner that protects water resources and respects the rights of surface owners, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAYH (for himself, Mr. KERRY, Ms. SNOWE, Ms. LANDRIEU, and Mr. VITTER):

S. 1932. A bill to amend the Small Business Act to increase SBIR and STTR program expenditures; to the Committee on Small Business and Entrepreneurship.

By Mr. REID (for himself, Mr. ENSIGN, Mrs. BOXER, Mr. BAUCUS, Mrs. MURRAY, Mrs. CLINTON, Mr. SANDERS, and Mr. CONRAD):

S. 1933. A bill to amend the Safe Drinking Water Act to provide grants to small public drinking water systems; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. INHOFE, Ms. LANDRIEU, Mr. SPECTER, Mr. MENENDEZ, Mr. CHAMBLISS, Mrs. BOXER, Mr. CRAPO, Mrs. FEINSTEIN, Mrs. DOLE, and Ms. SNOWE):

S. Res. 288. A resolution designating September 2007 as ''National Prostate Cancer Awareness Month''; to the Committee on the Judiciary.

By Mrs. BOXER:

S. Res. 289. A resolution expressing the sense of the Senate that a ''Welcome Home Vietnam Veterans Day'' should be established; to the Committee on Veterans' Affairs.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. Res. 290. A resolution honoring the life and career of former San Francisco 49ers Head Coach Bill Walsh; considered and agreed to.

By Mr. GRAHAM (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BIDEN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. CARDIN, Mr. CHAMBLISS, Mr. COCHRAN, Mr. CORNYN, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DURBIN, Mrs. HUTCHISON, Mr. ISAKSON, Mr. LEVIN, Mrs. LINCOLN, Mr. LOTT, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. OBAMA, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SCHUMER, Mr. SESSIONS, Mr. SPECTER, Mr. VITTER, and Mr. WARNER):

S. Res. 291. A resolution designating the week beginning September 9, 2007, as ''National Historically Black Colleges and Universities Week''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 311

At the request of Ms. LANDRIEU, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 311, a bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

S. 638

At the request of Mr. ROBERTS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 638, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 681

At the request of Mr. LEVIN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 681, a bill to restrict the use of offshore tax havens and abusive tax shelters to inappropriately avoid Federal taxation, and for other purposes.

S. 694

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 694, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of light motor vehicles, and for other purposes.

S. 831

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 831, a bill to authorize States and local governments to prohibit the investment of State assets in any company that has a qualifying business relationship with Sudan.

S. 912

At the request of Mr. ROCKEFELLER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 912, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S. 1254

At the request of Ms. MIKULSKI, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1254, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1323

At the request of Mr. MCCONNELL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1323, a bill to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity.

S. 1428

At the request of Mr. HATCH, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1428, a bill to amend part B of title XVIII of the Social Security Act to assure access to durable medical equipment under the Medicare program.

S. 1451

At the request of Mr. WHITEHOUSE, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1451, a bill to encourage the development of coordinated quality reforms to improve health care delivery and reduce the cost of care in the health care system.

S. 1577

At the request of Mr. KOHL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1577, a bill to amend titles XVIII and XIX of the Social Security Act to require screening, including national criminal history background checks, of direct patient access employees of skilled nursing facilities, nursing facilities, and other long-term care facilities and providers, and to provide for nationwide expansion of the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers.

S. 1607

At the request of Mr. BAUCUS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1607, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

S. 1621

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1621, a bill to amend the Internal Revenue Code of 1986 to treat certain farming business machinery and equipment as 5-year property for purposes of depreciation.

S. 1675

At the request of Ms. CANTWELL, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1675, a bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

S. 1693

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1693, a bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1709

At the request of Mr. BIDEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1709, a bill to amend the National Underground Railroad Network to Freedom Act of 1998 to provide additional staff and oversight of funds to carry out the Act, and for other purposes.

S. 1741

At the request of Mr. BAYH, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1741, a bill to modernize the manufactured housing loan insurance program under title I of the National Housing Act.

S. 1780

At the request of Mr. ROCKEFELLER, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 1780, a bill to require the FCC, in enforcing its regulations concerning the broadcast of indecent programming, to maintain a policy that a single word or image may be considered indecent.

S. 1886

At the request of Mr. BURR, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1886, a bill to provide a refundable and advanceable credit for health insurance through the Internal Revenue Code of 1986, to provide for improved private health insurance access and affordability, and for other purposes.

S. 1894

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1894, a bill to amend the Family and Medical Leave Act of 1993 to provide family and medical leave to primary caregivers of servicemembers with combat -related injuries.

S. 1898

At the request of Mrs. CLINTON, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from North Dakota (Mr. CONRAD) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 1898, a bill to amend the Family and Medical Leave Act of 1993 to expand family and medical leave for spouses, sons, daughters, and parents of servicemembers with combat-related injuries.

S. 1903

At the request of Mr. REED, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 1903, a bill to extend the temporary protected status designation of Liberia under section 244 of the Immigration and Nationality Act so that Liberians can continue to be eligible for such status through September 30, 2008.

S. RES. 196

At the request of Mr. CRAPO, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Res. 196, a resolution commending Idaho on winning the bid to host the 2009 Special Olympics World Winter Games.

AMENDMENT NO. 2552

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 2552 intended to be proposed to H.R. 976, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

AMENDMENT NO. 2560

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Washington (Mrs. MURRAY) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 2560 intended to be proposed to H.R. 976, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

AMENDMENT NO. 2588

At the request of Mr. OBAMA, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 2588 intended to be proposed to H.R. 976, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. DURBIN, Mr. KENNEDY, Mr. FEINGOLD, and Mr. CASEY):

S. 1914. A bill to require a comprehensive nuclear posture review, and for other purposes; to the Committee on Armed Services.

Mrs. FEINSTEIN. Mr. President, I rise today with Senator COLLINS, Senator DURBIN, Senator FEINGOLD, Senator KENNEDY, and Senator CASEY to introduce legislation to authorize a comprehensive review of our nuclear weapons policy and posture.

Before we ramp up funding for the Reliable Replacement Warhead program as the administration has requested, we should have a clear, bipartisan consensus on the role nuclear weapons will play in our national security strategy and the impact they will have on our nuclear nonproliferation efforts.

The Nuclear Policy and Posture Review Act of 2007 does three things.

First, it authorizes the President to conduct a nuclear policy review to consider a range of possible roles of nuclear weapons in U.S. security policy. The administration may reach out to outside experts and conduct public hearings to get a wide range of views. The policy review will provide options and recommendations for a nuclear posture review.

This report is due on September 1, 2009.

Second, following the completion of the nuclear policy review, it authorizes the Secretary of Defense to conduct a comprehensive review of the nuclear posture of the U.S. to clarify U.S. nuclear deterrence policy and strategy. This report is due March 1, 2010.

Finally, it zeros out funding for the Reliable Replacement Warhead program until the policy review and posture review reports have been submitted to Congress.

In his testimony on March 29, 2007, before the House Energy & Water Appropriations Subcommittee, former Senator Sam Nunn, Chairman of Nuclear Threat Initiative, noted that:

On the [Reliable Replacement Warhead] itself, if Congress gives a green light to this program in our current world environment, I believe that this will be: misunderstood by our allies; exploited by our adversaries; complicate our work to prevent the spread and use of nuclear weapons and . . . make resolution of the Iran and North Korea challenges all the more difficult.

I could not agree more.

Indeed, I remain deeply concerned about this administration's nuclear weapons policy.

As a U.S. Senator, I have worked with colleagues in the House and Senate to stop the re-opening of the nuclear door and the development of new nuclear weapons.

Together, we have eliminated funding for the Advanced Concepts Initiative, the Robust Nuclear Earth Penetrator, and the Modern Pit Facility.

These were consequential victories but the fight is far from over.

For fiscal year 2008, the administration requested $118 million for the Reliable Replacement Warhead program; $88 million in the National Nuclear Security administration's budget and $30 million in the Department of Defense's budget.

These funds would be used for Phase 2A activities: design definition and cost study.

This would represent approximately a four-fold increase over fiscal year 2007 funding of $24.7 million.

The House, however, rejected the administration's request and zeroed out funding for RRW in its fiscal year 2008 Energy and Water Development Appropriations bill. In its report accompanying the legislation, the House cited the lack of a definitive nuclear weapons policy review as a key reason for withholding funding for what will be a costly new nuclear warhead program. It stated:

The lack of any definitive analysis or strategic assessment defining the objectives of a future nuclear stockpile makes it impossible to weigh the relative merits of investing billions of taxpayer dollars in new nuclear weapon production activities when the United States is facing the problem of having too large a stockpile as a Cold War legacy. Currently, there exists no convincing rationale for maintaining the large number of existing Cold War nuclear weapons, much less producing additional warheads, or for the DoD requirements that drive the management of the DOE nuclear weapons complex.

While the Senate bill did not follow suit, it did cut $22 million from the administration's request, for a total of $66 million, and restricted activities to Phase 2A.

I believe we can match the House's action and this bill would do just that.

The administration is clearly getting nervous about the prospects for funding for RRW.

On Wednesday, the Secretaries of Energy, Defense, and State released a 4-page white paper on nuclear weapons strategy: ''National Security and Nuclear Weapons: Maintaining Deterrence in the 21st Century''. It affirmed the importance of maintaining a credible nuclear deterrent and sought to justify funding for the Reliable Replacement Warhead program. Among other things, it stated that the Reliable Replacement Warhead program is critical to sustaining long-term confidence in the nuclear stockpile and will help reduce the stockpile and move us away from nuclear testing; and any delay to the program will force the U.S. to maintain a larger stockpile, invest in costly and risky Life Extension Programs, and increase the likelihood that we will have to resume nuclear testing.

These arguments simply do not stand up to scrutiny.

Indeed the evidence clearly shows that there is no need to rush forward with increased funding for RRW. Let us take a close look at the status of our nuclear weapons arsenal.

Are there currently problems with the safety and reliability of our nuclear arsenal?

No, for each of the past 11 years the Secretary of Energy and Secretary of Defense have certified that the nuclear stockpile is safe and reliable.

Has the Pentagon asked for a new warhead for new missions?

No, there is no new military requirement to replace existing, well-tested warheads.

What about the plutonium pit, the ''trigger'' of a nuclear weapon? In past years, the administration requested funding for a Modern Pit Facility that could build up to 450 pits a year arguing that the pits in our current stockpile were reaching the end of their lifespan.

Is our stockpile at risk due to aging pits?

No, a December 2006 report by the National Laboratories showed that plutonium pits have a life-span of at least 85 years, and possibly up to 100 years.

That report validated Congressional action to eliminate funding for the Modern Pit Facility. I am pleased that the administration listened and did not request funding for the facility in fiscal year 2007 and fiscal year 2008.

Are we at risk for resuming nuclear testing?

No, as I have argued our stockpile is safe and secure and will clearly remain so for the foreseeable future.

If the likelihood of resuming nuclear testing is increasing it is due to the fact that the administration has, in past years, requested funding to lower the time to test readiness at the Nevada test site from 24–36 months to 18 months and, above all, refused to support ratification of the Comprehensive Test Ban Treaty, CTBT.

What about costs? I find it interesting that the administration would cite the costs of successful Life Extension Programs as a reason to ramp up funding for the RRW.

Has the administration shared with us what it will cost to replace the warhead on our deployed nuclear arsenal with a new Reliable Replacement Warhead?

The answer is no. The administration has remained silent about when the supposed cost savings from RRW will ultimately kick in.

In fact, the development of a new nuclear warhead will likely add billions of dollars to the American taxpayer's bill at a time when, as noted above, the stockpile is safe and reliable. As the House Energy and Water Appropriations report argued:

Under any realistic future U.S. nuclear defense scenario, the existing legacy stockpile will continue to provide the nation's nuclear deterrent for well over the next two to three decades. The effort by the NNSA to apply urgency to developing a significant production capacity for the RRW while lacking any urgency to rationalize an oversized complex appears to mean simply more costs to the American taxpayer.

Before we move any further with this program which would add a new warhead to the stockpile, we should have a better understanding of the role nuclear weapons will play in our security policy in a post-Cold War and post 9/11 world.

If we as a country are going to move away from massive stockpiles of nuclear weapons and explore more conventional alternatives, does it make sense to add a new warhead to the stockpile?

If we are committed to strengthening the Nuclear Nonproliferation Treaty and stopping the proliferation of nuclear weapons, what impact would a Reliable Replacement Warhead have on those efforts?

If the Stockpile Stewardship Program and the Life Extension Program can certify the safety and the reliability of our existing nuclear stockpile, should we shift resources from RRW to more pressing concerns?

It is common sense to ask these questions and engage in comprehensive review and debate about these options before we make the decision on manufacturing new warheads.

As it stands now, we are addressing this issue backwards and behind closed doors.

That is, we are rushing to develop a new warhead without an understanding of the role it will play in our nuclear weapons policy and national security strategy and without public input that will lead to a bipartisan policy.

Let us be clear: a rushed, four page white paper is simply not sufficient to answer these questions and make decisions about developing new nuclear warheads.

The administration has promised a more detailed report but its haste to put out this paper suggests that it is more intent on rushing the development of the Reliable Replacement Warhead program than in taking a sober,

unbiased look at our nuclear weapons policy and posture.

A lack of a substantive debate and review means we are not paying sufficient attention to the potential negative consequences of RRW.

Speeding up the development of a new nuclear warhead may send the wrong message to Iran; North Korea; and other would-be nuclear weapon states and encourage the very proliferation we are trying to prevent.

What to us may appear to be a safer, more reliable weapon could appear to others to be a new weapon with new missions and a violation of the Nuclear Nonproliferation Treaty.

The American Association for the Advancement of Science issued a report last month acknowledging that a Reliable Replacement Warhead ''could lead to a final selected design that is certifiable without a nuclear test.''

Yet, the report also concluded that absent a comprehensive review of nuclear policy and stockpile needs, the purpose and intention of RRW could be widely misinterpreted abroad.

Pointing out that there has been no high level statement about nuclear weapons policy since the 2001 Nuclear Posture Review, it called on the administration to develop a bipartisan policy on the future of nuclear weapons and nuclear weapons policy before moving ahead with RRW. It stated:

> In the absence of a clear nuclear posture, many interpretations are possible [about U.S. nuclear weapons policy] and the lack of a national understanding and consensus on the role of U.S. nuclear weapons puts any new approach at considerable risk at home and abroad. For example, an RRW plan that emphasizes the goal of sustaining the deterrent without nuclear testing could be perceived quite differently from one that focuses on future flexibility to develop and deploy nuclear weapons for new military mission.

It goes on to state:

> . . . nuclear weapons are ultimately an instrument of policy and strategy rather than of war fighting, and only with the leadership of the president can there be major changes in that instrument.

Unfortunately we have not seen such leadership from this administration.

Because it pursued the development of low-yield nuclear weapons and a Robust Nuclear Earth Penetrator, because it sought to lower the time-to-test readiness at the Nevada test site from 24–26 months to 18 months, because it sought to build a Modern Pit Facility that could produce up to 450 pits a year, this administration has lost the credibility to take a fresh and open look at nuclear weapons policy and posture.

Only a new administration, free from the constraints of the heated debates of the past, will have the authority to conduct a comprehensive review of our nuclear weapons policy and posture.

A bipartisan consensus on this policy is essential. It will let the world know exactly where we stand on these important issues and help clear up any confusion about our intentions.

Friend and foe alike will know that regardless of who holds power in Congress or the White House, the role of nuclear weapons in our security strategy will not change.

It will strengthen our efforts to convince other states to forego the development of nuclear weapons and make the world safer from the threat of nuclear war.

I believe that bipartisan policy is beginning to emerge.

In a January 4, 2007 op-ed in the Wall Street Journal, ''A World Free of Nuclear Weapons'', George Schultz, William Perry, Henry Kissinger, and Sam Nunn laid out a compelling vision for a world free of the threat of nuclear war.

They laid a set of common sense steps the U.S. and other nuclear weapon states can take to make this happen including: taking nuclear weapons off high-alert status; substantially reducing the size of nuclear stockpiles; eliminating short-ranged nuclear weapons; ratifying the Comprehensive Test Ban Treaty; securing all stocks of weapons, weapons-usable plutonium, and highly enriched uranium around the world; getting control of the uranium enrichment process; stopping production of fissile material for nuclear weapons globally; resolving regional confrontations that encourage the development of nuclear weapons.

They conclude:

> Reassertion of the vision of a world free of nuclear weapons and practical measures toward achieving that goal would be, and would be perceived as, a bold initiative consistent with America's moral heritage. The effort could have a profoundly positive impact on the security of future generations. Without that bold vision, the actions will not be perceived as fair or urgent. Without the actions, the vision will not be perceived as realistic or possible.

We should pay close attention to these words.

In conclusion, let me say that there is a big difference between an RRW program that increases the reliability of the existing stockpile and one that leads to a resumption of nuclear testing.

Congress should ask the tough questions to ensure that this is not a back door to new nuclear weapons with new missions and new rounds of testing.

I firmly believe we should zero out for the Reliable Replacement Warhead program until the next administration takes a serious look at our nuclear weapons programs and issues a bipartisan policy on the size of the future stockpile, testing, and nuclear nonproliferation efforts.

I look forward to working with my colleagues and the administration to craft that sensible, bipartisan nuclear weapons policy that will make Americans safe and allow us to reclaim a leadership role in the fight against nuclear proliferation.

I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 1914

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nuclear Policy and Posture Review Act of 2007''.

SEC. 2. REVISED NUCLEAR POLICY REVIEW AND NUCLEAR POSTURE REVIEW.

(a) NUCLEAR POLICY REVIEW.—

(1) IN GENERAL.—The President shall conduct a nuclear policy review to consider a range of options on the role of nuclear weapons in United States security policy. The policy review shall be coordinated by the National Security Advisor and shall include the Secretary of State, the Secretary of Energy, the Secretary of Defense, the Director of National Intelligence, the Director of the Office of Management and Budget, and the Director of the Office of Science and Technology Policy.

(2) SCOPE OF REVIEW.—The nuclear policy review conducted under paragraph (1) shall—

(A) address the role and value of nuclear weapons in the current global security environment;

(B) set forth short-term and long-term objectives of United States nuclear weapons policy;

(C) consider the contributions of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (commonly referred to as the ''Nuclear Non-Proliferation Treaty''), to United States national security, and include recommendations for strengthening the Treaty;

(D) explore the relationship between the nuclear policy of the United States and nonproliferation and arms control objectives and international treaty obligations, including obligations under Article VI of the Nuclear Non-Proliferation Treaty;

(E) determine the role and effectiveness of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Moscow July 31, 1991 (commonly referred to as the ''START I Treaty''), and the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow May 24, 2002 (commonly referred to as the ''Moscow Treaty''), in achieving the national security and nonproliferation goals of the United States and in implementing United States military strategy, and describe the elements of a recommended successor treaty, including verification provisions; and

(F) provide policy guidance and make recommendations for the nuclear posture review to be conducted under subsection (b).

(3) OUTSIDE INPUT.—The policy review shall include contributions from outside experts and, to the extent possible, shall include public meetings to consider a range of views.

(b) NUCLEAR POSTURE REVIEW.—

(1) IN GENERAL.—Following completion of the nuclear policy review under subsection (a), the Secretary of Defense shall conduct a comprehensive review of the nuclear posture of the United States to clarify United States nuclear deterrence policy and strategy. The Secretary shall conduct the review in collaboration with the Secretary of Energy, the Secretary of State, the Director of National Intelligence, and the National Security Advisor.

(2) ELEMENTS OF REVIEW.—The nuclear posture review conducted under paragraph (1) shall include the following elements:

(A) The role of nuclear forces in United States military strategy, planning, and programming, including the extent to which conventional forces can assume roles previously assumed by nuclear forces.

(B) The policy requirements and objectives for the United States to maintain a safe, reliable, and credible nuclear deterrence posture, in light of the guidance provided by the nuclear policy review conducted under subsection (a).

(C) The targeting strategy required to implement effectively the guidance provided by the nuclear policy review conducted under subsection (a).

(D) The levels and composition of the nuclear delivery systems that will be required for implementing the United States national and military strategy, including any plans for removing, replacing, or modifying existing systems.

(E) The nuclear weapons complex that will be required for implementing the United States national and military strategy, including any plans to consolidate, modernize, or modify the complex.

(F) The active and inactive nuclear weapons stockpile that will be required for implementing the United States national and military strategy, including any plans for replacing or modifying warheads.

(G) An account of the different nuclear postures considered in the review and the reasoning for the selection of the nuclear posture.

(c) REPORTS REQUIRED.—

(1) NUCLEAR POLICY REVIEW.—Not later than September 1, 2009, the President shall submit to Congress a report on the results of the nuclear policy review conducted under subsection (a).

(2) NUCLEAR POSTURE REVIEW.—Not later than March 1, 2010, the President shall submit to Congress a report on the results of the nuclear posture review conducted under subsection (b).

(3) FORM.—Each report required under this subsection shall be submitted in unclassified form, but may contain a classified annex.

(d) SENSE OF CONGRESS ON USE OF NUCLEAR POSTURE REVIEW.—It is the sense of Congress that the nuclear policy review conducted under subsection (a) should be used as the basis for establishing future strategic arms control objectives and negotiating positions of the United States.

(e) RESTRICTION ON FUNDING OF RELIABLE REPLACEMENT WARHEAD PROGRAM.—Notwithstanding any other provision of law, no funds may be appropriated or otherwise made available for the Reliable Replacement Warhead Program for fiscal years 2008, 2009, or 2010 until the reports required under subsection (c) have been submitted to Congress.

By Mr. SPECTER (for himself, Mr. LEAHY, and Mr. CASEY):

S. 1918. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the Christopher Kangas Fallen Firefighter Apprentice Act, a bill designed to correct a flaw in the current definition of ''firefighter'' under the Public Safety Officer Benefits Act.

On May 4, 2002, 14-year-old Christopher Kangas was struck by a car and killed while he was riding his bicycle in Brookhaven, PA. The local authorities later confirmed that Christopher was out on his bike that day for an important reason: Chris Kangas was a junior firefighter, and he was responding to a fire emergency.

Under Pennsylvania law, 14- and 15-year-olds such as Christopher are permitted to serve as volunteer junior firefighters. While they are not allowed to operate heavy machinery or enter burning buildings, the law permits them to fill a number of important support roles, such as providing first aid. In addition, the junior firefighter program is an important recruitment tool for fire stations throughout the Commonwealth. In fact, prior to his death Christopher had received 58 hours of training that would have served him well when he graduated from the junior program.

It is clear to me that Christopher Kangas was a firefighter killed in the line of duty. Were it not for his status as a junior firefighter and his prompt response to a fire alarm, Christopher would still be alive today. Indeed, the Brookhaven Fire Department, Brookhaven Borough, and the Commonwealth of Pennsylvania have all recognized Christopher as a fallen public safety officer and provided the appropriate death benefits to his family.

Yet, while those closest to the tragedy have recognized Christopher as a fallen firefighter, the Federal Government has not. The U.S. Department of Justice, DOJ, determined that Christopher Kangas was not eligible for benefits because he was not acting within a narrow range of duties at the time of his death that are the measured criteria to be considered a ''firefighter,'' and therefore, was not a ''public safety officer'' for purposes of the Public Safety Officer Benefits Act. In order to be eligible for benefits under the Public Safety Officer Benefits Act, an officer's death must be considered the ''direct and proximate result of a personal injury sustained in the line of duty.'' Although the United States Code includes firefighters in the definition of ''public safety officer'' and specifies a firefighter as ''an individual serving as an officially-recognized or designated member of a legally-organized volunteer fire department;'' it offers no definition of ''line of duty''. DOJ had to defer to an arbitrarily narrow definition of ''line of duty,'' as described in the Code of Federal Regulations that restricts activities to the ''suppression of fires.'' DOJ decided that the only people who qualify as firefighters are those who play the starring role of operating a hose on a ladder or entering a burning building. According to this interpretation, those, such as junior firefighters, who play the essential supporting roles of directing traffic, performing first aid, or dispatching fire vehicles do not contribute to the act of suppressing the fire.

Furthermore, Christopher's family has been pursuing this benefit through our court system. The U.S. Federal Claims Court ruled in favor of the Kangas family ordering the Department of Justice to pay $250,000. However, the Department appealed the decision which the Appeals Court for the Federal Circuit upheld by concluding the Court of Federal Claims' decision failed to defer to DOJ's interpretation of ''firefighter.''

Any firefighter will tell you that there are many important roles to play in fighting a fire beyond operating the hoses and ladders. Firefighting is a team effort, and everyone in the Brookhaven Fire Department viewed young Christopher as a full member of their team.

As a result of this DOJ determination, Christopher's family cannot receive a $267,000 Federal line-of-duty benefit. In addition, Christopher is barred from taking his rightful place on the National Fallen Firefighters Memorial in Emmitsburg, MD. For a young man who dreamed of being a firefighter and gave his life rushing to a fire, keeping him off of the memorial is a grave injustice.

The bill I introduce today will ensure that the Federal Government will recognize Christopher Kangas and others like him as firefighters. The bill clarifies that all firefighters will be recognized as such ''regardless of age, status as an apprentice or trainee, or duty restrictions imposed because of age or status as an apprentice or trainee.'' The bill applies retroactively back to May 4, 2002, the date of Christopher Kangas' death.

I urge my colleagues to support this important legislation and I yield the floor.

By Mr. BAUCUS (for himself, by Mr. HATCH, and Ms. STABENOW):

S. 1919. A bill to establish trade enforcement priorities for the United States, to strengthen the provisions relating to trade remedies, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am proud to join with Senator HATCH to introduce the Trade Enforcement Act of 2007. This bill will provide the administration additional tools, resources, and accountability to enforce international trade agreements abroad and domestic trade remedy laws here at home.

Over 400 years ago, William Shakespeare wrote ''The law hath not been dead, though it hath slept.'' The same could be said of our trade enforcement laws today.

The administration has many tools at its disposal to enforce international trade agreements. It can file dispute settlement cases in the World Trade Organization, WTO. It has Section 301 to fight market access barriers. It has Special 301 to address intellectual property violations abroad. It has Section 421 to remedy Chinese import surges that cause injury here at home.

But having these rules on the books is not enough. We need to enforce them.

There is a very real sense among Americans that our trading partners do not play by the rules. And there is a very real sense that the U.S. Government is allowing them to get away with it.

That is why I am introducing the Trade Enforcement Act of 2007—to ensure that the administration has the resources to enforce our existing trade laws, to provide political accountability when it does not, and to create new tools that address the enforcement priorities of American farmers, ranchers, manufacturers, and service suppliers.

This legislation bolsters enforcement of U.S. trade agreements in three important ways.

First, it requires the U.S. Trade Representative, USTR, to dedicate more time to enforcement. The bill requires USTR to provide an annual report to Congress identifying the most significant barriers to U.S. companies abroad and to take enforcement action to resolve them. It also makes trade enforcement more accountable to Congress. The bill allows the Senate Finance Committee or the House Ways and Means Committee to require USTR to identify a specific barrier in its annual report. And, significantly, the bill creates a Senate-confirmed Chief Enforcement Officer at USTR to investigate and prosecute trade enforcement cases.

Second, the bill addresses serious concerns that have been raised about the quality of recent World Trade Organization dispute settlement decisions. It does so by establishing a commission of retired judges and international trade law experts to review the decisions and determine whether they impose obligations on the U.S. that are not found in the text of the WTO agreements. The bill also prevents the administration from changing a regulation to comply with an adverse WTO decision until Congress receives the commission's report.

Third, the bill ensures that other U.S. government agencies do not use foreign policy and other noneconomic rationales to block USTR from taking tough enforcement actions. It clarifies that while USTR must carefully consider any advice provided by the interagency trade organization established under the Trade Expansion Act of 1962, it need not, and shall not, seek approval of its actions from the organization.

The bill also bolsters enforcement of U.S. trade remedy laws in four important ways.

First, the bill limits the President's discretion to deny relief in Section 421 cases to address Chinese import surges. This administration has utterly failed to use this trade remedy as Congress intended. It has denied relief in every case where the International Trade Commission, ITC, determined that relief was warranted. Our bill remedies this deficiency by requiring the President to proclaim any import relief that the ITC recommends unless the President finds, in extraordinary cases, that the relief would seriously harm our national security or would have an adverse impact on our economy that clearly and significantly outweighs the benefits. Congress may override the economic determination and reinstate the ITC's decision if it enacts a joint resolution of disapproval.

Second, the bill makes it easier for U.S. companies to obtain relief from subsidized imports from certain countries. It clarifies that the Commerce Department may apply countervailing duties to nonmarket economies like China. The Commerce Department has long taken the position that our countervailing duty laws do not apply to nonmarket economies, and it has refused to do so until very recently. The bill closes this loophole and eliminates any remaining uncertainty.

Third, the bill makes it easier for U.S. companies to obtain relief from subsidized and dumped imports from all countries by overriding the Federal Circuit's recent Bratsk decision. The bill provides that the ITC must make its injury determinations in antidumping and countervailing duty cases without regard to whether imports from other countries are likely to replace imports from the country under investigation.

Fourth, the bill increases intellectual property expertise at the ITC. It authorizes the ITC to appoint hearing officers, rather than administrative law judges, ALJs, to take evidence and make initial decisions in intellectual property investigations under Section 337 of the Tariff Act of 1930. Unlike the current ALJs, the hearing officers would be required to have technical expertise and experience in intellectual property law.

The overarching goal of this bill is, as Shakespeare might say, to ''wake up'' our trade laws from their current slumber and ensure that the administration enforces them to the fullest extent. Our farmers, ranchers, and companies deserve nothing less.

I therefore hope that my colleagues will support the Trade Enforcement Act of 2007.

By Mr. REID:

S. 1920. A bill to award competitive grants to eligible partnerships to enable the partnerships to implement innovative strategies at the secondary school level to improve student achievement and prepare at-risk students for postsecondary education and the workforce; to the Committee on Health, Education, Labor, and Pensions.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1920

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Getting Retention and Diplomas Up Among Today's Enrolled Students Act'' or the ''GRADUATES Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Since almost 90 percent of the fastest growing and best paying jobs now require some postsecondary education, a secondary school diploma and the skills to succeed in higher education and the modern workplace are essential.

(2) Only ⅓ of all high school students in the United States graduate in 4 years prepared for a 4-year institution of higher education. Another ⅓ graduate, but without the skills and qualifications necessary for success in higher education or the workplace, and the rest will not graduate from high school in 4 years, if at all.

(3) Dropouts from the class of 2006 will cost the United States more that $309,000,000,000 in reduced earnings.

(4) The Nation's failure to meet the increasing demand for skilled workers means that American companies cannot fill a large number of jobs. 81 percent of American manufacturing companies report experiencing a moderate to severe shortage of qualified workers.

(5) International competition has made education a national security issue. For example, the United States currently runs a $30,000,000,000 advanced technology trade deficit with China. Many other countries are developing the technology, infrastructure, and knowledge base to export quality products with inexpensive labor. The education system of the United States should support critical thinking, creativity, and innovative approaches to new opportunities, which are commodities that cannot be outsourced.

(6) As the bar for success continues to be raised, the responsibility to engender these attributes with progressive programs and original models lies squarely with the education system. It is imperative that the United States develop and implement new, innovative approaches to fully prepare every student for the 21st century.

(7) Realigning the education system to meet new, demanding requirements and face intensifying competition requires effective, systemic reform. Identifying effective, replicable models that achieve this goal is a critical step towards enhancing the prospects of all students entering the modern workforce.

SEC. 3. SECONDARY SCHOOL INNOVATION FUND.

(a) SECONDARY SCHOOL INNOVATION FUND.—Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part I as part J; and

(2) by inserting after section 1830 the following:

''PART I—SECONDARY SCHOOL INNOVATION FUND

''SEC. 1851. PURPOSES.

''The purposes of this part are—

''(1) to improve the achievement of at-risk secondary school students and prepare such students for higher education and the workforce;

''(2) to create evidence-based, replicable models of innovation in secondary schools at the State and local level; and

''(3) to support partnerships to create and inform innovation at the State and local level to improve learning outcomes and transitions for secondary school students.

''SEC. 1852. DEFINITIONS.

''In this part:

''(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that includes—

''(A) not less than 1—

''(i) State educational agency; or

''(ii) local educational agency that is eligible for assistance under part A; and

''(B) not less than 1—

''(i) institution of higher education;

''(ii) nonprofit organization;

''(iii) community-based organization;

''(iv) business; or

''(v) school development organization or intermediary.

''(2) ELIGIBLE SCHOOL.—The term 'eligible school' means a public secondary school served by a local educational agency that is eligible for assistance under part A.

''(3) HIGH SCHOOL.—The term 'high school' means a public school, including a public charter high school, that provides education in any grade beginning with grade 9 and ending with grade 12, as determined under State law.

''(4) MIDDLE SCHOOL.—The term 'middle school' means a public school, including a public charter middle school, that provides middle education in any grade beginning with grade 5 and ending with grade 8, as determined under State law.

''(5) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 9101.

''SEC. 1853. SECONDARY SCHOOL INNOVATION FUND.

''(a) PROGRAM AUTHORIZED.—

''(1) GRANTS TO ELIGIBLE PARTNERSHIPS.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the costs of implementing innovative strategies described in subsection (f) to improve the achievement of at-risk students in secondary schools.

''(2) SUBGRANTS TO ELIGIBLE SCHOOLS.—An eligible partnership that receives a grant under this part may use the grant funds to award a subgrant to an eligible school to enable the eligible school to implement innovative strategies described in subsection (f) to improve the achievement of at-risk students at the eligible school.

''(b) RESERVATION OF FUNDS.—The Secretary shall reserve 5 percent of the amounts appropriated under this part for a fiscal year for the evaluation described in subsection (h).

''(c) APPLICATION.—

''(1) IN GENERAL.—An eligible partnership desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(2) CONTENTS.—The application described in paragraph (1) shall include—

''(A) a description of the eligible partnership, the partners forming the eligible partnership, and the roles and responsibilities of each partner, and a demonstration of each partner's capacity to support the outlined roles and responsibilities;

''(B) a description of how funds will be used to improve the achievement of at-risk students in secondary schools;

''(C) a description of how the activities funded by the grant will be innovative, systemic, evidence-based, and replicable;

''(D) a description of each subgrant the eligible partnership will award to an eligible school, including a description of the eligible school; and

''(E) a description of how the eligible partnership will measure and report improvement using the data collected under subsection (g) and additional indicators of improvement proposed by the partnership, such as student attendance or participation, credit accumulation rates, core course failure rates, college enrollment and persistence rates, or number or percentage of students taking Advanced Placement (AP), International Baccalaureate (IB), or other postsecondary education courses, rigorous postsecondary education preparatory courses, or workforce apprenticeship and training programs.

''(d) APPLICATION REVIEW AND AWARD BASIS.—

''(1) GRANT REVIEW AND APPROVAL.—The Secretary shall—

''(A) establish a peer review process to assist in the review of the grant applications and approval of the grants under this section; and

''(B) appoint to the peer review process—

''(i) individuals who are educators and experts in—

''(I) secondary school reform;

''(II) accountability;

''(III) secondary school improvement;

''(IV) innovative education models; and

''(V) other educational needs of secondary school students; and

''(ii) not less than 1 parent or community representative; and

''(C) ensure that each grant award is of sufficient size and scope to carry out the activities proposed in the grant application, including the evaluation required under subsection (g)(3).

''(2) AWARD BASIS.—In awarding grants under this part, the Secretary shall ensure, to the extent practicable—

''(A) diversity in the type of activities funded under the grants;

''(B) an equitable geographic distribution of the grants, including urban and rural areas; and

''(C) that the grants support activities—

''(i) that target different grade levels of students at the secondary school level; and

''(ii) in a variety of types of secondary schools, including middle schools and high schools.

''(e) FEDERAL SHARE, NON-FEDERAL SHARE.—

''(1) FEDERAL SHARE.—The Federal share of a grant under this part shall be not more than 75 percent of the costs of the activities assisted under the grant.

''(2) NON-FEDERAL SHARE.—The non-Federal share shall be not less than 25 percent of the costs of the activities assisted under the grant, of which not more than 10 percent of the costs of the activities assisted under the grant may be provided in-kind, fairly evaluated.

''(f) USE OF FUNDS.—An eligible partnership receiving a grant under this part, or an eligible school receiving a subgrant under this part, shall use grant or subgrant funds, respectively, to carry out 1 or more of the following activities:

''(1) Creating multiple pathways, including the creation of new public schools, that offer students a range of educational options designed to meet the students' needs and interests and to lead to a secondary school diploma consistent with readiness for postsecondary education and the workforce, which pathways may include—

''(A) alternative public schools that—

''(i) use innovative strategies such as flexible hours;

''(ii) provide competency-based instruction and performance-based assessment to improve educational outcomes for various populations of overaged and undercredited students or dropouts, such as—

''(I) students not making sufficient progress to graduate with a regular secondary school diploma in the standard number of years;

''(II) students who need to work to support themselves or their families;

''(III) pregnant and parenting teens; and

''(IV) students returning from the juvenile justice system;

''(B) career and technical education programs;

''(C) career academies;

''(D) early college and dual enrollment learning opportunities; and

''(E) creating more personalized and engaging learning environments for secondary school students, such as—

''(i) establishing smaller learning communities;

''(ii) creating student advisories and developing peer engagement strategies in which students lead guidance activities, mentoring, or tutoring efforts;

''(iii) involving students and parents in the development of individualized student plans for secondary school success and graduation and postsecondary transition;

''(iv) creating mechanisms for increased student participation in school improvement efforts and in decisions affecting the students' own learning; and

''(v) creating new opportunities to better utilize the grade 11 and grade 12 years and creating better connectivity to postsecondary education.

''(2) Creating expanded learning time opportunities, which may include—

''(A) establishing a mandatory expanded day, for all students transitioning into the first year of high school, for academic catch-up and enrichment;

''(B) providing arts or service learning opportunities with community-based cultural and civic organizations; and

''(C) providing higher education and work-based exposure, experience, and credit-bearing learning opportunities in partnership with postsecondary institutions and the workforce.

''(3) Improving student transitions from middle school to high school and ensuring successful entry into high school, which may include—

''(A) establishing summer transition programs for secondary school students transitioning from middle school to high school to ensure the students' connection to the students' new high school and to orient the students to the study skills and social skills necessary for success in the high school;

''(B) providing for the sharing of data between high schools and feeder middle schools;

''(C) establishing quick response and recovery programs in high school for secondary school students transitioning into the students' first year of high school so that such students do not become truant or fall too far behind in academics;

''(D) increasing the level of student supports, including academic and social-emotional supports, especially for struggling students; and

''(E) aligning academic standards, curricula, and assessments between middle and high schools.

''(4) Improving student transitions from secondary school to postsecondary education and the workforce, which may include—

''(A) providing for the sharing of data between secondary schools and institutions of higher education;

''(B) enabling dual enrollment and credit-bearing learning opportunities;

''(C) establishing one or more early college secondary schools that offer students a secondary school diploma and not more than 2 years of college credit within a 4- or 5-year program;

''(D) providing enhanced higher education and financial aid counseling; and

''(E) aligning the academic standards of secondary school with the academic standards of postsecondary education and the requirements and expectations of the workforce.

''(5) Increasing the autonomy and flexibility of secondary schools, which may include—

''(A) establishing a process whereby existing schools can apply for flexibility in such areas as scheduling, curricula, budgeting, and governance; and

''(B) starting new small public secondary schools that are guaranteed such autonomies.

''(6) Improving learning opportunities for secondary school students in rural schools, including through the use of distance-learning opportunities and other technology-based tools.

''(7) Redesigning a middle school—

''(A) to prevent student disengagement and improve achievement; and

''(B) to better respond to early warning signs that students are at risk of dropping out of school, such as poor attendance, poor behavior, or course failure.

''(8) Improving teaching and increasing academic rigor at the secondary school level, which may include—

''(A) improving the alignment of academic standards with the requirements and expectations of postsecondary education and the workforce;

''(B) improving the teaching and assessment of 21st century skills, including through the development of formative assessment models;

''(C) increasing community involvement, including leveraging community-based services and opportunities to provide every student with the academic and nonacademic supports necessary for academic success;

''(D) increasing parental involvement, including providing parents with the tools to navigate, support, and influence their child's academic career and choices through secondary school graduation and into postsecondary education and the workforce; and

''(E) addressing the learning needs of various student populations, including students who are limited English proficient, late entrant English language learners, and students with disabilities.

''(g) DATA COLLECTION AND EVALUATION.—

''(1) COLLECTION OF DATA.—Each eligible partnership receiving a grant under this part shall collect and report annually to the Secretary such information on the results of the activities assisted under the grant as the Secretary may reasonably require, including information on—

''(A) the number and percentage of students who—

''(i) are served by the eligible partnership;

''(ii) are assisted under this part; and

''(iii) graduate from secondary school with a regular secondary school diploma in the standard number of years;

''(B) the number and percentage of students, at each grade level, who are—

''(i) served by the eligible partnership;

''(ii) assisted under this part; and

''(iii) on track to graduate from secondary school with a regular secondary school diploma in the standard number of years;

''(C) the number and percentage of students, at each grade level, who—

''(i) are served by the eligible partnership;

''(ii) are assisted under this part; and

''(iii) meet or exceed State challenging student academic achievement standards in mathematics, reading or language arts, or science, as measured by the State academic assessments under section 1111(b)(3);

''(D) information consistent with the additional indicators of improvement proposed by the eligible partnership in the grant application; and

''(E) other information the Secretary may require as necessary for the evaluation described in subsection (h).

''(2) REPORTING OF DATA.—Each eligible partnership receiving a grant under this part shall disaggregate the information required under paragraph (1) in the same manner as information is disaggregated under section 1111(h)(1)(C)(i).

''(3) EVALUATION.—

''(A) IN GENERAL.—Each eligible partnership receiving a grant under this part shall enter into a contract with an outside evaluator to enable the evaluator to conduct—

''(i) an evaluation of the effectiveness of the grant after the third year of implementation of the grant; and

''(ii) an evaluation of the effectiveness of the grant after the final year of the grant period.

''(B) DISTRIBUTION.—Upon completion of an evaluation described in subparagraph (A), the eligible partnership shall submit a copy of the evaluation to the Secretary in a timely manner.

''(h) EVALUATION; BEST PRACTICES.—

''(1) IN GENERAL.—From amounts reserved under subsection (b), the Secretary shall—

''(A) enter into a contract with an outside evaluator to enable the evaluator to conduct—

''(i) a comprehensive evaluation after the third year of implementation on the effectiveness of all grants awarded under this part; and

''(ii) a final evaluation following the final year of the grant period with a focus on improvement in student achievement as a result of innovative strategies; and

''(B) disseminate best practices in improving the achievement of secondary school students.

''(2) PEER REVIEW.—

''(A) IN GENERAL.—An evaluator receiving a contract under this subsection shall—

''(i) establish a peer-review process to assist in the review and approval of the evaluations conducted under this subsection; and

''(ii) appoint individuals to the peer-review process who are educators and experts in—

''(I) research and evaluation; and

''(II) the areas of expertise described in subclauses (I) through (V) of subsection (d)(1)(B)(i).

''(B) RESTRICTIONS ON USE.—The Secretary shall not distribute or use the results of any evaluation described in paragraph (1)(A) until the results are peer-reviewed in accordance with subparagraph (A).

''(i) CONTINUATION OF FUNDING.—An eligible partnership that receives a grant under this part shall only be eligible to receive a grant payment for a fourth or fifth year of the grant if the Secretary determines, on the basis of the evaluation of the grant under subsection (h)(1)(A)(i), that the performance of the eligible partnership under the grant has been satisfactory.

''(j) RULE OF CONSTRUCTION REGARDING DISCRIMINATION.—Nothing in this section shall be construed to permit discrimination on the basis of race, color, religion, sex, national origin, or disability in any program or activity funded under this part.

''SEC. 1854. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part $500,000,000 for fiscal year 2008 and for each of the succeeding 5 years.''.

(b) CONFORMING AMENDMENTS.—The table of contents in section 2 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 note) is amended—

(1) by striking the item relating to Part I and inserting the following:

''PART J—GENERAL PROVISIONS''; AND

(2) by inserting after the item relating to section 1830 the following:

''PART I—SECONDARY SCHOOL INNOVATION FUND

''Sec. 1851. Purposes.

''Sec. 1852. Definitions.

''Sec. 1853. Secondary school innovation fund.

''Sec. 1854. Authorization of appropriations.''.

By Mr. WEBB (for himself, Mr. SESSIONS, Ms. LANDRIEU, Mr. PRYOR, Mr. CORNYN, Mr. BUNNING, Mr. LOTT, Mr. CARDIN, Mr. WARNER, Mrs. LINCOLN, Mr. BURR, Mrs. LINCOLN, Mr. BURR, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. DURBIN, Mrs. MCCASKILL, and Mrs. CLINTON):

S. 1921. A bill to amend the American Battlefield Protection Act of 1996 to extend the authorization for that Act, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WEBB. Mr. President, I rise today to join with my colleague Senator JEFF SESSIONS and 14 of our Senate colleagues to introduce the Civil War Battlefield Preservation Act of 2007. This bipartisan legislation was recently introduced in the House by Congressmen GARY MILLER of California and BART GORDON of Tennessee and presently enjoys the support of 26 Members of Congress.

Our bill is a straightforward, 5 year extension of the 2002 Civil War Battlefield Preservation Act. The purpose of this legislation remains the same as when Congress first passed it: to preserve and protect nationally significant Civil War battlefields through conservation easements and fee-simple purchases of battlefield sites. In addition, the legislation fosters partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance nationally significant Civil War battlefields.

The legislation continues to protect private property rights by limiting land acquisitions to willing sellers only. It also requires a 50–50 match in order for projects to be eligible to receive Federal funds. Finally, the program limits the effect on the burgeoning National Park Service's maintenance backlog because non-Federal entities are responsible for the long-term maintenance of sites not within National Park Service boundaries.

In 1990, Congress established the Civil War Sites Advisory commission, a blue-ribbon panel empowered to investigate the status of America's remaining Civil War battlefields. Congress tasked the commission with the mission of prioritizing these battlefields according to their historic importance and the threats to their survival. The commission ultimately looked at the 10,000-plus battles and skirmishes of the Civil War and determined that 384 priority sites should be preserved. The results of the report were released in 1993 and they were not encouraging.

The 1993 commission report recommended that Congress create an emergency program to save threatened Civil War battlefield land. The result was the Civil War Battlefield Preservation Program, which was first funded

in fiscal year 1999 and originally authorized in 2002. To date, the preservation program has saved over 14,000 acres of land in 15 States.

The key to the success of the preservation program is that it achieves battlefield preservation through collaborative partnerships between State and local governments, the private sector and nonprofit organizations, such as the Civil War Preservation Trust.

But for the preservation program and its non-Federal partners, we would have lost key sites from national shrines at Antietam. Chancellorsville. Fredericksburg. Manassas. Harpers Ferry. Bentonville. Mansfield. Champion Hill. Their names of these legendary battlegrounds continue to haunt us to this day. Had the Civil War Battlefield Preservation Program not been available as a tool to preserve threatened battlefield land, these sites and others like them would have surely been lost forever to commercial and residential development.

It is not every day you can visit battlefield sites and have an immediate, direct connection with your ancestors. We must preserve these sites so that future generations might see and touch the very places where so many sacrifices were made, by soldiers and civilians alike. We are a stronger, more diverse and free Nation because of these sacrifices.

I would remind my colleagues that the preservation program has enjoyed bipartisan, bicameral support since its inception. In 2002, program funding was authorized through the Civil War Battlefield Preservation Act at the level recommended by the Civil War Sites Advisory Commission, $10 million a year. These Federal funds have, and will continue to, leverage millions more in private and other charitable donations; thereby increasing our ability to preserve more threatened battlefield sites.

The Civil War Battlefield Preservation Act has become an essential tool for protecting our nation's Civil War battlefields. I would urge my colleagues in the Senate to reauthorize this important federal program. The clock is ticking against these threatened historical sites and we must keep the Civil War Battlefield Preservation Program as a valuable tool to preserve them.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1921

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Civil War Battlefield Preservation Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Civil War battlefields provide a means for the people of the United States to understand a tragic period in the history of the United States.

(2) According to the Report on the Nation's Civil War Battlefields, prepared by the Civil War Sites Advisory Commission, and dated July 1993, of the 384 principal Civil War battlefields—

(A) almost 20 percent are lost or fragmented;

(B) 17 percent are in poor condition; and

(C) 60 percent have been lost or are in imminent danger of being fragmented by development and lost as coherent historic sites.

(b) PURPOSES.—The purposes of this Act are—

(1) to act quickly and proactively to preserve and protect nationally significant Civil War battlefields through conservation easements and fee-simple purchases of those battlefields from willing sellers at fair market value;

(2) to create partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance nationally significant Civil War battlefields; and

(3) to prepare our Nation for the upcoming sesquicentennial commemoration of the Civil War, 2011 through 2015, which is expected to stimulate renewed interest in the conflict and generate unprecedented visitation to preserved Civil War battlegrounds.

SEC. 3. AUTHORIZATION EXTENDED.

The American Battlefield Protection Act of 1996 (16 U.S.C. 469k) is amended—

(1) in subsection (d)(7)(A), by striking ''fiscal years 2004 through 2008'' and inserting ''fiscal years 2009 through 2013''; and

(2) in subsection (e), by striking ''September 30, 2008'' and inserting ''September 30, 2013''.

By Mr. KERRY (for himself and Ms. SNOWE):

S. 1922. A bill to apply basic contracting laws to the Transportation Security Administration; to the Committee on Commerce, Science, and Transportation.

Mr. KERRY. Mr. President, today Senator SNOWE and I are introducing the TSA Acquisition Reform Act of 2007 to repeal exemptions from Federal contracting laws that were granted to the Transportation Security Administration, TSA, after 9/11 in the rush to secure airports. Representative CARNEY has introduced identical legislation in the House and I look forward to working with him to improve contracting at TSA.

TSA is one of the few Federal agencies and the only agency within the Department of Homeland Security that is not subject to the same procurement rules that every other Federal agency, including the Department of Defense, must abide.

Specifically, it is exempt from the Federal Acquisition Regulation, FAR, which covers every major procurement law and requires Federal agencies to provide for an open and competitive bidding process and submit contract information to the Federal Procurement Data System. TSA's exemption from the FAR was never meant to be permanent, and this amendment would bring the agency in line with normal Federal contracting rules.

TSA has a record of mismanaging contracts and wasting taxpayer dollars, and has been the subject of several DOT and DHS Inspector General reports. For instance, in 2002, TSA, despite using FAR guidelines, issued a federally prohibited cost-plus-a-percentage contract to Boeing to install explosive detection systems in airports. In September 2004, the IG found that the initial $508 million contract ballooned to $1.2 billion, that Boeing was paid $49 million in excess profit, received $82 million to cover $39 million in costs, and ultimately received a 210 percent return on its investment.

In 2005, the Washington Post reported on an audit by the Defense Contract Audit Agency which showed that a contract issued to the Pearson government solutions firm to recruit Federal passenger screeners increased in cost from $104 million to $741 million in 9 months in part because TSA changed the scope of the contract to require Pearson to use posh hotels, including the Waldorf Astoria, as recruitment centers. TSA disputes this account, but cannot provide any paperwork to back it up. The article quoted Deputy DHS Secretary Michael Jackson as saying, ''Honestly, I have no memory of it.''

In 2004, the when the GAO wanted to review 21 TSA contracts, it literally had to send staff to rummage through boxes of files to retrieve information that would otherwise have been in the Federal Procurement Data System.

As Chairman of the Small Business Committee, I am particular concerned about TSA's inability to meet its small business contracting goals. I am pleased that the 2007 DHS Appropriations bill applied the Small Business Act to TSA, but small business owners won't truly benefit because TSA is still exempt from basic contracting rules under the FAR that helps them compete for Federal contracts. Although TSA's small business contracting goal is 23 percent annually, only 10.7 percent of its contracts went to small businesses in 2005. Analysis conducted by my staff suggest that the true figure is closer to 6 percent because many of the large corporations that contract with TSA set up subsidiaries that technically qualify as small businesses but are in fact part of a larger corporation. I am concerned about this and I know that my colleague, Senator SNOWE, the ranking member of the Small Business Committee, is concerned as well.

There is another important reason to require TSA to follow the FAR. DHS, which encompasses 22 different agencies, is trying to create a unified procurement system and a common culture within the department. The Comptroller General noted last year before the House Homeland Security Committee that ''the various acquisition organizations within DHS are still operating in a disparate manner, with oversight of acquisition activities left primarily up to each individual component.'' How can DHS create a common contracting system when the agency that spends the most money on contracts within the department is exempt from the department's own rules?

It would be wrong to suggest that exemption from FAR is the main reason that TSA has mismanaged contracts. Its acquisition office was understaffed after 9/11, and there was a rush to meet Congressional deadlines that led to sloppy oversight. I understand that TSA has spent millions to improve its contracting office and I commend it for doing so. However, it is far from clear that TSA has a functional procurement system. A 2006 GAO review of the ongoing Boeing contract suggests that poor contracting oversight continues to plague TSA. The report states that ''TSA officials provided no evidence that they are reviewing required contractor submitted performance data,'' and that they ''do not document their activities because there are no TSA policies and procedures requiring them to do so. I know all Members would agree that this is a problem.

Unfortunately, lack of transparency and accountability are common themes in TSA's procurement history. Former DHS IG Kent Ervin has said that ''TSA is rapidly becoming the poster child for contracting dysfunction.'' Citizens Against Government Waste, which has endorsed this amendment, said in a letter to my office that ''TSA has a record of wasteful spending and mismanagement in its acquisition process and a continued exemption will only lead to more abuse.'' I think we would be remiss in our oversight responsibilities if we did not repeal these exemptions. TSA should not be policing itself.

I am not alone with these concerns. Just ask the Professional Services Council, the Nation's largest trade association representing Government contractors. In a letter to sent to my office yesterday, the PSC stated that my amendment will ''increase competition, expand opportunities for small businesses, provide greater accountability and transparency in their procurement process.'' This judgment comes from the association representing the contractors that do business with TSA.

Last year, TSA sent a letter to my office saying that it follows the FAR as a general rule but that its exemption ''benefits taxpayers.'' Amazingly, TSA criticized the FAR's requirement that Federal agencies consider all interested companies in the bidding process, saying that ''negatively impacts the limited resources of the government.'' It is hard to see how taxpayers benefit when an agency has the ability to opt out of the competitive bidding process at its choosing. The Army, Marines, Navy, Air Force, none of these agencies can simply decide to opt out of the FAR unless they meet the criteria for an exemption which is already provided for under the law.

This legislation is simple: apply the same rules to TSA that every other agency has to follow. There is no legitimate reason to maintain these exemptions—not for efficiency, not for national security. If it is good enough for the Department of Defense, it is good enough for TSA.

I look forward to working with Senator SNOWE and Representative CARNEY to pass this important legislation.

By Mr. KOHL (for himself, Mr. SANDERS, Mrs. MCCASKILL, Mr. DURBIN, and Mr. SMITH):

S. 1925. A bill to amend the Truth in Lending Act, to prevent credit card issuers from taking unfair advantage of college students and their parents, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KOHL. Mr. President, I rise today to introduce the Student Credit Card Protection Act of 2007 with my colleagues Senators SMITH, MCCASKILL, SANDERS, and DURBIN. This legislation will help prevent college students from compiling massive credit card debt while in school.

College students have become the target of credit card companies advertising campaigns over the past 15 years. Many universities allow credit card companies to set up tables on campus and offer students free gifts in exchange for filling out a credit card application. Additionally, students receive card solicitations through mail to their on-campus mailbox or at their home address even before they arrive at the university in the fall. These aggressive marketing strategies have worked and now close to 96 percent of college graduates hold a credit card, compared to 1994, when only half had one. The average college student graduates with close to $3,000 in credit card debt, double the amount in 1994. In some very extreme cases, students are leaving school with multiple credit cards and debts amounting upwards of $10,000.

Credit card debt can make it harder for graduates to rent an apartment, receive a car loan, or obtain a job after college. Due to the lack of financial education and complicated terms and conditions, many students find themselves in over their heads. The Student Credit Card Protection Act will help students avoid large credit card debt while forcing issuers to make more responsible loans. The bill requires credit card issuers to verify annual income of a full-time student and then extends a line of credit based on the income. For a student without a verifiable income, a parent, legal guardian or spouse must co-sign the credit card and approve any increase in the credit limit. These simple underwriting requirements will make it more difficult for credit card companies to approve loans that are beyond a students' ability to repay and return to a more responsible lending policy.

It is imperative that we help minimize the amount of debt young consumers incur before entering into the workforce. On average, a student with a bachelors degree will leave school with $18,000 in student loan debt. Paying for housing, healthcare, and student loans already place a financial strain on a recent college graduate. A huge credit card payment on top of all card of the other bills can lead to financial ruin before young people even have a chance to get on their feet. This bill gives students the protection they deserve from irresponsible lending that can trap them in years of crushing debt repayment.

By Mr. DODD (for himself and Mr. HAGEL):

S. 1926. A bill to establish the National Infrastructure Bank to provide funding for qualified infrastructure projects, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise to introduce bipartisan legislation with my colleague from Nebraska, Senator HAGEL. The bill addresses an issue of paramount importance to our country and its quality of life: the deteriorating condition of our infrastructure systems.

I do not believe there is one person present in this chamber, funding myself, who has not taken our Nation's infrastructure systems for granted at some point. Indeed, our roads, bridges, mass transit systems, drinking water systems, wastewater systems, and public housing properties, collectively comprise the overlooked but critically important adhesive that holds our society together. These systems allow for the continuous passage of people and goods across the country; they allow people to communicate with each other here and around the world; they allow business and Government to function; and they allow goods to be consumed and services to be rendered. All in all, our infrastructure systems are directly responsible for providing the high quality of life that we Americans have come to enjoy in a free society.

Yet, it is precisely because we have taken our infrastructure systems for granted that we find ourselves in a precarious position today concerning their future viability. One does not have to look far to comprehend the extensive problems plaguing many of our infrastructure systems and facilities.

According to the American Society of Civil Engineers in their seminal 2005 Infrastructure Report Card, the current condition of our Nation's major infrastructure systems earns a grade point average of D and jeopardizes the prosperity and quality of life of all Americans.

According to the Federal Highway Administration, 33 percent of all urban and rural roads are in poor, mediocre or fair condition. 27.1 percent of all bridges are structurally deficient or functionally obsolete. Data from the Federal Transit Administration shows our mass transit systems are becoming increasingly unable to handle the growing demands passengers in a safe and efficient manner. According to the Texas Transportation Institute, the average traveler is delayed 51.5 hours annually due to traffic and infrastructure-related congestion in the Nation's

20 largest metropolitan areas. The delays range from 93 hours in Los Angeles to 14 hours in Pittsburgh. Combined, these delays waste 1.78 billion gallons of fuel each year and waste almost $50.3 billion in congestion costs. Furthermore, the average delay in these metropolitan areas has increased by almost 35.3 hours since 1982.

A significant percentage of our Nation's drinking water and wastewater systems are obsolete; the average age of these systems range in age from 50 years in smaller cities to 100 years in larger cities. Finally, the Department of Housing and Urban Development reports there are 1.2 million units of public housing with critical capital needs totaling $18 billion. Clearly, these statistics are alarming and they are not getting any better.

In their Infrastructure Report Card, the American Society of Civil Engineers estimates that $1.6 trillion is needed over a 5-year period to bring our Nation's infrastructure systems to a good condition.

Regrettably, our current infrastructure financing mechanisms, such as formula grants and earmarks, are not equipped by themselves to absorb this cost or meet fully these growing needs. They largely do not address capacity-building infrastructure projects of regional or national significance; they largely do not encourage an appropriate pooling of Federal, State, local and private resources; and they largely do not provide transparency to ensure the optimal return on public resources.

This is why I rise with my colleague from Nebraska today. We are introducing the National Infrastructure Bank Act of 2007, a bipartisan measure that addresses the critical needs of our Nation's major infrastructure systems. Our legislation establishes a new method through which the Federal Government can finance infrastructure projects of substantial regional or national significance more effectively with public and private capital.

Our legislation establishes the National Infrastructure Bank, which, as an independent entity of the Government, is tasked with evaluating and financing capacity-building infrastructure projects of substantial regional and national significance. Infrastructure projects that come under the bank's consideration are publicly-owned mass transit systems, housing properties, roads, bridges, drinking water systems, and wastewater systems.

Modeled after the Federal Deposit Insurance Corporation, the bank is led by a 5 member Board of Directors, each whom are appointed by the Prsident and confirmed by the Senate. The bank's board has flexibility to develop an organization of professional civil service staff to carry out the bank's authorized activities. An Inspector General oversees the bank's daily operations and reports on those operations to Congress.

Infrastructure projects with a potential Federal investment of at least $75 million are brought to the bank's attention by a project sponsor, State, locality, tribe, infrastructure agency, e.g. transit agency, a consortium of these entities. To determine a level of Federal investment, the bank uses a sliding-scale method that incorporates conditions such as the type of infrastructure system or systems, project location, project cost, current and projected usage, non-Federal revenue, regional or national significance, promotion of economic growth and community development, reduction in traffic congestion, environmental benefits, land use policies that promote smart growth, and mobility improvements.

Once a level of investment is determined for a project, the bank develops a financing package with full faith and credit from the government. The financing package could include direct subsidies, direct loan guarantees, long-term tax-credit general purpose bonds, and long-term tax-credit infrastructure project specific bonds. The initial ceiling to issue bonds is $60 billion.

The bank is tasked to report annually to Congress on the projects it reviews and finances. A public database is created to catalog what projects were funded and what financing packages were provided. The bank is also tasked to report every 3 years on the economic efficacy and transparency of all current Federal infrastructure financing methods, and how those methods could be improved. After 5 years, the Government Accountability Office would be tasked with evaluating the bank's operations and efficacy.

It is important to note that our legislation does not displace or supplant any existing infrastructure finance mechanisms, such as formula grants and earmarks. Instead, the bank targets large-scale projects that are currently underserved by these existing financing mechanisms.

I would like to take a moment to thank the Centers for Strategic and International Studies, CSIS, and the work undertaken by Dr. John Hamre in infrastucture finance. CSIS, Ambassador Felix Rohatyn, and former Senator Warren Rudman have provided valuable assistance and support in the development of our legislation.

I would also like to thank the American Society of Civil Engineers and the National Construction Alliance for their support of our bill.

It is my intent to take up this legislation in the Banking Committee after the August recess. This is an issue that cannot be neglected or deferred any further. Restoring our Nation's infrastructure demands our immediate attention and commitment in the Senate. The quality of life in our country hangs in the balance.

I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1926

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 ''National Infrastructure Bank Act of 2007''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Authorization of appropriations.

TITLE I—NATIONAL INFRASTRUCTURE BANK

Sec. 101. Establishment of Bank.
Sec. 102. Management of Bank.
Sec. 103. Staff and personnel matters.

TITLE II—POWERS AND DUTIES OF THE BANK

Sec. 201. Powers of the Bank Board.
Sec. 202. Qualified infrastructure project ratings.
Sec. 203. Development of financing package.
Sec. 204. Coupon notes for holders of infrastructure bonds.
Sec. 205. Exemption from local taxation.

TITLE III—STUDIES AND REPORTS

Sec. 301. Report; database.
Sec. 302. Study and report on infrastructure financing mechanisms.
Sec. 303. GAO report.

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the American Society of Civil Engineers, the current condition of the infrastructure of the United States earns a grade point average of D and jeopardizes the prosperity and quality of life of the citizens of the United States;

(2) according to the Federal Transit Administration—

(A) approximately $15,800,000,000 must be expended each year for a period of not less than 20 years to maintain the operational capacity of the transit systems of the United States; and

(B) approximately $21,800,000,000 must be expended each year for a period of not less than 20 years to improve the operational capacity of the transit systems of the United States to meet the growing demands of passengers in a safe and adequate manner;

(3) according to the Millennial Housing Commission, there remains a critical shortage of affordable public housing for extreme low-income individuals;

(4) there are over 1,200,000 units of public housing nationwide, with an accumulated capital needs backlog of approximately $18,000,000,000, with an additional $2,000,000,000 accruing each year;

(5) according to the Federal Highway Administration—

(A) 33 percent of all urban and rural roads in the United States are in poor, mediocre, or fair condition;

(B) approximately $131,700,000,000 must be expended each year for a period of not less than 20 years to improve the conditions of those urban and rural roads;

(C) 27.1 percent of all bridges in the United States are—

(i) structurally deficient; or

(ii) functionally obsolete; and

(D) approximately $9,400,000,000 must be expended each year for a period of not less than 20 years to eliminate the deficiencies of those bridges;

(6) according to the Environmental Protection Agency—

(A) $151,000,000,000 must be expended during the next 20 years to make necessary repairs, replacements, and upgrades to the approximately 55,000 community drinking water systems of the United States; and

(B) approximately $390,000,000,000 must be expended during the next 20 years to eliminate the deficiencies of the wastewater systems of the United States;

(7) the infrastructure financing mechanisms of the United States do not adequately—

(A) address infrastructure projects of regional or national significance;

(B) encourage an appropriate pooling of Federal, State, local, and private resources; or

(C) provide transparency to ensure the optimal return on public resources;

(8) there are no Federal financing notes, credits, or bonds which allow investors to fund only infrastructure projects;

(9) there is a need to involve pension funds and other private investors who want to invest in infrastructure, but to whom tax credits have no value; and

(10) there are no federally guaranteed investment notes of greater than 30 years in duration, whereas many federally funded assets are of durations much longer than 30 years.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) BANK.—The term ''Bank'' means the ''National Infrastructure Bank'' established under section 101.

(2) BOARD.—The term ''Board'' means the board of directors of the Bank, established under section 102.

(3) CHAIRPERSON; VICE CHAIRPERSON.—The terms ''Chairperson'' and ''Vice Chairperson'' mean the Chairperson and Vice Chairperson of the Board, respectively.

(4) FINANCING MECHANISM.—

(A) IN GENERAL.—The term ''financing mechanism'' means a method used by the Bank to pledge the full faith and credit of the United States to provide money, credit, or other capital to a qualified infrastructure project.

(B) INCLUSIONS.—The term ''financing mechanism'' includes—

(i) a direct subsidy;

(ii) a general purpose infrastructure bond; and

(iii) a project-based infrastructure bond.

(5) FINANCING PACKAGE.—The term ''financing package'' means 1 or more financing mechanisms used by the Bank to meet the Federal commitment for a qualified infrastructure project.

(6) GENERAL PURPOSE INFRASTRUCTURE BOND.—The term ''general purpose infrastructure bond'' means a bond issued as part of an issue in accordance with this Act, if—

(A) the net spendable proceeds from the sale of the issue may be used for expenditures incurred after the date of issuance with respect to any qualified infrastructure project or purpose, subject to the rules of the Bank;

(B) the bond is issued by the Bank, is in registered form, and meets the requirements of this Act and otherwise applicable law;

(C) the term of each bond which is part of the issue is greater than 30 years; and

(D) the payment of principal with respect to the bond is the obligation of the Bank.

(7) INFRASTRUCTURE PROJECT.—

(A) IN GENERAL.—The term ''infrastructure project'' means the building, improvement, or increase in capacity of a basic installation, facility, asset, or stock that is associated with—

(i) a mass transit system that meets the criteria in subparagraph (B);

(ii) a public housing property that is eligible to receive funding under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) and that meets the criteria in subparagraph (B);

(iii) a road or bridge that meets the criteria in subparagraph (B); or

(iv) a drinking water system or a wastewater system that meets the criteria in subparagraph (B).

(B) CRITERIA.—A project described in any of clauses (i) through (iv) of subparagraph (A) meets the criteria of this subparagraph if it serves any one or more of the objectives identified in paragraphs (1) through (9) of section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)).

(8) PROJECT-BASED INFRASTRUCTURE BOND.—The term ''project-based infrastructure bond'' means any bond issued as part of an issue, if—

(A) the net spendable proceeds from the sale of the issue are to be used for expenditures incurred after the date of issuance only with respect to the qualified infrastructure project for which the bond is issued;

(B) the bond is issued by the Bank, meets the requirements of section 149(a) of title 26, United States Code, for registration, and otherwise meets the requirements of this Act and other applicable law;

(C) the term of each bond which is part of the issue is equal to the useful life of the qualified infrastructure project funded through use of the bond; and

(D) the payment of principal with respect to the bond is the obligation of the Bank.

(9) PUBLIC HOUSING AGENCY.—The term ''public housing agency'' means an agency described in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(10) PUBLIC SPONSOR.—The term ''public sponsor'' includes a State or local government, an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), a public transit agency, public housing agency, a public infrastructure agency, or a consortium of those entities, including a public entity that has partnered with a private nonprofit or for-profit entity.

(11) QUALIFIED INFRASTRUCTURE PROJECT.—The term ''qualified infrastructure project'' means an infrastructure project designated by the Board as a qualified infrastructure project in accordance with section 202.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Until such time as the Bank has received funds from the issuance of bonds sufficient to carry out this Act and the administration of the Bank, there are authorized to be appropriated to the Bank, such sums as may be necessary for such purposes, to remain available until expended.

TITLE I—NATIONAL INFRASTRUCTURE BANK

SEC. 101. ESTABLISHMENT OF BANK.

There is established the ''National Infrastructure Bank'', which shall be an independent establishment of the Federal Government, as defined in section 104 of title 5, United States Code.

SEC. 102. MANAGEMENT OF BANK.

(a) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The management of the Bank shall be vested in a Board of Directors consisting of 5 members, appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

(2) MEMBER EXPERTISE.—Not fewer than 1 member of the Board shall have demonstrated expertise in—

(A) transit infrastructure;

(B) public housing infrastructure;

(C) road and bridge infrastructure;

(D) water infrastructure; or

(E) public finance.

(3) POLITICAL AFFILIATION.—Section 2(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(2) shall apply to members of the Board of Directors of the Bank in the same manner as it applies to the Board of Directors of the Federal Deposit Insurance Corporation.

(4) MEETINGS.—The Board shall meet not later than 90 days after the date on which all directors of the Board are first appointed, and otherwise at the call of the Chairperson.

(5) DATE OF APPOINTMENTS.—The initial nominations to the Board shall be made not later than 60 days after the date of enactment of this Act.

(b) CHAIRPERSON AND VICE CHAIRPERSON.—The Chairperson and Vice Chairperson of the Board shall be appointed and shall serve in the same manner as is provided for members of the Federal Deposit Insurance Corporation under section 2(b) of the Federal Deposit Insurance Act (12 U.S.C. 1812(b)).

(c) TERMS.—

(1) APPOINTED MEMBERS.—Except as provided in paragraph (2), each member of the Board shall be appointed for a term of 6 years.

(2) INITIAL STAGGERED TERMS.—Of the initial members of the Board—

(A) the Chairperson and Vice Chairperson shall be appointed for a term of 6 years;

(B) 1 member shall be appointed for a term of 5 years;

(C) 1 member shall be appointed for a term of 4 years; and

(D) 1 member shall be appointed for a term of 3 years.

(3) INTERIM APPOINTMENTS.—Any member of the Board appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(4) CONTINUATION OF SERVICE.—The Chairperson, Vice Chairperson, and each other member of the Board may continue to serve after the expiration of the term of office to which such member was appointed, until a successor has been appointed.

(d) VACANCY.—Any vacancy on the Board shall be filled in the manner in which the original appointment was made.

(e) INELIGIBILITY FOR OTHER OFFICES.—

(1) RESTRICTION DURING SERVICE.—No member of the Board may, during service on the Board—

(A) be an officer or director of, or otherwise be employed by, any entity engaged in or otherwise associated with an infrastructure project assisted or considered under this Act;

(B) hold stock in any such entity; or

(C) hold any other elected or appointed public office.

(2) POST SERVICE RESTRICTION.—

(A) IN GENERAL.—No member of the Board may hold any office, position, or employment in any entity engaged in or otherwise associated with an infrastructure project assisted under this Act during the 2-year period beginning on the date on which such member ceases to serve on the Board.

(B) EXCEPTION FOR MEMBERS WHO SERVE FULL TERM.—The limitation contained in subparagraph (A) does not apply to any member who has ceased to serve on the Board after serving the full term for which such member was appointed.

(3) CERTIFICATION.—Upon taking office, each member of the Board shall certify under oath that such member has complied with this subsection, and such certification shall be filed with the secretary of the Board.

SEC. 103. STAFF AND PERSONNEL MATTERS.

(a) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—The Chairperson may appoint and terminate, and fix the compensation of, an executive director of the Bank, in accordance with title 5, United States Code.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director

shall be subject to confirmation by the Board.

(3) QUALIFICATIONS OF EXECUTIVE DIRECTOR.—An individual appointed as the executive director under paragraph (1) shall have demonstrated expertise in—

(A) transit infrastructure;

(B) public housing infrastructure;

(C) road and bridge infrastructure;

(D) water infrastructure; or

(E) public finance.

(b) OTHER PERSONNEL.—The Board may appoint and terminate, and fix the compensation of, in accordance with title 5, United States Code, such personnel as are necessary to enable the Bank to perform the duties of the Bank.

(c) INSPECTOR GENERAL.—

(1) IN GENERAL.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting ''the Chairperson of the National Infrastructure Bank;'' after ''the Chairperson of the Federal Deposit Insurance Corporation;''; and

(B) in paragraph (2), by inserting ''the National Infrastructure Bank;'' after ''the Federal Deposit Insurance Corporation;''.

(2) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Inspector General of the Federal Deposit Insurance Corporation, the following:

''Inspector General, National Infrastructure Bank.''.

(d) SUPPORT FROM OTHER AGENCIES.—The head of any other Federal agency may detail employees to the Bank for purposes of carrying out the duties of the Bank.

(e) COMPENSATION OF BOARD MEMBERS.—

(1) CHAIRPERSON.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, the following:

''Chairperson, Board of Directors, National Infrastructure Bank.''.

(2) OTHER MEMBERS.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Inspector General of the Federal Deposit Insurance Corporation, the following:

''Member, Board of Directors of the National Infrastructure Bank.''.

TITLE II—POWERS AND DUTIES OF THE BANK

SEC. 201. POWERS OF THE BANK BOARD.

(a) HEARINGS.—The Board may, in carrying out this Act—

(1) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths, as the Board considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials, as the Board considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—A subpoena issued under subsection (a) shall—

(A) bear the signature of the Chairperson and a majority of the members of the Board; and

(B) be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a)(2), the United States district court for the district in which the subpoenaed person resides, is served, or may be found may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence.

(3) NONCOMPLIANCE.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

(c) WITNESS ALLOWANCES AND FEES.—

(1) IN GENERAL.—Section 1821 of title 28, United States Code, shall apply to a witness requested or subpoenaed to appear at a hearing of the Board.

(2) EXPENSES.—The per diem and mileage allowances for a witness shall be paid from funds available to pay the expenses of the Board.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Board may, upon request, secure directly from a Federal agency, such information as the Board considers necessary to carry out this Act, and the head of such agency shall promptly respond to any such request for the provision of information.

(e) INCORPORATION OF FEDERAL TRANSIT PROCESSES FOR BOARD STATEMENTS.—Section 5334(l) of title 49, United States Code, as added by section 3032 of the Federal Public Transportation Act of 2005 (Public Law 109–59, 119 Stat. 1627), shall apply to statements of the Board in the same manner and to the same extent as that section applies to statements of the Administrator of the Federal Transit Administration.

SEC. 202. QUALIFIED INFRASTRUCTURE PROJECT RATINGS.

(a) IN GENERAL.—The Bank shall, upon application and otherwise in accordance with this section, designate infrastructure projects as qualified projects for purposes of assistance under this Act.

(b) APPLICANTS.—The Bank shall accept applications for the designation of qualified infrastructure projects under this section from among public sponsors, for any infrastructure project having—

(1) a potential Federal commitment of an amount that is not less than $75,000,000;

(2) a public sponsor; and

(3) regional or national significance.

(c) GUIDELINES FOR DEVELOPING PROJECTS.—The Secretary shall establish guidelines to assist grant recipients under this title to develop applications for funding under this section. The guidelines shall include the objectives listed in paragraphs (2) and (3) of section 105(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(e)).

(d) RATINGS.—In making a determination as to a designation of a qualified infrastructure project, the Board shall evaluate and rate each applicant based on the factors appropriate for that type of infrastructure project, which shall include—

(1) for any transit project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) reduction in traffic congestion;

(D) environmental benefits, including reduction in pollution from reduced use of automobiles from direct trip reduction and indirect trip reduction through land use and density changes;

(E) urban land use policies, including those that promote smart growth; and

(F) mobility improvements;

(2) for any public housing project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) improvement of the physical shape and layout of public housing;

(D) environmental improvement;

(E) urban land use policies, including those that promote smart growth;

(F) reduction of poverty concentration;

(G) mobility improvements for residents; and

(H) establishment of positive incentives for resident self-sufficiency and comprehensive services that empower residents;

(3) for any highway, bridge, or road project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) reduction in traffic congestion;

(D) environmental improvement;

(E) urban land use policies, including those that promote smart growth; and

(F) mobility improvements; and

(4) for any water project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) health benefits from the associated projects, including health care cost reduction due to removal of pollutants; and

(D) environmental benefits.

(e) DETERMINATION AMONG PROJECTS OF DIFFERENT INFRASTRUCTURE TYPES.—The Bank shall establish, by rule, comprehensive criteria for allocating qualified status among different types of infrastructure projects for purposes of this Act—

(1) including—

(A) a full view of the project benefits, as compared to project costs;

(B) a preference for projects that have national or substantial regional impact;

(C) a preference for projects which leverage private financing, including public-private partnerships, for either the explicit cost of the project or for enhancements which increase the benefits of the project;

(D) an understanding of the importance of balanced investment in various types of infrastructure, as emphasized in the current allocation of Federal resources between modes; and

(E) an understanding of the importance of diverse investment in infrastructure in all regions of the country; and

(2) that do not eliminate any project based on size, but rather allow for selection of the projects that are most meritorious.

(f) PROCESS AND PERSONNEL FOR CREATING RATINGS PROCESS.—

(1) IN GENERAL.—The ratings processes described in this section shall be subject to Federal notice and rulemaking procedures.

(2) PARTICIPATION BY OTHER AGENCY PERSONNEL.—The ratings, and development of the ratings process, shall be conducted by personnel on detail to the Bank from the Department of Transportation, the Department of Housing and Urban Development, the United States Army Corps of Engineers, and other relevant departments and agencies from among individuals who are familiar with and experienced in the selection criteria for competitive projects. The Bank shall reimburse those departments and agencies for the staff which are on detail to the Bank.

(g) COMPLIANCE WITH OTHER APPLICABLE LAW.—Projects receiving financial assistance from the Bank under this section shall comply with applicable provisions of Federal law and regulations, including—

(1) for transit, requirements that would apply to a project receiving funding under section 5307 of title 49, United States Code;

(2) for public housing, requirements that would apply to a project receiving funding from a grant under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v);

(3) for roads and bridges, requirements that would apply to a project that receives funds apportioned under section 104(b)(3) of title 23, United States Code; and

(4) for water, requirements that would apply to a project that receives funds through a grant or loan under—

(A) section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303);

(B) section 1452 of the Public Health Service Act (42 U.S.C. 300j-12); or

(C) section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381), as that section applied before the beginning of fiscal year 1995.

(h) AUTHORITY TO DETERMINE FUNDING.—Notwithstanding any other provision of law, the Bank shall determine the appropriate Federal share of funds for each project described in subsection (g) for purposes of this Act.

SEC. 203. DEVELOPMENT OF FINANCING PACKAGE.

(a) IN GENERAL.—Not later than 60 days after the date on which the Board determines appropriate financing packages for qualified infrastructure projects under section 202, the Board shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) FINANCING PACKAGES.—The Board is authorized—

(1) to act as a centralized entity to provide financing for qualified infrastructure projects;

(2) to issue general purpose infrastructure bonds, and to provide direct subsidies to qualified infrastructure projects from amounts made available from the issuance of such bonds;

(3) to issue project-based infrastructure bonds for the financing of specific qualified infrastructure projects;

(4) to provide loan guarantees to State or local governments issuing debt to finance qualified infrastructure projects, under rules prescribed by the Board, in a manner similar to that described in chapter 6 of title 23, United States Code;

(5) to issue loans, at varying interest rates, including very low interest rates, to qualified project sponsors for qualified projects;

(6) to leverage resources and stimulate public and private investment in infrastructure; and

(7) to encourage States to create additional opportunities for the financing of infrastructure projects.

(c) GENERAL PURPOSE AND INFRASTRUCTURE BONDS.—General purpose and project-based infrastructure bonds issued by the Bank under this Act shall be subject to such terms and limitations as may be established by rules of the Bank, in consultation with the Secretary of the Treasury.

(d) BOND OBLIGATION LIMIT.—The aggregate outstanding amount of all bonds authorized to be issued under this Act may not exceed $60,000,000,000.

(e) FULL FAITH AND CREDIT.—Any obligation issued by the Bank under this Act shall be an obligation supported by the full faith and credit of the United States.

(f) LIMITATION ON FUNDS FROM BOND ISSUANCE.—Not more than 1 percent of funds resulting from the issuance of bonds under this Act may be used to fund the operations of the Bank.

SEC. 204. COUPON NOTES FOR HOLDERS OF INFRASTRUCTURE BONDS.

(a) ISSUANCE OF COUPON NOTES.—Under regulations prescribed by the Bank, in consultation with the Secretary of the Treasury, there may be a separation (including at issuance) of the ownership of an infrastructure bond and the entitlement to the interest with respect to such bond (in this section referred to as a ''coupon note''). In case of any such separation, such interest shall be allowed to the person who on the payment date holds the instrument evidencing the entitlement to the interest, and not to the holder of the bond.

(b) REDEMPTION OF COUPON NOTES.—A coupon note may be used by the owner thereof for the purpose of making any payment to the Federal Government, and shall be accepted for such purpose by the Secretary of the Treasury, subject to rules issued by the Bank, in consultation with the Secretary of the Treasury.

SEC. 205. EXEMPTION FROM LOCAL TAXATION.

Bonds and other obligations issued by the Bank, and the interest on or credits with respect to its bonds or other obligations, shall not be subject to taxation by any State, county, municipality, or local taxing authority.

TITLE III—STUDIES AND REPORTS

SEC. 301. REPORT; DATABASE.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the activities of the Board, for the fiscal year covered by the report, relating to—

(1) the evaluations of qualified infrastructure projects under section 202; and

(2) the financing packages of qualified infrastructure projects under section 203.

(b) DATABASE.—The Bank shall develop, maintain, and update a publicly-accessible database that contains—

(1) a description of each qualified infrastructure project that receives funding from the Bank under this Act—

(A) by project mode or modes;

(B) by project location;

(C) by project sponsor or sponsors; and

(D) by project total cost;

(2) the amount of funding that each qualified infrastructure project receives from the Bank under this Act; and

(3) the form of financing that each qualified infrastructure project receives from the Bank under section 203.

SEC. 302. STUDY AND REPORT ON INFRASTRUCTURE FINANCING MECHANISMS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 3 years thereafter, the Board shall conduct a study evaluating the effectiveness of each Federal financing mechanism that is used to support an infrastructure system of the United States.

(b) REQUIREMENTS.—A study conducted under subsection (a) shall—

(1) evaluate the economic efficacy and transparency of each financing mechanism used by—

(A) the Bank to fund qualified infrastructure projects; and

(B) each agency and department of the Federal Government to support infrastructure systems, including—

(i) infrastructure formula funding;

(ii) user fees; and

(iii) modal taxes; and

(2) contain recommendations for improving each funding mechanism evaluated under subparagraphs (A) and (B) of paragraph (1) to increase the economic efficacy and transparency of the Bank, and each agency and department of the Federal Government, to finance infrastructure projects in the United States.

(c) REPORT.—Not later than 30 days after the date on which the Board completes the study conducted under subsection (a), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, a report containing each evaluation and recommendation contained in the study.

SEC. 303. GAO REPORT.

Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, a report evaluating the activities of the Bank for the fiscal years covered by the report, including—

(1) the evaluations of qualified infrastructure projects under section 202; and

(2) the financing packages of qualified infrastructure projects under section 203.

CENTER FOR STRATEGIC & INTERNATIONAL STUDIES,
Washington, DC, August 1, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD AND SENATOR HAGEL: I am writing to commend you for your leadership in helping to restore America's deteriorating physical infrastructure. You both have demonstrated great foresight and vision in leading on this important issue.

Three years ago, the Center for Strategic and International Studies launched a study effort under the leadership of former Ambassador Felix Rohatyn and former Senator Warren Rudman. The CSIS Commission on Public Infrastructure issued a declaration of guiding principles for the revitalization of our infrastructure. We were proud that you joined in that declaration. Signatories included senators, governors, and business leaders, all recognizing the need for action.

You have acted. While CSIS cannot endorse specific legislation, we can congratulate you as leaders. From the very first days of our republic, our national leaders saw the need for public investment in productive infrastructure. Public investment produced wealth-generating private sector activity, paying back the public investment many times over.

The commission also called for infrastructure investments made through a rigorous cost-benefit process. Too much public investment in recent years has been earmarked for projects that have not gone through an analytic justification. Your leadership here is also most welcome.

I travel extensively and see how infrastructure investments are transforming the developing world. Faced by this competition, America needs to make public infrastructure a comparable priority as a national re-investment to ensure our future prosperity.

Thank you for your leadership. This is the kind of vision that built America to greatness in the past and will be our path to prosperity in the future.

Sincerely,

JOHN J. HAMRE,
President and CEO.

AUGUST 1, 2007.

As co-chairmen of the CSIS Commission on Public Infrastructure, we strongly support the National Infrastructure Bank Act of 2007.

Introduced by Senators CHRIS DODD and CHUCK HAGEL, this bipartisan legislation will reverse decades of shortchanging our infrastructure and help restructure the federal role by allocating costs and financing more fairly and rationally. The legislation also will help ensure that infrastructure spending is unencumbered by political interference that neglects regional and national priorities. The Act will establish a policy structure for making infrastructure investments that meet our country's critical needs.

The Infrastructure Bank Act will stimulate new, long-term investments in infrastructure that will increase national productivity and improve our standard of living. The proposed Infrastructure Bank Act also will increase the ability of the private sector to play a central role in infrastructure provision and will report on the economic efficacy and transparency of all current federal financing methods. We urge that it be passed into law.

ASCE,
AMERICAN SOCIETY OF CIVIL ENGINEERS,
Washington, DC, August 1, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
Washington, DC.

DEAR SENATOR DODD, SENATOR HAGEL: I am writing on behalf of the more than 140,000 members of the American Society of Civil Engineers (ASCE) to applaud your joint sponsorship of the National Infrastructure Bank Act of 2007. This legislation is a major step forward in providing meaningful financial assistance to the nation's failing infrastructure.

As you know, ASCE concluded in our 2005 Report Card for America's Infrastructure that the nation's infrastructure deserved an overall grade of ''D.'' We said then that America's aging and overburdened infrastructure threatens the economy and quality of life in every state, city, and town in the nation. In addition, we estimated that it will take an investment of $1.6 trillion over a five-year period to bring the nation's existing infrastructure into good working order. Little of significance has changed in the two years since we issued that dismal grade, and establishing a long-term development and maintenance plan remains a pressing national priority.

In creating the National Infrastructure Bank to evaluate and finance ''capacity-building'' infrastructure projects of substantial regional and national significance, the bill would prime the pump to begin meeting the staggering investment needs for our infrastructure. We believe the National Infrastructure Bank Act of 2007 will begin the process of replacing and maintaining economically vital infrastructure systems across the nation. This nation cannot afford to wait much longer to invest significant sums in its infrastructure, and your bill will lead the way.

Please do not hesitate to contact Brian Pallasch, ASCE Director of Government Relations, or Michael Charles, Senior Manager of Government Relations, of our Washington office if we can be of any assistance in passing this important legislation.

Sincerely yours,
PATRICK J. NATALE, P.E., F.ASCE,
Executive Director.

NATIONAL CONSTRUCTION ALLIANCE,
Washington, DC, July 27, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
U.S. Senate Washington, DC.

DEAR SENATORS DODD AND HAGEL: The National Construction Alliance represents three of the largest construction unions, the Laborers' International Union of North America, the International Union of Operating Engineers, and the United Brotherhood of Carpenters and Joiners of America, representing over 1.7 million members.

We want to go on record in support of your National Infrastructure Bank Act of 2007.

We fully understand the need and responsibility we have to our nation and to our members to find a way to fund substantial regional and significant national infrastructure projects.

We look forward to working with you and your colleagues in making the Dodd/Hagel National Infrastructure Bank Act of 2007 a permanent part of the solution to funding our nation's most important infrastructure projects.

Sincerely,
RAYMOND J. POUPORE,
Executive Vice President.

GOLDMAN, SACHS & CO.
New York, New York, July 27, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN DODD AND SENATOR HAGEL: Thank you for the opportunity to review your proposed National Infrastructure Bank Act of 2007. Goldman Sachs shares your concern about our nation's aging infrastructure and its negative effects on our economy and our environment, and we strongly agree with you about the need to encourage additional infrastructure investment. We believe enactment of your legislation would help spur significant new investment in this area and thereby help address this urgent national problem.

We support the National Infrastructure Bank Act of 2007 and thank you for your leadership on this critical issue.

Sincerely,
TRACY R. WOLSTENCROFT.

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
Washington DC, August 1, 2007.

Hon. CHRISTOPHER DODD,
Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR SENATORS DODD AND HAGEL: On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I want to applaud your proposal to create a National Infrastructure Bank. As we look to the future, high-quality public transportation service must be available to more Americans and in more communities. Public transportation helps to reduce congestion and increases mobility. Transit also significantly reduces energy consumption, saving more than 1.4 billion gallons of gasoline every year. Americans are choosing to ride transit in record numbers, taking more than 10.1 billion trips in 2006. Unfortunately, only 54 percent of households have access to transit of any kind as they plan their daily travel.

Much of the success of public transportation is due to federal investment in public transportation infrastructure, and the creation of a National Infrastructure Bank would extend valuable new federal resources to transit investment. The innovative financing and investment tools of a National Infrastructure Bank would aid the development and expansion of fixed guideway systems. These major projects require significant investments, but they are crucial to attracting new riders. Federal support for new starts has helped to finance 127 new fixed guideway systems and system extensions which have gone into service since 1995. Looking ahead, such systems are more necessary than ever to address rapidly growing levels of congestion and to meet additional demands for travel. According to an APTA survey, new capital funds are needed for some 280 projects that will add 4,044 system miles of fixed guideway transit.

If we expect our surface transportation infrastructure system to continue to provide a competitive edge for the United States, federal, state and local investment in public transportation is necessary, and new financing mechanisms like the National Infrastructure Bank must be investigated. APTA thanks you for your commitment to the further expansion of public transportation, and we look forward to working with you to advance your proposal.

Sincerely yours,
WILLIAM W. MILLAR,
President.

By Mr. MCCONNELL (for himself and Mr. BOND):

S. 1927. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes; read the first time.

Mr. MCCONNELL. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1927

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protect America Act of 2007''.

SEC. 2. ADDITIONAL PROCEDURE FOR AUTHORIZING CERTAIN ACQUISITIONS OF FOREIGN INTELLIGENCE INFORMATION.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105 the following:

''CLARIFICATION OF ELECTRONIC SURVEILLANCE OF PERSONS OUTSIDE THE UNITED STATES

''SEC. 105A. Nothing in the definition of electronic surveillance under section 101(f) shall be construed to encompass surveillance directed at a person reasonably believed to be located outside of the United States.

''ADDITIONAL PROCEDURE FOR AUTHORIZING CERTAIN ACQUISITIONS CONCERNING PERSONS LOCATED OUTSIDE THE UNITED STATES

''SEC. 105B. (a) Notwithstanding any other law, the Director of National Intelligence and the Attorney General, may for periods of up to one year authorize the acquisition of foreign intelligence information concerning persons reasonably believed to be outside the United States if the Director of National Intelligence and the Attorney General determine, based on the information provided to them, that—

''(1) there are reasonable procedures in place for determining that the acquisition of foreign intelligence information under this section concerns persons reasonably believed to be located outside the United States, and such procedures will be subject to review of the Court pursuant to section 105C of this Act;

''(2) the acquisition does not constitute electronic surveillance;

''(3) the acquisition involves obtaining the foreign intelligence information from or with the assistance of a communications service provider, custodian, or other person (including any officer, employee, agent, or other specified person of such service provider, custodian, or other person) who has access to communications, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications;

''(4) a significant purpose of the acquisition is to obtain foreign intelligence information; and

''(5) the minimization procedures to be used with respect to such acquisition activity meet the definition of minimization procedures under section 101(h).

''This determination shall be in the form of a written certification, under oath, supported as appropriate by affidavit of appropriate officials in the national security field occupying positions appointed by the President, by and with the consent of the Senate, or the Head of any Agency of the Intelligence Community, unless immediate action by the Government is required and time does not permit the preparation of a certification.

In such a case, the determination of the Director of National Intelligence and the Attorney General shall be reduced to a certification as soon as possible but in no event more than 72 hours after the determination is made.

''(b) A certification under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

''(c) The Attorney General shall transmit as soon as practicable under seal to the court established under section 103(a) a copy of a certification made under subsection (a). Such certification shall be maintained under security measures established by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence, and shall remain sealed unless the certification is necessary to determine the legality of the acquisition under section 105B.

''(d) An acquisition under this section may be conducted only in accordance with the certification of the Director of National Intelligence and the Attorney General, or their oral instructions if time does not permit the preparation of a certification, and the minimization procedures adopted by the Attorney General. The Director of National Intelligence and the Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under section 108(a).

''(e) With respect to an authorization of an acquisition under section 105B, the Director of National Intelligence and Attorney General may direct a person to—

''(1) immediately provide the Government with all information, facilities, and assistance necessary to accomplish the acquisition in such a manner as will protect the secrecy of the acquisition and produce a minimum of interference with the services that such person is providing to the target; and

''(2) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such person wishes to maintain.

''(f) The Government shall compensate, at the prevailing rate, a person for providing information, facilities, or assistance pursuant to subsection (e).

''(g) In the case of a failure to comply with a directive issued pursuant to subsection (e), the Attorney General may invoke the aid of the court established under section 103(a) to compel compliance with the directive. The court shall issue an order requiring the person to comply with the directive if it finds that the directive was issued in accordance with subsection (e) and is otherwise lawful. Failure to obey an order of the court may be punished by the court as contempt of court. Any process under this section may be served in any judicial district in which the person may be found.

''(h)(1)(A) A person receiving a directive issued pursuant to subsection (e) may challenge the legality of that directive by filing a petition with the pool established under section 103(e)(1).

''(B) The presiding judge designated pursuant to section 103(b) shall assign a petition filed under subparagraph (A) to one of the judges serving in the pool established by section 103(e)(1). Not later than 48 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the directive. If the assigned judge determines that the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the directive or any part of the directive that is the subject of the petition. If the assigned judge determines the petition is not frivolous, the assigned judge shall, within 72 hours, consider the petition in accordance with the procedures established under section 103(e)(2) and provide a written statement for the record of the reasons for any determination under this subsection.

''(2) A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that such directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with such directive.

''(3) Any directive not explicitly modified or set aside under this subsection shall remain in full effect.

''(i) The Government or a person receiving a directive reviewed pursuant to subsection (h) may file a petition with the Court of Review established under section 103(b) for review of the decision issued pursuant to subsection (h) not later than 7 days after the issuance of such decision. Such court of review shall have jurisdiction to consider such petitions and shall provide for the record a written statement of the reasons for its decision. On petition for a writ of certiorari by the Government or any person receiving such directive, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

''(j) Judicial proceedings under this section shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(k) All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(l) Notwithstanding any other law, no cause of action shall lie in any court against any person for providing any information, facilities, or assistance in accordance with a directive under this section.

''(m) A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.''.

SEC. 3. SUBMISSION TO COURT REVIEW AND ASSESSMENT OF PROCEDURES.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105B the following:

''SUBMISSION TO COURT REVIEW OF PROCEDURES

''SEC. 105C. (a) No later than 120 days after the effective date of this Act, the Attorney General shall submit to the Court established under section 103(a), the procedures by which the Government determines that acquisitions conducted pursuant to section 105B do not constitute electronic surveillance. The procedures submitted pursuant to this section shall be updated and submitted to the Court on an annual basis.

''(b) No later than 180 days after the effective date of this Act, the court established under section 103(a) shall assess the Government's determination under section 105B(a)(1) that those procedures are reasonably designed to ensure that acquisitions conducted pursuant to section 105B do not constitute electronic surveillance. The court's review shall be limited to whether the Government's determination is clearly erroneous.

''(c) If the court concludes that the determination is not clearly erroneous, it shall enter an order approving the continued use of such procedures. If the court concludes that the determination is clearly erroneous, it shall issue an order directing the Government to submit new procedures within 30 days or cease any acquisitions under section 105B that are implicated by the court's order.

''(d) The Government may appeal any order issued under subsection (c) to the court established under section 103(b). If such court determines that the order was properly entered, the court shall immediately provide for the record a written statement of each reason for its decision, and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision. Any acquisitions affected by the order issued under subsection (c) of this section may continue during the pendency of any appeal, the period during which a petition for writ of certiorari may be pending, and any review by the Supreme Court of the United States.''.

SEC. 4. REPORTING TO CONGRESS.

On a semi-annual basis the Attorney General shall inform the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning acquisitions under this section during the previous 6-month period. Each report made under this section shall include—

(1) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under section 105B, to include—

(A) incidents of non-compliance by an element of the Intelligence Community with guidelines or procedures established for determining that the acquisition of foreign intelligence authorized by the Attorney General and Director of National Intelligence concerns persons reasonably to be outside the United States; and

(B) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issue a directive under this section; and

(2) the number of certifications and directives issued during the reporting period.

SEC. 5. TECHNICAL AMENDMENT AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''501(f)(1)'' and inserting ''105B(h) or 501(f)(1)''; and

(2) in paragraph (2), by striking ''501(f)(1)'' and inserting ''105B(h) or 501(f)(1)''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after the item relating to section 105 the following:

''105A. Clarification of electronic surveillance of persons outside the United States.

''105B. Additional procedure for authorizing certain acquisitions concerning persons located outside the United States.

''105C. Submission to court review of procedures.''.

SEC. 6. EFFECTIVE DATE; TRANSITION PROCEDURES.

(a) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this Act

shall take effect immediately after the date of the enactment of this Act.

(b) TRANSITION PROCEDURES.—Notwithstanding any other provision of this Act, any order in effect on the date of enactment of this Act issued pursuant to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall remain in effect until the date of expiration of such order, and, at the request of the applicant, the court established under section 103 (a) of such Act (50 U.S.C. 1803(a)) shall reauthorize such order as long as the facts and circumstances continue to justify issuance of such order under the provisions of the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the applicable effective date of this Act. The Government also may file new applications, and the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) shall enter orders granting such applications pursuant to such Act, as long as the application meets the requirements set forth under the provisions of such Act as in effect on the day before the effective date of this Act. At the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)), shall extinguish any extant authorization to conduct electronic surveillance or physical search entered pursuant to such Act. Any surveillance conducted pursuant to an order entered under this subsection shall be subject to the provisions of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as in effect on the day before the effective date of this Act.

By Mr. KENNEDY (for himself, Mr. DODD, Mrs. MURRAY, Mrs. CLINTON, Mr. OBAMA, Mr. LEAHY, Mr. FEINGOLD, and Ms. CANTWELL):

S. 1928. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available under that section; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is an honor to join my colleagues in introducing the Equal Remedies Act of 2007 to repeal the caps on the amount of damages available in employment discrimination cases under the Civil Rights Act of 1991.

This legislation will end the glaring inequality in the current Federal anti-discrimination laws. The Civil Rights Act of 1991 gave women, religious minorities, and disabled workers the right to recover compensatory and punitive damages for intentional employment discrimination, but only up to certain specified monetary limits. By contrast, victims of such discrimination on the basis of race or national origin can recover damages without such limitations, because they can bring their cases under another statute. The Equal Remedies Act will remove this inequity by eliminating the caps on such damages under current law.

The caps were included in the 1991 act as part of a compromise that the first President Bush would sign. That legislation also reversed a series of Supreme Court decisions that had rolled back other basic civil rights protections and made it more difficult for working Americans to challenge discrimination. The 1991 Act as a whole represented a significant advance in the ongoing battle to eliminate discrimination in the workplace.

But, it's long past time to end the double standard that consigns women, religious minorities, and the disabled to second-class remedies under the civil rights laws.

The caps are especially unfair, because they deny adequate remedies to the most severely injured victims of discrimination. For example, a woman who needs extensive medical treatment as a result of severe sexual harassment, such as an assault, she will be limited to receiving only partial compensation for her injury.

The goal of providing damages is to hold employers accountable and to make victims whole to the greatest extent possible for the discrimination they suffered. The current limit prevents accountability and keeps the victim from obtaining full relief.

The caps serve no justifiable purpose. They shield the worst employers from the full consequences of the most outrageous acts of discrimination. The deterrent purpose of damages fails when employers know that their liability is limited.

Take, for example, Sharon Deters and her case against Equifax Credit Information Services. Sharon suffered constant sexual taunts and insults from her coworkers. Her supervisor praised her harassers' behavior and allowed it to continue. The jury in her case was so outraged by her employer's conduct that it awarded her $1 million in punitive damages, finding that such an award was necessary to get her employer's attention and make it change its ways. The caps on damages, however, reduced Sharon's award to $300,000.

Results like that are not fair. They fail to fulfill the statutory purpose of such damages provision, which is to deter further violations. By passing the Equal Remedies Act of 2007, Congress will be affirming the basic principle of equal justice for all Americans. I urge my colleagues to join in supporting this important change.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1929. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to conduct a feasibility study of water augmentation alternatives in the Sierra Vista Subwatershed; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, today I am pleased to join with Senator MCCAIN to introduce the Sierra Vista Sub-watershed Feasibility Study Act. This important piece of legislation is designed to authorize the Secretary of the Interior to study alternatives to augment the water supplies in a critical area of southern Arizona in the Sierra Vista Sub-watershed, which is home to a congressionally protected riparian area known as the San Pedro Riparian National Conservation Area, SPRNCA, the U.S. Army Intelligence Center at Fort Huachuca, and nearly 76,000 residents.

SPRNCA, which protects nearly 43 miles of the San Pedro River, serves as a principal passage for the migration of approximately 4 million birds. It also provides crucial habitat for 100 species of birds, 81 species of mammals, 43 species of reptiles and amphibians, and two threatened species of native fish. The Nature Conservancy has called the area one of the ''last great places on earth.''

Fort Huachuca, which is adjacent to SPRNCA, plays a critical role in this country's national security by, among other things, training soldiers in military intelligence. It also is the largest employer in the area, contributing greatly to the economy of Cochise County and the State of Arizona.

In recent years, the Fort has done an exemplary job of implementing water conservation and recharge measures as part of its responsibilities under the Endangered Species Act. Indeed, since 1995, it has reduced its groundwater pumping by more than 50 percent.

Nevertheless, water levels in certain areas of the regional aquifer in the Sierra Vista Sub-watershed are still declining due to natural causes and development near Sierra Vista. Because SPRNCA and the fort could be negatively impacted by these declining water levels, a 2007 U.S. Bureau of Reclamation Appraisal level study concluded that augmenting the local water supply is necessary. To that end, Reclamation's study recommended several augmentation alternatives for further study, all of which are supported by the Upper San Pedro Partnership, a congressionally recognized consortium of 21 local, state, and Federal agencies and private organizations.

The legislation I am introducing today would authorize the Secretary to conduct a feasibility study of the alternatives recommended by Reclamation for further study. The legislation would also authorize appropriations for the Federal share of the study's costs. Importantly, the non-Federal cost share would be at least 55 percent, indicating the non-Federal parties' strong commitment to the study.

The feasibility study authorized under this legislation is the next step in the process of determining how to best address the water challenges facing the Sierra Vista Sub-watershed. Consequently, I urge my colleagues to support this legislation.

By Mr. WYDEN (for himself, Mr. ALEXANDER, Mr. KERRY, Ms. SNOWE, Mr. FEINGOLD, Mr. BIDEN, Mr. DODD, and Mr. OBAMA):

S. 1930. A bill to amend the Lacey Act Amendments of 1981 to prevent illegal logging practices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. WYDEN. Mr. President, about a year ago, a group of hardwood plywood

manufacturers came to me with a problem, Chinese hardwood plywood imports were threatening their businesses. They raised a whole host of issues, from tariff misclassification to subsidies to fraudulent labeling to illegal logging. These unfair and illegal practices were lowering the costs of the Chinese hardwood plywood imports, giving them an unfair advantage over U.S. hardwood plywood and putting American companies in jeopardy of going out of business and the folks that they employ out of work.

Since that time, I have been working to level the playing field for Oregon hardwood plywood manufacturers and protect the jobs of the workers that they employ. I have met with the Department of Commerce, the Office of the U.S. Trade Representative, Customs and Border Patrol, and the International Trade Commission and urged them to investigate these issues and, where appropriate, act to address them. They have, raising these troubling practices in diplomatic negotiations, opening investigations, and even filing a case before the World Trade Organization targeting Chinese subsidies that benefit the hardwood plywood industry, among others.

Today, with the support of industry, labor, and the environmental community, I am proud to introduce the Combat Illegal Logging Act of 2007 to halt the trade in illegal timber and timber products. This act will help to level the playing field, not just for Oregon hardwood plywood manufacturers affected by Chinese imports, but for all American manufacturers across the country struggling to compete against imported, low-priced wood and wood products harvested from illegal sources.

Equally important, the act helps address an illegal logging crisis. From the Amazon to the Congo Basin, from Sulawesi to Siberia, illegal logging is destroying ecosystems. It is gutting local economies. It is annihilating ways of life. Because of the speed and violence with which illegal logging is occurring, failing to curb its effects now may result in irreversible damage.

The bill that I am introducing today can help curb illegal logging and thwart its devastating consequences.

The Lacey Act currently regulates trade in fish, wildlife, and a limited subset of plants by making it unlawful to ''import, export, transport, sell, receive, acquire, or purchase'' any that are taken, possessed, transported or sold in violation of any State law or, with respect to fish and wildlife only, any foreign law. The Combat Illegal Logging Act of 2007 would expand the Lacey Act so that violations of foreign law that apply to plants and plant products fall within its protections. It would also specify the types of foreign law violations that trigger Lacey Act liability, laws intended to prevent theft or ensure the legal right to harvest the plants. Finally, the act would create a declaration requirement to facilitate the Lacey Act's enforcement for timber without placing an undue burden upon law-abiding businesses.

The declaration requirements provide basic transparency for wood shipments. The declaration will have critical value for combating illegal logging by 1. encouraging importers to ask basic questions regarding the origin of their timber and timber products; 2. providing information at the point of import that will allow authorities with limited resources to do efficient, targeted inspections and enforcement; and 3. helping enforcement agents to immediately identify ''low-hanging fruit,'' such as timber expressly prohibited to be exported.

The act will definitely change the way that folks who are importing illegally harvested timber and wood products do business, this is its intended purpose. But for the many companies who already play by the rules, the act's requirements should result in minimal changes to the way they operate. Moreover, when the act's impact from a competitiveness standpoint is factored in, the effect is a net positive for these companies. This act changes the incentives to reward due diligence, a sound long-term business strategy from any perspective.

This bill is the culmination of hundreds of hours of work by stakeholders that many might view as strange bedfellows. The principal negotiators of the compromise, the American Forest & Paper Association, the Hardwood Federation, and the Environmental Investigation Agency, deserve a tremendous amount of credit for sticking with this and finding a solution that everyone could support. I applaud them for their hard work, the maturity with which they approached the issue, and the respect that they showed each other throughout the process. Their conduct is a model for how things should work in Washington.

I would also like to applaud the work of several of my colleagues in the House, Congressman BLUMENAUER, Congressman WEXLER, and Congressman WELLER, who introduced their own illegal logging bill, the Legal Timber Protection Act, earlier this year. I understand that their bill may be taken up by the House Natural Resources Committee this fall and I am hopeful that they will substitute the broadly supported text of the Combat Illegal Logging Act for their bill, paving the way for the enactment of this important piece of legislation.

I would like to thank Senator ALEXANDER, Senator KERRY, Senator SNOWE, and Senator FEINGOLD for agreeing to be original cosponsors of the bill. I would also like to thank the following organizations, in addition to the American Forest & Paper Association, the Hardwood Federation, and the Environmental Investigation Agency for endorsing the bill: Center for International Environmental Law, Conservation International, Defenders of Wildlife, Dogwood Alliance, ForestEthics, Friends of the Earth, Global Witness, Greenpeace, International Brotherhood of Teamsters, National Hardwood Lumber Association, Natural Resources Defense Council, Rainforest Action Network, Rainforest Alliance, Sierra Club, Society of American Foresters, Sustainable Furniture Council, The Nature Conservancy, Tropical Forest Trust, United Steelworkers, Wildlife Conservation Society, World Wildlife Fund.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1930

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Combat Illegal Logging Act of 2007''.

SEC. 2. PREVENTION OF ILLEGAL LOGGING PRACTICES.

The Lacey Act Amendments of 1981 are amended—

(1) in section 2 (16 U.S.C. 3371)—

(A) by striking subsection (f) and inserting the following:

''(f) PLANT.—

''(1) IN GENERAL.—The term 'plant' means any wild member of the plant kingdom, including roots, seeds, parts, and products thereof.

''(2) EXCLUSIONS.—The term 'plant' excludes any common food crop or cultivar that is a species not listed—

''(A) in the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington on March 3, 1973 (27 UST 1087; TIAS 8249); or

''(B) as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).'';

(B) in subsection (h), by inserting ''also'' after ''plants the term''; and

(C) by striking subsection (j) and inserting the following:

''(j) TAKE.—The term 'take' means—

''(1) to capture, kill, or collect; and

''(2) with respect to a plant, also to harvest, cut, log, or remove.'';

(2) in section 3 (16 U.S.C. 3372)—

(A) in subsection (a)—

(i) in paragraph (2), by striking subparagraph (B) and inserting the following:

''(B) any plant—

''(i) taken, transported, possessed, or sold in violation of any foreign law or any law or regulation of any State that protects plants or that regulates—

''(I) the theft of plants;

''(II) the taking of plants from a park, forest reserve, or other officially protected area;

''(III) the taking of plants from an officially designated area; or

''(IV) the taking of plants without, or contrary to, required authorization;

''(ii) taken, transported, or exported without the payment of appropriate royalties, taxes, or stumpage fees required by any foreign law or by any law or regulation of any State; or

''(iii) exported or transshipped in violation of any limitation under any foreign law or by any law or regulation of any State; or''; and

(ii) in paragraph (3), by striking subparagraph (B) and inserting the following:

''(B) to possess any plant—

''(i) taken, transported, possessed, or sold in violation of any foreign law or any law or

regulation of any State that protects plants or that regulates—

''(I) the theft of plants;

''(II) the taking of plants from a park, forest reserve, or other officially protected area;

''(III) the taking of plants from an officially designated area; or

''(IV) the taking of plants without, or contrary to, required authorization;

''(ii) taken, transported, or exported without the payment of appropriate royalties, taxes, or stumpage fees required by any foreign law or by any law or regulation of any State; or

''(iii) exported or transshipped in violation of any limitation under any foreign law or by any law or regulation of any State; or''; and

(B) by adding at the end the following:

''(f) PLANT DECLARATIONS.—

''(1) IN GENERAL.—Effective 180 days from the date of enactment of this subsection, it shall be unlawful for any person to import any plant unless the person files upon importation where clearance is requested a declaration that contains—

''(A) the scientific name of any plant (including the genus and species of the plant) contained in the importation;

''(B) a description of—

''(i) the value of the importation; and

''(ii) the quantity, including the unit of measure, of the plant; and

''(C) the name of the country from which the plant was taken.

''(2) DECLARATION RELATING TO PLANT PRODUCTS.—Until the date on which the Secretary promulgates a regulation under paragraph (5), a declaration relating to a plant product shall—

''(A) in the case in which the species of plant used to produce the plant product that is the subject of the importation varies, and the species used to produce the plant product is unknown, contain the name of each species of plant that may have been used to produce the plant product; and

''(B) in the case in which the species of plant used to produce the plant product that is the subject of the importation is commonly taken from more than 1 country, and the country from which the plant was taken and used to produce the plant product is unknown, contain the name of each country from which the plant may have been taken.

''(3) REVIEW.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall review the implementation of each requirement described in paragraphs (1) and (2).

''(4) REPORT.—

''(A) IN GENERAL.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (3), the Secretary shall submit to the appropriate committees of Congress a report containing—

''(i) an evaluation of—

''(I) the effectiveness of each type of information required under paragraphs (1) and (2) in assisting enforcement of section 3; and

''(II) the potential to harmonize each requirement described in paragraphs (1) and (2) with other applicable import regulations in existence as of the date of the report;

''(ii) recommendations for such legislation as the Secretary determines to be appropriate to assist in the identification of plants that are imported into the United States in violation of section 3; and

''(iii) an analysis of the effect of the provisions of subsection (a) and (f) on—

''(I) the cost of legal plant imports; and

''(II) the extent and methodology of illegal logging practices and trafficking.

''(B) PUBLIC PARTICIPATION.—In conducting the review under paragraph (3), the Secretary shall provide public notice and an opportunity for comment.

''(5) PROMULGATION OF REGULATIONS.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (3), the Secretary may promulgate regulations—

''(A) to limit the applicability of any requirement described in paragraph (2) to specific plant products; and

''(B) to make any other necessary modification to any requirement described in paragraph (2), as determined by the Secretary based on the review under paragraph (3).''; and

(3) in section 7(a)(1) (16 U.S.C. 3376(a)(1)), by striking ''section 4'' and inserting ''section 3(f), section 4,''.

By Mr. TESTER:

S. 1931. A bill to amend the Mineral Leasing Act to ensure that development of certain Federal oil and gas resources will occur in a manner that protects water resources and respects the rights of surface owners, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. TESTER. Mr. President, I rise today to introduce the Surface Owner Protection Act to help protect private property on split estates.

The Western U.S. is experiencing a boom in oil and gas exploration that will contribute to the domestic supply of energy in this country, improve our National security and help control energy costs for American consumers. But if it is not done right oil and gas leasing can be damaging to wildlife, pollute our water, and scar the land. Furthermore, in many areas of the West the land is in split estates where mineral rights are owned by the Federal Government, but the surface is owned by a private land owner. Oftentimes the process of oil and gas leasing and drilling does not adequately involve surface owners or protect their agricultural livelihoods that are disrupted during energy development. Split estates cover 58 million acres in the U.S., and 11.7 million acres in Montana alone. That is just slightly smaller than the size of New Jersey, Maryland, and Delaware combined.

In states like Montana, Wyoming, and Colorado there has been a rapid increase in the number of leases and the amount of acreage that the Bureau of Land Management is approving for oil and gas exploration. It is expected that coal-bed methane development will bring tens of thousands of wells in coming decades. The rapid growth is causing general unease in some areas because surface owners have few rights when it comes to oil and gas exploration on their land.

Too often surface owners have no idea that their minerals are owned by someone else or when they are going to be leased. The legislation I am introducing today is meant to better involve surface owners in the process of oil and gas exploration by requiring notification to surface owners when their land is going to be leased, require operators to replace any water that disrupts other users, and requires bonding for the reclamation of surface land. Surface owners should have a clear role in each step of the process from the day a lease sale is announced to the time when the rigs are gone and reclamation work is completed.

Critics of this measure will argue that it gets in the way of drilling. I would say that oil and gas drilling should not get in the way of farmers and ranchers going about their business without clear legal guidelines. The protection of private property rights is crucially important as a personal freedom in the U.S. and we must take steps to protect them.

I encourage members of this body to support this measure as we move forward because I believe that we can improve the way we conduct oil and gas leases on split estates. A better balance between oil and gas interests and surface owners is possible, but we need to make sure that we develop our energy resources in an appropriate manner with respect to private property owners.

By Mr. REID (for himself, Mr. ENSIGN, Mrs. BOXER, Mr. BAUCUS, Mrs. MURRAY, Mrs. CLINTON, Mr. SANDERS, and Mr. CONRAD):

S. 1933. A bill to amend the Safe Drinking Water Act to provide grants to small public drinking water systems; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, small rural water systems are facing compliance deadlines, and need assistance without burdensome matching funding requirements. The Small Community Drinking Water Funding Act that I am introducing today with Senators ENSIGN, BOXER, MURRAY, CLINTON, BAUCUS, SANDERS, and CONRAD, amends the Safe Drinking Water Act to require the Administrator of the Environmental Protection Agency to establish a Small Public Water System Assistance Program. This program is to support small water systems in complying with national primary drinking water regulations, and includes a program for Indian tribes.

The smallest public water systems, which serve fewer than 3,300 people, represent 85 percent of all public water systems. Small public water systems serving fewer than 10,000 people represent 94 percent of all public water systems. Small communities throughout Nevada would benefit from a grant program designed to provide funding for water quality projects without a difficult matching requirement; and Federal programs in effect as of the date of enactment of this act do not adequately meet the needs of small communities in Nevada with respect to public water systems. The Small Community Drinking Water Funding Act will authorize $750,000,000 for each of the fiscal years 2008 through 2014. Nevada should be able to secure a substantial portion of this funding because of the State's rural water systems needs.

The purpose of this bill is to establish a program to provide grants to small public water systems to meet applicable national primary drinking water regulations under the Safe Drinking Water Act. Second, maintain water costs at a reasonable level for the communities served by small public water systems. Third, obtain technical assistance to develop the capacity to sustain operations over the long term.

This legislation is intended to ensure that our Nation's small, disadvantaged communities have access to the financial help they need to provide safe, reliable, and affordable drinking water with the authorization of $750 million annually for 7 years starting next year. The Small Community Safe Drinking Water Act provides substantial flexibility to States.

Nevada's small communities are facing a drinking water infrastructure crisis. These communities, and other small communities nationwide, confront increasing demand for clean, reliable, and affordable drinking water. But it is simply too costly for small communities, alone, to address this water infrastructure crisis.

They need a financial helping hand from the Federal Government.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1933

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Community Drinking Water Funding Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in some cases, drinking water standards in effect and proposed as of the date of enactment of this Act can place large financial burdens on public water systems, especially systems that serve fewer than a few thousand people;

(2) some small public water systems have experienced water contamination problems that may pose a significant risk to the health of water consumers;

(3) small communities are concerned about improving drinking water quality;

(4) the limited scientific, technical, and professional resources of many small communities make understanding and implementing regulatory requirements very difficult;

(5) small communities often struggle to meet water quality standards because of difficulty in securing funding;

(6) small communities often lack a tax base or opportunities to benefit from economics of scale and therefore face very high per capita costs in improving drinking water quality;

(7) the smallest public water systems, which serve fewer than 3,300 people, represent 85 percent of all public water systems;

(8) small public water systems serving fewer than 10,000 people represent 94 percent of all public water systems;

(9) small communities would benefit from a grant program designed to provide funding for water quality projects without a substantial matching requirement; and

(10) Federal programs in effect as of the date of enactment of this Act do not adequately meet the needs of small communities with respect to public water systems.

(b) PURPOSE.—The purpose of this Act is to establish a program to provide grants to small public water systems to—

(1) meet applicable national primary drinking water regulations under the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(2) maintain water costs at a reasonable level for the communities served by small public water systems; and

(3) obtain technical assistance to develop the capacity to sustain operations over the long term.

SEC. 3. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM.

(a) DEFINITION OF INDIAN TRIBE.—Section 1401(14) of the Safe Drinking Water Act (42 U.S.C. 300f(14)) is amended in the second sentence by striking ''1452,'' and inserting ''1452 and part G,''.

(b) ESTABLISHMENT OF PROGRAM.—The Safe Drinking Water Act (42 U.S.C. 300f et seq.) is amended by adding at the end the following:

"PART G—SMALL PUBLIC WATER SYSTEM ASSISTANCE

"SEC. 1471. DEFINITIONS.

''In this part:

''(1) ELIGIBLE ACTIVITY.—

''(A) IN GENERAL.—The term 'eligible activity' means an activity concerning a small public water system (including obtaining technical assistance) that is carried out by an eligible entity for a purpose consistent with section 1473(c)(1) or 1474(c)(1), as appropriate.

''(B) EXCLUSION.—The term 'eligible activity' does not include any activity to increase the population served by a small public water system, except to the extent that the State under section 1473(b)(1) or the Administrator under section 1474(b)(1) determines an activity to be necessary to—

''(i) achieve compliance with a national primary drinking water regulation; and

''(ii) provide a water supply to a population that, as of the date of enactment of this part, is not served by a safe public water system.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a small public water system that—

''(A) is located in a State or an area governed by an Indian Tribe; and

''(B)(i) if located in a State, serves a community that, under affordability criteria established by the State under section 1452(d)(3), is determined by the State to be—

''(I) a disadvantaged community; or

''(II) a community the State expects to become a disadvantaged community as a result of carrying out an eligible activity; or

''(ii) if located in an area governed by an Indian Tribe, serves a community that is determined by the Administrator, under criteria published by the Administrator under section 1452(d)(3) and in consultation with the Secretary, to be—

''(I) a disadvantaged community; or

''(II) a community the Administrator expects to become a disadvantaged community as a result of carrying out an eligible activity.

''(3) ELIGIBLE STATE.—The term 'eligible State' means a State that has—

''(A) adopted, and is implementing, an approved operator certification program under section 1419; and

''(B) established affordability criteria under section 1452(d)(3) for use in identifying disadvantaged communities.

''(4) PROGRAM.—The term 'Program' means the Small Public Water System Assistance Program established under section 1472(a).

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services, acting through the Director of the Indian Health Service.

''(6) SMALL PUBLIC WATER SYSTEM.—The term 'small public water system' means a public water system (including a community water system and a noncommunity water system) that serves a population of 10,000 or fewer.

"SEC. 1472. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—Not later than July 1, 2008, the Administrator shall establish within the Environmental Protection Agency a Small Public Water System Assistance Program.

''(b) DUTIES.—The head of the Program shall—

''(1) in accordance with section 1474, establish and administer a small public water system assistance program for, and provide grants to, eligible entities located in areas governed by Indian Tribes, for use in carrying out eligible activities;

''(2) identify, and prepare annual prioritized lists of, activities for eligible entities located in areas governed by Indian Tribes that are eligible for grants under section 1474;

''(3) provide funds to States for use in establishing small public water system assistance programs under section 1473 that award grants to eligible entities to carry out eligible activities; and

''(4) prepare, and submit to the Administrator, the reports required under subsection (d).

''(c) ALLOCATION OF FUNDS.—

''(1) STATES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (D) and paragraph (2)(A), for each fiscal year, the Administrator, through the head of the Program, using the most recent available needs survey conducted by the Administrator under section 1452(h), shall allocate the funds made available to carry out the Program for the fiscal year among eligible States based on the ratio that—

''(i) the financial need associated with treatment projects for small public water systems in the State; bears to

''(ii) the total financial need associated with treatment projects for all small public water systems in all States.

''(B) ADDITIONAL REQUIREMENTS.—Any additional financial needs of small public water systems associated with the cost of treatment projects needed to comply with a national primary drinking water regulation that is promulgated after the most recent needs survey conducted under section 1452(h) shall be factored into the determination of financial need under clauses (i) and (ii) of subparagraph (A) for each fiscal year.

''(C) MINIMUM ALLOCATION.—An allocation of funds to a State for a fiscal year under subparagraph (A), taking into consideration any additional financial needs described in subparagraph (B), shall be in an amount that is at least 1 percent of the amount of funds available for that fiscal year.

''(D) REDISTRIBUTION IF NONUSE.—If a State does not qualify for, or fails to request, funds allocated to the State under subparagraph (A) in any fiscal year, the Administrator shall redistribute the funds among the States that—

''(i) request funds for that fiscal year; and

''(ii) are eligible to receive the funds under subparagraph (A) for that fiscal year.

''(2) INDIAN TRIBES.—

''(A) IN GENERAL.—For each fiscal year, in accordance with subparagraph (B), 3 percent of the total amount of funds made available to carry out the Program for the fiscal year shall be allocated by the Administrator to provide grants to eligible entities that are located in areas governed by Indian Tribes

through the program established under section 1474(a).

''(B) USE OF FUNDS.—

''(i) IN GENERAL.—For each fiscal year, the Administrator shall award, on a competitive basis, not less than 1.5 percent of the funds allocated under subparagraph (A) to nonprofit technical assistance organizations, to be used for the purposes of—

''(I) assisting the Administrator in preparing the list required under section 1474(b) (including assisting the Administrator in identifying the highest priority eligible activities for eligible entities located in areas governed by Indian Tribes for which a grant under section 1474 may be used);

''(II) assisting eligible entities located in areas governed by Indian Tribes in—

''(aa) assessing needs relating to eligible activities; and

''(bb) identifying available sources of funding to meet the cost-sharing requirement of section 1474(f)(1); and

''(III) assisting eligible entities located in areas governed by Indian Tribes that receive funding under section 1474 in—

''(aa) planning, implementing, and maintaining eligible activities that are funded under that section; and

''(bb) preparing reports required under section 1474(h).

''(ii) CONSULTATION.—Each nonprofit technical assistance organization that receives funds under clause (i) shall consult with the Administrator, through the head of the program, before carrying out any activity for the purposes described in subclauses (II)(aa) and (III)(aa) of that clause.

''(iii) NO FUNDS FOR LOBBYING EXPENSES.—None of the funds made available to a nonprofit technical assistance organization under clause (i) shall be used to pay lobbying expenses.

''(3) PROGRAM.—For each fiscal year, the Administrator may use not more than 0.1 percent of the funds made available to carry out the Program to pay reasonable costs incurred in the administration of the Program.

''(d) REPORTS.—Not later than January 1, 2009, and annually thereafter through January 1, 2014, the Administrator shall—

''(1) submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report that, for the preceding fiscal year—

''(A) lists the eligible activities for eligible entities, as prepared under sections 1473(b)(1) and 1474(b)(1), located in areas governed by Indian Tribes and in each State receiving funds under this part;

''(B) identifies the number of grants awarded by each State, and by the Administrator to eligible entities located in areas governed by Indian Tribes, under this part;

''(C) identifies each eligible entity that received a grant to carry out an eligible activity;

''(D) identifies the amount of each grant provided to an eligible entity to carry out an eligible activity; and

''(E) describes each eligible activity funded by such a grant (including the status of the eligible activity); and

''(2) make the report under paragraph (1) available to the public.

''SEC. 1473. STATE SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAMS.

''(a) IN GENERAL.—To be eligible to receive funding under this part, a State shall—

''(1) be an eligible State;

''(2) not later than July 1, 2008 (if funding is sought for fiscal year 2008) or not later than September 30 of any of fiscal years 2008 through 2014 (if funding is sought for the following fiscal year), establish a small public water system assistance program—

''(A) under which the requirements of subsection (b), oversight, and related activities (other than financial administration) with respect to the program are administered—

''(i) in the case of a State that is exercising primary enforcement responsibility for public water systems, by the State agency having primary responsibility for administration of the State program under section 1413; and

''(ii) in the case of a State that is not exercising primary enforcement authority for public water systems, by a State agency selected by the Governor of the State; and

''(B) that meets the requirements of this section; and

''(3) for each fiscal year for which funding is sought under this section—

''(A) in preparing an intended use plan under section 1452(b), after providing for public review and comment, prepare an annual list of eligible activities for eligible entities in the State in accordance with subsection (b); and

''(B) prepare and submit to the Administrator a request for the funding, by such date and in such form as the Administrator shall prescribe.

''(b) PROGRAM PRIORITY REQUIREMENT.—

''(1) LIST OF ELIGIBLE ACTIVITIES.—A small public water system assistance program established under subsection (a) shall, for each fiscal year for which funding is sought, identify, and, using the priority criteria described in paragraph (2) and considering the additional criteria described in paragraph (3), list in descending order of priority, eligible activities for eligible entities in the State for which funds provided from a grant under this part may be used.

''(2) PRIORITY CRITERIA.—In preparing the list under paragraph (1), a small public water system assistance program shall give priority for the use of grants to eligible activities that—

''(A) address the most serious risk to human health;

''(B) are necessary to ensure compliance with national primary water regulations applicable to eligible entities under section 1412; and

''(C) assist systems most in need, as calculated on the basis of median household income, under affordability criteria established by the State under section 1452(d)(3).

''(3) ADDITIONAL CRITERIA.—In addition to the priority criteria described in paragraph (2), a small public water system assistance program shall, in preparing a list under paragraph (1), consider giving additional priority to any listed eligible activities that are to be carried out by communities that form management cooperatives (including management cooperatives between systems that do not have connections).

''(c) USE OF FUNDS.—Using any funds received by a State under this section for a fiscal year, in accordance with the list prepared under subsection (b), a small public water system assistance program established by the State under subsection (a)—

''(1) shall provide to an eligible entity, on a cost-shared basis, a grant to be used for an eligible activity (including source water protection) the purpose of which is compliance with national primary drinking water regulations applicable to the eligible entity under section 1412;

''(2) shall—

''(A) award, on a competitive basis, not less than 1.5 percent of the funds to nonprofit technical assistance organizations to be used for the purposes of—

''(i) assisting the State in preparing the list required under subsection (b) (including assisting the State in identifying the highest priority eligible activities for eligible entities located in the State for which a grant under this section may be used); and

''(ii) assisting eligible entities in—

''(I) assessing needs relating to eligible activities;

''(II) identifying available sources of funding to meet the cost-sharing requirement of subsection (f); and

''(III) planning, implementing, and maintaining any eligible activities of the eligible entities that receive funding under this section;

''(B) require each nonprofit technical assistance organization that receives funds under subparagraph (A) to consult with the State, through the head of the small public water assistance program, before carrying out any activity for the purposes described in subclauses (I) and (III) of subparagraph (A)(ii); and

''(C) require that none of the funds made available to a nonprofit technical assistance organization under subparagraph (A) be used to pay lobbying expenses; and

''(3) may use not to exceed 1 percent of the funds allocated to the State to pay reasonable costs incurred in the administration of the small public water system assistance program.

''(d) LIMITATION ON USE OF FUNDS.—For each fiscal year, not more than 5 percent of the funds received by an eligible entity under this section may be used to obtain technical assistance in planning, implementing, and maintaining eligible activities that are funded under this section.

''(e) LIMITATION ON RECEIPT OF FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a grant under this section shall not be provided to an eligible entity that, as determined by the State—

''(A) does not have the technical, managerial, and financial capability to ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412; or

''(B) is in significant noncompliance with any applicable national primary drinking water regulation.

''(2) EXCEPTION FOR RECEIPT OF GRANT.—An eligible entity described in paragraph (1) may receive a grant under this section only—

''(A) if the State determines that use of the grant will ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412;

''(B)(i) to restructure or consolidate the facility to achieve compliance with applicable national primary drinking water regulations; or

''(ii) in a case in which restructuring or consolidation of the facility is not practicable, if the State determines that—

''(I) the eligible entity has made a good faith effort to achieve compliance with applicable national primary drinking water regulations; and

''(II) the eligible entity is adhering to an enforceable schedule for achieving those regulations; and

''(C) in a case in which paragraph (1)(A) applies to an eligible entity, and the eligible entity agrees to undertake feasible and appropriate changes in operations (including changes in ownership, management, accounting, rates, maintenance, consolidation, provision of an alternative water supply, or other procedures), if the State determines that the measures are necessary to ensure that the eligible entity has the technical, managerial, and financial capability to comply with applicable national primary drinking water regulations over the long term.

''(3) REVIEW.—Before providing assistance under this section to an eligible entity that

is in significant noncompliance with any national primary drinking water regulation applicable to the eligible entity under section 1412, the State shall conduct a review to determine whether paragraph (1)(A) applies to the entity.

''(f) COST SHARING.—

''(1) IN GENERAL.—

''(A) LIMIT.—Except as provided in paragraph (2), the share of the total cost of an eligible activity funded by a grant under this section shall not exceed 80 percent.

''(B) USE OF OTHER FEDERAL FUNDS.—To pay the portion of an eligible activity that may not be funded by a grant under this section, an eligible entity may use Federal financial assistance other than assistance received under this section.

''(2) WAIVER OF COST-SHARING REQUIREMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), a State may waive the requirement of an eligible entity to pay all or a portion of the share of an eligible activity that may not be funded by a grant under this section, based on a determination by the State that the eligible entity is unable to pay any or all of the share.

''(B) LIMITATION.—For each fiscal year in which a State receives funding under this section, the total amount of cost-share waivers provided by the State under subparagraph (A) shall not exceed 30 percent of the amount of funding received by the State for the fiscal year under section 1472(c)(1).

''(g) UNOBLIGATED FUNDS.—Any funds not obligated by the State for a purpose consistent with subsection (c) within 1 year after the date of the allocation of the funds by the Administrator under section 1472(c) shall be returned to the Administrator for reallocation under that section.

''(h) REPORTS.—Not later than November 1 following each fiscal year in which a State receives funding under this section, the State shall—

''(1) submit to the Administrator a report that, for the preceding fiscal year—

''(A) lists the eligible activities for eligible entities, as prepared under subsection (b);

''(B) identifies the number of grants awarded by the State small public water system assistance program to eligible entities;

''(C) identifies each eligible entity that received a grant to carry out an eligible activity;

''(D) identifies the amount of each grant provided to an eligible entity to carry out an eligible activity; and

''(E) describes each eligible activity funded by such grants (including the status of the eligible activity); and

''(2) make the report under paragraph (1) available to the public.

''SEC. 1474. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM FOR INDIAN TRIBES.

''(a) ESTABLISHMENT.—Not later than July 1, 2008, the Administrator shall establish a small public water system assistance program for Indian Tribes, through which eligible entities located in areas governed by the Indian Tribe may receive grants for eligible activities under this part.

''(b) PROGRAM PRIORITY REQUIREMENT.—

''(1) LIST OF ELIGIBLE ACTIVITIES.—

''(A) IN GENERAL.—The Administrator, acting through the head of the small public water system assistance program for Indian Tribes, in consultation with the Secretary, shall, for each fiscal year, identify, and, using the priority criteria described in paragraph (2) and considering the additional criteria described in paragraph (3), list in descending order of priority, eligible activities for eligible entities located in areas governed by Indian Tribes for which funds provided from a grant under this part may be used.

''(B) COORDINATION.—

''(i) IN GENERAL.—To the maximum extent practicable, the Administrator shall ensure that the list under subparagraph (A) is coordinated with any needs assessment conducted under section 1452(i)(4).

''(ii) ADDITIONAL CONSIDERATION.—Any additional financial needs of small public water systems located in areas governed by Indian Tribes that are associated with the cost of complying with a national primary drinking water regulation that is promulgated after the most recent needs survey conducted under section 1452(i)(4) shall be factored into the determination of financial need for, and prioritization of, eligible activities under this section.

''(2) PRIORITY CRITERIA.—In preparing the list under paragraph (1), the Administrator shall give priority for the use of grants to eligible activities that—

''(A) address the most serious risk to human health;

''(B) are necessary to ensure compliance with national primary water regulations applicable to eligible entities under section 1412; and

''(C) assist systems most in need, as calculated on the basis of median household income, under affordability criteria published by the Administrator under section 1452(d)(3).

''(3) ADDITIONAL CRITERIA.—In addition to the priority criteria described in paragraph (2), the Administrator shall, in preparing a list under paragraph (1), consider giving additional priority to any listed eligible activities that are to be carried out by communities that form management cooperatives (including management cooperatives between systems that do not have connections).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Using funds allocated under section 1472(c)(2)(A), the small public water system assistance program established under subsection (a) shall provide to an eligible entity located in an area governed by an Indian Tribe, on a cost-shared basis, a grant to be used for an eligible activity (including source water protection) the purpose of which is compliance with national primary drinking water regulations applicable to the eligible entity under section 1412.

''(2) ALLOCATION OF GRANT FUNDING.—For each fiscal year, taking into consideration the funding allocation under section 1472(c)(2)(A) for the fiscal year, the head of the small public water assistance program established under subsection (a), in consultation with the Secretary, shall provide grants under paragraph (1) for the maximum number of eligible activities for which the funding allocation makes assistance available, based on the priority assigned by the Administrator to eligible activities under subsection (b).

''(d) LIMITATION ON USE OF FUNDS.—For each fiscal year, not more than 5 percent of the funds received by an eligible entity under this section may be used to obtain technical assistance in planning, implementing, and maintaining eligible activities that are funded under this section.

''(e) LIMITATION ON RECEIPT OF FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a grant under this section shall not be provided to an eligible entity that, as determined by the Administrator—

''(A) does not have the technical, managerial, and financial capability to ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412; or

''(B) is in significant noncompliance with any applicable national primary drinking water regulation.

''(2) EXCEPTION FOR RECEIPT OF GRANT.—An eligible entity described in paragraph (1) may receive a grant under this section only—

''(A) if the Administrator determines that use of the grant will ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412;

''(B)(i) to restructure or consolidate the facility to achieve compliance with applicable national primary drinking water regulations; or

''(ii) in a case in which restructuring or consolidation of the facility is not practicable, if the Administrator determines that—

''(I) the eligible entity has made a good faith effort to achieve compliance with applicable national primary drinking water regulations; and

''(II) the eligible entity is adhering to an enforceable schedule for achieving those regulations; and

''(C) in a case in which paragraph (1)(A) applies to an eligible entity, and the eligible entity agrees to undertake feasible and appropriate changes in operations (including changes in ownership, management, accounting, rates, maintenance, consolidation, provision of an alternative water supply, or other procedures), if the Administrator determines that the measures are necessary to ensure that the eligible entity has the technical, managerial, and financial capability to comply with applicable national primary drinking water regulations over the long term.

''(3) REVIEW.—Before providing assistance under this section to an eligible entity that is in significant noncompliance with any national primary drinking water regulation applicable to the eligible entity under section 1412, the Administrator shall conduct a review to determine whether paragraph (1)(A) applies to the entity.

''(f) COST SHARING.—

''(1) IN GENERAL.—

''(A) LIMIT.—Except as provided in paragraph (2), the share of the total cost of an eligible activity funded by a grant under this section shall not exceed 80 percent.

''(B) USE OF OTHER FEDERAL FUNDS.—To pay the portion of an eligible activity that may not be funded by a grant under this section, an eligible entity may use Federal financial assistance other than assistance received under this section.

''(2) WAIVER OF COST-SHARING REQUIREMENT.—

''(A) IN GENERAL.—The Administrator may waive the requirement of an eligible entity to pay all or a portion of the share of eligible activity that may not be funded by a grant under this section based on a determination by the Administrator that the eligible entity is unable to pay any or all of the share.

''(B) LIMITATION.—For each fiscal year, the total amount of cost-share waivers provided by the Administrator under subparagraph (A) shall not exceed 30 percent of the amount of funding allocated to eligible entities located in areas governed by Indian Tribes for the fiscal year under section 1472(c)(2)(A).

''(g) UNOBLIGATED FUNDS.—Any funds not obligated by the small public water system assistance program established under subsection (a) for a purpose consistent with section 1472(c)(2)(B) and subsection (c) within 1 year after the date of allocation of the funds by the Administrator under section 1472(c)(2)(A) shall be returned to the Administrator for reallocation under that section.

''(h) REPORTS.—Not later than November 1 following each fiscal year in which an Indian Tribe receives funding under this section,

the Indian Tribe shall submit to the Administrator a report that, for the preceding fiscal year—

''(1) identifies the number of grants awarded to eligible entities located in areas governed by the Indian Tribe;

''(2) identifies each such eligible entity that received a grant to carry out an eligible activity;

''(3) identifies the amount of each grant provided to such an eligible entity to carry out an eligible activity; and

''(4) describes each eligible activity funded by such grants (including the status of the eligible activity).

''SEC. 1475. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part $750,000,000 for each of fiscal years 2008 through 2014.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 288—DESIGNATING SEPTEMBER 2007 AS ''NATIONAL PROSTATE CANCER AWARENESS MONTH''

Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. INHOFE, Ms. LANDRIEU, Mr. SPECTER, Mr. MENENDEZ, Mr. CHAMBLISS, Mrs. BOXER, Mr. CRAPO, Mrs. FEINSTEIN, Mrs. DOLE, and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 288

Whereas countless families in the United States live with prostate cancer;

Whereas 1 in 6 men in the United States will be diagnosed with prostate cancer in his lifetime;

Whereas over the past decade, prostate cancer has been the most commonly diagnosed non-skin cancer and the second most common cause of cancer-related deaths among men in the United States;

Whereas, in 2007, according to estimates from the American Cancer Society, over 218,890 men in the United States will be diagnosed with prostate cancer and 27,050 men in the United States will die of prostate cancer;

Whereas 30 percent of new diagnoses of prostate cancer occur in men under the age of 65;

Whereas a man in the United States turns 50 years old about every 14 seconds, increasing his odds of developing cancer, including prostate cancer;

Whereas African-American males suffer a prostate cancer incidence rate up to 65 percent higher than White males and double the mortality rates;

Whereas obesity is a significant predictor of the severity of prostate cancer and the probability that the disease will lead to death;

Whereas if a man in the United States has 1 family member diagnosed with prostate cancer, he has double the risk of prostate cancer, if he has 2 family members with such diagnoses, he has 5 times the risk, and if he has 3 family members with such diagnoses, he then has a 97 percent risk of prostate cancer;

Whereas screening by both a digital rectal examination (DRE) and a prostate specific antigen blood test (PSA) can diagnose the disease in earlier and more treatable stages and reduce prostate cancer mortality;

Whereas ongoing research promises further improvements in prostate cancer prevention, early detection, and treatments; and

Whereas educating people in the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting families: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 2007 as ''National Prostate Cancer Awareness Month'';

(2) declares that the Federal Government has a responsibility—

(A) to raise awareness about the importance of screening methods for, and treatment of, prostate cancer;

(B) to increase research funding that is commensurate with the burden of the disease so that the screening and treatment of prostate cancer may be improved, and so that the causes of, and a cure for, prostate cancer may be discovered; and

(C) to continue to consider ways for improving access to, and the quality of, health care services for detecting and treating prostate cancer; and

(3) requests the President to issue a proclamation calling on the people of the United States, interested groups, and affected persons—

(A) to promote awareness of prostate cancer;

(B) to take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy; and

(C) to observe National Prostate Cancer Awareness Month with appropriate ceremonies and activities.

SENATE RESOLUTION 289—EXPRESSING THE SENSE OF THE SENATE THAT A ''WELCOME HOME VIETNAM VETERANS DAY'' SHOULD BE ESTABLISHED

Mrs. BOXER submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 289

Whereas the Vietnam War was fought in Vietnam from 1961 to 1975, and involved North Vietnam and the Viet Cong in conflict with the United States and South Vietnam;

Whereas the United States became involved in Vietnam because policy-makers in the United States believed that if South Vietnam fell to a Communist government that Communism would spread throughout the rest of Southeast Asia;

Whereas members of the United States Armed Forces began serving in an advisory role to the South Vietnamese in 1961;

Whereas as a result of the Gulf of Tonkin incidents on August 2 and 4, 1964, Congress overwhelmingly passed the Gulf of Tonkin Resolution (Public Law 88–408), on August 7, 1964, which effectively handed over war-making powers to President Johnson until such time as ''peace and security'' had returned to Vietnam;

Whereas, in 1965, United States Armed Forces ground combat units arrived in Vietnam;

Whereas, by the end of 1965, there were 80,000 United States troops in Vietnam, and by 1969 a peak of approximately 543,000 troops was reached;

Whereas, on January 27, 1973, the Treaty of Paris was signed, which required the release of all United States prisoners of war held in North Vietnam and the withdrawal of all United States Armed Forces from South Vietnam;

Whereas, on March 30, 1973, the United States Armed Forces completed the withdrawal of combat troops from Vietnam;

Whereas more than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the Armed Forces were wounded;

Whereas, in 1982, the Vietnam Veterans Memorial was dedicated in the District of Columbia to commemorate those members of the United States Armed Forces who died or were declared missing in action in Vietnam;

Whereas the Vietnam War was an extremely divisive issue among the people of the United States;

Whereas members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were caught upon their return home in the crossfire of public debate about the involvement of the United States in the Vietnam War;

Whereas the establishment of a ''Welcome Home Vietnam Veterans Day'' would be an appropriate way to honor those members of the United States Armed Forces who served in Vietnam during the Vietnam War; and

Whereas March 30 would be an appropriate day to establish as ''Welcome Home Vietnam Veterans Day'': Now, therefore, be it

Resolved, That it is the sense of the Senate that there should be established a ''Welcome Home Vietnam Veterans Day'' to honor those members of the United States Armed Forces who served in Vietnam.

SENATE RESOLUTION 290—HONORING THE LIFE AND CAREER OF FORMER SAN FRANCISCO 49ERS HEAD COACH BILL WALSH

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 290

Whereas William Ernest Walsh was born on November 30, 1931, in Fremont, California;

Whereas Bill Walsh graduated from San Jose State University in 1955 where he was a successful amateur boxer and wide receiver;

Whereas, in 1955, he married Geri Nadini, with whom he had 3 children: Steve, Craig, and Elizabeth;

Whereas Bill Walsh began his coaching career at Washington High School in Fremont, California, and later served as an assistant coach at the University of California at Berkeley and Stanford University;

Whereas Bill Walsh served as an assistant coach with the Oakland Raiders in 1966, with the Cincinnati Bengals from 1968 to 1975, and with the San Diego Chargers in 1976;

Whereas Bill Walsh served as head coach of Stanford University from 1977 to 1978 and again from 1992 to 1994, winning the Sun Bowl in 1977, the Bluebonnet Bowl in 1978, and the Blockbuster Bowl in 1992;

Whereas Bill Walsh became Head Coach of the San Francisco 49ers in 1979 and served in that position for 10 years, winning 6 Western Division titles and 3 National Football Conference Championships;

Whereas Bill Walsh led the 49ers to 3 Super Bowl wins in the 1980s: Super Bowl XVI, Super Bowl XIX, and Super Bowl XXIII;

Whereas Bill Walsh was the Associated Press and United Press International Coach of the Year in 1981;

Whereas Bill Walsh ended his professional coaching career with a record of 102 wins, 63 losses, and 1 tie;

Whereas Bill Walsh was elected to the Pro Football Hall of Fame in 1993;

Whereas Bill Walsh developed the innovative ''West Coast Offense'', which became widely used by many National Football League (NFL) teams;

Whereas Bill Walsh drafted and developed a countless number of NFL greats such as Joe Montana, Ronnie Lott, Dwight Clark, Steve Young, and Jerry Rice;

Whereas 14 of the NFL's 32 head coaches have some connection to Bill Walsh;

Whereas Bill Walsh developed the Minority Coaching Fellowship program to help African American coaches find jobs in the NFL and Division I college football;

Whereas Bill Walsh and the 49ers brought the people of San Francisco together following some of the most difficult times in the City's history and gave them much pride, joy, and excitement; and

Whereas Bill Walsh embodied the qualities of hard work, tenacity, dedication, attention to detail, respect, teamwork, and living up to one's potential: Now, therefore, be it

Resolved, That the Senate honors the life of William Ernest Walsh, a pioneer in the field of football, a true leader and teacher, and a dedicated husband, father, and friend.

SENATE RESOLUTION 291—DESIGNATING THE WEEK BEGINNING SEPTEMBER 9, 2007, AS ''NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK''

Mr. GRAHAM (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BIDEN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. CARDIN, Mr. CHAMBLISS, Mr. COCHRAN, Mr. CORNYN, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DURBIN, Mrs. HUTCHISON, Mr. ISAKSON, Mr. LEVIN, Mrs. LINCOLN, Mr. LOTT, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. OBAMA, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SCHUMER, Mr. SESSIONS, Mr. SPECTER, Mr. VITTER, and Mr. WARNER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 291

Whereas there are 103 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, that the Senate—

(1) designates the week beginning September 9, 2007, as ''National Historically Black Colleges and Universities Week''; and

(2) calls on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2593. Mr. LOTT (for himself, Mr. MCCONNELL, Mr. KYL, Mr. GREGG, Mr. CORNYN, Mr. BUNNING, Mr. COBURN, Mr. DEMINT, and Mrs. DOLE) proposed an amendment to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

SA 2594. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 2595. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table.

SA 2596. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2597. Mr. VOINOVICH (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2598. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2599. Mr. MCCONNELL (for himself, Mr. SPECTER, and Mr. THUNE) proposed an amendment to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra.

SA 2600. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2601. Mr. LEVIN (for himself, Ms. STABENOW, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2602. Mr. KERRY (for himself, Mr. BINGAMAN, Mr. SANDERS, Mr. CASEY, Mr. MENENDEZ, Mr. DURBIN, Mr. REED, Mr. BROWN, Mr. WHITEHOUSE, and Mr. BIDEN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra.

SA 2603. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2604. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2605. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table.

SA 2606. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 180, to require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes; which was ordered to lie on the table.

SA 2607. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 180, supra; which was ordered to lie on the table.

SA 2608. Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. CARDIN, Ms. MIKULSKI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table.

SA 2609. Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. CARDIN, Ms. MIKULSKI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2610. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2611. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2612. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table.

SA 2613. Mr. FEINGOLD (for himself, Mr. GRAHAM, Mr. VOINOVICH, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table.

SA 2614. Mr. FEINGOLD (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2615. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2616. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2617. Mrs. MCCASKILL (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 2618. Mr. WEBB submitted an amendment intended to be proposed to amendment

SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

SA 2619. Mr. NELSON of Florida (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2620. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2621. Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. NELSON of Nebraska, Mr. BAUCUS, Mr. GRASSLEY, Mr. KENNEDY, Mr. ENZI, Mr. DURBIN, Mr. CRAPO, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2622. Mr. CASEY (for Mr. ENZI (for himself and Ms. MIKULSKI)) proposed an amendment to the bill S. 845, to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

SA 2623. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2593. Mr. LOTT (for himself, Mr. MCCONNELL, Mr. KYL, Mr. GREGG, Mr. CORNYN, Mr. BUNNING, Mr. COBURN, Mr. DEMINT, and Mrs. DOLE) proposed an amendment to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; as follows:

On page 1, line 3, strike all after ''Section'' and insert the following:

1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Kids First Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION

Sec. 101. 5-Year reauthorization.

Sec. 102. Allotments for the 50 States and the District of Columbia based on expenditures and numbers of low-income children.

Sec. 103. Limitations on matching rates for populations other than low-income children or pregnant women covered through a section 1115 waiver.

Sec. 104. Prohibition on new section 1115 waivers for coverage of adults other than pregnant women.

Sec. 105. Standardization of determination of family income.

Sec. 106. Grants for outreach and enrollment.

Sec. 107. Improved State option for offering premium assistance for coverage through private plans.

Sec. 108. Treatment of unborn children.

Sec. 109. 50 percent matching rate for all Medicaid administrative costs.

Sec. 110. Reduction in payments for Medicaid administrative costs to prevent duplication of such costs under TANF.

Sec. 111. Effective date.

TITLE II—HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY

Sec. 200. Short title; purpose.

Subtitle A—Small Business Health Plans

Sec. 201. Rules governing small business health plans.

Sec. 202. Cooperation between Federal and State authorities.

Sec. 203. Effective date and transitional and other rules.

Subtitle B—Market Relief

Sec. 211. Market relief.

Subtitle C—Harmonization of Health Insurance Standards

Sec. 221. Health Insurance Standards Harmonization.

TITLE III—HEALTH SAVINGS ACCOUNTS

Sec. 301. Special rule for certain medical expenses incurred before establishment of health savings account.

Sec. 302. Use of account for individual high deductible health plan premiums.

Sec. 303. Exception to requirement for employers to make comparable health savings account contributions.

Sec. 304. Certain health reimbursement arrangement coverage disregarded coverage for health savings accounts.

TITLE IV—STUDY

Sec. 401. Study on tax treatment of and access to private health insurance.

TITLE I—STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION

SEC. 101. 5-YEAR REAUTHORIZATION.

(a) INCREASE IN NATIONAL ALLOTMENT.—Section 2104(a) of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (9), by striking ''and'' at the end;

(2) in paragraph (10), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(11) for fiscal year 2008, $7,000,000,000;

''(12) for fiscal year 2009, $7,200,000,000;

''(13) for fiscal year 2010, $7,600,000,000;

''(14) for fiscal year 2011, $8,300,000,000; and

''(15) for fiscal year 2012, $8,800,000,000.''.

(b) CONTINUATION OF ADDITIONAL ALLOTMENTS TO TERRITORIES.—Section 2104(c)(4)(B) of the Social Security Act (42 U.S.C. 1397dd(c)(4)(B)) is amended—

(1) by striking ''and'' after ''2006,''; and

(2) by inserting before the period the following: '', $56,000,000 for fiscal year 2008, $58,000,000 for fiscal year 2009, $61,000,000 for fiscal year 2010, $66,000,000 for fiscal year 2011, and $70,000,000 for fiscal year 2012''.

SEC. 102. ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA BASED ON EXPENDITURES AND NUMBERS OF LOW-INCOME CHILDREN.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

''(i) DETERMINATION OF ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA FOR FISCAL YEARS 2008 THROUGH 2012.—

''(1) IN GENERAL.—Notwithstanding the preceding provisions of this subsection and subject to paragraph (3), the Secretary shall allot to each subsection (b) State for each of fiscal years 2008 through 2012,, the amount determined for the fiscal year that is equal to the product of—

''(A) the amount available for allotment under subsection (a) for the fiscal year, reduced by the amount of allotments made under subsection (c) (determined without regard to paragraph (4) thereof) for the fiscal year; and

''(B) the sum of the State allotment factors determined under paragraph (2) with respect to the State and weighted in accordance with subparagraph (B) of that paragraph for the fiscal year.

''(2) STATE ALLOTMENT FACTORS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the State allotment factors are the following:

''(i) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the fiscal year to the sum of such projected expenditures for all States for the fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(ii) The ratio of the number of low-income children who have not attained age 19 with no health insurance coverage in the State, as determined by the Secretary on the basis of the arithmetic average of the number of such children for the 3 most recent Annual Social and Economic Supplements to the Current Population Survey of the Bureau of the Census available before the beginning of the calendar year before such fiscal year begins, to the sum of the number of such children determined for all States for such fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iii) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the preceding fiscal year to the sum of such projected expenditures for all States for such preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iv) The ratio of the actual expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the second preceding fiscal year to the sum of such actual expenditures for all States for such second preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(B) ASSIGNMENT OF WEIGHTS.—For each of fiscal years 2008 through 2012, the following percentage weights shall be applied to the ratios determined under subparagraph (A) for each such fiscal year:

''(i) 40 percent for the ratio determined under subparagraph (A)(i).

''(ii) 5 percent for the ratio determined under subparagraph (A)(ii).

''(iii) 50 percent for the ratio determined under subparagraph (A)(iii).

''(iv) 5 percent for the ratio determined under subparagraph (A)(iv).

''(C) DETERMINATION OF PROJECTED AND ACTUAL EXPENDITURES.—For purposes of subparagraph (A):

''(i) PROJECTED EXPENDITURES.—The projected expenditures described in clauses (i) and (iii) of such subparagraph with respect to a fiscal year shall be determined on the basis of amounts reported by States to the Secretary on the May 15th submission of Form CMS–37 and Form CMS–21B submitted not later than June 30th of the fiscal year preceding such year.

''(ii) ACTUAL EXPENDITURES.—The actual expenditures described in clause (iv) of such subparagraph with respect to a second preceding fiscal year shall be determined on the basis of amounts reported by States to the Secretary on Form CMS–64 and Form CMS–21 submitted not later than November 30 of the preceding fiscal year.''.

(b) 2-YEAR AVAILABILITY OF ALLOTMENTS; EXPENDITURES COUNTED AGAINST OLDEST 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 the succeeding paragraphs of this subsection, 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 each of fiscal years 2008 through 2012, shall remain available for expenditure by the State only through the end of the succeeding fiscal year for which such amounts are allotted.

''(2) ELIMINATION OF REDISTRIBUTION OF ALLOTMENTS NOT EXPENDED WITHIN 3 YEARS.—Notwithstanding subsection (f), amounts allotted to a State under this section for fiscal years beginning with fiscal year 2008 that remain unexpended as of the end of the second succeeding fiscal year shall not be redistributed to other States and shall revert to the Treasury on October 1 of the third succeeding fiscal year.

''(3) RULE FOR COUNTING EXPENDITURES AGAINST FISCAL YEAR ALLOTMENTS.—Expenditures under the State child health plan made on or after October 1, 2007, shall be counted against allotments for the earliest fiscal year for which funds are available for expenditure under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2104(b)(1) of the Social Security Act (42 U.S.C. 1397dd(b)(1)) is amended by striking ''subsection (d)'' and inserting ''the succeeding subsections of this section''.

(2) Section 2104(f) of such Act (42 U.S.C. 1397dd(f)) is amended by striking ''The'' and inserting ''Subject to subsection (e)(2), the''.

SEC. 103. LIMITATIONS ON MATCHING RATES FOR POPULATIONS OTHER THAN LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.

(a) LIMITATION ON PAYMENTS.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) LIMITATIONS ON MATCHING RATE FOR POPULATIONS OTHER THAN TARGETED LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.—For child health assistance or health benefits coverage furnished in any fiscal year beginning with fiscal year 2008:

''(A) FMAP APPLIED TO PAYMENTS FOR COVERAGE OF CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER ENROLLED IN THE STATE CHILD HEALTH PLAN ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT AND WHOSE GROSS FAMILY INCOME IS DETERMINED TO EXCEED THE INCOME ELIGIBILITY LEVEL SPECIFIED FOR A TARGETED LOW-INCOME CHILD.—Notwithstanding subsections (b)(1)(B) and (d) of section 2110, in the case of any individual described in subsection (c) of section 105 of the Kids First Act who the State elects to continue to provide child health assistance for under the State child health plan in accordance with the requirements of such subsection, the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to such assistance.

''(B) FMAP APPLIED TO PAYMENTS ONLY FOR NONPREGNANT CHILDLESS ADULTS AND PARENTS AND CARETAKER RELATIVES ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—The Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to payments for child health assistance or health benefits coverage provided under the State child health plan for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES ENROLLED UNDER A WAIVER ON THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(ii) NONPREGNANT CHILDLESS ADULTS ENROLLED UNDER A WAIVER ON SUCH DATE.—A nonpregnant childless adult enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project described in section 6102(c)(3) of the Deficit Reduction Act of 2005 (42 U.S.C. 1397gg note) on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(iii) NO REPLACEMENT ENROLLEES.—Nothing in clauses (i) or (ii) shall be construed as authorizing a State to provide child health assistance or health benefits coverage under a waiver described in either such clause to a nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child, or a nonpregnant childless adult, who is not enrolled under the waiver on the date of enactment of the Kids First Act.

''(C) NO FEDERAL PAYMENT FOR ANY NEW NONPREGNANT ADULT ENROLLEES OR FOR SUCH ENROLLEES WHO NO LONGER SATISFY INCOME ELIGIBILITY REQUIREMENTS.—Payment shall not be made under this section for child health assistance or other health benefits coverage provided under the State child health plan or under a waiver under section 1115 for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES UNDER A SECTION 1115 WAIVER APPROVED AFTER THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child under a waiver, experimental, pilot, or demonstration project that is approved on or after the date of enactment of the Kids First Act.

''(ii) PARENTS, CARETAKER RELATIVES, AND NONPREGNANT CHILDLESS ADULTS WHOSE FAMILY INCOME EXCEEDS THE INCOME ELIGIBILITY LEVEL SPECIFIED UNDER A SECTION 1115 WAIVER APPROVED PRIOR TO THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child whose family income exceeds the income eligibility level referred to in subparagraph (B)(i), and any nonpregnant childless adult whose family income exceeds the income eligibility level referred to in subparagraph (B)(ii).

''(iii) NONPREGNANT CHILDLESS ADULTS, PARENTS, OR CARETAKER RELATIVES NOT ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(i) on the date of enactment of the Kids First Act, and any nonpregnant childless adult who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(ii)(I) on such date.

''(D) DEFINITION OF CARETAKER RELATIVE.—In this subparagraph, the term 'caretaker relative' has the meaning given that term for purposes of carrying out section 1931.

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as implying that payments for coverage of populations for which the Federal medical assistance percentage (as so determined) is to be substituted for the enhanced FMAP under subsection (a)(1) in accordance with this paragraph are to be made from funds other than the allotments determined for a State under section 2104.''.

(b) CONFORMING AMENDMENT.—Section 2105(a)(1) of the Social Security Act (42 U.S.C. 1397dd(a)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''or subsection (c)(8)'' after ''subparagraph (B)''.

SEC. 104. PROHIBITION ON NEW SECTION 1115 WAIVERS FOR COVERAGE OF ADULTS OTHER THAN PREGNANT WOMEN.

(a) IN GENERAL.—Section 2107(f) of the Social Security Act (42 U.S.C. 1397gg(f)) is amended—

(1) by striking '', the Secretary'' and inserting '':

''(1) The Secretary''; and

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

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage for any other adult other than a pregnant woman whose family income does not exceed the income eligibility level specified for a targeted low-income child in that State under a waiver or project approved as of such date.

''(3) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2105(c)(8).''.

(b) CLARIFICATION OF AUTHORITY FOR COVERAGE OF PREGNANT WOMEN.—Section 2106 of the Social Security Act (42 U.S.C. 1397ff) is amended by adding at the end the following new subsection:

''(f) NO AUTHORITY TO COVER PREGNANT WOMEN THROUGH STATE PLAN.—For purposes of this title, a State may provide assistance to a pregnant woman under the State child health plan only—

''(1) by virtue of a waiver under section 1115; or

''(2) through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect on the date of enactment of the Kids First Act).''.

(c) ASSURANCE OF NOTICE TO AFFECTED ENROLLEES.—The Secretary of Health and Human Services shall establish procedures to ensure that States provide adequate public notice for parents, caretaker relatives, and nonpregnant childless adults whose eligibility for child health assistance or health

benefits coverage under a waiver under section 1115 of the Social Security Act will be terminated as a result of the amendments made by subsection (a), and that States otherwise adhere to regulations of the Secretary relating to procedures for terminating waivers under section 1115 of the Social Security Act.

SEC. 105. STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.

(a) ELIGIBILITY BASED ON GROSS INCOME.—

(1) IN GENERAL.—Section 2110 of the Social Security Act (42 U.S.C. 1397jj) is amended by adding at the end the following new subsection:

''(d) STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.—A State shall determine family income for purposes of determining income eligibility for child health assistance or other health benefits coverage under the State child health plan (or under a waiver of such plan under section 1115) solely on the basis of the gross income (as defined by the Secretary) of the family.''.

(2) PROHIBITION ON WAIVER OF REQUIREMENTS.—Section 2107(f) (42 U.S.C. 1397gg(f)), as amended by section 104(a), is amended by adding at the end the following new paragraph:

''(4) The Secretary may not approve a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2110(d) (relating to determining income eligibility on the basis of gross income) and regulations promulgated to carry out such requirements.''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate interim final regulations defining gross income for purposes of section 2110(d) of the Social Security Act, as added by subsection (a).

(c) APPLICATION TO CURRENT ENROLLEES.—The interim final regulations promulgated under subsection (b) shall not be used to determine the income eligibility of any individual enrolled in a State child health plan under title XXI of the Social Security Act on the date of enactment of this Act before the date on which such eligibility of the individual is required to be redetermined under the plan as in effect on such date. In the case of any individual enrolled in such plan on such date who, solely as a result of the application of subsection (d) of section 2110 of the Social Security Act (as added by subsection (a)) and the regulations promulgated under subsection (b), is determined to be ineligible for child health assistance under the State child health plan, a State may elect, subject to substitution of the Federal medical assistance percentage for the enhanced FMAP under section 2105(c)(8)(A) of the Social Security Act (as added by section 103(a)), to continue to provide the individual with such assistance for so long as the individual otherwise would be eligible for such assistance and the individual's family income, if determined under the income and resource standards and methodologies applicable under the State child health plan on September 30, 2007, would not exceed the income eligibility level applicable to the individual under the State child health plan.

SEC. 106. GRANTS FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated for a fiscal year under subsection (f), subject to paragraph (2), the Secretary shall award grants to eligible entities to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) 10 PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts for the fiscal year shall be used by the Secretary for expenditures during the fiscal year to carry out a national enrollment campaign in accordance with subsection (g).

''(b) AWARD OF GRANTS.—

''(1) PRIORITY FOR AWARDING.—

''(A) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(i) propose to target geographic areas with high rates of—

''(I) eligible but unenrolled children, including such children who reside in rural areas; or

''(II) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(ii) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(B) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (f) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(2) 2-YEAR AVAILABILITY.—A grant awarded under this section for a fiscal year shall remain available for expenditure through the end of the succeeding fiscal year.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments.

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

''(e) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A State, national, local, or community-based public or nonprofit private organization.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

''(G) An elementary or secondary school.

''(H) A national, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a Federally-qualified health center (as defined in section 1905(1)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(f) APPROPRIATION.—

''(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of awarding grants under this section—

''(A) $100,000,000 for each of fiscal years 2008 and 2009;

''(B) $75,000,000 for each of fiscal years 2010 and 2011; and

''(C) $50,000,000 for fiscal year 2012.

''(2) GRANTS IN ADDITION TO OTHER AMOUNTS PAID.—Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(g) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2) for a fiscal year, the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO EXPENDITURES FOR OUTREACH AND ENROLLMENT.—The limitation under subparagraph (A) shall not apply with respect to expenditures for outreach activities under section 2102(c)(1), or for enrollment activities, for children eligible for child health assistance under the State child health plan or medical assistance under the State plan under title XIX.''.

SEC. 107. IMPROVED STATE OPTION FOR OFFERING PREMIUM ASSISTANCE FOR COVERAGE THROUGH PRIVATE PLANS.

(a) IN GENERAL.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)), as amended by section 103(a) is amended by adding at the end the following:

''(9) ADDITIONAL STATE OPTION FOR OFFERING PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph.

''(B) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(i) IN GENERAL.—In this paragraph, the term 'qualified employer sponsored coverage' means a group health plan or health insurance coverage offered through an employer that is—

''(I) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(II) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(III) cost-effective, as determined under clause (ii).

''(ii) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(I) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(II) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(iii) HIGH DEDUCTIBLE HEALTH PLANS INCLUDED.—The term 'qualified employer sponsored coverage' includes a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting

the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on June 28, 2007.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 of the Social Security Act (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(9) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SEC. 108. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) of the Social Security Act (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 of such Act (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may—

''(1) continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends; and

''(2) in the interest of the child to be born, have flexibility in defining and providing services to benefit either the mother or unborn child consistent with the health of both.''.

SEC. 109. 50 PERCENT MATCHING RATE FOR ALL MEDICAID ADMINISTRATIVE COSTS.

Section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3)(E) as paragraph (2) and re-locating and indenting it appropriately;

(3) in paragraph (2), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), and indenting them appropriately;

(4) by striking paragraphs (3) and (4);

(5) in paragraph (5), by striking ''which are attributable to the offering, arranging, and furnishing'' and inserting ''which are for the medical assistance costs of furnishing'';

(6) by striking paragraph (6);

(7) in paragraph (7), by striking ''subject to section 1919(g)(3)(B),''; and

(8) by redesignating paragraphs (5) and (7) as paragraphs (3) and (4), respectively.

SEC. 110. REDUCTION IN PAYMENTS FOR MEDICAID ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF SUCH PAYMENTS UNDER TANF.

Section 1903 of such Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking ''section 1919(g)(3)(B)'' and inserting ''subsection (h)'';

(2) in subsection (a)(2)(D) by inserting '', subject to subsection (g)(3)(C) of such section'' after ''as are attributable to State activities under section 1919(g)''; and

(3) by adding after subsection (g) the following new subsection:

''(h) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS UNDER TITLE IV.—Beginning with the calendar quarter commencing October 1, 2007, the Secretary shall reduce the amount paid to each State under subsection (a)(7) for each quarter by an amount equal to ¼ of the annualized amount determined for the Medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)).''.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this title take effect on October 1, 2007.

(b) DELAY IF STATE LEGISLATION REQUIRED.—In the case of a State child health plan under title XXI of the Social Security Act or a waiver of such plan under section 1115 of such Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan or waiver to meet the additional requirements imposed by the amendments made by this title, the State child health plan or waiver shall not be regarded as failing to comply with the requirements of such title XXI solely on the basis of its failure to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this title. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY

SEC. 200. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Health Insurance Marketplace Modernization and Affordability Act of 2007''.

(b) PURPOSES.—It is the purpose of this title to—

(1) make more affordable health insurance options available to small businesses, working families, and all Americans;

(2) assure effective State regulatory protection of the interests of health insurance consumers; and

(3) create a more efficient and affordable health insurance marketplace through collaborative development of uniform regulatory standards.

Subtitle A—Small Business Health Plans

SEC. 201. RULES GOVERNING SMALL BUSINESS HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

''SEC. 801. SMALL BUSINESS HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'small business health plan' means a fully insured group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership;

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation; and

''(4) does not condition membership on the basis of a minimum group size.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), (3), and (4) shall be deemed to be a sponsor described in this subsection.

''SEC. 802. CERTIFICATION OF SMALL BUSINESS HEALTH PLANS.

''(a) IN GENERAL.—Not later than 6 months after the date of enactment of this part, the applicable authority shall prescribe by interim final rule a procedure under which the applicable authority shall certify small business health plans which apply for certification as meeting the requirements of this part.

''(b) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—A small business health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(c) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of small business health plans under this part. Such regulation shall provide for the revocation of a certification if the applicable authority finds that the small business health plan involved is failing to comply with the requirements of this part.

''(d) EXPEDITED AND DEEMED CERTIFICATION.—

''(1) IN GENERAL.—If the Secretary fails to act on an application for certification under this section within 90 days of receipt of such application, the applying small business health plan shall be deemed certified until such time as the Secretary may deny for cause the application for certification.

''(2) CIVIL PENALTY.—The Secretary may assess a civil penalty against the board of trustees and plan sponsor (jointly and severally) of a small business health plan that is deemed certified under paragraph (1) of up to $500,000 in the event the Secretary determines that the application for certification

of such small business health plan was willfully or with gross negligence incomplete or inaccurate.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to a small business health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to a small business health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a plan document, by a board of trustees which pursuant to a trust agreement has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) BOARD MEMBERSHIP.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(ii) LIMITATION.—

''(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

''(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to a small business health plan which is in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

''(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with insurers.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor;

''(B) the sponsor; or

''(C) an affiliated member of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the dependents of individuals described in subparagraph (A).

''(b) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(c) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to a small business health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) information regarding all coverage options available under the plan is made readily available to any employer eligible to participate; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to a small business health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—

''(A) IN GENERAL.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(i) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)); and

''(ii) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)).

''(B) DESCRIPTION OF MATERIAL PROVISIONS.—The terms of the health insurance coverage (including the terms of any individual certificates that may be offered to individuals in connection with such coverage) describe the material benefit and rating, and other provisions set forth in this section and such material provisions are included in the summary plan description.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) IN GENERAL.—The contribution rates for any participating small employer shall not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and shall not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) EFFECT OF TITLE.—Nothing in this title or any other provision of law shall be construed to preclude a health insurance issuer offering health insurance coverage in connection with a small business health plan, and at the request of such small business health plan, from—

''(i) setting contribution rates for the small business health plan based on the claims experience of the plan so long as any variation in such rates complies with the requirements of clause (ii), except that small business health plans shall not be subject to paragraphs (1)(A) and (3) of section 2911(b) of the Public Health Service Act; or

''(ii) varying contribution rates for participating employers in a small business health plan in a State to the extent that such rates could vary using the same methodology employed in such State for regulating small group premium rates, subject to the terms of part I of subtitle A of title XXIX of the Public Health Service Act (relating to rating requirements), as added by subtitle B of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

''(3) EXCEPTIONS REGARDING SELF-EMPLOYED AND LARGE EMPLOYERS.—

''(A) SELF EMPLOYED.—

''(i) IN GENERAL.—Small business health plans with participating employers who are self-employed individuals (and their dependents) shall enroll such self-employed participating employers in accordance with rating rules that do not violate the rating rules for self-employed individuals in the State in which such self-employed participating employers are located.

''(ii) GUARANTEE ISSUE.—Small business health plans with participating employers who are self-employed individuals (and their dependents) may decline to guarantee issue to such participating employers in States in which guarantee issue is not otherwise required for the self-employed in that State.

''(B) LARGE EMPLOYERS.—Small business health plans with participating employers that are larger than small employers (as defined in section 808(a)(10)) shall enroll such large participating employers in accordance with rating rules that do not violate the rating rules for large employers in the State in which such large participating employers are located.

''(4) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

''(b) ABILITY OF SMALL BUSINESS HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as

defined in section 514(c)(1)) shall be construed to preclude a small business health plan or a health insurance issuer offering health insurance coverage in connection with a small business health plan from exercising its sole discretion in selecting the specific benefits and services consisting of medical care to be included as benefits under such plan or coverage, except that such benefits and services must meet the terms and specifications of part II of subtitle A of title XXIX of the Public Health Service Act (relating to lower cost plans), as added by subtitle B of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

''(c) DOMICILE AND NON-DOMICILE STATES.—

''(1) DOMICILE STATE.—Coverage shall be issued to a small business health plan in the State in which the sponsor's principal place of business is located.

''(2) NON-DOMICILE STATES.—With respect to a State (other than the domicile State) in which participating employers of a small business health plan are located but in which the insurer of the small business health plan in the domicile State is not yet licensed, the following shall apply:

''(A) TEMPORARY PREEMPTION.—If, upon the expiration of the 90-day period following the submission of a licensure application by such insurer (that includes a certified copy of an approved licensure application as submitted by such insurer in the domicile State) to such State, such State has not approved or denied such application, such State's health insurance licensure laws shall be temporarily preempted and the insurer shall be permitted to operate in such State, subject to the following terms:

''(i) APPLICATION OF NON-DOMICILE STATE LAW.—Except with respect to licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits as added by the Health Insurance Marketplace Modernization and Affordability Act of 2007), the laws and authority of the non-domicile State shall remain in full force and effect.

''(ii) REVOCATION OF PREEMPTION.—The preemption of a non-domicile State's health insurance licensure laws pursuant to this subparagraph, shall be terminated upon the occurrence of either of the following:

''(I) APPROVAL OR DENIAL OF APPLICATION.—The approval of denial of an insurer's licensure application, following the laws and regulations of the non-domicile State with respect to licensure.

''(II) DETERMINATION OF MATERIAL VIOLATION.—A determination by a non-domicile State that an insurer operating in a non-domicile State pursuant to the preemption provided for in this subparagraph is in material violation of the insurance laws (other than licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits added by the Health Insurance Marketplace Modernization and Affordability Act of 2007)) of such State.

''(B) NO PROHIBITION ON PROMOTION.—Nothing in this paragraph shall be construed to prohibit a small business health plan or an insurer from promoting coverage prior to the expiration of the 90-day period provided for in subparagraph (A), except that no enrollment or collection of contributions shall occur before the expiration of such 90-day period.

''(C) LICENSURE.—Except with respect to the application of the temporary preemption provision of this paragraph, nothing in this part shall be construed to limit the requirement that insurers issuing coverage to small business health plans shall be licensed in each State in which the small business health plans operate.

''(D) SERVICING BY LICENSED INSURERS.—Notwithstanding subparagraph (C), the requirements of this subsection may also be satisfied if the participating employers of a small business health plan are serviced by a licensed insurer in that State, even where such insurer is not the insurer of such small business health plan in the State in which such small business health plan is domiciled.

''SEC. 806. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), a small business health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to small business health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan, health insurance issuer, and contract administrators and other service providers.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to a small business health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which the small business health plans operate.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any small business health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''SEC. 807. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''A small business health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

''(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

''SEC. 808. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor, or

''(B) in the case of a sponsor with members which consist of associations, a person who is a member or employee of any such association and elects an affiliated status with the sponsor.

''(2) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary of Labor, except that, in connection with any exercise of the Secretary's authority with respect to which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

''(3) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(4) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1), except that such term shall not include excepted benefits (as defined in section 733(c)).

''(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(9) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a small business health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan

in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(10) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, a small employer as defined in section 2791(e)(4).

''(11) TRADE ASSOCIATION AND PROFESSIONAL ASSOCIATION.—The terms 'trade association' and 'professional association' mean an entity that meets the requirements of section 1.501(c)(6)-1 of title 26, Code of Federal Regulations (as in effect on the date of enactment of this section).

''(b) RULE OF CONSTRUCTION.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is a small business health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(1) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(2) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(c) RENEWAL.—Notwithstanding any provision of law to the contrary, a participating employer in a small business health plan shall not be deemed to be a plan sponsor in applying requirements relating to coverage renewal.

''(d) HEALTH SAVINGS ACCOUNTS.—Nothing in this part shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of a small business health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (d)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with a small business health plan which is certified under part 8.

''(2) In any case in which health insurance coverage of any policy type is offered under a small business health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may establish rating and benefit requirements that would otherwise apply to such coverage, provided the requirements of subtitle A of title XXIX of the Public Health Service Act (as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2007) (concerning health plan rating and benefits) are met.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes a person serving as the sponsor of a small business health plan under part 8.''.

(d) SAVINGS CLAUSE.—Section 731(c) of the Employee Retirement Income Security Act of 1974 is amended by inserting ''or part 8'' after ''this part''.

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

''801. Small business health plans.
''802. Certification of small business health plans.
''803. Requirements relating to sponsors and boards of trustees.
''804. Participation and coverage requirements.
''805. Other requirements relating to plan documents, contribution rates, and benefit options.
''806. Requirements for application and related requirements.
''807. Notice requirements for voluntary termination.
''808. Definitions and rules of construction.''.

SEC. 202. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(d) CONSULTATION WITH STATES WITH RESPECT TO SMALL BUSINESS HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to a small business health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify small business health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular small business health plan, as the State with which consultation is required. In carrying out this paragraph such State shall be the domicile State, as defined in section 805(c).''.

SEC. 203. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this subtitle shall take effect 12 months after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle within 6 months after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 808(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of trustees which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement or at such time that the arrangement provides coverage to participants and beneficiaries in any State other than the States in which coverage is provided on such date of enactment.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall have the meanings provided in section 808 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''small business health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

Subtitle B—Market Relief

SEC. 211. MARKET RELIEF.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXX—HEALTH CARE INSURANCE MARKETPLACE MODERNIZATION

''SEC. 3001. GENERAL INSURANCE DEFINITIONS.

''In this title, the terms 'health insurance coverage', 'health insurance issuer', 'group health plan', and 'individual health insurance' shall have the meanings given such terms in section 2791.

''Subtitle A—Market Relief

''PART I—RATING REQUIREMENTS

''SEC. 3011. DEFINITIONS.

''(a) GENERAL DEFINITIONS.—In this part:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that, with respect to the small group market, has enacted either the Model Small Group Rating Rules or, if applicable to such State, the Transitional Model Small Group Rating Rules, each in their entirety and as the exclusive laws of the State that relate to rating in the small group insurance market.

''(2) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner

or official or officials designated by the State to enforce the insurance laws of such State.

''(3) BASE PREMIUM RATE.—The term 'base premium rate' means, for each class of business with respect to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage

''(4) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Model Small Group Rating Rules or, as applicable, transitional small group rating rules in a State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage in that State consistent with the Model Small Group Rating Rules, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency); and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Model Small Group Rating Rules and an affirmation that such Rules are included in the terms of such contract.

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c)).

''(6) INDEX RATE.—The term 'index rate' means for each class of business with respect to the rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

''(7) MODEL SMALL GROUP RATING RULES.—The term ' Model Small Group Rating Rules' means the rules set forth in subsection (b).

''(8) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

''(9) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

''(10) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

''(b) DEFINITION RELATING TO MODEL SMALL GROUP RATING RULES.—The term 'Model Small Group Rating Rules' means adapted rating rules drawn from the Adopted Small Employer Health Insurance Availability Model Act of 1993 of the National Association of Insurance Commissioners consisting of the following:

''(1) PREMIUM RATES.—Premium rates for health benefit plans to which this title applies shall be subject to the following provisions relating to premiums:

''(A) INDEX RATE.—The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than 20 percent.

''(B) CLASS OF BUSINESSES.—With respect to a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than 25 percent of the index rate under subparagraph (A).

''(C) INCREASES FOR NEW RATING PERIODS.—The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

''(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, except that such change shall not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.

''(ii) Any adjustment, not to exceed 15 percent annually and adjusted pro rata for rating periods of less then 1 year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business involved.

''(iii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

''(D) UNIFORM APPLICATION OF ADJUSTMENTS.—Adjustments in premium rates for claim experience, health status, or duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

''(E) USE OF INDUSTRY AS A CASE CHARACTERISTIC.—A small employer carrier may utilize industry as a case characteristic in establishing premium rates, so long as the highest rate factor associated with any industry classification does not exceed the lowest rate factor associated with any industry classification by more than 15 percent.

''(F) CONSISTENT APPLICATION OF FACTORS.—Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

''(G) TREATMENT OF PLANS AS HAVING SAME RATING PERIOD.—A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

''(H) RESTRICTED NETWORK PROVISIONS.—For purposes of this subsection, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain a similar provision if the restriction of benefits to network providers results in substantial differences in claims costs.

''(I) PROHIBITION ON USE OF CERTAIN CASE CHARACTERISTICS.—The small employer carrier shall not use case characteristics other than age, gender, industry, geographic area, family composition, group size, and participation in wellness programs without prior approval of the applicable State authority.

''(J) REQUIRE COMPLIANCE.—Premium rates for small business health benefit plans shall comply with the requirements of this subsection notwithstanding any assessments paid or payable by a small employer carrier as required by a State's small employer carrier reinsurance program.

''(2) ESTABLISHMENT OF SEPARATE CLASS OF BUSINESS.—Subject to paragraph (3), a small employer carrier may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative costs related to the following:

''(A) The small employer carrier uses more than one type of system for the marketing and sale of health benefit plans to small employers.

''(B) The small employer carrier has acquired a class of business from another small employer carrier.

''(C) The small employer carrier provides coverage to one or more association groups that meet the requirements of this title.

''(3) LIMITATION.—A small employer carrier may establish up to 9 separate classes of business under paragraph (2), excluding those classes of business related to association groups under this title.

''(4) ADDITIONAL GROUPINGS.—The applicable State authority may approve the establishment of additional distinct groupings by small employer carriers upon the submission of an application to the applicable State authority and a finding by the applicable State authority that such action would enhance the efficiency and fairness of the small employer insurance marketplace.

''(5) LIMITATION ON TRANSFERS.—A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

''(6) SUSPENSION OF THE RULES.—The applicable State authority may suspend, for a specified period, the application of paragraph (1) to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the applicable State authority either that the suspension is reasonable when considering the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

"SEC. 3012. RATING RULES.

''(a) IMPLEMENTATION OF MODEL SMALL GROUP RATING RULES.—Not later than 6 months after the enactment of this title, the Secretary shall promulgate regulations implementing the Model Small Group Rating Rules pursuant to section 3011(b).

''(b) TRANSITIONAL MODEL SMALL GROUP RATING RULES.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of this title and to the extent necessary to provide for a graduated transition to the Model Small Group Rating Rules, the Secretary, in consultation with the NAIC, shall promulgate Transitional Model Small Group Rating Rules in accordance with this subsection, which shall be applicable with respect to certain nonadopting States for a period of not to exceed 5 years from the date of the promulgation of

the Model Small Group Rating Rules pursuant to subsection (a). After the expiration of such 5-year period, the transitional model small group rating rules shall expire, and the Model Small Group Rating Rules shall then apply with respect to all non-adopting States pursuant to the provisions of this part.

''(2) PREMIUM VARIATION DURING TRANSITION.—

''(A) TRANSITION STATES.—During the transition period described in paragraph (1), small group health insurance coverage offered in a non-adopting State that had in place premium rating band requirements or premium limits that varied by less than 12.5 percent from the index rate within a class of business on the date of enactment of this title, shall not be subject to the premium variation provision of section 3011(b)(1) of the Model Small Group Rating Rules and shall instead be subject to the Transitional Model Small Group Rating Rules as promulgated by the Secretary pursuant to paragraph (1).

''(B) NON-TRANSITION STATES.—During the transition period described in paragraph (1), and thereafter, small group health insurance coverage offered in a non-adopting State that had in place premium rating band requirements or premium limits that varied by more than 12.5 percent from the index rate within a class of business on the date of enactment of this title, shall not be subject to the Transitional Model Small Group Rating Rules as promulgated by the Secretary pursuant to paragraph (1), and instead shall be subject to the Model Small Group Rating Rules effective beginning with the first plan year or calendar year following the promulgation of such Rules, at the election of the eligible insurer.

''(3) TRANSITIONING OF OLD BUSINESS.—In developing the transitional model small group rating rules under paragraph (1), the Secretary shall, after consultation with the National Association of Insurance Commissioners and representatives of insurers operating in the small group health insurance market, promulgate special transition standards and timelines with respect to independent rating classes for old and new business, to the extent reasonably necessary to protect health insurance consumers and to ensure a stable and fair transition for old and new market entrants.

''(4) OTHER TRANSITIONAL AUTHORITY.—In developing the Transitional Model Small Group Rating Rules under paragraph (1), the Secretary shall provide for the application of the Transitional Model Small Group Rating Rules in transition States as the Secretary may determine necessary for a an effective transition.

''(c) MARKET RE-ENTRY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a health insurance issuer that has voluntarily withdrawn from providing coverage in the small group market prior to the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2007 shall not be excluded from re-entering such market on a date that is more than 180 days after such date of enactment.

''(2) TERMINATION.—The provision of this subsection shall terminate on the date that is 24 months after the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

"SEC. 3013. APPLICATION AND PREEMPTION.

''(a) SUPERSEDING OF STATE LAW.—

''(1) IN GENERAL.—This part shall supersede any and all State laws of a non-adopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle) relate to rating in the small group insurance market as applied to an eligible insurer, or small group health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small employer through a small business health plan, in a State.

''(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a non-adopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle)—

''(A) prohibit an eligible insurer from offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules; or

''(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting states.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers that offer small group health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law in a non-adopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Model Small Group Rating Rules or transitional model small group rating rules.

''(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974

''(c) EFFECTIVE DATE.—This section shall apply, at the election of the eligible insurer, beginning in the first plan year or the first calendar year following the issuance of the final rules by the Secretary under the Model Small Group Rating Rules or, as applicable, the Transitional Model Small Group Rating Rules, but in no event earlier than the date that is 12 months after the date of enactment of this title.

"SEC. 3014. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

''(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 3013.

''(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

''(d) EXPEDITED REVIEW.—

''(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

''(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

''(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 3015. ONGOING REVIEW.

''Not later than 5 years after the date on which the Model Small Group Rating Rules are issued under this part, and every 5 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the Model Small Group Rating Rules on access, cost, and market functioning in the small group market. Such report may, if the Secretary, in consultation with the National Association of Insurance Commissioners, determines such is appropriate for improving access, costs, and market functioning, contain legislative proposals for recommended modification to such Model Small Group Rating Rules.

"PART II—AFFORDABLE PLANS

"SEC. 3021. DEFINITIONS.

''In this part:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the Benefit Choice Standards in their entirety and as the exclusive laws of the State that relate to benefit, service, and provider mandates in the group and individual insurance markets.

''(2) BENEFIT CHOICE STANDARDS.—The term 'Benefit Choice Standards' means the Standards issued under section 3022.

''(3) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Benefit Choice Standards in a nonadopting State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the Benefit Choice Standards, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description

in the insurer's contract of the Benefit Choice Standards and that adherence to such Standards is included as a term of such contract.

''(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the group or individual health insurance markets, except that such term shall not include excepted benefits (as defined in section 2791(c)).

''(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

''(6) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

''(7) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"SEC. 3022. OFFERING AFFORDABLE PLANS.

''(a) BENEFIT CHOICE OPTIONS.—

''(1) DEVELOPMENT.—Not later than 6 months after the date of enactment of this title, the Secretary shall issue, by interim final rule, Benefit Choice Standards that implement the standards provided for in this part.

''(2) BASIC OPTIONS.—The Benefit Choice Standards shall provide that a health insurance issuer in a State, may offer a coverage plan or plan in the small group market, individual market, large group market, or through a small business health plan, that does not comply with one or more mandates regarding covered benefits, services, or category of provider as may be in effect in such State with respect to such market or markets (either prior to or following the date of enactment of this title), if such issuer also offers in such market or markets an enhanced option as provided for in paragraph (3).

''(3) ENHANCED OPTION.—A health insurance issuer issuing a basic option as provided for in paragraph (2) shall also offer to purchasers (including, with respect to a small business health plan, the participating employers of such plan) an enhanced option, which shall at a minimum include such covered benefits, services, and categories of providers as are covered by a State employee coverage plan in one of the 5 most populous States as are in effect in the calendar year in which such enhanced option is offered.

''(4) PUBLICATION OF BENEFITS.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary shall publish in the Federal Register such covered benefits, services, and categories of providers covered in that calendar year by the State employee coverage plans in the 5 most populous States.

''(b) EFFECTIVE DATES.—

''(1) SMALL BUSINESS HEALTH PLANS.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

''(2) NON-ASSOCIATION COVERAGE.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

"SEC. 3023. APPLICATION AND PREEMPTION.

''(a) SUPERCEDING OF STATE LAW.—

''(1) IN GENERAL.—This part shall supersede any and all State laws insofar as such laws relate to mandates relating to covered benefits, services, or categories of provider in the health insurance market as applied to an eligible insurer, or health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

''(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as such laws—

''(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards, as provided for in section 3022(a); or

''(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Benefit Choice Standards.

''(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974

"SEC. 3024. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

''(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 3023.

''(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

''(d) EXPEDITED REVIEW.—

''(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

''(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

''(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 3025. RULES OF CONSTRUCTION.

''(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a health insurance issuer in an adopting State or an eligible insurer in a non-adopting State may amend its existing policies to be consistent with the terms of this subtitle (concerning rating and benefits).

''(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.''.

Subtitle C—Harmonization of Health Insurance Standards

SEC. 221. HEALTH INSURANCE STANDARDS HARMONIZATION.

Title XXIX of the Public Health Service Act (as added by section 201) is amended by adding at the end the following:

"Subtitle B—Standards Harmonization

"SEC. 3031. DEFINITIONS.

''In this subtitle:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the harmonized standards adopted under this subtitle in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

''(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the harmonized standards in a nonadopting State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the harmonized standards published pursuant to section 3032(d), and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such health coverage) and filed with the State pursuant to subparagraph (B), a description of the harmonized standards published pursuant to section 3032(g)(2) and an affirmation that such standards are a term of the contract.

''(3) HARMONIZED STANDARDS.—The term 'harmonized standards' means the standards certified by the Secretary under section 3032(d).

''(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c).

''(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that fails to

enact, within 18 months of the date on which the Secretary certifies the harmonized standards under this subtitle, the harmonized standards in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

''(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

''SEC. 3032. HARMONIZED STANDARDS.

''(a) BOARD.—

''(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the NAIC, shall establish the Health Insurance Consensus Standards Board (referred to in this subtitle as the 'Board') to develop recommendations that harmonize inconsistent State health insurance laws in accordance with the procedures described in subsection (b).

''(2) COMPOSITION.—

''(A) IN GENERAL.—The Board shall be composed of the following voting members to be appointed by the Secretary after considering the recommendations of professional organizations representing the entities and constituencies described in this paragraph:

''(i) Four State insurance commissioners as recommended by the National Association of Insurance Commissioners, of which 2 shall be Democrats and 2 shall be Republicans, and of which one shall be designated as the chairperson and one shall be designated as the vice chairperson.

''(ii) Four representatives of State government, two of which shall be governors of States and two of which shall be State legislators, and two of which shall be Democrats and two of which shall be Republicans.

''(iii) Four representatives of health insurers, of which one shall represent insurers that offer coverage in the small group market, one shall represent insurers that offer coverage in the large group market, one shall represent insurers that offer coverage in the individual market, and one shall represent carriers operating in a regional market.

''(iv) Two representatives of insurance agents and brokers.

''(v) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

''(B) EX OFFICIO MEMBER.—A representative of the Secretary shall serve as an ex officio member of the Board.

''(3) ADVISORY PANEL.—The Secretary shall establish an advisory panel to provide advice to the Board, and shall appoint its members after considering the recommendations of professional organizations representing the entities and constituencies identified in this paragraph:

''(A) Two representatives of small business health plans.

''(B) Two representatives of employers, of which one shall represent small employers and one shall represent large employers.

''(C) Two representatives of consumer organizations.

''(D) Two representatives of health care providers.

''(4) QUALIFICATIONS.—The membership of the Board shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health plans, providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

''(5) ETHICAL DISCLOSURE.—The Secretary shall establish a system for public disclosure by members of the Board of financial and other potential conflicts of interest relating to such members. Members of the Board shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521).

''(6) DIRECTOR AND STAFF.—Subject to such review as the Secretary deems necessary to assure the efficient administration of the Board, the chair and vice-chair of the Board may—

''(A) employ and fix the compensation of an Executive Director (subject to the approval of 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 Board (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 Board;

''(E) provide transportation and subsistence for persons serving without compensation; and

''(F) prescribe such rules as it deems necessary with respect to the internal organization and operation of the Board.

''(7) TERMS.—The members of the Board shall serve for the duration of the Board. Vacancies in the Board shall be filled as needed in a manner consistent with the composition described in paragraph (2).

''(b) DEVELOPMENT OF HARMONIZED STANDARDS.—

''(1) IN GENERAL.—In accordance with the process described in subsection (c), the Board shall identify and recommend nationally harmonized standards for each of the following process categories:

''(A) FORM FILING AND RATE FILING.—Form and rate filing standards shall be established which promote speed to market and include the following defined areas for States that require such filings:

''(i) Procedures for form and rate filing pursuant to a streamlined administrative filing process.

''(ii) Timeframes for filings to be reviewed by a State if review is required before they are deemed approved.

''(iii) Timeframes for an eligible insurer to respond to State requests following its review.

''(iv) A process for an eligible insurer to self-certify.

''(v) State development of form and rate filing templates that include only non-preempted State law and Federal law requirements for eligible insurers with timely updates.

''(vi) Procedures for the resubmission of forms and rates.

''(vii) Disapproval rationale of a form or rate filing based on material omissions or violations of non-preempted State law or Federal law with violations cited and explained.

''(viii) For States that may require a hearing, a rationale for hearings based on violations of non-preempted State law or insurer requests.

''(B) MARKET CONDUCT REVIEW.—Market conduct review standards shall be developed which provide for the following:

''(i) Mandatory participation in national databases.

''(ii) The confidentiality of examination materials.

''(iii) The identification of the State agency with primary responsibility for examinations.

''(iv) Consultation and verification of complaint data with the eligible insurer prior to State actions.

''(v) Consistency of reporting requirements with the recordkeeping and administrative practices of the eligible insurer.

''(vi) Examinations that seek to correct material errors and harmful business practices rather than infrequent errors.

''(vii) Transparency and publishing of the State's examination standards.

''(viii) Coordination of market conduct analysis.

''(ix) Coordination and nonduplication between State examinations of the same eligible insurer.

''(x) Rationale and protocols to be met before a full examination is conducted.

''(xi) Requirements on examiners prior to beginning examinations such as budget planning and work plans.

''(xii) Consideration of methods to limit examiners' fees such as caps, competitive bidding, or other alternatives.

''(xiii) Reasonable fines and penalties for material errors and harmful business practices.

''(C) PROMPT PAYMENT OF CLAIMS.—The Board shall establish prompt payment standards for eligible insurers based on standards similar to those applicable to the Social Security Act as set forth in section 1842(c)(2) of such Act (42 U.S.C. 1395u(c)(2)). Such prompt payment standards shall be consistent with the timing and notice requirements of the claims procedure rules to be specified under subparagraph (D), and shall include appropriate exceptions such as for fraud, nonpayment of premiums, or late submission of claims.

''(D) INTERNAL REVIEW.—The Board shall establish standards for claims procedures for eligible insurers that are consistent with the requirements relating to initial claims for benefits and appeals of claims for benefits under the Employee Retirement Income Security Act of 1974 as set forth in section 503 of such Act (29 U.S.C. 1133) and the regulations thereunder.

''(2) RECOMMENDATIONS.—The Board shall recommend harmonized standards for each element of the categories described in subparagraph (A) through (D) of paragraph (1) within each such market. Notwithstanding the previous sentence, the Board shall not recommend any harmonized standards that disrupt, expand, or duplicate the benefit, service, or provider mandate standards provided in the Benefit Choice Standards pursuant to section 3022(a).

''(c) PROCESS FOR IDENTIFYING HARMONIZED STANDARDS.—

''(1) IN GENERAL.—The Board shall develop recommendations to harmonize inconsistent State insurance laws with respect to each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(2) REQUIREMENTS.—In adopting standards under this section, the Board shall consider the following:

''(A) Any model acts or regulations of the National Association of Insurance Commissioners in each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(B) Substantially similar standards followed by a plurality of States, as reflected in existing State laws, relating to the specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(C) Any Federal law requirement related to specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(D) In the case of the adoption of any standard that differs substantially from those referred to in subparagraphs (A), (B), or (C), the Board shall provide evidence to the Secretary that such standard is necessary to protect health insurance consumers or promote speed to market or administrative efficiency.

''(E) The criteria specified in clauses (i) through (iii) of subsection (d)(2)(B).

''(d) RECOMMENDATIONS AND CERTIFICATION BY SECRETARY.—

''(1) RECOMMENDATIONS.—Not later than 18 months after the date on which all members of the Board are selected under subsection (a), the Board shall recommend to the Secretary the certification of the harmonized standards identified pursuant to subsection (c).

''(2) CERTIFICATION.—

''(A) IN GENERAL.—Not later than 120 days after receipt of the Board's recommendations under paragraph (1), the Secretary shall certify the recommended harmonized standards as provided for in subparagraph (B), and issue such standards in the form of an interim final regulation.

''(B) CERTIFICATION PROCESS.—The Secretary shall establish a process for certifying the recommended harmonized standard, by category, as recommended by the Board under this section. Such process shall—

''(i) ensure that the certified standards for a particular process area achieve regulatory harmonization with respect to health plans on a national basis;

''(ii) ensure that the approved standards are the minimum necessary, with regard to substance and quantity of requirements, to protect health insurance consumers and maintain a competitive regulatory environment; and

''(iii) ensure that the approved standards will not limit the range of group health plan designs and insurance products, such as catastrophic coverage only plans, health savings accounts, and health maintenance organizations, that might otherwise be available to consumers.

''(3) EFFECTIVE DATE.—The standards certified by the Secretary under paragraph (2) shall be effective on the date that is 18 months after the date on which the Secretary certifies the harmonized standards.

''(e) TERMINATION.—The Board shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

''(f) ONGOING REVIEW.—Not earlier than 3 years after the termination of the Board under subsection (e), and not earlier than every 3 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the harmonized standards on access, cost, and health insurance market functioning. The Secretary may, based on such report and applying the process established for certification under subsection (d)(2)(B), in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, update the harmonized standards through notice and comment rulemaking.

''(g) PUBLICATION.—

''(1) LISTING.—The Secretary shall maintain an up to date listing of all harmonized standards certified under this section on the Internet website of the Department of Health and Human Services.

''(2) SAMPLE CONTRACT LANGUAGE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services sample contract language that incorporates the harmonized standards certified under this section, which may be used by insurers seeking to qualify as an eligible insurer. The types of harmonized standards that shall be included in sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

''(h) STATE ADOPTION AND ENFORCEMENT.—Not later than 18 months after the certification by the Secretary of harmonized standards under this section, the States may adopt such harmonized standards (and become an adopting State) and, in which case, shall enforce the harmonized standards pursuant to State law.

''SEC. 3033. APPLICATION AND PREEMPTION.

''(a) SUPERCEDING OF STATE LAW.—

''(1) IN GENERAL.—The harmonized standards certified under this subtitle shall supersede any and all State laws of a non-adopting State insofar as such State laws relate to the areas of harmonized standards as applied to an eligible insurer, or health insurance coverage issued by a eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

''(2) NONADOPTING STATES.—This subtitle shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as they may—

''(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the harmonized standards; or

''(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the harmonized standards under this subtitle.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the harmonized standards under this subtitle.

''(4) NO EFFECT ON PREEMPTION.—In no case shall this subtitle be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this subtitle be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

''(c) EFFECTIVE DATE.—This section shall apply beginning on the date that is 18 months after the date on harmonized standards are certified by the Secretary under this subtitle.

''SEC. 3034. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this subtitle.

''(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 3033.

''(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

''(d) EXPEDITED REVIEW.—

''(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

''(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

''(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

''SEC. 3035. AUTHORIZATION OF APPROPRIATIONS; RULE OF CONSTRUCTION.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

''(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.''.

TITLE III—HEALTH SAVINGS ACCOUNTS

SEC. 301. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF HEALTH SAVINGS ACCOUNT.

(a) IN GENERAL.—Paragraph (2) of section 223(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(D) CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT TREATED AS QUALIFIED.—An expense shall not fail to be treated as a qualified medical expense solely because such expense was incurred before the establishment of the health savings account if such expense was incurred—

''(i) during either—

''(I) the taxable year in which the health savings account was established, or

''(II) the preceding taxable year in the case of a health savings account established after the taxable year in which such expense was incurred but before the time prescribed by law for filing the return for such taxable year (not including extensions thereof), and

''(ii) for medical care of an individual during a period that such individual was an eligible individual.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 302. USE OF ACCOUNT FOR INDIVIDUAL HIGH DEDUCTIBLE HEALTH PLAN PREMIUMS.

(a) IN GENERAL.—Section 223(d)(2)(C) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (iii), by striking the period at

the end of clause (iv) and inserting ''. or'', and by adding at the end the following new clause:

''(v) a high deductible health plan, other than a group health plan (as defined in section 5000(b)(1)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 303. EXCEPTION TO REQUIREMENT FOR EMPLOYERS TO MAKE COMPARABLE HEALTH SAVINGS ACCOUNT CONTRIBUTIONS.

(a) GREATER EMPLOYER-PROVIDED CONTRIBUTIONS TO HSAS FOR CHRONICALLY ILL EMPLOYEES TREATED AS MEETING COMPARABILITY REQUIREMENTS.—Subsection (b) of section 4980G of the Internal Revenue Code of 1986 (relating to failure of employer to make comparable health savings account contributions) is amended to read as follows:

''(b) RULES AND REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), rules and requirements similar to the rules and requirements of section 4980E shall apply for purposes of this section.

''(2) TREATMENT OF EMPLOYER-PROVIDED CONTRIBUTIONS TO HSAS FOR CHRONICALLY ILL EMPLOYEES.—For purposes of this section—

''(A) IN GENERAL.—Any contribution by an employer to a health savings account of an employee who is (or the spouse or any dependent of the employee who is) a chronically ill individual in an amount which is greater than a contribution to a health savings account of a comparable participating employee who is not a chronically ill individual shall not fail to be considered a comparable contribution.

''(B) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A) shall not apply unless the excess employer contributions described in subparagraph (A) are the same for all chronically ill individuals who are similarly situated.

''(C) CHRONICALLY ILL INDIVIDUAL.—For purposes of this paragraph, the term 'chronically ill individual' means any individual whose qualified medical expenses for any taxable year are more than 50 percent greater than the average qualified medical expenses of all employees of the employer for such year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 304. CERTAIN HEALTH REIMBURSEMENT ARRANGEMENT COVERAGE DISREGARDED COVERAGE FOR HEALTH SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 223(c)(1)(B)(iii) of the Internal Revenue Code of 1986 is amended by inserting ''or a health reimbursement arrangement'' after ''health flexible a spending arrangement''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE IV—STUDY

SEC. 401. STUDY ON TAX TREATMENT OF AND ACCESS TO PRIVATE HEALTH INSURANCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall study various options and make recommendations—

(A) for reforming the tax treatment of health insurance to improve tax equity and increase access to private health care coverage; and

(B) for providing meaningful assistance to low-income individuals and families to purchase private health insurance.

(2) CONSIDERATION OF VARIOUS OPTIONS.—In carrying out the study under paragraph (1), the Secretary of the Treasury shall consider—

(A) options which rely on changes to Federal law not included in the Internal Revenue Code of 1986;

(B) options which have a goal of minimizing Federal Government outlays;

(C) options which minimize tax increases;

(D) at least one option which retains the Federal tax exclusion for employer-provided health coverage;

(E) at least one option which is budget neutral; and

(F) at least one option which maintains the current distribution of the Federal income tax burden.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report the results of the study and the recommendations required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SA 2594. Mrs. McCASKILL submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 673. INDEPENDENT STUDENT.

Section 480(d)(3) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)(3)) is amended by inserting ''or is a current active member of the National Guard or Reserve forces of the United States who has completed initial military training'' after ''purposes''.

SA 2595. Mr. DeMINT submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, after line 25, insert the following:

SEC. __. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

''(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than $500 of unused health benefits may be—

''(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

''(B) to the extent permitted by section 106(d), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

''(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, the term 'health flexible spending arrangement' means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

''(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term 'unused health benefits' means the excess of—

''(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

''(B) the actual amount of reimbursement for such year under such arrangement.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2007.

SA 2596. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, insert the following:

SEC. _____. REQUIREMENT THAT INDIVIDUALS WHO ARE ELIGIBLE FOR CHIP AND EMPLOYER-SPONSORED COVERAGE USE THE EMPLOYER-SPONSORED COVERAGE INSTEAD OF CHIP.

Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 401(a), is amended by adding at the end the following new paragraph:

''(12) REQUIREMENT REGARDING EMPLOYER-SPONSORED COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraph (B), no payment may be made under this title with respect to an individual who is eligible for coverage under a group health plan or health insurance coverage offered through an employer, either as an individual or as part of family coverage.

''(B) STATE OPTION TO OFFER PREMIUM ASSISTANCE FOR HIGH-COST PLANS.—

''(i) IN GENERAL.—In the case of an individual who is otherwise eligible for coverage under this title but for the application of subparagraph (A) and who is eligible for high-cost heath insurance coverage, a State may elect to offer a premium assistance subsidy for such coverage.

''(ii) AMOUNT.—The amount of a premium assistance subsidy under this paragraph shall be determined by the State but in no case shall exceed the lesser of—

''(I) an amount equal to the value of the coverage under this title that would otherwise apply with respect to the individual but for the application of subparagraph (A); or

''(II) an amount equal to the difference between—

''(aa) the amount of the employee's share of the premium costs for the high-cost health insurance coverage (for the family or the individual, as the case may be); and

''(bb) an amount equal to 20 percent of the total premium costs for such coverage, including both the employer and employee share, (for the family or the individual, as the case may be).

''(C) HIGH-COST HEALTH INSURANCE COVERAGE.—For purposes of this paragraph, the term 'high cost health insurance coverage' means a group health plan or health insurance coverage offered through an employer in which the employee is required to pay more than 20 percent of the premium costs.

''(D) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies under this paragraph shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.''.

SA 2597. Mr. VOINOVICH (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—HEALTH PARTNERSHIP

SEC. __01. SHORT TITLE.

This title may be cited as the ''Health Partnership Act''.

SEC. __02. STATE HEALTH REFORM PROJECTS.

(a) PURPOSE; ESTABLISHMENT OF STATE HEALTH CARE EXPANSION AND IMPROVEMENT PROGRAM.—The purposes of the programs approved under this section shall include, but not be limited to—

(1) achieving the goals of increased health coverage and access;

(2) ensuring that patients receive high-quality, appropriate health care;

(3) improving the efficiency of health care spending; and

(4) testing alternative reforms, such as building on the public or private health systems, or creating new systems, to achieve the objectives of this Act.

(b) APPLICATIONS BY STATES, LOCAL GOVERNMENTS, AND TRIBES.—

(1) ENTITIES THAT MAY APPLY.—

(A) IN GENERAL.—A State, in consultation with local governments, Indian tribes, and Indian organizations involved in the provision of health care, may apply for a State health care expansion and improvement program for the entire State (or for regions of the State) under paragraph (2).

(B) REGIONAL GROUPS.—A regional entity consisting of more than one State may apply for a multi-State health care expansion and improvement program for the entire region involved under paragraph (2).

(C) DEFINITION.—In this Act, the term ''State'' means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. Such term shall include a regional entity described in subparagraph (B).

(2) SUBMISSION OF APPLICATION.—In accordance with this section, each State desiring to implement a State health care expansion and improvement program may submit an application to the State Health Innovation Commission under subsection (c) (referred to in this section as the ''Commission'') for approval.

(3) LOCAL GOVERNMENT APPLICATIONS.—

(A) IN GENERAL.—Where a State declines to submit an application under this section, a unit of local government of such State, or a consortium of such units of local governments, may submit an application directly to the Commission for programs or projects under this subsection. Such an application shall be subject to the requirements of this section.

(B) OTHER APPLICATIONS.—Subject to such additional guidelines as the Secretary may prescribe, a unit of local government, Indian tribe, or Indian health organization may submit an application under this section, whether or not the State submits such an application, if such unit of local government can demonstrate unique demographic needs or a significant population size that warrants a substate program under this subsection.

(c) STATE HEALTH INNOVATION COMMISSION.—

(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary shall establish a State Health Innovation Commission that shall—

(A) be comprised of—

(i) the Secretary;

(ii) four State governors to be appointed by the National Governors Association on a bipartisan basis;

(iii) two members of a State legislature to be appointed by the National Conference of State Legislators on a bipartisan basis;

(iv) two county officials to be appointed by the National Association of Counties on a bipartisan basis;

(v) two mayors to be appointed by the United States Conference of Mayors and the National League of Cities on a joint and bipartisan basis;

(vi) two individuals to be appointed by the Speaker of the House of Representatives;

(vii) two individuals to be appointed by the minority leader of the House of Representatives;

(viii) two individuals to be appointed by the majority leader of the Senate;

(ix) two individuals to be appointed by the minority leader of the Senate; and

(x) two individuals who are members of federally-recognized Indian tribes to be appointed on a bipartisan basis by the National Congress of American Indians;

(B) upon approval of ⅔ of the members of the Commission, provide the States with a variety of reform options for their applications, such as tax credit approaches, expansions of public programs such as medicaid and the State Children's Health Insurance Program, the creation of purchasing pooling arrangements similar to the Federal Employees Health Benefits Program, individual market purchasing options, single risk pool or single payer systems, health savings accounts, a combination of the options described in this clause, or other alternatives determined appropriate by the Commission, including options suggested by States, Indian tribes, or the public;

(C) establish, in collaboration with a qualified and independent organization such as the Institute of Medicine, minimum performance measures and goals with respect to coverage, quality, and cost of State programs, as described under subsection (d)(1);

(D) conduct a thorough review of the grant application from a State and carry on a dialogue with all State applicants concerning possible modifications and adjustments;

(E) submit the recommendations and legislative proposal described in subsection (d)(4)(B);

(F) be responsible for monitoring the status and progress achieved under program or projects granted under this section;

(G) report to the public concerning progress made by States with respect to the performance measures and goals established under this Act, the periodic progress of the State relative to its State performance measures and goals, and the State program application procedures, by region and State jurisdiction;

(H) promote information exchange between States and the Federal Government; and

(I) be responsible for making recommendations to the Secretary and the Congress, using equivalency or minimum standards, for minimizing the negative effect of State program on national employer groups, provider organizations, and insurers because of differing State requirements under the programs.

(2) PERIOD OF APPOINTMENT; REPRESENTATION REQUIREMENTS; VACANCIES.—Members shall be appointed for a term of 5 years. In appointing such members under paragraph (1)(A), the designated appointing individuals shall ensure the representation of urban and rural areas and an appropriate geographic distribution of such members. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(3) CHAIRPERSON, MEETINGS.—

(A) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(B) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(C) MEETINGS.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting. The Commission shall meet at the call of the Chairperson.

(4) POWERS OF THE COMMISSION.—

(A) NEGOTIATIONS WITH STATES.—The Commission may conduct detailed discussions and negotiations with States submitting applications under this section, either individually or in groups, to facilitate a final set of recommendations for purposes of subsection (d)(4)(B). Such negotiations shall include consultations with Indian tribes, and be conducted in a public forum.

(B) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subsection.

(C) MEETINGS.—In addition to other meetings the Commission may hold, the Commission shall hold an annual meeting with the participating States under this section for the purpose of having States report progress toward the purposes in subsection (a)(1) and for an exchange of information.

(D) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subsection. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission if the head of the department or agency involved determines it appropriate.

(E) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(5) PERSONNEL MATTERS.—

(A) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government or of a State or local government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(C) STAFF.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and

terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(E) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(6) FUNDING.—For the purpose of carrying out this subsection, there are authorized to be appropriated $3,000,000 for fiscal year 2007 and each fiscal year thereafter.

(d) REQUIREMENTS FOR PROGRAMS.—

(1) STATE PLAN.—A State that seeks to receive a grant under subsection (f) to operate a program under this section shall prepare and submit to the Commission, as part of the application under subsection (b), a State health care plan that shall have as its goal improvements in coverage, quality and costs. To achieve such goal, the State plan shall comply with the following:

(A) COVERAGE.—With respect to coverage, the State plan shall—

(i) provide and describe the manner in which the State will ensure that an increased number of individuals residing within the State will have expanded access to health care coverage with a specific 5-year target for reduction in the number of uninsured individuals through either private or public program expansion, or both, in accordance with the options established by the Commission;

(ii) describe the number and percentage of current uninsured individuals who will achieve coverage under the State health program;

(iii) describe the minimum benefits package that will be provided to all classes of beneficiaries under the State health program;

(iv) identify Federal, State, or local and private programs that currently provide health care services in the State and describe how such programs could be coordinated with the State health program, to the extent practicable; and

(v) provide for improvements in the availability of appropriate health care services that will increase access to care in urban, rural, and frontier areas of the State with medically underserved populations or where there is an inadequate supply of health care providers.

(B) QUALITY.—With respect to quality, the State plan shall—

(i) provide a plan to improve health care quality in the State, including increasing effectiveness, efficiency, timeliness, patient focused, equity while reducing health disparities, and medical errors; and

(ii) contain appropriate results-based quality indicators established by the Commission that will be addressed by the State as well as State-specific quality indicators.

(C) COSTS.—With respect to costs, the State plan shall—

(i) provide that the State will develop and implement systems to improve the efficiency of health care, including a specific 5-year target for reducing administrative costs (including paperwork burdens);

(ii) describe the public and private sector financing to be provided for the State health program;

(iii) estimate the amount of Federal, State, and local expenditures, as well as, the costs to business and individuals under the State health program;

(iv) describe how the State plan will ensure the financial solvency of the State health program; and

(v) provide that the State will prepare and submit to the Secretary and the Commission such reports as the Secretary or Commission may require to carry out program evaluations.

(D) HEALTH INFORMATION TECHNOLOGY.—With respect to health information technology, the State plan shall provide methodology for the appropriate use of health information technology to improve infrastructure, such as improving the availability of evidence-based medical and outcomes data to providers and patients, as well as other health information (such as electronic health records, electronic billing, and electronic prescribing).

(2) TECHNICAL ASSISTANCE.—The Secretary shall, if requested, provide technical assistance to States to assist such States in developing applications and plans under this section, including technical assistance by private sector entities if determined appropriate by the Commission.

(3) INITIAL REVIEW.—With respect to a State application for a grant under subsection (b), the Secretary and the Commission shall complete an initial review of such State application within 60 days of the receipt of such application, analyze the scope of the proposal, and determine whether additional information is needed from the State. The Commission shall advise the State within such period of the need to submit additional information.

(4) FINAL DETERMINATION.—

(A) IN GENERAL.—Not later than 90 days after completion of the initial review under paragraph (3), the Commission shall determine whether to submit a State proposal to Congress for approval.

(B) VOTING.—

(i) IN GENERAL.—The determination to submit a State proposal to Congress under subparagraph (A) shall be approved by ⅔ of the members of the Commission who are eligible to participate in such determination subject to clause (ii).

(ii) ELIGIBILITY.—A member of the Commission shall not participate in a determination under subparagraph (A) if—

(I) in the case of a member who is a Governor, such determination relates to the State of which the member is the Governor; or

(II) in the case of member not described in subclause (I), such determination relates to the geographic area of a State of which such member serves as a State or local official.

(C) SUBMISSION.—Not later than 90 days prior to October 1 of each fiscal year, the Commission shall submit to Congress a list, in the form of a legislative proposal, of the State applications that the Commission recommends for approval under this section.

(D) APPROVAL.—With respect to a fiscal year, a State proposal that has been recommended under subparagraph (B) shall be deemed to be approved, and subject to the availability of appropriations, Federal funds shall be provided to such program, unless a joint resolution has been enacted disapproving such proposal as provided for in subsection (e). Nothing in the preceding sentence shall be construed to include the approval of State proposals that involve waivers or modifications in applicable Federal law.

(5) PROGRAM OR PROJECT PERIOD.—A State program or project may be approved for a period of 5 years and may be extended for subsequent 5-year periods upon approval by the Commission and the Secretary, based upon achievement of targets, except that a shorter period may be requested by a State and granted by the Secretary.

(e) EXPEDITED CONGRESSIONAL CONSIDERATION.—

(1) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(A) INTRODUCTION.—The legislative proposal submitted pursuant to subsection (d)(4)(B) shall be in the form of a joint resolution (in this subsection referred to as the ''resolution''). Such resolution shall be introduced in the House of Representatives by the Speaker, and in the Senate, by the majority leader, immediately upon receipt of the language and shall be referred to the appropriate committee of Congress. If the resolution is not introduced in accordance with the preceding sentence, the resolution may be introduced in either House of Congress by any member thereof.

(B) COMMITTEE CONSIDERATION.—A resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means of the House of Representatives. A resolution introduced in the Senate shall be referred to the Committee on Finance of the Senate. Not later than 15 calendar days after the introduction of the resolution, the committee of Congress to which the resolution was referred shall report the resolution or a committee amendment thereto. If the committee has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a resolution, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such reform bill and such reform bill shall be placed on the appropriate calendar of the House involved.

(2) EXPEDITED PROCEDURE.—

(A) CONSIDERATION.—Not later than 5 days after the date on which a committee has been discharged from consideration of a resolution, the Speaker of the House of Representatives, or the Speaker's designee, or the majority leader of the Senate, or the leader's designee, shall move to proceed to the consideration of the committee amendment to the resolution, and if there is no such amendment, to the resolution. It shall also be in order for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the resolution at any time after the conclusion of such 5-day period. All points of order against the resolution (and against consideration of the resolution) are waived. A motion to proceed to the consideration of the resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the resolution, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of.

(B) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the resolution that was introduced in such House, such

House receives from the other House a resolution as passed by such other House—

(i) the resolution of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under clause (iii);

(ii) the procedure in the House in receipt of the resolution of the other House, with respect to the resolution that was introduced in the House in receipt of the resolution of the other House, shall be the same as if no resolution had been received from the other House; and

(iii) notwithstanding clause (ii), the vote on final passage shall be on the reform bill of the other House.

Upon disposition of a resolution that is received by one House from the other House, it shall no longer be in order to consider the resolution bill that was introduced in the receiving House.

(C) CONSIDERATION IN CONFERENCE.—Immediately upon a final passage of the resolution that results in a disagreement between the two Houses of Congress with respect to the resolution, conferees shall be appointed and a conference convened. Not later than 10 days after the date on which conferees are appointed, the conferees shall file a report with the House of Representatives and the Senate resolving the differences between the Houses on the resolution. Notwithstanding any other rule of the House of Representatives or the Senate, it shall be in order to immediately consider a report of a committee of conference on the resolution filed in accordance with this subclause. Debate in the House of Representatives and the Senate on the conference report shall be limited to 10 hours, equally divided and controlled by the Speaker of the House of Representatives and the minority leader of the House of Representatives or their designees and the majority and minority leaders of the Senate or their designees. A vote on final passage of the conference report shall occur immediately at the conclusion or yielding back of all time for debate on the conference report.

(3) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(4) LIMITATION.—The amount of Federal funds provided with respect to any State proposal that is deemed approved under subsection (d)(3) shall not exceed the cost provided for such proposals within the concurrent resolution on the budget as enacted by Congress for the fiscal year involved.

(f) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide a grant to a State that has an application approved under subsection (b) to enable such State to carry out an innovative State health program in the State.

(2) AMOUNT OF GRANT.—The amount of a grant provided to a State under paragraph (1) shall be determined based upon the recommendations of the Commission, subject to the amount appropriated under subsection (k).

(3) PERFORMANCE-BASED FUNDING ALLOCATION AND PRIORITIZATION.—In awarding grants under paragraph (1), the Secretary shall—

(A) fund a diversity of approaches as provided for by the Commission in subsection (c)(1)(B);

(B) give priority to those State programs that the Commission determines have the greatest opportunity to succeed in providing expanded health insurance coverage and in providing children, youth, and other vulnerable populations with improved access to health care items and services; and

(C) link allocations to the State to the meeting of the goals and performance measures relating to health care coverage, quality, and health care costs established under this Act through the State project application process.

(4) MAINTENANCE OF EFFORT.—A State, in utilizing the proceeds of a grant received under paragraph (1), shall maintain the expenditures of the State for health care coverage purposes for the support of direct health care delivery at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received.

(5) REPORT.—At the end of the 5-year period beginning on the date on which the Secretary awards the first grant under paragraph (1), the State Health Innovation Advisory Commission established under subsection (c) shall prepare and submit to the appropriate committees of Congress, a report on the progress made by States receiving grants under paragraph (1) in meeting the goals of expanded coverage, improved quality, and cost containment through performance measures established during the 5-year period of the grant. Such report shall contain the recommendation of the Commission concerning any future action that Congress should take concerning health care reform, including whether or not to extend the program established under this subsection.

(g) MONITORING AND EVALUATION.—

(1) ANNUAL REPORTS AND PARTICIPATION BY STATES.—Each State that has received a program approval shall—

(A) submit to the Commission an annual report based on the period representing the respective State's fiscal year, detailing compliance with the requirements established by the Commission and the Secretary in the approval and in this section; and

(B) participate in the annual meeting under subsection (c)(4)(B).

(2) EVALUATIONS BY COMMISSION.—The Commission, in consultation with a qualified and independent organization such as the Institute of Medicine, shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce, the Committee on Education and Labor, and the Committee on Ways and Means of the House of Representatives annual reports that shall contain—

(A) a description of the effects of the reforms undertaken in States receiving approvals under this section;

(B) a description of the recommendations of the Commission and actions taken based on these recommendations;

(C) an evaluation of the effectiveness of such reforms in—

(i) expanding health care coverage for State residents;

(ii) improving the quality of health care provided in the States; and

(iii) reducing or containing health care costs in the States;

(D) recommendations regarding the advisability of increasing Federal financial assistance for State ongoing or future health program initiatives, including the amount and source of such assistance; and

(E) as required by the Commission or the Secretary under subsection (f)(5), a periodic, independent evaluation of the program.

(h) NONCOMPLIANCE.—

(1) CORRECTIVE ACTION PLANS.—If a State is not in compliance with a requirement of this section, the Secretary shall develop a corrective action plan for such State.

(2) TERMINATION.—For good cause and in consultation with the Commission, the Secretary may revoke any program granted under this section. Such decisions shall be subject to a petition for reconsideration and appeal pursuant to regulations established by the Secretary.

(i) RELATIONSHIP TO FEDERAL PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act, or in section 1115 of the Social Security Act (42 U.S.C. 1315) shall be construed as authorizing the Secretary, the Commission, a State, or any other person or entity to alter or affect in any way the provisions of title XIX of such Act (42 U.S.C. 1396 et seq.) or the regulations implementing such title.

(2) MAINTENANCE OF EFFORT.—No payment may be made under this section if the State adopts criteria for benefits, income, and resource standards and methodologies for purposes of determining an individual's eligibility for medical assistance under the State plan under title XIX that are more restrictive than those applied as of the date of enactment of this Act.

(j) MISCELLANEOUS PROVISIONS.—

(1) APPLICATION OF CERTAIN REQUIREMENTS.—

(A) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

(i) IN GENERAL.—Subject to subparagraph (B), a State shall not permit the imposition of any preexisting condition exclusion for covered benefits under a program or project under this section.

(ii) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State program or project provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the program or project may permit the imposition of a preexisting condition exclusion but only insofar and to the extent that such exclusion is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

(B) COMPLIANCE WITH OTHER REQUIREMENTS.—Coverage offered under the program or project shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

(2) PREVENTION OF DUPLICATIVE PAYMENTS.—

(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided health assistance under the plan.

(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as provided in any other provision of law, no payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that payment has been made or

can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) of the Social Security Act shall apply.

(3) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of the Social Security Act shall apply to States under this section in the same manner as they apply to a State under such title XIX:

(A) TITLE XI PROVISIONS.—

(i) Section 1902(a)(4)(C) (relating to conflict of interest standards).

(ii) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

(iii) Section 1903(w) (relating to limitations on provider taxes and donations).

(iv) Section 1920A (relating to presumptive eligibility for children).

(B) TITLE xi PROVISIONS.—

(i) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

(ii) Section 1124 (relating to disclosure of ownership and related information).

(iii) Section 1126 (relating to disclosure of information about certain convicted individuals).

(iv) Section 1128A (relating to civil monetary penalties).

(v) Section 1128B(d) (relating to criminal penalties for certain additional charges).

(vi) Section 1132 (relating to periods within which claims must be filed).

(4) RELATION TO OTHER LAWS.—

(A) HIPAA.—Health benefits coverage provided under a State program or project under this section shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

(B) ERISA.—Nothing in this section shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1))).

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary in each fiscal year. Amounts appropriated for a fiscal year under this subsection and not expended may be used in subsequent fiscal years to carry out this section.

SA 2598. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, after line 25, insert the following:

SEC. 61__. REPEAL OF IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE TO VENDORS BY GOVERNMENT ENTITIES.

The amendment made by section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is repealed and the Internal Revenue Code of 1986 shall be applied as if such amendment had never been enacted.

SA 2599. Mr. MCCONNELL (for himself, Mr. SPECTER, and Mr. THUNE) proposed an amendment to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; as follows:

At the end of the substitute, insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING THE NOMINATION OF JUDGE LESLIE SOUTHWICK.

(a) FINDINGS.—The Senate makes the following findings:

(1) Judge Leslie Southwick served on the Mississippi Court of Appeals from January 1995 to December 2006, during which time he was honored by his peers for his outstanding service on the bench.

(2) The Mississippi State Bar honored Judge Southwick in 2004 with its judicial excellence award, which is awarded annually to a judge who is ''an example of judicial excellence; a leader in advancing the quality and integrity of justice; and a person of high ideals, character and integrity''.

(3) The American Bar Association has twice rated Judge Southwick well-qualified for Federal judicial service, its highest rating. As part of its evaluation, the American Bar Association considers a nominee's ''compassion,'' ''open-mindedness,'' ''freedom from bias and commitment to equal justice under law''.

(4) In 2006, the President nominated Judge Southwick to the United States District Court for the Southern District of Mississippi.

(5) Last fall, the Senate Judiciary Committee unanimously reported Judge Southwick's nomination to the full Senate for its favorable consideration.

(6) In 2007, the President nominated Judge Southwick to the United States Court of Appeals for the Fifth Circuit.

(7) The Administrative Office of the Courts has declared the Fifth Circuit vacancy to which Judge Southwick has been nominated a ''judicial emergency'' with one of the highest case filing rates in the country.

(8) Judge Southwick is the third consecutive Mississippian whom the President has nominated to address this judicial emergency.

(9) Both Senators from Mississippi strongly support Judge Southwick's nomination to the Fifth Circuit, and they strongly supported his 2 predecessor nominees to that vacancy.

(10) The only material change in Judge Southwick's qualifications between last fall when the Senate Judiciary Committee unanimously reported his district court nomination to the floor, and this year when the Committee is considering his nomination to the Fifth Circuit is that the American Bar Association has increased its rating of him from well-qualified to unanimously well-qualified.

(11) While on the State appellate bench, Judge Southwick has continued to serve his country admirably in her armed forces.

(12) In 1992, Judge Southwick sought an age waiver to join the Army Reserves, and in 2003, he volunteered to serve in a line combat unit, the 155th Separate Armor Brigade. In 2004, he took a leave of absence from the bench to serve in Iraq with the 155th Brigade Combat Team of the Mississippi National Guard. There he distinguished himself at Forward Operating Base Duke near Najaf and at Forward Operating Base Kalsu.

(b) SENSE OF SENATE.—It is the sense of the Senate that the nomination of Judge Leslie Southwick to the United States Court of Appeals for the Fifth Circuit should receive an up or down vote by the full Senate.

SA 2600. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, strike line 2 and insert the following:

level.

''(C) USE OF FUNDS.—Payments under this paragraph may only be used to provide health care coverage or to expand health care access or infrastructure, including, but not limited to, the provision of school-based health services, dental care, mental health services, Federally-qualified health center services, and educational debt forgiveness for health care practitioners in fields experiencing local shortages.''.

SA 2601. Mr. LEVIN (for himself, Ms. STABENOW, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 42, strike line 14 and all that follows through page 49, line 4 and insert the following:

''(a) TERMINATION OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(1) NO NEW CHIP WAIVERS; AUTOMATIC EXTENSIONS AT STATE OPTION THROUGH FISCAL YEAR 2010.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(A) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2007, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult; and

''(B) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraphs (2) and (3) shall apply for purposes of any fiscal year beginning on or after October 1, 2010, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(2) TERMINATION OF CHIP COVERAGE UNDER APPLICABLE EXISTING WAIVERS AT THE END OF FISCAL YEAR 2010.—

''(A) IN GENERAL.—No funds shall be available under this title for child health assistance or other health benefits coverage that is provided to a nonpregnant childless adult under an applicable existing waiver after September 30, 2010.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before October 1, 2010, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only through September 30, 2010.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section

2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a nonpregnant childless adult during each of fiscal years 2008 through 2010.

''(3) OPTIONAL 1-YEAR TRANSITIONAL COVERAGE BLOCK GRANT FUNDED FROM STATE ALLOTMENT.—Subject to paragraph (4)(B), each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may elect to provide nonpregnant childless adults who were provided child health assistance or health benefits coverage under the applicable existing waiver at any time during fiscal year 2010 with such assistance or coverage during fiscal year 2011, as if the authority to provide such assistance or coverage under an applicable existing waiver was extended through that fiscal year, but subject to the following terms and conditions:

''(A) BLOCK GRANT SET ASIDE FROM STATE ALLOTMENT.—The Secretary shall set aside for the State an amount equal to the Federal share of the State's projected expenditures under the applicable existing waiver for providing child health assistance or health benefits coverage to all nonpregnant childless adults under such waiver for fiscal year 2010 (as certified by the State and submitted to the Secretary by not later than August 31, 2010, and without regard to whether any such individual lost coverage during fiscal year 2010 and was later provided child health assistance or other health benefits coverage under the waiver in that fiscal year), increased by the annual adjustment for fiscal year 2011 determined under section 2104(i)(2)(B)(i). The Secretary may adjust the amount set aside under the preceding sentence, as necessary, on the basis of the expenditure data for fiscal year 2010 reported by States on CMS Form 64 or CMS Form 21 not later than November 30, 2010, but in no case shall the Secretary adjust such amount after December 31, 2010.

''(B) NO COVERAGE FOR NONPREGNANT CHILDLESS ADULTS WHO WERE NOT COVERED DURING FISCAL YEAR 2010.—

''(i) FMAP APPLIED TO EXPENDITURES.—The Secretary shall pay the State for each quarter of fiscal year 2011, from the amount set aside under subparagraph (A), an amount equal to the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) of expenditures in the quarter for providing child health assistance or other health benefits coverage to a nonpregnant childless adult but only if such adult was enrolled in the State program under this title during fiscal year 2010 (without regard to whether the individual lost coverage during fiscal year 2010 and was reenrolled in that fiscal year or in fiscal year 2011).

''(ii) FEDERAL PAYMENTS LIMITED TO AMOUNT OF BLOCK GRANT SET-ASIDE.—No payments shall be made to a State for expenditures described in this subparagraph after the total amount set aside under subparagraph (A) for fiscal year 2011 has been paid to the State.

''(4) STATE OPTION TO APPLY FOR MEDICAID WAIVER TO CONTINUE COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(A) IN GENERAL.—Each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may submit, not later than June 30, 2011, an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a nonpregnant childless adult whose coverage is so terminated (in this subsection referred to as a ''Medicaid nonpregnant childless adults waiver'').

''(B) DEADLINE FOR APPROVAL.—The Secretary shall make a decision to approve or deny an application for a Medicaid nonpregnant childless adults waiver submitted under subparagraph (A) within 90 days of the date of the submission of the application. If no decision has been made by the Secretary as of September 30, 2011, on the application of a State for a Medicaid nonpregnant childless adults waiver that was submitted to the Secretary by June 30, 2011, the application shall be deemed approved.

''(C) STANDARD FOR BUDGET NEUTRALITY.—The budget neutrality requirement applicable with respect to expenditures for medical assistance under a Medicaid nonpregnant childless adults waiver shall—

''(i) in the case of fiscal year 2012, allow expenditures for medical assistance under title XIX for all such adults to not exceed the total amount of payments made to the State under paragraph (3)(B) for fiscal year 2011, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for calendar year 2012 over calendar year 2011, as most recently published by the Secretary; and

''(ii) in the case of any succeeding fiscal year, allow such expenditures to not exceed the amount in effect under this subparagraph for the preceding fiscal year, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the calendar year that begins during the fiscal year involved over the preceding calendar year, as most recently published by the Secretary.

''(5) SPECIAL RULES.—Notwithstanding the amendments made by the Children's Health Insurance Program Reauthorization Act of 2007:

''(A) Section 2104(e)(4)(C)(i) shall be applied by substituting '2011' for '2009'.

''(B) Section 2104(j)(1)(B)(ii)(V) shall be applied by substituting '2011' for '2009' each place it appears.

SA 2602. Mr. KERRY (for himself, Mr. BINGAMAN, Mr. SANDERS, Mr. CASEY, Mr. MENENDEZ, Mr. DURBIN, Mr. REED, Mr. BROWN, Mr. WHITEHOUSE, and Mr. BIDEN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; as follows:

At the end, add the following:

TITLE IX—IMPROVED INCENTIVES TO ENROLL UNINSURED CHILDREN AND PROTECT EXISTING COVERAGE OPTIONS

SEC. 901. IMPROVEMENTS TO THE INCENTIVE BONUSES FOR STATES.

Paragraphs (2) and (3) of section 2104(j), as added by section 105(a), are amended to read as follows:

''(2) PAYMENTS TO STATES INCREASING ENROLLMENT.—

''(A) IN GENERAL.—Subject to paragraph (3)(D), with respect to each of fiscal years 2008 through 2012, the Secretary shall make payments to States from the Incentive Pool determined under subparagraph (B).

''(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) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as determined under paragraph (3)(A)(i)) under title XIX for the State and fiscal year multiplied by 6 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) 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 paragraph (3)(A)(ii)) under title XIX for the State and fiscal year multiplied by 35 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(iii) THIRD TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of third tier above baseline child enrollees (as determined under paragraph (3)(A)(iii)) under title XIX for the State and fiscal year multiplied by 90 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(3) DEFINITIONS AND RULES.—For purposes of this paragraph and paragraph (2):

''(A) TIERS ABOVE BASELINE.—

''(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under 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 (C)) enrolled during the fiscal year under the State plan under title XIX; exceeds

''(II) the baseline number of enrollees described in clause (iv) for the State and fiscal year under title XIX, respectively;

but not to exceed 2 percent 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 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 (C)) enrolled during the fiscal year under title XIX, as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iv) for the State and fiscal year under title XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i),

but not to exceed 7 percent of the baseline number of enrollees described in clause (i)(II), reduced by the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i).

''(iii) THIRD TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under 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 (C)) enrolled during the fiscal year under title XIX, as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iv) for the State and fiscal year under title XIX, as described in clause (i)(II), the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i), and the maximum number of second tier above

baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (ii).

''(iv) BASELINE NUMBER OF CHILD ENROLLEES.—The baseline number of child enrollees for a State under title XIX—

''(I) for fiscal year 2008 is equal to the monthly average unduplicated number of qualifying children enrolled 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.

''(B) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—For purposes of subparagraph (A), 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.

''(C) 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.''.

SEC. 902. OPTIONAL COVERAGE OF OLDER CHILDREN UNDER MEDICAID AND CHIP.

(a) MEDICAID.—

(1) IN GENERAL.—Section 1902(l)(1)(D) (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, under such higher age, not to exceed 21 years of age, as the State may elect)''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(e)(3)(A) (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 (l)(1)(D))'' after ''18 years of age''.

(B) Section 1902(e)(12) (42 U.S.C. 1396a(e)(12)) is amended by inserting ''or such higher age as the State has elected under subsection (l)(1)(D)'' after ''19 years of age''.

(C) Section 1905(a) (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 (l)(1)(D)'' after ''as the State may choose''.

(D) Section 1920A(b)(1) (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(l)(1)(D)'' after ''19 years of age''.

(E) Section 1928(h)(1) (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(l)(1)(D)''.

(F) Section 1932(a)(2)(A) (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) (42 U.S.C. 1397jj(c)(1)) is amended by inserting ''(or, at the option of the State, under such higher age as the State has elected under section 1902(l)(1)(D))''.

SEC. 903. MODERNIZING TRANSITIONAL MEDICAID.

(a) FOUR-YEAR EXTENSION.—

(1) IN GENERAL.—Sections 1902(e)(1)(B) and 1925(f) (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 (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) (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 (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. 904. REPEAL OF TOP INCOME TAX RATE REDUCTION FOR TAXPAYERS WITH $1,000,000 OR MORE OF TAXABLE INCOME.

(a) IN GENERAL.—Section 1(i) of the Internal Revenue Code of 1986 (relating to rate reductions) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) EXCEPTION FOR TAXPAYERS WITH TAXABLE INCOME OF $1,000,000, OR MORE.—

''(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of taxable years beginning in a calender year after 2007, the last item in the fourth column of the table under paragraph (2) shall be applied by substituting '39.6%' for '35.0%' with respect to taxable income in excess of $1,000,000 (one-half of such amount in the case of taxpayers to whom subsection (d) applies).

''(B) INFLATION ADJUSTMENT.—In the case of the dollar amount under subparagraph (A), paragraph (1)(C) shall be applied by substituting '2008' for '2003' and '2007' for '2002'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

(c) APPLICATION OF EGTRRA SUNSET.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 2603. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I add the following:

SEC. 112. FUNDING PRIORITY FOR STATES WITH AN EFFECTIVE INCOME ELIGIBILITY LEVEL FOR CHILDREN THAT DOES NOT EXCEED 200 PERCENT OF THE POVERTY LINE.

(a) PRIORITY FOR DETERMINATION OF FISCAL YEAR 2008 ALLOTMENTS.—Subparagraph (D) of section 2104(i)(2) (42 U.S.C. 1397dd(i)(2))), as added by section 102, is amended to read as follows:

''(D) PRIORITY AND PRORATION RULES.—If, after the application of this paragraph without regard to this subparagraph, the sum of the State allotments determined under this paragraph for fiscal year 2008 exceeds the available national allotment for fiscal year 2008, the Secretary shall—

''(i) first, provide the allotments for all subsection (b) States for which the effective income eligibility level for child health assistance for targeted low-income children under the State child health plan does not exceed 200 percent of the poverty line (and if, the sum of such allotments exceeds the available national allotment for fiscal year

2008, reduce each such allotment on a proportional basis); and

''(ii) only to the extent there are any amounts remaining available for allotment from the available national allotment for fiscal year 2008 after the application of clause (i), provide, on a proportional basis, allotments for any other subsection (b) States.''.

(b) PRIORITY FOR DETERMINATION OF FISCAL YEAR 2009 THROUGH 2012 ALLOTMENTS.—Subparagraph (A) of section 2104(i)(3) (42 U.S.C. 1397dd(i)(3)), as so added, is amended to read as follows:

''(A) IN GENERAL.—If the sum of the State allotments determined under paragraph (1)(A)(ii) for any of fiscal years 2009 through 2011 exceeds the available national allotment for the fiscal year, the Secretary shall—

''(i) first, allot to each subsection (b) State for which the effective income eligibility level for child health assistance for targeted low-income children under the State child health plan does not exceed 200 percent of the poverty line from the available national allotment for the fiscal year an amount equal to the product of—

''(I) the available national allotment for the fiscal year; and

''(II) the percentage equal to the sum of the State allotment factors for the fiscal year determined under paragraph (4) with respect to the State; and

''(ii) only to the extent there are any amounts remaining available for allotment from the available national allotment for the fiscal year after the application of clause (i), determine the allotments for any other subsection (b) States in the same manner as how allotments are determined under clause (i).''.

(c) CHIP CONTINGENCY FUND.—Section 2104(k)(3) (42 U.S.C. 1397dd(k)(3)), as added by section 108, is amended by adding at the end the following new subparagraph:

''(I) PRIORITY FOR STATES WITH AN EFFECTIVE INCOME ELIGIBILITY LEVEL FOR CHILDREN THAT DOES NOT EXCEED 200 PERCENT OF THE POVERTY LINE.—Notwithstanding subparagraph (E), the Secretary shall make monthly payments from the Fund—

''(i) first, to those States that are determined to be eligible States with respect to a month and for which the effective income eligibility level for child health assistance for targeted low-income children under the State child health plan does not exceed 200 percent of the poverty line (and, if the sum of such payments exceed the amount in the Fund, reduced on a proportional basis); and

''(ii) only to the extent that there are any amounts remaining in the Fund for a month, to any other States that are determined to be eligible States with respect to the month (and reduced, if necessary, on a proportional basis).''.

SA 2604. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 142, strike lines 14 through 23 and insert the following:

''(J) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS OR PENDING WAIVERS FOR SUCH PROGRAMS.—Nothing in this paragraph shall be construed as—

''(i) limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect prior to the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007; or

''(ii) limiting the authority of a State to offer premium assistance under a waiver pending approval by the Secretary prior to such date of enactment that is approved on or after such date of enactment.''.

SA 2605. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

Strike subtitle B of title V of the amendment and insert the following:

Subtitle B—Earmark, Conference, and Conflict of Interest Reform

SEC. 521. OUT OF SCOPE MATTERS IN CONFERENCE REPORTS.

(a) IN GENERAL.—A point of order may be made by any Senator against any item contained in a conference report that includes or consists of any matter not committed to the conferees by either House. The point of order may be made and disposed of separately for each item in violation of this section.

(b) DISPOSITION.—If the point of order raised against an item in a conference report under subsection (a) is sustained—

(1) the matter in such conference report shall be stricken; and

(2) when all other points of order under this section have been disposed of—

(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report that has not been stricken (any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the conference report shall be made);

(B) the question shall be debatable; and

(C) no further amendment shall be in order.

(c) LIMITATION.—

(1) IN GENERAL.—In this section, the term ''matter not committed to the conferees by either House'' shall include any item which consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no such specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.

(2) RULE XXVIII.—For the purpose of rule XXVIII of the Standing Rules of the Senate, the term ''matter not committed'' shall include any item which consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no such specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.

(d) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 522. CONGRESSIONAL EARMARK REFORM.

The Standing Rules of the Senate are amended by adding at the end the following:

''RULE XLIV

''EARMARKS

''1. It shall not be in order to consider—

''(a) a bill or joint resolution reported by a committee unless the report includes a list, which shall be made available on the Internet in a searchable format to the general public for at least 48 hours before consideration of the bill or joint resolution, of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill or in the report (and the name of any Member who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits;

''(b) a bill or joint resolution not reported by a committee unless the chairman of each committee of jurisdiction has caused a list, which shall be made available on the Internet in a searchable format to the general public for at least 48 hours before consideration of the bill or joint resolution, of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill (and the name of any Member who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration; or

''(c) a conference report to accompany a bill or joint resolution unless the joint explanatory statement prepared by the managers on the part of the House and the managers on the part of the Senate includes a list, which shall be made available on the Internet in a searchable format to the general public for at least 48 hours before consideration of the conference report, of congressional earmarks, limited tax benefits, and limited tariff benefits in the conference report or joint statement (and the name of any Member, Delegate, Resident Commissioner, or Senator who submitted a request to the House or Senate committees of jurisdiction for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

''2. For the purpose of this rule—

''(a) the term 'congressional earmark' means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

''(b) the term 'limited tax benefit' means—

''(1) any revenue provision that—

''(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

''(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or

''(2) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986; and

''(c) the term 'limited tariff benefit' means a provision modifying the Harmonized Tariff

Schedule of the United States in a manner that benefits 10 or fewer entities.

''3. A Member may not condition the inclusion of language to provide funding for a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (including an accompanying joint explanatory statement of managers) on any vote cast by another Member, Delegate, or Resident Commissioner.

''4. (a) A Member who requests a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (or an accompanying joint statement of managers) shall provide a written statement to the chairman and ranking member of the committee of jurisdiction, including—

''(1) the name of the Member;

''(2) in the case of a congressional earmark, the name and address of the intended recipient or, if there is no specifically intended recipient, the intended location of the activity;

''(3) in the case of a limited tax or tariff benefit, identification of the individual or entities reasonably anticipated to benefit, to the extent known to the Member;

''(4) the purpose of such congressional earmark or limited tax or tariff benefit; and

''(5) a certification that the Member or spouse has no financial interest in such congressional earmark or limited tax or tariff benefit.

''(b) Each committee shall maintain the written statements transmitted under subparagraph (a). The written statements transmitted under subparagraph (a) for any congressional earmarks, limited tax benefits, or limited tariff benefits included in any measure reported by the committee or conference report filed by the chairman of the committee or any subcommittee thereof shall be published in a searchable format on the committee's or subcommittee's website not later than 48 hours after receipt on such information.

''5. It shall not be in order to consider any bill, resolution, or conference report that contains an earmark included in any classified portion of a report accompanying the measure unless the bill, resolution, or conference report includes to the greatest extent practicable, consistent with the need to protect national security (including intelligence sources and methods), in unclassified language, a general program description, funding level, and the name of the sponsor of that earmark.''.

SEC. 523. PROHIBITION ON FINANCIAL GAIN FROM EARMARKS BY MEMBERS, IMMEDIATE FAMILY OF MEMBERS, STAFF OF MEMBERS, OR IMMEDIATE FAMILY OF STAFF OF MEMBERS.

Rule XXXVII of the Standing Rules of the Senate is amended by adding at the end the following:

''15. (a) No Member shall use his official position to introduce, request, or otherwise aid the progress or passage of a congressional earmark that will financially benefit or otherwise further the pecuniary interest of such Member, the spouse of such Member, the immediate family member of such Member, any employee on the staff of such Member, the spouse of an employee on the staff of such Member, or immediate family member of an employee on the staff of such Member.

''(b) For purposes of this paragraph—

''(1) the term 'immediate family member' means the son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, or stepsister of a Member or any employee on the staff (including staff in personal, committee and leadership offices) of a Member; and

''(2) the term 'congressional earmark' shall have the same meaning as in rule XLIV of the Standing Rules of the Senate.''.

SA 2606. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 180, to require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3 and insert the following:

SEC. 3. TRANSPARENCY IN CAPITAL MARKETS.

(a) LIST OF PERSONS DIRECTLY INVESTING IN OR CONDUCTING BUSINESS OPERATIONS IN CERTAIN SUDANESE SECTORS.—

(1) PUBLICATION OF LIST.—Not later than 6 months after the date of the enactment of this Act and every 6 months thereafter, the President, in consultation with the Secretary of the Treasury, the Secretary of Energy, the Secretary of State, the Securities and Exchange Commission, and the heads of other appropriate Federal departments and agencies, shall, using only publicly available (including proprietary) information, ensure publication in the Federal Register of a list of each person, whether within or outside of the United States, that, as of the date of the publication, has a direct investment in, or is conducting, business operations in Sudan's power production, mineral extraction, oil-related, or military equipment industries, subject to paragraph (2). To the extent practicable, the list shall include a description of the investment made by each such person, including the dollar value, intended purpose, and status of the investment, as of the date of the publication.

(2) EXCEPTIONS.—The President shall exclude a person from the list if all of the business operations by reason of which the person would otherwise be included on the list—

(A) are conducted under contract directly and exclusively with the regional government of southern Sudan;

(B) are conducted under a license from the Office of Foreign Assets Control, or are expressly exempted under Federal law from the requirement to be conducted under such a license;

(C) consist of providing goods or services to marginalized populations of Sudan;

(D) consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(E) consist of providing goods or services that are used only to promote health or education;

(F) are conducted by a person that has also undertaken significant humanitarian efforts as described in section 10(14)(B);

(G) have been voluntarily suspended; or

(H) will cease within 1 year after the adoption of a formal plan to cease the operations, as determined by the President.

(3) CONSIDERATION OF SCRUTINIZED BUSINESS OPERATIONS.—The President should give serious consideration to including on the list any company that has a scrutinized business operation with respect to Sudan (within the meaning of section 10(4)).

(4) PRIOR NOTICE TO PERSONS.—The President shall, at least 30 days before the list is published under paragraph (1), notify each person that the President intends to include on the list.

(5) DELAY IN INCLUDING PERSONS ON THE LIST.—After notifying a person under paragraph (4), the President may delay including that person on the list for up to 60 days if the President determines and certifies to the Congress that the person has taken specific and effective actions to terminate the involvement of the person in the activities that resulted in the notification under paragraph (4).

(6) REMOVAL OF PERSONS FROM THE LIST.—The President may remove a person from the list before the next publication of the list under paragraph (1) if the President determines that the person no longer has a direct investment in or is no longer conducting business operations as described in paragraph (1).

(7) ADVANCE NOTICE TO CONGRESS.—Not later than 30 days (or, in the case of the 1st such list, 60 days) before the date by which paragraph (1) requires the list to be published, the President shall submit to the Committees on Financial Services, on Education and Labor, and on Oversight and Government Reform of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs, on Health, Education, Labor, and Pensions, and on Homeland Security and Governmental Affairs of the Senate a copy of the list which the President intends to publish under paragraph (1).

(b) PUBLICATION ON WEBSITE.—The President shall ensure that the list is published on an appropriate, publicly accessible Government website, updating the list as necessary to take into account any person removed from the list under subsection (a)(6).

(c) DEFINITION.—In this section, the term ''investment'' has the meaning given the term in section 4(b)(3).

SA 2607. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 180, to require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, between lines 4 and 5, insert the following:

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for the purposes of carrying out this section.

SA 2608. Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. CARDIN, Ms. MIKULSKI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 213, strike line 13 and all that follows through page 216, line 6 and insert the following:

SEC. 608. REQUIRING COVERAGE OF DENTAL SERVICES.

(a) REQUIRED COVERAGE OF DENTAL SERVICES.—

(1) IN GENERAL.—Section 2103 (42 U.S.C. 1397cc) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking ''subsection (c)(5)'' and inserting ''paragraphs (5) and (6) of subsection (c)''; and

(B) in subsection (c)—

(i) by redesignating paragraph (5) as paragraph (6); and

(ii) by inserting after paragraph (4), the following new paragraph:

''(5) DENTAL 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 dental services necessary to—

''(A) prevent disease and promote oral health;

''(B) restore oral structures to health and function; and

''(C) treat emergency conditions.''.

(2) STATE CHILD HEALTH PLAN REQUIREMENT.—Section 2102(a)(7)(B) (42 U.S.C. 1397bb(a)(7)(B)) is amended by inserting ''and services described in section 2103(c)(5)'' after ''emergency services''.

(3) INCLUSION IN BASIC SERVICES FOR BENCHMARK-EQUIVALENT COVERAGE.—Section 2103(c)(1) (42 U.S.C. 1397cc(c)(1)) is amended by adding at the end the following new subparagraph:

''(E) Services described in paragraph (5).''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to health benefits coverage provided on or after October 1, 2008.

(b) DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.—

(1) DISALLOWANCE OF DEDUCTION.—

(A) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(B) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(2) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(A) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(B) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(C) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to damages paid or incurred on or after the date of the enactment of this Act.

(c) DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.—

(1) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

A taxpayer shall not meet the requirements of subparagraph (A) solely by reason an identification under subparagraph (B). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(2) REPORTING OF DEDUCTIBLE AMOUNTS.—

(A) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050V the following new section:

''SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(B) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following new item:

''Sec. 6050W. Information with respect to certain fines, penalties, and other amounts.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SA 2609. Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. CARDIN, Ms. MIKULSKI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, between lines 6 and 7, insert the following:

(b) AMOUNT APPROPRIATED FOR DENTAL HEALTH GRANTS.—Notwithstanding subsection (e) of section 2114 of the Social Security Act, as added by this section, out of any

funds in the Treasury not otherwise appropriated, there is appropriated, $500,000,000 for the period of fiscal years 2008 through 2012, to remain available until expended, for the purpose of awarding grants to States under such section. Amounts appropriated under this subsection and paid under the authority of such section 2114 shall be in addition to amounts appropriated under section 2104 of the Social Security Act (42 U.S.C. 1397dd) and paid to States in accordance with section 2105 of such Act (42 U.S.C. 1397ee).

(c) DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.—

(1) DISALLOWANCE OF DEDUCTION.—

(A) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(B) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(2) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(A) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(B) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(C) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to damages paid or incurred on or after the date of the enactment of this Act.

(d) DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.—

(1) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

A taxpayer shall not meet the requirements of subparagraph (A) solely by reason an identification under subparagraph (B). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(2) REPORTING OF DEDUCTIBLE AMOUNTS.—

(A) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050V the following new section:

''SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(B) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following new item:

''Sec. 6050W. Information with respect to certain fines, penalties, and other amounts.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SA 2610. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 133, strike line 4 and all that follows through page 165, line 2, and insert the following:

SEC. 401. IMPROVED STATE OPTION FOR OFFERING PREMIUM ASSISTANCE FOR COVERAGE THROUGH PRIVATE PLANS.

(a) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 301(c) is amended by adding at the end the following:

''(10) ADDITIONAL STATE OPTION FOR OFFERING PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and

have access to such coverage in accordance with the requirements of this paragraph.

''(B) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(i) IN GENERAL.—In this paragraph, the term 'qualified employer sponsored coverage' means a group health plan or health insurance coverage offered through an employer that is—

''(I) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(II) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(III) cost-effective, as determined under clause (ii).

''(ii) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(I) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(II) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(iii) HIGH DEDUCTIBLE HEALTH PLANS INCLUDED.—The term 'qualified employer sponsored coverage' includes a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on June 28, 2007.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(10) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SA 2611. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 133, strike line 4 and all that follows through page 165, line 2, and insert the following:

SEC. 401. PREMIUM ASSISTANCE FOR HIGHER INCOME CHILDREN AND PREGNANT WOMEN WITH ACCESS TO EMPLOYER-SPONSORED COVERAGE.

(a) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 301(c) is amended by adding at the end the following:

''(10) PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Beginning with fiscal year 2008, a State may only provide child health assistance for a targeted low-income child or a pregnant woman whose family income exceeds 200 percent of the poverty line and who has access to qualified employer sponsored coverage (as defined in subparagraph (B)) through the provision of a premium assistance subsidy in accordance with the requirements of this paragraph. The enhanced FMAP under subsection (a)(1) shall be zero with respect to any expenditures for providing child health assistance for a targeted low-income child or pregnant woman described in the preceding sentence in any manner other than through the provision of such a subsidy.

''(B) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(i) IN GENERAL.—In this paragraph, the term 'qualified employer sponsored coverage' means a group health plan or health insurance coverage offered through an employer that is—

''(I) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(II) for which the employer contribution toward any premium for such coverage is at least 50 percent (75 percent, in the case of an employer with more than 50 employees);

''(III) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(IV) cost-effective, as determined under clause (ii).

''(ii) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(I) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(II) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(iii) HIGH DEDUCTIBLE HEALTH PLANS INCLUDED.—The term 'qualified employer sponsored coverage' includes a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on June 28, 2007, for targeted low-income children or pregnant women whose family income does not exceed 200 percent of the poverty line.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage and the requirement to provide such subsidies to the individuals described in subparagraph (A);

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy, or if required, to obtain such subsidies; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(10) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SA 2612. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

Strike section 544 (c) of the amendment and insert the following:

(c) LIMITED FLIGHT EXCEPTION.—

(1) IN GENERAL.—Paragraph 1 of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

''(h) For purposes of subparagraph (c)(1) and rule XXXVIII, if there is not more than 1 regularly scheduled flight daily from a point in a Member's State to another point within that Member's State, the Select Committee on Ethics may provide a waiver to the requirements in subparagraph (c)(1) (except in those cases where regular air service is not available between 2 cities) if—

''(1) there is no appearance of or actual conflict of interest; and

''(2) the Member has the trip approved by the committee at a rate determined by the committee.

In determining rates under clause (2), the committee may consider Ethics Committee Interpretive Ruling 412.''.

(2) DISCLOSURE.—

(A) RULES.—Paragraph 2 of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

''(g) A Member, officer, or employee of the Senate shall—

''(1) disclose a flight on an aircraft that is not licensed by the Federal Aviation Administration to operate for compensation or hire, excluding a flight on an aircraft owned, operated, or leased by a governmental entity, taken in connection with the duties of the Member, officer, or employee as an officeholder or Senate officer or employee; and

''(2) with respect to the flight, file a report with the Secretary of the Senate, including the date, destination, and owner or lessee of the aircraft, the purpose of the trip, and the persons on the trip, except for any person flying the aircraft.

This subparagraph shall apply to flights approved under paragraph 1(h).''.

(B) FECA.—Section 304(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)) is amended—

(i) by striking ''and'' at the end of paragraph (7);

(ii) by striking the period at the end of paragraph (8) and inserting ''; and''; and

(iii) by adding at the end the following:

''(9) in the case of a principal campaign committee of a candidate (other than a candidate for election to the office of President or Vice President), any flight taken by the candidate (other than a flight designated to transport the President, Vice President, or a candidate for election to the office of President or Vice President) during the reporting period on an aircraft that is not licensed by the Federal Aviation Administration to operate for compensation or hire, together with the following information:

''(A) The date of the flight.

''(B) The destination of the flight.

''(C) The owner or lessee of the aircraft.

''(D) The purpose of the flight.

''(E) The persons on the flight, except for any person flying the aircraft.''.

(C) PUBLIC AVAILABILITY.—Paragraph 2(e) of rule XXXV of the Standing Rules of the Senate is amended to read as follows:

''(e) The Secretary of the Senate shall make available to the public all disclosures filed pursuant to subparagraphs (f) and (g) as soon as possible after they are received and such matters shall be posted on the Member's official website but no later than 30 days after the trip or flight.''.

(D) REPEAL.—Section 601 of this Act shall be null and void.

SA 2613. Mr. FEINGOLD (for himself, Mr. GRAHAM, Mr. VOINOVICH, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. GAO REPORT ON STATE HEALTH CARE REFORM INITIATIVES.

(a) REPORT.—Not later than November 30, 2008, the Comptroller General of the United States shall submit to Congress a report on State health care reform initiatives.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) ASSESSMENT.—An assessment of State efforts to reexamine health care delivery and health insurance systems and to expand access of residents to health insurance and health care services, including the following:

(A) An overview of State approaches to reexamining health care delivery and insurance.

(B) Whether and to what extent State health care initiatives have resulted in improved access to health care and insurance.

(C) The extent to which public and private cooperation has occurred in State health care initiatives.

(D) Outcomes of State insurance coverage mandates.

(E) The effects of increased health care costs on State fiscal choices.

(F) The effects of Federal law and funding on State health care initiatives and fiscal choices.

(G) Outcomes of State efforts to increase health care quality and control costs.

(2) POTENTIAL ROLE OF CONGRESS.—Recommendations regarding the potential role of Congress in supporting State-based reform efforts, including (but not limited to) the following:

(A) Enacting changes in Federal law that would facilitate State-based health reform and expansion efforts.

(B) Creating new or realigning existing Federal funding mechanisms to support State-based reform and expansion efforts.

(C) Expanding existing Federal health insurance programs and increasing other sources of Federal health care funding to support State-based health reform and expansion efforts.

SA 2614. Mr. FEINGOLD (for himself, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. AUTOMATED DEFIBRILLATION IN ADAM'S MEMORY REAUTHORIZATION.

Section 312(e) of the Public Health Service Act (42 U.S.C. 244(e)) is amended in the first sentence by striking ''fiscal year 2003'' and all that follows through ''2006'' and inserting ''for each of fiscal years 2003 through 2011''.

SA 2615. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. 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 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.

SA 2616. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. PERMITTING LOCAL PUBLIC AGENCIES TO ACT AS MEDICAID ENROLLMENT BROKERS.

Section 1903(b)(4) (42 U.S.C. 1396b(b)(4)) is amended by adding at the end the following new subparagraph:

''(C)(i) Subparagraphs (A) and (B) shall not apply in the case of a local public agency that is acting as an enrollment broker under a contract or memorandum with a State medicaid agency, provided the local public agency does not have a direct or indirect financial interest with any medicaid managed care plan for which it provides enrollment broker services.

''(ii) In determining whether a local public agency has a direct or indirect financial interest with a medicaid managed care plan under clause (i), the status of a local public agency as a contractor of the plan does not constitute having a direct or indirect financial interest with the plan.''.

SA 2617. Mrs. MCCASKILL (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 223, strike line 20 and all that follows through page 227, line 19, and insert the following:

(2) by striking ''information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract)'' and inserting ''information that the employee reasonably believes is evidence of gross mismanagement of a Department of Defense contract, grant, or direct payment if the United States Government provides any portion of the money or property which is requested or demanded, a gross waste of Department of Defense funds, a substantial and specific danger to public health or safety, or a violation of law related to a Department of Defense contract (including the competition for or negotiation of a contract), grant, or direct payment if the United States Government provides any portion of the money or property which is requested or demanded''.

(b) ACCELERATION OF SCHEDULE FOR DENYING RELIEF OR PROVIDING REMEDY.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by inserting after ''(1)'' the following: ''Not later than 90 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall determine whether the contractor concerned has subjected the complainant to a reprisal prohibited under subsection (a).''; and

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

''(D) In the event the disclosure relates to a cost-plus contract, prohibit the contractor from receiving one or more award fee payments to which the contractor would otherwise be eligible until such time as the contractor takes the actions ordered by the head of the agency pursuant to subparagraphs (A) through (C).

''(E) Take the reprisal into consideration in any past performance evaluation of the contractor for the purpose of a contract award.'';

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph:

''(3)(A) In the case of a contract covered by subsection (f), an employee of a contractor who has been discharged, demoted, or otherwise discriminated against as a reprisal for a disclosure covered by subsection (a) or who is aggrieved by the determination made pursuant to paragraph (1) or by an action that the agency head has taken or failed to take pursuant to such determination may, after exhausting his or her administrative remedies, bring a de novo action at law or equity against the contractor to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

''(B) An employee shall be deemed to have exhausted his or her administrative remedies for the purpose of this paragraph—

''(i) 90 days after the receipt of a written determination under paragraph (1); or

''(ii) 15 months after a complaint is submitted under subsection (b), if a determination by an agency head has not been made by that time and such delay is not shown to be due to the bad faith of the complainant.''.

(c) LEGAL BURDEN OF PROOF.—Such section is further amended—

(1) by redesignating subsection (e) as subsection (g); and

(2) by inserting after subsection (d) the following new subsection:

''(e) LEGAL BURDEN OF PROOF.—The legal burdens of proof specified in section 1221(e) of title 5 shall be controlling for the purposes of any investigation conducted by an inspector general, decision by the head of an agency, or hearing to determine whether discrimination prohibited under this section has occurred.''.

(d) REQUIREMENT TO NOTIFY EMPLOYEES OF RIGHTS RELATED TO PROTECTION FROM REPRISAL.—Such section, as amended by subsection (c), is further amended by inserting after subsection (e) the following new subsection:

''(f) NOTICE OF RIGHTS RELATED TO PROTECTION FROM REPRISAL.—

''(1) IN GENERAL.—Each Department of Defense contract in excess of $5,000,000, other than a contract for the purchase of commercial items, shall include a clause requiring the contractor to ensure that all employees of the contractor who are working on Department of Defense contracts are notified of—

''(A) their rights under this section;

''(B) the fact that the restrictions imposed by any employee contract, employee agreement, or non-disclosure agreement may not supersede, conflict with, or otherwise alter the employee rights provided for under this section; and

''(C) the telephone number for the whistleblower hotline of the Inspector General of the Department of Defense.

''(2) FORM OF NOTICE.—The notice required by paragraph (1) shall be made by posting the required information at a prominent place in each workplace where employees working on the contract regularly work.''.

(e) DEFINITIONS.—Subsection (g) of such section, as redesignated by subsection (c)(1), is amended—

(1) in paragraph (4), by inserting after ''an agency'' the following: ''and includes any person receiving funds covered by the prohibition against reprisals in subsection (a)'';

(2) in paragraph (5), by inserting after ''1978'' the following: ''and any Inspector General that receives funding from or is under the jurisdiction of the Secretary of Defense''; and

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

''(6) The term 'employee' means an individual (as defined by section 2105 of title 5) or any individual or organization performing services for a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded (including as an employee of an organization).

''(7) The term 'Department of Defense funds' includes funds controlled by the Department of Defense and funds for which the Department of Defense may be reasonably regarded as responsible to a third party.''.

SA 2618. Mr. WEBB submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; as follows:

At the end of title VII, insert the following:

SEC. ___. ELIMINATION OF DEFERRAL OF TAXATION OF CERTAIN INCOME OF CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 952 (relating to subpart F income defined) is amended by adding at the end the following new subsection:

''(e) SPECIAL APPLICATION OF SUBPART.—

''(1) IN GENERAL.—For taxable years beginning after December 31, 2007, notwithstanding any other provision of this subpart, the term 'subpart F income' means, in the case of any controlled foreign corporation, the income of such corporation derived from any foreign country.

''(2) APPLICABLE RULES.—Rules similar to the rules under the last sentence of subsection (a) and subsection (d) shall apply to this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after December 31, 2007, and to taxable years of United States shareholders with or within which such taxable years of such corporations end.

SA 2619. Mr. NELSON of Florida (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, line 16, strike ''$10.00'' and insert ''$3.00''.

SA 2620. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 110 and insert the following:

SEC. 110. COVERAGE FOR INDIVIDUALS RESIDING IN HIGH COST AREAS WITH FAMILY INCOME ABOVE 200 PERCENT OF THE FEDERAL POVERTY LINE.

(a) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) COVERAGE OF INDIVIDUALS RESIDING IN HIGH-COST AREAS.—

''(A) IN GENERAL.—For fiscal years beginning with fiscal year 2008, a State shall receive payments under subsection (a)(1) with respect to child health assistance provided to an individual who resides in a high cost county or metropolitan statistical area (as defined by the Secretary, taking into account the national average cost-of-living) and whose effective family income exceeds 200 percent of the poverty line (as determined under the State child health plan), only if such family income does not exceed 200 percent of the poverty line as adjusted for the cost-of-living in the State under subparagraph (B)).

''(B) ADJUSTED POVERTY LINE.—The Secretary shall adjust the poverty line applicable to a family of the size involved with respect to each State to take into account the cost-of-living for each county or metropolitan statistical area in the State, based on the most recent index data from the Council for Community and Economic Research (previously known as the American Chamber of Commerce Research Association),the 2004 Consumer Expenditure Survey of the Bureau of Labor Statistics, and the Bureau of Economic Analysis of the Department of Commerce.''.

(b) CONFORMING AMENDMENT.—Section 2105(a)(1) (42 U.S.C. 1397dd(a)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''or subsection (c)(8)'' after ''subparagraph (B)''.

(c) REGULATIONS.—Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall promulgate interim final regulations to carry out the amendments made by subsections (a) and (b).

SA 2621. Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. NELSON of Nebraska, Mr. BAUCUS, Mr. GRASSLEY, Mr. KENNEDY, Mr. ENZI, Mr. DURBIN, Mr. CRAPO, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. ___. SENSE OF SENATE REGARDING ACCESS TO AFFORDABLE AND MEANINGFUL HEALTH INSURANCE COVERAGE.

(a) FINDINGS.—The Senate finds the following:

(1) There are approximately 45 million Americans currently without health insurance.

(2) More than half of uninsured workers are employed by businesses with less than 25 employees or are self-employed.

(3) Health insurance premiums continue to rise at more than twice the rate of inflation for all consumer goods.

(4) Individuals in the small group and individual health insurance markets usually pay more for similar coverage than those in the large group market.

(5) The rapid growth in health insurance costs over the last few years has forced many employers, particularly small employers, to increase deductibles and co-pays or to drop coverage completely.

(b) SENSE OF THE SENATE.—The Senate—

(1) recognizes the necessity to improve affordability and access to health insurance for all Americans;

(2) acknowledges the value of building upon the existing private health insurance market; and

(3) affirms its intent to enact legislation this year that, with appropriate protection for consumers, improves access to affordable and meaningful health insurance coverage for employees of small businesses and individuals by—

(A) facilitating pooling mechanisms, including pooling across State lines, and

(B) providing assistance to small businesses and individuals, including financial assistance and tax incentives, for the purchase of private insurance coverage.

SA 2622. Mr. CASEY (for Mr. ENZI (for himself and Ms. MIKULSKI)) proposed an amendment to the bill S. 845, to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safety of Seniors Act of 2007''.

SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended—

(1) by redesignating section 393B (as added by section 1401 of Public Law 106–386) as section 393C and transferring such section so that it appears after section 393B (as added by section 1301 of Public Law 106–310); and

(2) by inserting after section 393C (as redesignated by paragraph (1)) the following:

''SEC. 393D. PREVENTION OF FALLS AMONG OLDER ADULTS.

''(a) PUBLIC EDUCATION.—The Secretary may—

''(1) oversee and support a national education campaign to be carried out by a nonprofit organization with experience in designing and implementing national injury prevention programs, that is directed principally to older adults, their families, and health care providers, and that focuses on reducing falls among older adults and preventing repeat falls; and

''(2) award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, for the purpose of organizing State-level coalitions of appropriate State and local agencies, safety, health, senior citizen, and other organizations to design and carry out local education campaigns, focusing on reducing falls among older adults and preventing repeat falls.

''(b) RESEARCH.—

''(1) IN GENERAL.—The Secretary may—

''(A) conduct and support research to—

''(i) improve the identification of older adults who have a high risk of falling;

''(ii) improve data collection and analysis to identify fall risk and protective factors;

''(iii) design, implement, and evaluate the most effective fall prevention interventions;

''(iv) improve strategies that are proven to be effective in reducing falls by tailoring these strategies to specific populations of older adults;

''(v) conduct research in order to maximize the dissemination of proven, effective fall prevention interventions;

''(vi) intensify proven interventions to prevent falls among older adults;

''(vii) improve the diagnosis, treatment, and rehabilitation of elderly fall victims and older adults at high risk for falls; and

''(viii) assess the risk of falls occurring in various settings;

''(B) conduct research concerning barriers to the adoption of proven interventions with respect to the prevention of falls among older adults;

''(C) conduct research to develop, implement, and evaluate the most effective approaches to reducing falls among high-risk older adults living in communities and long-term care and assisted living facilities; and

''(D) evaluate the effectiveness of community programs designed to prevent falls among older adults.

''(2) EDUCATIONAL SUPPORT.—The Secretary, either directly or through awarding grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, may provide professional education for physicians and allied health professionals, and aging service providers in fall prevention, evaluation, and management.

''(c) DEMONSTRATION PROJECTS.—The Secretary may carry out the following:

''(1) Oversee and support demonstration and research projects to be carried out by qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, in the following areas:

''(A) A multistate demonstration project assessing the utility of targeted fall risk screening and referral programs.

''(B) Programs designed for community-dwelling older adults that utilize multicomponent fall intervention approaches, including physical activity, medication assessment and reduction when possible, vision enhancement, and home modification strategies.

''(C) Programs that are targeted to new fall victims who are at a high risk for second falls and which are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations.

''(D) Private sector and public-private partnerships to develop technologies to prevent falls among older adults and prevent or reduce injuries if falls occur.

''(2)(A) Award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, to design, implement, and evaluate fall prevention programs using proven intervention strategies in residential and institutional settings.

''(B) Award 1 or more grants, contracts, or cooperative agreements to 1 or more qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, in order to carry out a multistate demonstration project to implement and evaluate fall prevention programs using proven intervention strategies designed for single and multifamily residential settings with high concentrations of older adults, including—

''(i) identifying high-risk populations;

''(ii) evaluating residential facilities;

''(iii) conducting screening to identify high-risk individuals;

''(iv) providing fall assessment and risk reduction interventions and counseling;

''(v) coordinating services with health care and social service providers; and

''(vi) coordinating post-fall treatment and rehabilitation.

''(3) Award 1 or more grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, to conduct evaluations of the effectiveness of the demonstration projects described in this subsection.

''(d) PRIORITY.—In awarding grants, contracts, or cooperative agreements under this section, the Secretary may give priority to entities that explore the use of cost-sharing with respect to activities funded under the grant, contract, or agreement to ensure the institutional commitment of the recipients of such assistance to the projects funded under the grant, contract, or agreement. Such non-Federal cost sharing contributions may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

''(e) STUDY OF EFFECTS OF FALLS ON HEALTH CARE COSTS.—

''(1) IN GENERAL.—The Secretary may conduct a review of the effects of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing health care costs associated with falls.

''(2) REPORT.—If the Secretary conducts the review under paragraph (1), the Secretary shall, not later than 36 months after the date of enactment of the Safety of Seniors Act of 2007, submit to Congress a report describing the findings of the Secretary in conducting such review.''.

SA 2623. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DEMONSTRATION PROJECT TO PROVIDE NURSE HOME VISITATION SERVICES UNDER MEDICAID AND CHIP.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress makes the following findings:

(A) Medicaid and CHIP have collectively provided health insurance coverage to over 38,000,000 low-income pregnant women and children.

(B) Evidence-based home visitation programs can improve the health status of low-income pregnant women and children enrolled in Medicaid and CHIP by promoting access to prenatal and well-baby care, reducing pre-term births, reducing high-risk pregnancies, increasing time intervals between first and subsequent births, and improving child cognitive, social, and behavioral skills, and development.

(C) In addition to health benefits, evidence-based home visitation programs have been proven to increase maternal employment and economic self-sufficiency and significantly reduce child abuse and neglect, child arrests, maternal arrests, and involvement in the criminal justice system.

(D) Evidence-based nurse home visitation programs are cost effective, yielding a 5-to-1 return on investment for every dollar spent on services, and producing a net benefit to society of $34,000 per high risk family served.

(2) PURPOSE.—The purpose of this section is to establish a demonstration project to evaluate the cost-effectiveness and impact on the health and well-being of low-income pregnant mothers and children of providing evidence-based home visitation services for low-income pregnant mothers and children under Medicaid and CHIP, particularly with respect to the impact of such services on—

(A) improving the prenatal health of children;

(B) improving pregnancy outcomes;

(C) improving child health and development;

(D) improving child development and mental health related to elementary school readiness;

(E) improving family stability and economic self-sufficiency;

(F) reducing the incidence of child abuse and neglect; and

(G) increasing birth intervals between pregnancies.

(b) REQUIREMENT TO CONDUCT DEMONSTRATION PROJECT.—

(1) IN GENERAL.—The Secretary shall establish a demonstration project under which a State may apply under section 1115 of the Social Security Act (42 U.S.C. 1315) to provide, in accordance with the provisions of this section, medical assistance under the State plan under title XIX of the Social Security Act, child health assistance under the State child health plan under title XXI of such Act, or both for evidence-based home visitation services to children and pregnant women who are eligible for such assistance under such plans.

(2) LIMITATION ON NUMBER OF APPROVED APPLICATIONS.—The Secretary shall only approve as many State applications to provide medical assistance or child health assistance in accordance with this section as will not exceed the limitation on aggregate payments under subsection (d)(2)(A).

(3) AUTHORITY TO WAIVE RESTRICTIONS ON PAYMENTS TO TERRITORIES.—The Secretary shall waive the limitations on payment under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) in the case of a State that is subject to such limitations and submits an approved application to provide medical assistance, child health assistance, or both in accordance with this section.

(c) LENGTH OF PERIOD FOR PROVISION OF ASSISTANCE.—A State shall not be approved to provide medical assistance or child health assistance for evidence-based home visitation services in accordance with the demonstration project established under this section for a period of more than 5 consecutive years.

(d) LIMITATIONS ON FEDERAL FUNDING.—

(1) APPROPRIATION.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section, $25,000,000 for the period of fiscal years 2008 through 2012.

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under that subparagraph.

(2) LIMITATION ON PAYMENTS.—In no case may—

(A) the aggregate amount of payments made by the Secretary to eligible States under this section exceed $25,000,000; or

(B) payments be provided by the Secretary under this section after September 30, 2012.

(3) FUNDS ALLOCATED TO STATES.—The Secretary shall allocate funds to States with approved applications under this section based on their applications and the availability of funds.

(4) PAYMENTS TO STATES.—The Secretary shall pay to each State, from its allocation under paragraph (3), an amount each quarter equal to the Federal medical assistance percentage, as defined with respect to the State in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), or the enhanced FMAP, as defined with respect to the State in section 2105(b) of such Act (42 U.S.C. 1397ee(b)) (as applicable) of expenditures in the quarter for medical assistance or child health assistance for evidence-based home visitation services provided to low-income pregnant mothers and children who are eligible for such assistance under a State plan under title XIX or XXI of such Act in accordance with the demonstration project established under this section.

(e) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of the demonstration project established under this section. Such evaluation shall include an analysis of the cost-effectiveness of the project with differentiation between the different types of home health programs and the impact of the programs on Medicaid and CHIP. For purposes of conducting such evaluation, the Secretary shall require a State that submits an application to participate in the demonstration project established under this section to agree, as a condition of approval of such application, to maintain data related to, and be subject to, periodic evaluations based on performance outcomes regarding the following:

(A) Substance abuse during pregnancy.

(B) Prematurity.

(C) Immunizations.

(D) Developmental delay.

(E) Language development.

(F) Emergency room visits and hospitalizations for injury.

(G) Interval between pregnancies.

(H) Workforce participation.

(I) Government assistance use.

(2) REPORT TO CONGRESS.—Not later than December 31, 2012, the Secretary shall submit a report to Congress on the results of the evaluation of the demonstration project established under this section.

(f) DEFINITION.—In this section, the term ''evidence-based home visitation services'' means services (such as services related to improving prenatal health, pregnancy outcomes, child health and development, school readiness, family stability and economic self-sufficiency, reducing child abuse, neglect, and injury, reducing maternal and child involvement in the criminal justice system, and increasing birth intervals between pregnancies) on behalf of a targeted low-income child who has not attained age 2 and is born to a first-time pregnant mother, but only if such services are provided in accordance with outcome standards that have been replicated in multiple, rigorous, randomized clinical trials in multiple sites, with outcomes that improve prenatal health of children, pregnancy outcomes, child health and development, child development, and mental health related to elementary school readiness, reduce child abuse, neglect, and injury, increase birth intervals between pregnancies, and improve maternal employment.

(g) RULE OF CONSTRUCTION.—Nothing in the demonstration project established under this section shall be construed as affecting the ability of a State under Medicaid or CHIP to provide home visitation services as part of medical assistance, child health assistance, or an administrative expense, for which any State received payment under section 1903(a) or 2105(a) of the Social Security Act (42 U.S.C. 1396b(a), 1397ee(a)) for the provision of such services before, on, or after the date of enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on August 1, 2007, at 9:30 a.m., to mark up S. 1677, the Currency Reform and Financial Markets Access Act of 2007; S. 1518, the Community Partnership to End Homelessness Act of 2007; an original bill entitled the FHA Modernization Act of 2007; an original bill entitled the Housing Assistance Authorization Act of 2007; an original bill entitled the Private Student Loan Transparency and Improvement Act of 2007; and an original bill entitled the Commission on National Catastrophe Risk Management and Insurance Act of 2007.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Wednesday, August 1, 2007, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

The U.S. Department of Commerce and its component bureaus are responsible for the stewardship, protection, and scientific understanding of our ocean environment and its resources, effective use and growth of the Nation's technological resources, and promoting U.S. trade and tourism. The oversight hearing will examine the Department's effectiveness in implementing these goals.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Wednesday, August 1, 2007, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on recent advances in clean coal technology, including the prospects for deploying these technologies at a commercial scale in the near future.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, August 1, 2007, at 9:30 a.m. to hold a hearing on Africa.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, August 1, 2007 at 10 a.m. in the LBJ Room, S–211, of the Capitol building. We will be considering the following:

1. S. 625, Family Smoking Prevention and Tobacco Control Act
2. S. 1183, Christopher and Dana Reeve Paralysis Act
3. S. 579, Breast Cancer and Environmental Research Act of 2007
4. S. 898, Alzheimer's Breakthrough Act of 2007
5. S. 1858, Newborn Screening Saves Lives Act of 2007
6. The Following Nominations: Diane Auer Jones, of Maryland, to be Assistant Secretary for Postsecondary Education, Department of Education; David C. Geary, of Missouri, to be a member of the Board of Directors of the National Board for Education Sciences; Miguel Campaneria, of Puerto Rico, to be a member of the National Council on the Arts; and any nominations ready for action.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE HOMELAND SECURITY

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, August 1, 2007, at 10 a.m. in order to conduct business meeting to consider pending committee business.

Agenda

Nominations: The Honorable James A. Nussle to be Director, Office of Management and Budget; Dennis R. Schrader to be Deputy Administrator for National Preparedness, Federal Emergency Management Agency, U.S. Department of Homeland Security.

Legislation: S. 680, Accountability in Government Contracting Act of 2007; H.R. 1254, Presidential Library Donation Reform Act of 2007; S. ____, an original bill to provide for the flexibility of certain disaster relief funds, and for improved evacuation and sheltering during disasters and catastrophes; S. 1000, Telework Enhancement Act of 2007; S. 1446, National Capital Transportation Amendments Act of 2007; S. 547, Effective Homeland Security Management Act of 2007; S. 1245, a bill to reform mutual aid agreements for the National Capital Region; S. 597, a bill to extend the special postage stamp for breast cancer research for 2 years.

Post Office Naming Bills: H.R. 2570/S. 1732, a bill to designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado, as the ''Dr. Karl E. Carson Post Office Building''; S. 1772, a bill to designate the facility of the United States Postal Service located at 127 South Elm Street in Gardner, Kansas, as the ''Private First Class Shane R. Austin Post Office''; S. 1781, a bill to designate the facility of the United States Postal Service located at 118 Minner Avenue in Bakersfield, California, as the ''Buck Owens Post Office''; H.R. 2127, a bill to designate the facility of the United States Postal Service located at 408 West 6th Street in Chelsea, Oklahoma, as the ''Clem Rogers McSpadden Post Office Building''; H.R. 2563/S. 1539, a bill to designate the facility of the United States Postal Service located at 309 East Linn Street in Marshalltown, Iowa, as the ''Major Scott Nisely Post Office''; S. 1596, a bill to designate the facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, as the ''Dolph S. Briscoe, Jr., Post Office Building''; H.R. 1722, a bill to designate the facility of the United States Postal Service located at 601 Banyan Trail in Boca Raton, Florida, as the ''Leonard W. Herman Post Office''; H.R. 1425, a bill to designate the facility of the United States Postal Service located at 4551 East 52nd Street in Odessa, Texas, as the ''Staff Sergeant Marvin 'Rex' Young Post Office Building''; H.R. 2078, a bill to designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio, as the ''Staff Sergeant Omer 'O.T.' Hawkins Post Office''; H.R. 2077, a bill to designate the facility of the United States Postal Service located at 20805 State Route 125 in Blue Creek, Ohio, as the ''George B. Lewis Post Office Building''; H.R. 1617, a bill to designate the facility of the United States Postal service located at 561 Kingsland Avenue in University City, Missouri, as the ''Harriet F. Woods Post Office Building''; H.R. 2025, a bill to designate the facility of the United States Postal service located at 11033 South State Street in Chicago, Illinois, as the ''Willye B. White Post Office Building''; H.R. 1335, a bill to designate the facility of the United States Postal service located at 508 East Main Street in Seneca, South Carolina, as the ''S/Sgt Lewis G. Watkins Post Office Building''; H.R. 1260, a bill to designate the facility of the United States Postal service located at 6301 Highway 58 in Harrison, Tennessee, as the ''Claude Ramsey Post Office''; H.R. 1434, a bill to designate the facility of the United States Postal Service located at 896 Pittsburgh Street in Springdale, Pennsylvania, as the ''Rachel Carson Post Office Building.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate in order to conduct a roundtable entitled ''Reauthorization of the Small Business Innovation Research Programs: National Academies' Findings and Recommendations,'' on August 1, 2007, at 10 a.m. in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mrs. BOXER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on August 1, 2007, at 2:30 p.m. to hold an open hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Government Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Wednesday, August 1, 2007, at 2:30 p.m. in order to conduct a hearing entitled Building a Stronger American Diplomatic.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mrs. BOXER. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Wednesday, August 1, 2007, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 1054 and H.R. 122, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga Valley Water District recycling project; S. 1472, to authorize the Secretary of the Interior to create a Bureau of Reclamation partnership with the North Bay Water Reuse Authority and other regional partners to achieve objectives relating to water supply, water quality, and environmental restoration; S. 1475 and H.R. 1526, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Bay Area Regional Water Recycling Program, and for other purposes; H.R. 30, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Eastern Municipal Water District Recycled Water

System Pressurization and Expansion Project; H.R. 609, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Central Texas Recycling and Reuse Project, and for other purposes; and H.R. 1175, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Michael Kimberly of my staff be granted floor privileges for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I ask unanimous consent that Jessica Gerrity, a fellow in my office, be granted floor privileges for the duration of the Senate consideration of H.R. 976, the Small Business Tax Relief Act of 2007.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that my legislative fellow, Dr. Guy Clifton, be granted floor privileges during the consideration of the CHIP reauthorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

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DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2008

On Thursday, July 26, 2007, the Senate passed H.R. 2638, U.S. amended as follows:

H.R. 2638

Resolved, That the bill from the House of Representatives (H.R. 2638) entitled ''An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.'', do pass with the following *amendment:*

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, for the Department of Homeland Security and for other purposes, namely:

TITLE I

DEPARTMENT OF HOMELAND SECURITY

DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $100,000,000: Provided, That not to exceed $40,000 shall be for official reception and representation expenses: Provided further, That $15,000,000 shall not be available for obligation until the Secretary certifies and reports to the Committees on Appropriations of the Senate and the House of Representatives that the Department has revised Departmental guidance with respect to relations with the Government Accountability Office to specifically provide for: (1) expedited timeframes for providing the Government Accountability Office with access to records not to exceed 20 days from the date of request; (2) expedited timeframes for interviews of program officials by the Government Accountability Office after reasonable notice has been furnished to the Department by the Government Accountability Office; and (3) a significant streamlining of the review process for documents and interview requests by liaisons, counsel, and program officials, consistent with the objective that the Government Accountability Office be given timely and complete access to documents and agency officials: Provided further, That the Secretary shall make the revisions to Departmental guidance with respect to relations with the Government Accountability Office in consultation with the Comptroller General of the United States.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701 through 705 of the Homeland Security Act of 2002 (6 U.S.C. 341 through 345), $234,883,000, of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That of the total amount, $6,000,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations; and $88,000,000 shall remain available until expended for the Consolidated Headquarters Project.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $30,076,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $321,100,000; of which $82,400,000 shall be available for salaries and expenses; and of which $238,700,000, to remain available until expended, shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, of which $97,300,000 shall be for the National Center for Critical Information Processing and Storage: Provided, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment.

ANALYSIS AND OPERATIONS

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $306,000,000, to remain available until September 30, 2009, of which not to exceed $5,000 shall be for official reception and representation expenses: Provided, That the Director of Operations Coordination shall encourage rotating State and local fire service representation at the National Operations Center.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, $3,000,000: Provided, That $1,000,000 shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan for fiscal year 2008.

OFFICE OF INSPECTOR GENERAL

OPERATING EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $95,211,000, of which not to exceed $150,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General: Provided, That the Inspector General shall investigate decisions made regarding, and the policy of the Federal Emergency Management Agency relating to, formaldehyde in trailers in the Gulf Coast region, the process used by the Federal Emergency Management Agency for collecting, reporting, and responding to health and safety concerns of occupants of housing supplied by the Federal Emergency Management Agency (including such housing supplied through a third party), and whether the Federal Emergency Management Agency adequately addressed public health and safety issues of households to which the Federal Emergency Management Agency provides disaster housing (including whether the Federal Emergency Management Agency adequately notified recipients of such housing, as appropriate, of potential health and safety concerns and whether the institutional culture of the Federal Emergency Management Agency properly prioritizes health and safety concerns of recipients of assistance from the Federal Emergency Management Agency), and submit a report to Congress relating to that investigation, including any recommendations.

TITLE II

SECURITY, ENFORCEMENT, AND INVESTIGATIONS

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; purchase and lease of up to 4,500 (2,400 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $6,601,058,000; of which $230,316,000 shall remain available until September 30, 2009, to support software development, equipment, contract services, and the implementation of inbound lanes and modification to vehicle primary processing lanes at ports of entry; of which $15,000,000 shall be used to procure commercially available technology in order to expand and improve the risk-based approach of the Department of Homeland Security to target and inspect cargo containers under the Secure Freight Initiative and the Global Trade Exchange; of which $3,093,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $226,740,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which $40,000,000 shall be utilized to develop and implement a Model Ports of Entry program and provide resources necessary for 200 additional U.S. Customs and Border Protection officers at the 20 United States international airports that

have the highest number of foreign visitors arriving annually as determined pursuant to the most recent data collected by U.S. Customs and Border Protection available on the date of enactment of this Act, to provide a more efficient and welcoming international arrival process in order to facilitate and promote business and leisure travel to the United States while also improving security; and of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: Provided, That for fiscal year 2008, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of U.S. Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $476,609,000, to remain available until expended, of which not less than $316,969,000 shall be for the development of the Automated Commercial Environment: Provided, That of the total amount made available under this heading, $216,969,000 may not be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure prepared by the Secretary of Homeland Security that includes:

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones for fully addressing them;

(4) a certification by the Chief Financial Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7;

(5) a certification by the Chief Information Officer of the Department that an independent validation and verification agent has and will continue to actively review the program;

(6) a certification by the Chief Information Officer of the Department that the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were and were not assessed in making the alignment determination, the date of the alignment determination, any known areas of misalignment along with the associated risks and corrective actions to address any such areas;

(7) a certification by the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with any plans for addressing these risks and the status of their implementation;

(8) a certification by the Chief Information Officer of the Department that the program has a risk management process that regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to agency and department heads, as well as a listing of all the program's high risks and the status of efforts to address them; and

(9) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for customs and border protection fencing, infrastructure, and technology, $1,000,000,000, to remain available until expended: Provided, That of the amount provided under this heading, $500,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure, prepared by the Secretary of Homeland Security and submitted within 90 days after the date of enactment of this Act, that includes:

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones for fully addressing them;

(4) a certification by the Chief Financial Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7;

(5) a certification by the Chief Information Officer of the Department that an independent validation and verification agent has and will continue to actively review the program;

(6) a certification by the Chief Information Officer of the Department that the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were and were not assessed in making the alignment determination, the date of the alignment determination, any known areas of misalignment along with the associated risks and corrective actions to address any such areas;

(7) a certification by the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with any plans for addressing these risks and the status of their implementation;

(8) a certification by the Chief Information Officer of the Department that the program has a risk management process that regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to agency and department heads, as well as a listing of all the program's high risks and the status of efforts to address them;

(9) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report;

(10) a description of initial plans for securing the Northern border and United States maritime border; and

(11) which is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aircraft systems, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $488,947,000, to remain available until expended: Provided, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to United States Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2008 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $274,863,000, to remain available until expended; of which $40,200,000 shall be for the Advanced Training Center.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; $4,401,643,000, of which not to exceed $7,500,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which not less than $5,400,000 shall be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds made available under this heading shall be available to compensate any employee

for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2008, of which not to exceed $6,000,000 shall remain available until expended.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service: Provided, That the Secretary of Homeland Security and the Director of the Office of Management and Budget shall certify in writing to the Committees on Appropriations of the Senate and the House of Representatives no later than November 1, 2007, that the operations of the Federal Protective Service will be fully funded in fiscal year 2008 through revenues and collection of security fees: Provided further, That a certification shall be provided no later than February 10, 2008, for fiscal year 2009: Provided further, That the Secretary of Homeland Security shall ensure that the workforce of the Federal Protective Service includes not fewer than 1,200 Commanders, Police Officers, Inspectors, and Special Agents engaged on a daily basis in protecting Federal buildings (under this heading referred to as ''in-service'') contingent on the availability of sufficient revenue in collections of security fees in this account for this purpose: Provided further, That the Secretary of Homeland Security and the Director of the Office of Management and Budget shall adjust fees as necessary to ensure full funding of not fewer than 1,200 in-service Commanders, Police Officers, Inspectors, and Special Agents at the Federal Protective Service.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $15,000,000, to remain available until expended: Provided, That of the funds made available under this heading, $5,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure prepared by the Secretary of Homeland Security.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $16,250,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $5,042,559,000, to remain available until September 30, 2009, of which not to exceed $10,000 shall be for official reception and representation expenses: Provided, That of the total amount made available under this heading, not to exceed $4,074,889,000 shall be for screening operations, of which $529,400,000 shall be available only for procurement and installation of checked baggage explosive detection systems; and not to exceed $967,445,000 shall be for aviation security direction and enforcement: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: Provided further, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2008, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,332,344,000: Provided further, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2009: Provided further, That Members of the United States House of Representatives and United States Senate, including the leadership; and the heads of Federal agencies and commissions, including the Secretary, Under Secretaries, and Assistant Secretaries of the Department of Homeland Security; the United States Attorney General and Assistant Attorneys General and the United States attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget; shall not be exempt from Federal passenger and baggage screening.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $41,413,000, to remain available until September 30, 2009.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Threat Assessment and Credentialing, $67,490,000, to remain available until September 30, 2009.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $521,515,000, to remain available until September 30, 2009: Provided, That of the funds appropriated under this heading, $20,000,000 may not be obligated until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a strategic plan required for checkpoint technologies as described in the joint explanatory statement of managers accompanying the fiscal year 2007 conference report (H. Rept. 109–699): Provided further, That this plan shall be submitted no later than 60 days after the date of enactment of this Act.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $722,000,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; $5,930,545,000, of which $340,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $10,000 shall be for official reception and representation expenses: Provided, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds made available by this Act shall be for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $12,079,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $126,883,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(INCLUDING RESCISSIONS OF FUNDS)

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,048,068,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $9,200,000 shall be available until September 30, 2012, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $173,600,000 shall be available until September 30, 2010, for other equipment; of which $37,897,000 shall be available until September 30, 2010, for shore facilities and aids to navigation facilities; of which $505,000 shall be available for personnel related costs; and of which $770,079,000 shall be available until September 30, 2012, for the Integrated Deepwater Systems program: Provided, That no funds shall be available for procurements related to the acquisition of additional major assets as part of the Integrated Deepwater Systems program not already under contract until an Alternatives Analysis has been completed by an independent qualified third party: Provided further, That no funds contained in this Act shall be available for procurement of the third National Security Cutter until an Alternatives Analysis has been completed by an independent qualified third party: Provided further, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2010: Provided further, That of amounts made available under this heading in Public Law 109–90, $48,787,000 for the Offshore Patrol Cutter are rescinded: Provided further, That of the amounts made available under this heading in Public Law 109–295, $8,000,000 for the Fast Response Cutter (FRC–A) are rescinded: Provided further, That the Secretary shall submit an expenditure plan to the Committees on Appropriations of the Senate and the House of Representatives within 60 days after the date of enactment of this Act for funds made available for the Integrated Deepwater Program, that: (1) defines activities, milestones, yearly costs, and life-cycle costs for each procurement of a major asset; (2) identifies life-cycle staffing and training needs of Coast Guard project managers and of procurement and contract staff; (3) includes a certification by the Chief Human Capital Officer of the Department that current human capital capabilities are sufficient to execute the plans discussed in the report; (4) identifies individual project balances by fiscal year, including planned carryover into fiscal year 2009 by project; (5) identifies operational gaps for all Deepwater assets and an explanation of how funds provided in this Act address the shortfalls between current operational capabilities and requirements; (6) includes a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Coast Guard actions to address the recommendations, including milestones for fully addressing them; (7) includes a certification by the Chief Financial Officer of the Department that the program has been reviewed and approved in accordance with

the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7; (8) identifies competition to be conducted in each procurement; (9) includes a certification by the head of contracting activity for the Coast Guard and the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with plans for addressing these risks and the status of their implementation; (10) identifies the use of independent validation and verification; and (11) is reviewed by the Government Accountability Office: Provided further, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2009 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Deepwater assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Deepwater program; and the earned value management system gold card data for each Deepwater asset: Provided further, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: Provided further, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year: Provided further, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $16,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $25,583,000, to remain available until expended, of which $500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,184,720,000, to remain available until expended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 645 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,392,171,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $6,000,000 shall be a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2009: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,725,000, to remain available until expended.

TITLE III

PROTECTION, PREPAREDNESS, RESPONSE, AND RECOVERY

NATIONAL PROTECTION AND PROGRAMS DIRECTORATE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for National Protection and Programs, the National Protection Planning Office, support services for business operations and information technology, and facility costs, $30,000,000: Provided, That of the amount provided, $15,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve in full an expenditure plan by program, project, and activity; prepared by the Secretary of Homeland Security that has been reviewed by the Government Accountability Office.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) or subtitle J of title VIII of the Homeland Security Act of 2002, as added by this Act, $527,099,000, of which $497,099,000 shall remain available until September 30, 2009, and of which, $2,000,000 shall be to carry out subtitle J of title VIII of the Homeland Security Act of 2002, as added by this Act: Provided, That $10,043,000 shall be for the Office of Bombing Prevention and not more than $26,100,000 shall be for the Next Generation Network.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), $362,000,000, to remain available until expended: Provided, That of the total amount made available under this heading, $100,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that includes:

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones for fully addressing them;

(4) a certification by the Chief Financial Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7;

(5) a certification by the Chief Information Officer of the Department that an independent validation and verification agent has and will continue to actively review the program;

(6) a certification by the Chief Information Officer of the Department that the system architecture of the program is sufficiently aligned

with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were and were not assessed in making the alignment determination, the date of the alignment determination, any known areas of misalignment along with the associated risks and corrective actions to address any such areas;

(7) a certification by the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with any plans for addressing these risks and the status of their implementation;

(8) a certification by the Chief Information Officer of the Department that the program has a risk management process that regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to agency and department heads, as well as a listing of all the program's high risks and the status of efforts to address them;

(9) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report; and

(10) which is reviewed by the Government Accountability Office.

OFFICE OF HEALTH AFFAIRS

For the necessary expenses of the Office of Health Affairs, $115,000,000; of which $20,817,000 is for salaries and expenses; and of which $94,183,000 is for biosurveillance, biowatch, chemical response, and related activities for the Department of Homeland Security, to remain available until September 30, 2009: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For necessary expenses for management and administration, $678,600,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), and the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295; 120 Stat. 1394): Provided, That not to exceed $3,000 shall be for official reception and representation expenses: Provided further, That $426,020,000 shall be for Operations Activities: Provided further, That $216,580,000 shall be for Management Activities: Provided further, That $6,000,000 shall be for the Office of the National Capital Region Coordination: Provided further, That for purposes of planning, coordination, execution, and decisionmaking related to mass evacuation during a disaster, the Governors of the State of West Virginia and the Commonwealth of Pennsylvania, or their designees, shall be incorporated into efforts to integrate the activities of Federal, State, and local governments in the National Capital Region, as defined in section 882 of Public Law 107–296, the Homeland Security Act of 2002: Provided further, That of the total amount made available under this heading, $30,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed $1,600,000 may be made available for administrative costs: Provided further, That of the total amount made available under this heading, $1,000,000 shall be to develop a web-based version of the National Fire Incident Reporting System that will ensure that fire-related data can be submitted and accessed by fire departments in real time: Provided further, That not later than 30 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall, as appropriate, update training practices for all customer service employees, employees in the Office of General Counsel, and other appropriate employees of the Federal Emergency Management Agency relating to addressing health concerns of recipients of assistance from the Federal Emergency Management Agency.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $3,130,500,000, which shall be allocated as follows:

(1) $525,000,000 for formula-based grants and $375,000,000 for law enforcement terrorism prevention grants, to be allocated in accordance with section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): Provided, That not to exceed 3 percent of these amounts shall be available for program administration: Provided further, That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and the Federal Emergency Management Agency shall act within 90 days after receipt of an application: Provided further, That, in the event established timeframes detailed in the preceding proviso for departmental actions are missed, funding for the Immediate Office of the Deputy Secretary shall be reduced by $1,000 per day until such actions are executed: Provided further, That not less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds; except in the case of Puerto Rico, where not less than 50 percent of any grant under this paragraph shall be made available to local governments within 60 days after the receipt of the funds.

(2) $1,836,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $820,000,000 shall be for use in high-threat, high-density urban areas, of which $20,000,000 shall be available for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such code) determined by the Secretary to be at high-risk of a terrorist attack;

(B) $50,000,000 shall be for the Regional Catastrophic Preparedness Grants;

(C) $400,000,000 shall be for infrastructure protection grants related to port security pursuant to 46 U.S.C. 70107;

(D) $16,000,000 shall be for infrastructure protection grants related to trucking industry security;

(E) $12,000,000 shall be for infrastructure protection grants related to intercity bus security;

(F) $400,000,000 shall be for infrastructure protection grants related to intercity rail passenger transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security;

(G) $50,000,000 shall be for infrastructure protection grants related to buffer zone protection;

(H) $40,000,000 shall be available for the Commercial Equipment Direct Assistance Program;

(I) $33,000,000 shall be for the Metropolitan Medical Response System; and

(J) $15,000,000 shall be for Citizens Corps:

Provided, That not to exceed 3 percent of subparagraphs (A)–(J) shall be available for program administration: Provided further, That for grants under subparagraphs (A), (B), and (J), the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Federal Emergency Management Agency shall act within 90 days after receipt of an application: Provided further, That, in the event established timeframes detailed in the preceding proviso for departmental actions are missed, funding for the Immediate Office of the Deputy Secretary shall be reduced by $1,000 per day until such actions are executed: Provided further, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds: Provided further, That for grants under subparagraphs (C) through (G), the applications for such grants shall be made available to eligible applicants not later than 75 days after the date of enactment of this Act, eligible applicants shall submit applications not later than 45 days after the date of the grant announcement, and the Federal Emergency Management Agency shall act on such applications not later than 60 days after the date on which such an application is received: Provided further, That, in the event established timeframes detailed in the preceding proviso for departmental actions are missed, funding for the Immediate Office of the Deputy Secretary shall be reduced by $1,000 per day until such actions are executed.

(3) $294,500,000 for training, exercises, technical assistance, and other programs.

(4) $100,000,000 for grants under the Interoperable Emergency Communications Grants Program established under title XVIII of the Homeland Security Act of 2002: Provided, That the amounts appropriated to the Department of Homeland Security for discretionary spending in this Act shall be reduced on a pro rata basis by the percentage necessary to reduce the overall amount of such spending by $100,000,000:

Provided further, That none of the grants provided under this heading shall be used for the construction or renovation of facilities, except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: Provided further, That the preceding proviso shall not apply to grants under subparagraphs (B), (C), (F), and (G) of paragraph (2) of this heading: Provided further, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) of this heading and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with the Federal Emergency Management Agency certified training, as needed: Provided further, That the Government Accountability Office shall report on the validity, relevance, reliability, timeliness, and availability of the risk factors (including threat, vulnerability, and consequence) used by the Secretary of Homeland Security and an analysis of the Department's policy of ranking States, cities, and other grantees by tiered groups, for the purpose of allocating grants funded under this heading, and the application of those factors in the allocation of funds to the Committees on Appropriations of the Senate and the House of Representatives on its findings not later than 45 days after the date of enactment of this Act: Provided further, That within seven days after the date of enactment of this Act, the Secretary of Homeland Security shall provide the Government Accountability Office with the risk methodology and other factors that will be used to allocate grants funded under this heading: Provided further, That not later than 15 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report detailing the actions taken as of that date, and any actions the Administrator will take, regarding the response of

the Federal Emergency Management Agency to concerns over formaldehyde exposure, which shall include a description of any disciplinary or other personnel actions taken, a detailed policy for responding to any reports of potential health hazards posed by any materials provided by the Federal Emergency Management Agency (including housing, food, water, or other materials), and a description of any additional resources needed to implement such policy: Provided further, That the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall design a program to scientifically test a representative sample of travel trailers and mobile homes provided by the Federal Emergency Management Agency, and surplus travel trailers and mobile homes to be sold or transferred by the Federal government on or after the date of enactment of this Act, for formaldehyde and, not later than 15 days after the date of enactment of this Act, submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the program designed, including a description of the design of the testing program and the quantity of and conditions under which trailers and mobile homes shall be tested and the justification for such design of the testing: Provided further, That in order to protect the health and safety of disaster victims, the testing program designed under the previous proviso shall provide for initial short-term testing, and longer-term testing, as required: Provided further, That not later than 45 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall, at a minimum, complete the initial short-term testing described in the previous proviso: Provided further, That, to the extent feasible, the Administrator of the Federal Emergency Management Agency shall use a qualified contractor residing or doing business primarily in the Gulf Coast Area to carry out the testing program designed under this heading: Provided further, That, not later than 30 days after the date that the Administrator of the Federal Emergency Management Agency completes the short-term testing under this heading, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report describing the results of the testing, analyzing such results, providing an assessment of whether there are any health risks associated with the results and the nature of any such health risks, and detailing the plans of the Administrator of the Federal Emergency Management Agency to act on the results of the testing, including any need to relocate individuals living in the trailers or mobile homes provided by the Federal Emergency Management Agency or otherwise assist individuals affected by the results, plans for the sale or transfer of any trailers or mobile homes (which shall be made in coordination with the Administrator of General Services), and plans to conduct further testing: Provided further, That after completing longer-term testing under this heading, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report describing the results of the testing, analyzing such results, providing an assessment of whether any health risks are associated with the results and the nature of any such health risks, incorporating any additional relevant information from the shorter-term testing completed under this heading, and detailing the plans and recommendations of the Administrator of the Federal Emergency Management Agency to act on the results of the testing.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $700,000,000: Provided, That not to exceed five percent of this amount shall be available for program administration: Provided further, That funds shall be allocated as follows: (1) $560,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229), to remain available until September 30, 2009; and (2) $140,000,000 shall be available to carry out section 34 of that Act (15 U.S.C. 2229a).

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $300,000,000: Provided, That total administrative costs shall not exceed three percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2008, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2008, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION

For necessary expenses of the United States Fire Administration, as authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), $43,300,000.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,700,000,000, to remain available until expended: Provided, That of the total amount provided, $13,500,000 shall be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to disasters, subject to section 503 of this Act: Provided further, That up to $48,000,000 and 250 positions may be transferred to ''Management and Administration'', Federal Emergency Management Agency, for management and administration functions, subject to section 503 of this Act.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For activities under section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $875,000, of which $580,000 is for administrative expenses to carry out the direct loan program and $295,000 is for the cost of direct loans: Provided, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed three percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), $145,000,000, which is available as follows: (1) not to exceed $45,642,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and (2) not to exceed $99,358,000 for flood hazard mitigation, which shall be derived from offsetting collections assessed and collected under section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), to remain available until September 30, 2009, including up to $34,000,000 for flood mitigation expenses under section 1366 of that Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2009: Provided, That in fiscal year 2008, no funds shall be available from the National Flood Insurance Fund in excess of: (1) $70,000,000 for operating expenses; (2) $773,772,000 for commissions and taxes of agents; (3) such sums as are necessary for interest on Treasury borrowings; and (4) $90,000,000 for flood mitigation actions with respect to severe repetitive loss properties under section 1361A of that Act (42 U.S.C. 4102a) and repetitive insurance claims properties under section 1323 of that Act (42 U.S.C. 4030), which shall remain available until expended: Provided further, That total administrative costs shall not exceed four percent of the total appropriation.

NATIONAL FLOOD MITIGATION FUND

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968, $34,000,000 (42 U.S.C. 4104c), to remain available until September 30, 2009, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $34,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PRE-DISASTER MITIGATION FUND

For a pre-disaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $120,000,000, to remain available until expended: Provided, That grants made for pre-disaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)): Provided further, That total administrative costs shall not exceed three percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV

RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $50,523,000: Provided, That of the total, $20,000,000 provided to address backlogs of security checks associated with pending applications and petitions shall not be available for obligation until the Secretary of Homeland Security and the United States Attorney General submit to the Committees on Appropriations of the Senate and the House of Representatives a plan to eliminate the backlog of security checks that establishes information sharing protocols to ensure United States Citizenship and Immigration Services has the information it needs to carry out its mission.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $221,076,000, of which up to $43,910,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2009; of which $300,000 shall remain available until expended for Federal law enforcement agencies participating in training accreditation, to be distributed as determined by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: Provided further, That section 1202(a) of Public Law 107–206 (42 U.S.C. 3771 note) as amended by Public Law 109–295 (120 Stat. 1374) is further amended by striking ''December 31, 2007'' and inserting ''December 31, 2011''.

ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $44,470,000, to remain available until expended: Provided, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $140,632,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); $697,364,000, to remain available until expended; and of which $103,814,000 shall be for necessary expenses of the field laboratories and assets of the Science and Technology Directorate.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Domestic Nuclear Detection Office and for management and administration of programs and activities, $32,000,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for radiological and nuclear research, development, testing, evaluation and operations, $336,000,000, to remain available until expended, of which $10,000,000 shall be available to support the implementation of the Securing the Cities initiative at the level requested in the President's budget.

SYSTEMS ACQUISITION

For expenses for the Domestic Nuclear Detection Office acquisition and deployment of radiological detection systems in accordance with the global nuclear detection architecture, $182,000,000, to remain available until September 30, 2010, of which $30,000,000 shall be available to support the implementation of the Securing the Cities initiative at the level requested in the President's budget: Provided, That none of the funds appropriated under this heading shall be obligated for full-scale procurement of Advanced Spectroscopic Portal Monitors until the Secretary of Homeland Security has certified through a report to the Committees on Appropriations of the Senate and the House of Representatives that a significant increase in operational effectiveness will be achieved.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds available in this Act shall be available to carry out section 872 of Public Law 107–296.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or the House of Representatives for a different purpose; or (5) contracts out any function or activity for which funding levels were requested for Federal full-time equivalents in the object classification tables contained in the fiscal year 2008 Budget Appendix for the Department of Homeland Security, as modified by the joint explanatory statement accompanying this Act; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the ''Department of Homeland Security Working Capital Fund'', except for the activities and amounts allowed in the President's fiscal year 2008 budget, excluding sedan service, shuttle service, transit subsidy, mail operations, parking, and competitive sourcing: Provided, That any additional activities and amounts shall be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2008 from appropriations for salaries and expenses for fiscal year 2008 in this Act shall remain available through September 30, 2009, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2008 until the enactment of an Act authorizing intelligence activities for fiscal year 2008.

SEC. 507. The Federal Law Enforcement Training Accreditation Board shall lead the Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 508. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of

Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least three full business days in advance: Provided, That no notification shall involve funds that are not available for obligation: Provided further, That the notification shall include the amount of the award, the fiscal year in which the funds for the award were appropriated, and the account for which the funds are being drawn from: Provided further, That the Federal Emergency Management Agency shall brief the Committees on Appropriations of the Senate and the House of Representatives five full business days in advance of announcing publicly the intention of making an award of formula-based grants; law enforcement terrorism prevention grants; high-threat, high-density urban areas grants; or regional catastrophic preparedness grants.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule basic and/or advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959 (40 U.S.C. 3301), has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 513. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening program, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the conditions contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the Secretary provides the requisite certification, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten conditions have been successfully met.

(c) Within 90 days of enactment of this Act, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a detailed plan that describes: (1) the dates for achieving key milestones, including the date or timeframes that the Secretary will certify the program under subsection (a); and (2) the methodology to be followed to support the Secretary's certification, as required under subsection (a).

(d) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(e) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(f) None of the funds provided in this or previous appropriations Acts may be utilized for data or a database that is obtained from or remains under the control of a non-Federal entity: Provided, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 514. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 515. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 516. (a) None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

(b) None of the funds appropriated by this or any other Act to the United States Secret Service shall be made available for the protection of a Federal official, other than persons granted protection under section 3056(a) of title 18, United States Code, and the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such protection on a fully reimbursable basis for protectees not designated under section 3056(a) of title 18, United States Code.

SEC. 517. (a) The Secretary of Homeland Security is directed to research, develop, and procure new technologies to inspect and screen air cargo carried on passenger aircraft at the earliest date possible.

(b) Existing checked baggage explosive detection equipment and screeners shall be utilized to screen air cargo carried on passenger aircraft to the greatest extent practicable at each airport until technologies developed under subsection (a) are available.

(c) The Transportation Security Administration shall report air cargo inspection statistics quarterly to the Committees on Appropriations of the Senate and the House of Representatives, by airport and air carrier, within 45 days after the end of the quarter including any reason for non-compliance with the second proviso of section 513 of the Department of Homeland Security Appropriations Act, 2005 (Public Law 108–334, 118 Stat. 1317).

SEC. 518. None of the funds made available in this Act may be used by any person other than the Privacy Officer appointed under section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared under paragraph (6) of such section.

SEC. 519. No funding provided by this or previous appropriation Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR), or anyone acting in a similar or like capacity, who has not received COTR training.

SEC. 520. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration ''Aviation Security'', ''Administration'' and ''Transportation Security Support'' in fiscal years 2004, 2005, 2006, and 2007 that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage, and checkpoint screening systems, subject to notification.

SEC. 521. Section 525(d) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1382) shall apply to fiscal year 2008.

(RESCISSION OF FUNDS)

SEC. 522. From the unobligated balances of funds transferred to the Department of Homeland Security when it was created in 2003, excluding mandatory appropriations, $45,000,000 is rescinded, of which $12,000,000 shall be rescinded from Departmental Operations; $12,000,000 shall be rescinded from the Office of State and Local Government Coordination; and $6,000,000 shall be rescinded from the Working Capital Fund.

SEC. 523. Any funds appropriated to United States Coast Guard, ''Acquisition, Construction, and Improvements'' in fiscal years 2002, 2003, 2004, 2005, and 2006 for the 110–123 foot patrol boat conversion that are recovered, collected, or otherwise received as the result of negotiation, mediation, or litigation, shall be available until expended for the Replacement Patrol Boat (FRC–B) program.

SEC. 524. The Department of Homeland Security Working Capital Fund, established, pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall continue operations during fiscal year 2008.

SEC. 525. (a) The Federal Emergency Management Agency (FEMA) shall submit a quarterly report to the Committees on Appropriations of the Senate and the House of Representatives detailing the allocation and obligation of funds for ''Disaster Relief'' to include:

(1) status of the Disaster Relief Fund (DRF) including obligations, allocations, and amounts undistributed/unallocated;

(2) allocations, obligations, and expenditures for all open disasters;

(3) information on national flood insurance claims;

(4) obligations, allocations and expenditures by State for unemployment, crisis counseling, inspections, housing assistance, manufactured housing, public assistance and individual assistance;

(5) mission assignment obligations by agency, including:

(A) the amounts reimbursed to other agencies that are in suspense because FEMA has not yet reviewed and approved the documentation supporting the expenditure; and

(B) a disclaimer if the amounts of reported obligations and expenditures do not reflect the status of such obligations and expenditures from a government-wide perspective;

(6) the amount of credit card purchases by agency and mission assignment;

(7) specific reasons for all waivers granted and a description of each waiver;

(8) a list of all contracts that were awarded on a sole source or limited competition basis, including the dollar amount, the purpose of the contract and the reason for the lack of competitive award; and

(9) an estimate of when available appropriations will be exhausted, assuming an average disaster season.

(b) The Secretary of Homeland Security shall at least quarterly obtain from agencies performing mission assignments each such agency's actual obligation and expenditure data and report to the Committees on Appropriations of the Senate and the House of Representatives.

(c) For any request for reimbursement from a Federal agency to the Department of Homeland Security to cover expenditures under the Stafford Act (42 U.S.C. 5121 et seq.), or any mission assignment orders issued by the Department of

Homeland Security for such purposes, the Secretary of Homeland Security shall take appropriate steps to ensure that each agency is periodically reminded of Department of Homeland Security policies on—

(1) the detailed information required in supporting documentation for reimbursements, and

(2) the necessity for timeliness of agency billings.

(d) Notwithstanding section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c), projects relating to Hurricanes Katrina and Rita for which the non-Federal share of assistance under that section is funded by amounts appropriated to the Community Development Fund under chapter 9 of title I of division B of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148; 119 Stat. 2779) or chapter 9 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 472) shall not be subject to any precertification requirements.

SEC. 526. Within 45 days after the close of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing report that includes total obligations, on-board versus funded full-time equivalent staffing levels, and the number of contract employees by office.

SEC. 527. Section 532(a) of Public Law 109–295 is amended by striking ''2007'' and inserting ''2008''.

SEC. 528. The Federal Law Enforcement Training Center instructor staff shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 529. None of the funds provided in this Act may be used to alter or reduce operations within the Civil Engineering Program of the Coast Guard nationwide, including the civil engineering units, facilities, design, and construction centers, maintenance and logistics command centers, and the Coast Guard Academy, except as specifically authorized by a statute enacted after the date of enactment of this Act.

SEC. 530. EXTENSION OF THE IMPLEMENTATION DEADLINE FOR THE WESTERN HEMISPHERE TRAVEL INITIATIVE. Subparagraph (A) of section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) is amended by striking ''This plan shall be implemented not later than three months after the Secretary of State and the Secretary of Homeland Security make the certifications required in subsection (B), or June 1, 2009, whichever is earlier.'' and inserting ''Such plan may not be implemented earlier than the date that is the later of 3 months after the Secretary of State and the Secretary of Homeland Security make the certification required in subparagraph (B) or June 1, 2009.''.

SEC. 531. Section 550 of the Department of Homeland Security Appropriations Act, 2007 (6 U.S.C. 121 note) is amended by adding at the end the following:

''(h) This section shall not preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to chemical facility security that is more stringent than a regulation, requirement, or standard of performance issued under this section, or otherwise impair any right or jurisdiction of any State with respect to chemical facilities within that State, unless there is an actual conflict between this section and the law of that State.''.

SEC. 532. None of the funds provided in this Act under the heading ''Office of the Chief Information Officer'' shall be used for data center development other than for the National Center for Critical Information Processing and Storage until the Chief Information Officer certifies that the National Center for Critical Information Processing and Storage is fully utilized as the Department's primary data storage center at the highest capacity throughout the fiscal year.

SEC. 533. None of the funds in this Act shall be used to reduce the United States Coast Guard's Operations Systems Center mission or its government-employed or contract staff levels.

SEC. 534. (a) Notwithstanding section 503 of this Act, up to $25,000,000 from prior year balances currently available to the Transportation Security Administration may be transferred to ''Transportation Threat Assessment and Credentialing'' for the Secure Flight program.

(b) In carrying out the transfer authority under subsection (a), the Transportation Security Administration shall not utilize any prior year balances from the following programs: screener partnership program; explosive detection system purchase; explosive detection system installation; checkpoint support; aviation regulation and other enforcement; air cargo; and air cargo research and development: Provided, That any funds proposed to be transferred under this section shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure for such funds that is submitted by the Secretary of Homeland Security: Provided further, That the plan shall be submitted simultaneously to the Government Accountability Office for review consistent with its ongoing assessment of the Secure Flight Program as mandated by section 522(a) of Public Law 108–334 (118 Stat. 1319).

SEC. 535. DISASTER ASSISTANCE FOR SCHOOLS. (a) DEFINITIONS.—In this section—

(1) the term ''Administrator'' means the Administrator of the Federal Emergency Management Agency;

(2) the term ''covered assistance'' means assistance—

(A) provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172);

(B) to be used to—

(i) repair, restore, reconstruct, or replace school facilities; or

(ii) replace lost contents of a school; and

(C) for damage caused by Hurricane Katrina of 2005 or Hurricane Rita of 2005; and

(3) the term ''local educational agency'' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) ASSISTANCE TO SCHOOLS.—

(1) IN GENERAL.—A local educational agency that has applied for covered assistance before the date of enactment of this Act may request that such assistance (including any eligible costs discovered after the date of the estimate of eligible costs under section 406(e)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(e)(1)(A)) and any cost that was determined to be an eligible cost after an appeal or review) be provided in a single payment.

(2) DISBURSEMENT OF ASSISTANCE.—Not later than 30 days after the date that a local educational agency makes a request under paragraph (1), the Administrator shall provide in a single payment any covered assistance for any eligible cost that was approved by the Administrator on or before the date of that request.

(3) FLOOD INSURANCE REDUCTION.—For any covered assistance provided under paragraph (2), the Administrator shall make not more than 1 reduction under section 406(d) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(d)) in the amount of assistance provided.

(c) ALTERNATE USE.—For any covered assistance provided under subsection (b)(2), the amount of that assistance shall not be reduced under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)).

(d) APPLICABILITY.—This section shall apply to any covered assistance provided on or after the date of enactment of this Act.

SEC. 536. TECHNICAL CORRECTIONS. (a) IN GENERAL.—

(1) REDESIGNATIONS.—Chapter 27 of title 18, United States Code, is amended by redesignating section 554 added by section 551(a) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1389) (relating to border tunnels and passages) as section 555.

(2) TABLE OF SECTIONS.—The table of sections for chapter 27 of title 18, United States Code, is amended by striking the item relating to section 554, ''Border tunnels and passages'', and inserting the following:

''555. Border tunnels and passages.''.

(b) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by striking ''554'' and inserting ''555''.

(c) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Section 551(d) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1390) is amended in paragraphs (1) and (2)(A) by striking ''554'' and inserting ''555''.

SEC. 537. SEXUAL ABUSE. Sections 2241, 2242, 2243, and 2244 of title 18, United States Code, are each amended by striking ''the Attorney General'' each place that term appears and inserting ''the head of any Federal department or agency''.

SEC. 538. PLAN FOR THE CONTROL AND MANAGEMENT OF ARUNDO DONAX. (a) DEFINITIONS.—In this section:

(1) ARUNDO DONAX.—The term ''Arundo donax'' means a tall perennial reed commonly known as ''Carrizo cane'', ''Spanish cane'', ''wild cane'', and ''giant cane''.

(2) PLAN.—The term ''plan'' means the plan for the control and management of Arundo donax developed under subsection (b).

(3) RIVER.—The term ''River'' means the Rio Grande River.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(b) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—The Secretary shall develop a plan for the control and management of Arundo donax along the portion of the River that serves as the international border between the United States and Mexico.

(2) COMPONENTS.—In developing the plan, the Secretary shall address—

(A) information derived by the Secretary of Agriculture and the Secretary of the Interior from ongoing efforts to identify the most effective biological, mechanical, and chemical means of controlling and managing Arundo donax;

(B) past and current efforts to understand—

(i) the ecological damages caused by Arundo donax; and

(ii) the dangers Arundo donax poses to Federal and local law enforcement;

(C) any international agreements and treaties that need to be completed to allow for the control and management of Arundo donax on both sides of the River;

(D) the long-term efforts that the Secretary considers to be necessary to control and manage Arundo donax, including the cost estimates for the implementation of the efforts; and

(E) whether a waiver of applicable Federal environmental laws (including regulations) is necessary.

(3) CONSULTATION.—The Secretary shall develop the plan in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of State, the Chief of Engineers, and any other Federal and State agencies that have appropriate expertise regarding the control and management of Arundo donax.

(c) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the plan to—

(1) the Committees on the Judiciary of the Senate and the House of Representatives; and

(2) the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 539. REPORTING OF WASTE, FRAUD, AND ABUSE. Not later than 30 days after the date of enactment of this Act—

(1) the Secretary of Homeland Security shall establish and maintain on the homepage of the website of the Department of Homeland Security, a direct link to the website of the Office of Inspector General of the Department of Homeland Security; and

(2) the Inspector General of the Department of Homeland Security shall establish and maintain on the homepage of the website of the Office of Inspector General a direct link for individuals to anonymously report waste, fraud, or abuse.

SEC. 540. The Secretary of Homeland Security shall require that all contracts of the Department of Homeland Security that provide award fees link such fees to successful acquisition outcomes (which outcomes shall be specified in terms of cost, schedule, and performance).

SEC. 541. None of the funds made available to the Office of the Secretary and Executive Management under this Act may be expended for any new hires by the Department of Homeland Security that are not verified through the basic pilot program required under section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

SEC. 542. None of the funds made available in this Act for U.S. Customs and Border Protection or any agency or office within the Department of Homeland Security may be used to prevent an individual from importing a prescription drug from Canada if—

(1) such individual is not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(g))); and

(2) such drug—

(A) complies with sections 501, 502, and 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, and 355); and

(B) is not—

(i) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(ii) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SEC. 543. PROHIBITION ON USE OF FUNDS FOR RULEMAKING RELATED TO PETITIONS FOR ALIENS. None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H–2B) set out beginning on 70 Federal Register 3984 (January 27, 2005).

SEC. 544. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Secretary of Homeland Security to remove offenses from the list of criminal offenses disqualifying individuals from receiving a Transportation Worker Identification Credential under section 1572.103 of title 49, Code of Federal Regulations.

SEC. 545. (a)(1)(A) None of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract awarded through a congressional initiative unless the contract is awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.

(B) Except as provided in paragraph (3), none of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract awarded through a congressional initiative unless more than one bid is received for such contract.

(2) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be awarded by grant or cooperative agreement through a congressional initiative unless the process used to award such grant or cooperative agreement uses competitive procedures to select the grantee or award recipient. Except as provided in paragraph (3), no such grant may be awarded unless applications for such grant or cooperative agreement are received from two or more applicants that are not from the same organization and do not share any financial, fiduciary, or other organizational relationship.

(3)(A) If the Secretary of Homeland Security does not receive more than one bid for a contract under paragraph (1)(B) or does not receive more than one application from unaffiliated applicants for a grant or cooperative agreement under paragraph (2), the Secretary may waive such bid or application requirement if the Secretary determines that the contract, grant, or cooperative agreement is essential to the mission of the Department of Homeland Security.

(b)(1) Not later than December 31, 2008, the Secretary of Homeland Security shall submit to Congress a report on congressional initiatives for which amounts were appropriated during fiscal year 2008.

(2) The report submitted under paragraph (1) shall include with respect to each contract and grant awarded through a congressional initiative—

(A) the name of the recipient of the funds awarded through such contract or grant;

(B) the reason or reasons such recipient was selected for such contract or grant; and

(C) the number of entities that competed for such contract or grant.

(3) The report submitted under paragraph (1) shall be made publicly available through the Internet website of the Department of Homeland Security.

(c) In this section:

(1) The term ''congressional initiative'' means a provision of law or a directive contained within a committee report or joint statement of managers of an appropriations Act that specifies—

(A) the identity of a person or entity selected to carry out a project, including a defense system, for which funds are appropriated or otherwise made available by that provision of law or directive and that was not requested by the President in a budget submitted to Congress; and

(B) the amount of the funds appropriated or otherwise made available for such project.

(2) The term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SEC. 546. BORDER SECURITY REQUIREMENTS FOR LAND AND MARITIME BORDERS OF THE UNITED STATES. (a) OPERATIONAL CONTROL OF THE UNITED STATES BORDERS.—The President shall ensure that operational control of all international land and maritime borders is achieved.

(b) ACHIEVING OPERATIONAL CONTROL.—The Secretary of Homeland Security shall establish and demonstrate operational control of 100 percent of the international land and maritime borders of the United States, including the ability to monitor such borders through available methods and technology.

(1) STAFF ENHANCEMENTS FOR BORDER PATROL.—The United States Customs and Border Protection Border Patrol may hire, train, and report for duty additional full-time agents. These additional agents shall be deployed along all international borders.

(2) STRONG BORDER BARRIERS.—The United States Customs and Border Protection Border Patrol may:

(A) Install along all international borders of the United States vehicle barriers;

(B) Install along all international borders of the United States ground-based radar and cameras; and

(C) Deploy for use along all international borders of the United States unmanned aerial vehicles, and the supporting systems for such vehicles;

(c) PRESIDENTIAL PROGRESS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit a report to Congress detailing the progress made in funding, meeting or otherwise satisfying each of the requirements described under paragraphs (1) and (2).

(2) PROGRESS NOT SUFFICIENT.—If the President determines that sufficient progress is not being made, the President shall include in the report required under paragraph (1) specific funding recommendations, authorization needed, or other actions that are or should be undertaken by the Secretary of Homeland Security.

(d) APPROPRIATIONS FOR SECURING LAND AND MARITIME BORDERS OF THE UNITED STATES.—Any funds appropriated under division B of this Act shall be used to ensure operational control is achieved for all international land and maritime borders of the United States.

SEC. 547. IMPROVEMENTS TO THE EMPLOYMENT ELIGIBILITY VERIFICATION BASIC PILOT PROGRAM. Of the amounts appropriated for border security and employment verification improvements under section 1003 of Division B, $60,000,000 shall be made available to—

(1) ensure that State and local programs have sufficient access to, and are sufficiently coordinated with, the Federal Government's Employment Eligibility Verification System;

(2) ensure that such system has sufficient capacity to timely and accurately—

(A) register employers in States with employer verification requirements;

(B) respond to inquiries by employers; and

(C) enter into memoranda of understanding with States to ensure responses to subparagraphs (A) and (B); and

(3) develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the basic pilot program, including appropriate privacy and security training for State employees;

(4) ensure that the Office for Civil Rights and Civil Liberties of the Department of Justice has sufficient capacity to conduct audits of the Federal Government's Employment Eligibility Verification System to assess employer compliance with System requirements, including the applicable Memorandum of Understanding;

(5) these amounts are designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

SEC. 548. IN-LIEU CONTRIBUTION. The Administrator of the Federal Emergency Management Agency shall authorize a large in-lieu contribution under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)) to the Peebles School in Iberia Parish, Louisiana for damages relating to Hurricane Katrina of 2005 or Hurricane Rita of 2005, notwithstanding section 406(c)(1)(C) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)(C)).

SEC. 549. NATIONAL STRATEGY ON CLOSED CIRCUIT TELEVISION SYSTEMS. (a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) develop a national strategy for the effective and appropriate use of closed circuit television to prevent and respond to acts of terrorism, which shall include—

(A) an assessment of how closed circuit television and other public surveillance systems can be used most effectively as part of an overall terrorism preparedness, prevention, and response program, and its appropriate role in such a program;

(B) a comprehensive examination of the advantages and limitations of closed circuit television and, as appropriate, other public surveillance technologies;

(C) best practices on camera use and data storage;

(D) plans for coordination between the Federal Government and State and local governments, and the private sector—

(i) in the development and use of closed circuit television systems; and

(ii) for Federal assistance and support for State and local utilization of such systems;

(E) plans for pilot programs or other means of determining the real-world efficacy and limitations of closed circuit televisions systems;

(F) an assessment of privacy and civil liberties concerns raised by use of closed circuit television and other public surveillance systems, and guidelines to address such concerns; and

(G) an assessment of whether and how closed circuit television systems and other public surveillance systems are effectively utilized by other democratic countries in combating terrorism; and

(2) provide to the Committees on Homeland Security and Governmental Affairs, Appropriations, and the Judiciary of the Senate and the Committees on Homeland Security, Appropriations, and the Judiciary of the House of Representatives a report that includes—

(A) the strategy required under paragraph (1);

(B) the status and findings of any pilot program involving closed circuit televisions or other public surveillance systems conducted by, in coordination with, or with the assistance of the Department of Homeland Security up to the time of the report; and

(C) the annual amount of funds used by the Department of Homeland Security, either directly by the Department or through grants to State, local, or tribal governments, to support closed circuit television and the public surveillance systems of the Department, since fiscal year 2004.

(b) CONSULTATION.—In preparing the strategy and report required under subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Chief Privacy Officer of the Department of Homeland Security, and the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security.

SEC. 550. SECURE HANDLING OF AMMONIUM NITRATE.—(a) IN GENERAL.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by adding at the end the following:

"Subtitle J—Secure Handling of Ammonium Nitrate

"SEC. 899A. DEFINITIONS.

''In this subtitle:

''(1) AMMONIUM NITRATE.—The term 'ammonium nitrate' means—

''(A) solid ammonium nitrate that is chiefly the ammonium salt of nitric acid and contains not less than 33 percent nitrogen by weight; and

''(B) any mixture containing a percentage of ammonium nitrate that is equal to or greater than the percentage determined by the Secretary under section 899B(b).

''(2) AMMONIUM NITRATE FACILITY.—The term 'ammonium nitrate facility' means any entity that produces, sells or otherwise transfers ownership of, or provides application services for ammonium nitrate.

''(3) AMMONIUM NITRATE PURCHASER.—The term 'ammonium nitrate purchaser' means any person who buys and takes possession of ammonium nitrate from an ammonium nitrate facility.

"SEC. 899B. REGULATION OF THE SALE AND TRANSFER OF AMMONIUM NITRATE.

''(a) IN GENERAL.—The Secretary shall regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility in accordance with this subtitle to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.

''(b) AMMONIUM NITRATE MIXTURES.—Not later than 90 days after the date of the enactment of this subtitle, the Secretary, in consultation with the heads of appropriate Federal departments and agencies (including the Secretary of Agriculture), shall, after notice and an opportunity for comment, establish a threshold percentage for ammonium nitrate in a substance.

''(c) REGISTRATION OF OWNERS OF AMMONIUM NITRATE FACILITIES.—

''(1) REGISTRATION.—The Secretary shall establish a process by which any person that—

''(A) owns an ammonium nitrate facility is required to register with the Department; and

''(B) registers under subparagraph (A) is issued a registration number for purposes of this subtitle.

''(2) REGISTRATION INFORMATION.—Any person applying to register under paragraph (1) shall submit to the Secretary—

''(A) the name, address, and telephone number of each ammonium nitrate facility owned by that person;

''(B) the name of the person designated by that person as the point of contact for each such facility, for purposes of this subtitle; and

''(C) such other information as the Secretary may determine is appropriate.

''(d) REGISTRATION OF AMMONIUM NITRATE PURCHASERS.—

''(1) REGISTRATION.—The Secretary shall establish a process by which any person that—

''(A) intends to be an ammonium nitrate purchaser is required to register with the Department; and

''(B) registers under subparagraph (A) is issued a registration number for purposes of this subtitle.

''(2) REGISTRATION INFORMATION.—Any person applying to register under paragraph (1) as an ammonium nitrate purchaser shall submit to the Secretary—

''(A) the name, address, and telephone number of the applicant; and

''(B) the intended use of ammonium nitrate to be purchased by the applicant.

''(e) RECORDS.—

''(1) MAINTENANCE OF RECORDS.—The owner of an ammonium nitrate facility shall—

''(A) maintain a record of each sale or transfer of ammonium nitrate, during the two-year period beginning on the date of that sale or transfer; and

''(B) include in such record the information described in paragraph (2).

''(2) SPECIFIC INFORMATION REQUIRED.—For each sale or transfer of ammonium nitrate, the owner of an ammonium nitrate facility shall—

''(A) record the name, address, telephone number, and registration number issued under subsection (c) or (d) of each person that takes possession of ammonium nitrate, in a manner prescribed by the Secretary;

''(B) if applicable, record the name, address, and telephone number of each individual who takes possession of the ammonium nitrate on behalf of the person described in subparagraph (A), at the point of sale;

''(C) record the date and quantity of ammonium nitrate sold or transferred; and

''(D) verify the identity of the persons described in subparagraphs (A) and (B), as applicable, in accordance with a procedure established by the Secretary.

''(3) PROTECTION OF INFORMATION.—In maintaining records in accordance with paragraph (1), the owner of an ammonium nitrate facility shall take reasonable actions to ensure the protection of the information included in such records.

''(f) EXEMPTION FOR EXPLOSIVE PURPOSES.—The Secretary may exempt from this subtitle a person producing, selling, or purchasing ammonium nitrate exclusively for use in the production of an explosive under a license issued under chapter 40 of title 18, United States Code.

''(g) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Agriculture, States, and appropriate private sector entities, to ensure that the access of agricultural producers to ammonium nitrate is not unduly burdened.

''(h) DATA CONFIDENTIALITY.—

''(1) IN GENERAL.—Notwithstanding section 552 of title 5, United States Code, or the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 272), and except as provided in paragraph (2), the Secretary may not disclose to any person any information obtained under this subtitle.

''(2) EXCEPTION.—The Secretary may disclose any information obtained by the Secretary under this subtitle to—

''(A) an officer or employee of the United States, or a person that has entered into a contract with the United States, who has a need to know the information to perform the duties of the officer, employee, or person; or

''(B) to a State agency under section 899D, under appropriate arrangements to ensure the protection of the information.

''(i) REGISTRATION PROCEDURES AND CHECK OF TERRORIST SCREENING DATABASE.—

''(1) REGISTRATION PROCEDURES.—

''(A) GENERALLY.—The Secretary shall establish procedures to efficiently receive applications for registration numbers under this subtitle, conduct the checks required under paragraph (2), and promptly issue or deny a registration number.

''(B) INITIAL SIX-MONTH REGISTRATION PERIOD.—The Secretary shall take steps to maximize the number of registration applications that are submitted and processed during the six-month period described in section 899F(e).

''(2) CHECK OF TERRORIST SCREENING DATABASE.—

''(A) CHECK REQUIRED.—The Secretary shall conduct a check of appropriate identifying information of any person seeking to register with the Department under subsection (c) or (d) against identifying information that appears in the terrorist screening database of the Department.

''(B) AUTHORITY TO DENY REGISTRATION NUMBER.—If the identifying information of a person seeking to register with the Department under subsection (c) or (d) appears in the terrorist screening database of the Department, the Secretary may deny issuance of a registration number under this subtitle.

''(3) EXPEDITED REVIEW OF APPLICATIONS.—

''(A) IN GENERAL.—Following the six-month period described in section 899F(e), the Secretary shall, to the extent practicable, issue or deny registration numbers under this subtitle not later than 72 hours after the time the Secretary receives a complete registration application, unless the Secretary determines, in the interest of national security, that additional time is necessary to review an application.

''(B) NOTICE OF APPLICATION STATUS.—In all cases, the Secretary shall notify a person seeking to register with the Department under subsection (c) or (d) of the status of the application of that person not later than 72 hours after the time the Secretary receives a complete registration application.

''(4) EXPEDITED APPEALS PROCESS.—

''(A) REQUIREMENT.—

''(i) APPEALS PROCESS.—The Secretary shall establish an expedited appeals process for persons denied a registration number under this subtitle.

''(ii) TIME PERIOD FOR RESOLUTION.—The Secretary shall, to the extent practicable, resolve appeals not later than 72 hours after receiving a complete request for appeal unless the Secretary determines, in the interest of national security, that additional time is necessary to resolve an appeal.

''(B) CONSULTATION.—The Secretary, in developing the appeals process under subparagraph (A), shall consult with appropriate stakeholders.

''(C) GUIDANCE.—The Secretary shall provide guidance regarding the procedures and information required for an appeal under subparagraph (A) to any person denied a registration number under this subtitle.

''(5) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—

''(A) IN GENERAL.—Any information constituting grounds for denial of a registration number under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section.

''(B) SHARING OF INFORMATION.—Notwithstanding any other provision of this subtitle, the Secretary may share any such information with Federal, State, local, and tribal law enforcement agencies, as appropriate.

''(6) REGISTRATION INFORMATION.—

''(A) AUTHORITY TO REQUIRE INFORMATION.—The Secretary may require a person applying for a registration number under this subtitle to submit such information as may be necessary to carry out the requirements of this section.

''(B) REQUIREMENT TO UPDATE INFORMATION.—The Secretary may require persons issued a registration under this subtitle to update registration information submitted to the Secretary under this subtitle, as appropriate.

''(7) RE-CHECKS AGAINST TERRORIST SCREENING DATABASE.—

''(A) RE-CHECKS.—The Secretary shall, as appropriate, recheck persons provided a registration number pursuant to this subtitle against the terrorist screening database of the Department, and may revoke such registration number if the Secretary determines such person may pose a threat to national security.

''(B) NOTICE OF REVOCATION.—The Secretary shall, as appropriate, provide prior notice to a person whose registration number is revoked under this section and such person shall have an opportunity to appeal, as provided in paragraph (4).

''SEC. 899C. INSPECTION AND AUDITING OF RECORDS.

''The Secretary shall establish a process for the periodic inspection and auditing of the records maintained by owners of ammonium nitrate facilities for the purpose of monitoring compliance with this subtitle or for the purpose of deterring or preventing the misappropriation or use of ammonium nitrate in an act of terrorism.

''SEC. 899D. ADMINISTRATIVE PROVISIONS.

''(a) COOPERATIVE AGREEMENTS.—The Secretary—

''(1) may enter into a cooperative agreement with the Secretary of Agriculture, or the head of any State department of agriculture or its designee involved in agricultural regulation, in consultation with the State agency responsible for homeland security, to carry out the provisions of this subtitle; and

''(2) wherever possible, shall seek to cooperate with State agencies or their designees that oversee ammonium nitrate facility operations when seeking cooperative agreements to implement the registration and enforcement provisions of this subtitle.

''(b) DELEGATION.—

''(1) AUTHORITY.—The Secretary may delegate to a State the authority to assist the Secretary in the administration and enforcement of this subtitle.

''(2) DELEGATION REQUIRED.—At the request of a Governor of a State, the Secretary shall delegate to that State the authority to carry out functions under sections 899B and 899C, if the Secretary determines that the State is capable of satisfactorily carrying out such functions.

''(3) FUNDING.—Subject to the availability of appropriations, if the Secretary delegates functions to a State under this subsection, the Secretary shall provide to that State sufficient funds to carry out the delegated functions.

''(c) PROVISION OF GUIDANCE AND NOTIFICATION MATERIALS TO AMMONIUM NITRATE FACILITIES.—

''(1) GUIDANCE.—The Secretary shall make available to each owner of an ammonium nitrate facility registered under section 899B(c)(1) guidance on—

''(A) the identification of suspicious ammonium nitrate purchases or transfers or attempted purchases or transfers;

''(B) the appropriate course of action to be taken by the ammonium nitrate facility owner with respect to such a purchase or transfer or attempted purchase or transfer, including—

''(i) exercising the right of the owner of the ammonium nitrate facility to decline sale of ammonium nitrate; and

''(ii) notifying appropriate law enforcement entities; and

''(C) additional subjects determined appropriate by to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.

''(2) USE OF MATERIALS AND PROGRAMS.—In providing guidance under this subsection, the Secretary shall, to the extent practicable, leverage any relevant materials and programs.

''(3) NOTIFICATION MATERIALS.—

''(A) IN GENERAL.—The Secretary shall make available materials suitable for posting at locations where ammonium nitrate is sold.

''(B) DESIGN OF MATERIALS.—Materials made available under subparagraph (A) shall be designed to notify prospective ammonium nitrate purchasers of—

''(i) the record-keeping requirements under section 899B; and

''(ii) the penalties for violating such requirements.

''SEC. 899E. THEFT REPORTING REQUIREMENT.

''Any person who is required to comply with section 899B(e) who has knowledge of the theft or unexplained loss of ammonium nitrate shall report such theft or loss to the appropriate Federal law enforcement authorities not later than 1 calendar day of the date on which the person becomes aware of such theft or loss. Upon receipt of such report, the relevant Federal authorities shall inform State, local, and tribal law enforcement entities, as appropriate.

''SEC. 899F. PROHIBITIONS AND PENALTY.

''(a) PROHIBITIONS.—

''(1) TAKING POSSESSION.—No person shall take possession of ammonium nitrate from an ammonium nitrate facility unless such person is registered under subsection (c) or (d) of section 899B, or is an agent of a person registered under subsection (c) or (d) of that section.

''(2) TRANSFERRING POSSESSION.—An owner of an ammonium nitrate facility shall not transfer possession of ammonium nitrate from the ammonium nitrate facility to any person who is not registered under subsection (c) or (d) of section 899B, or is not an agent of a person registered under subsection (c) or (d) of that section.

''(3) OTHER PROHIBITIONS.—No person shall—

''(A) buy and take possession of ammonium nitrate without a registration number required under subsection (c) or (d) of section 899B;

''(B) own or operate an ammonium nitrate facility without a registration number required under section 899B(c); or

''(C) fail to comply with any requirement or violate any other prohibition under this subtitle.

''(b) CIVIL PENALTY.—A person that violates this subtitle may be assessed a civil penalty by the Secretary of not more than $50,000 per violation.

''(c) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Secretary shall consider—

''(1) the nature and circumstances of the violation;

''(2) with respect to the person who commits the violation, any history of prior violations, the ability to pay the penalty, and any effect the penalty is likely to have on the ability of such person to do business; and

''(3) any other matter that the Secretary determines that justice requires.

''(d) NOTICE AND OPPORTUNITY FOR A HEARING.—No civil penalty may be assessed under this subtitle unless the person liable for the penalty has been given notice and an opportunity for a hearing on the violation for which the penalty is to be assessed in the county, parish, or incorporated city of residence of that person.

''(e) DELAY IN APPLICATION OF PROHIBITION.—Paragraphs (1) and (2) of subsection (a) shall apply on and after the date that is 6 months after the date that the Secretary issues of a final rule implementing this subtitle.

''SEC. 899G. PROTECTION FROM CIVIL LIABILITY.

''(a) IN GENERAL.—Notwithstanding any other provision of law, an owner of an ammonium nitrate facility that in good faith refuses to sell or transfer ammonium nitrate to any person, or that in good faith discloses to the Department or to appropriate law enforcement authorities an actual or attempted purchase or transfer of ammonium nitrate, based upon a reasonable belief that the person seeking purchase or transfer of ammonium nitrate may use the ammonium nitrate to create an explosive device to be employed in an act of terrorism (as defined in section 3077 of title 18, United States Code), or to use ammonium nitrate for any other unlawful purpose, shall not be liable in any civil action relating to that refusal to sell ammonium nitrate or that disclosure.

''(b) REASONABLE BELIEF.—A reasonable belief that a person may use ammonium nitrate to create an explosive device to be employed in an act of terrorism under subsection (a) may not solely be based on the race, sex, national origin, creed, religion, status as a veteran, or status as a member of the Armed Forces of the United States of that person.

''SEC. 899H. PREEMPTION OF OTHER LAWS.

''(a) OTHER FEDERAL REGULATIONS.—Except as provided in section 899G, nothing in this subtitle affects any regulation issued by any agency other than an agency of the Department.

''(b) STATE LAW.—Subject to section 899G, this subtitle preempts the laws of any State to the extent that such laws are inconsistent with this subtitle, except that this subtitle shall not preempt any State law that provides additional protection against the acquisition of ammonium nitrate by terrorists or the use of ammonium nitrate in explosives in acts of terrorism or for other illicit purposes, as determined by the Secretary.

''SEC. 899I. DEADLINES FOR REGULATIONS.

''The Secretary—

''(1) shall issue a proposed rule implementing this subtitle not later than 6 months after the date of the enactment of this subtitle; and

''(2) issue a final rule implementing this subtitle not later than 1 year after such date of enactment.

''SEC. 899J. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary—

''(1) $2,000,000 for fiscal year 2008; and

''(2) $10,750,000 for each of fiscal years 2009 through 2012.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 899 the following:

''Subtitle J—Secure Handling of Ammonium Nitrate

''Sec. 899A. Definitions.
''Sec. 899B. Regulation of the sale and transfer of ammonium nitrate.
''Sec. 899C. Inspection and auditing of records.
''Sec. 899D. Administrative provisions.
''Sec. 899E. Theft reporting requirement.
''Sec. 899F. Prohibitions and penalty.
''Sec. 899G. Protection from civil liability.
''Sec. 899H. Preemption of other laws.
''Sec. 899I. Deadlines for regulations.
''Sec. 899J. Authorization of appropriations.''.

SEC. 552. RISK MANAGEMENT AND ANALYSIS SPECIAL EVENT; 2010 VANCOUVER OLYMPIC AND PARALYMPIC GAMES. As soon as practicable, but not later than 3 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Appropriations, the Committee on Homeland Security

and Governmental Affairs, and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Transportation and Infrastructure of the House of Representatives a report regarding the plans of the Secretary of Homeland Security relating to—

(1) implementing the recommendations regarding the 2010 Vancouver Olympic and Paralympic Games in the Joint Explanatory Statement of the Committee of Conference on H.R. 5441 (109th Congress), the Department of Homeland Security Appropriations Act, 2007, with specific funding strategies for—

(A) the Multiagency Coordination Center; and

(B) communications exercises to validate communications pathways, test equipment, and support the training and familiarization of personnel on the operations of the different technologies used to support the 2010 Vancouver Olympic and Paralympic Games; and

(2) the feasibility of implementing a program to prescreen individuals traveling by rail between Vancouver, Canada and Seattle, Washington during the 2010 Vancouver Olympic and Paralympic Games, while those individuals are located in Vancouver, Canada, similar to the preclearance arrangements in effect in Vancouver, Canada for certain flights between the United States and Canada.

SEC. 553. IMPROVEMENT OF BARRIERS AT BORDER. Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) in subsection (a), by striking ''Attorney General, in consultation with the Commissioner of Immigration and Naturalization,'' and inserting ''Secretary of Homeland Security''; and

(2) in subsection (b)—

(A) in the subsection heading, by striking ''IN THE BORDER AREA'' and inserting ''ALONG THE BORDER'';

(B) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively;

(C) in paragraph (2), as redesignated—

(i) in the paragraph heading, by striking ''SECURITY FEATURES'' and inserting ''ADDITIONAL FENCING ALONG SOUTHWEST BORDER''; and

(ii) by striking subparagraphs (A) through (C) and inserting the following:

''(A) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security shall construct reinforced fencing along not less than 700 miles of the southwest border where fencing would be most practical and effective and provide for the installation of additional physical barriers, roads, lighting, cameras, and sensors to gain operational control of the southwest border.

''(B) PRIORITY AREAS.—In carrying out this section, the Secretary of Homeland Security shall—

''(i) identify the 370 miles along the southwest border where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain illegal entry into the United States; and

''(ii) not later than December 31, 2008, complete construction of reinforced fencing along the 370 miles identified under clause (i).

''(C) CONSULTATION.—

''(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall consult with the Secretary of Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed.

''(ii) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to—

''(I) create any right of action for a State, local government, or other person or entity affected by this subsection; or

''(II) affect the eminent domain laws of the United States or of any State.

''(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary of Homeland Security to install fencing, physical barriers, roads, lighting, cameras, and sensors in a particular location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.''; and

(D) in paragraph (5), as redesignated, by striking ''to carry out this subsection not to exceed $12,000,000'' and inserting ''such sums as may be necessary to carry out this subsection''.

SEC. 554. ACCOUNTABILITY IN GRANT AND CONTRACT ADMINISTRATION. The Department of Homeland Security, through the Federal Emergency Management Agency, shall—

(1) consider implementation, through fair and open competition, of management, tracking and accountability systems to assist in managing grant allocations, distribution, expenditures, and asset tracking; and

(2) consider any efficiencies created through cooperative purchasing agreements.

SEC. 555. None of the funds made available in this Act may be used to destroy or put out to pasture any horse or other equine belonging to the Federal Government that has become unfit for service, unless the trainer or handler is first given the option to take possession of the equine through an adoption program that has safeguards against slaughter and inhumane treatment.

SEC. 556. INTERNATIONAL REGISTERED TRAVELER PROGRAM. Section 7208(k)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(3)) is amended to read as follows:

''(3) INTERNATIONAL REGISTERED TRAVELER PROGRAM.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall establish an international registered traveler program that incorporates available technologies, such as biometrics and e-passports, and security threat assessments to expedite the screening and processing of international travelers, including United States Citizens and residents, who enter and exit the United States. The program shall be coordinated with the US–VISIT program, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security.

''(B) FEES.—The Secretary may impose a fee for the program established under subparagraph (A) and may modify such fee from time to time. The fee may not exceed the aggregate costs associated with the program and shall be credited to the Department of Homeland Security for purposes of carrying out the program. Amounts so credited shall remain available until expended.

''(C) RULEMAKING.—Within 365 days after the date of enactment of this paragraph, the Secretary shall initiate a rulemaking to establish the program, criteria for participation, and the fee for the program.

''(D) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall establish a phased-implementation of a biometric-based international registered traveler program in conjunction with the US–VISIT entry and exit system, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security at United States airports with the highest volume of international travelers.

''(E) PARTICIPATION.—The Secretary shall ensure that the international registered traveler program includes as many participants as practicable by—

''(i) establishing a reasonable cost of enrollment;

''(ii) making program enrollment convenient and easily accessible; and

''(iii) providing applicants with clear and consistent eligibility guidelines.''.

SEC. 557. REPORT ON THE PERFORMANCE ACCOUNTABILITY AND STANDARDS SYSTEM OF THE TRANSPORTATION SECURITY ADMINISTRATION. Not later than March 1, 2008, the Transportation Security Administration shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives on the implementation of the Performance Accountability and Standards System, including—

(1) the number of employees who achieved each level of performance;

(2) a comparison between managers and nonmanagers relating to performance and pay increases;

(3) the type and amount of all pay increases that have taken effect for each level of performance; and

(4) the attrition of employees covered by the Performance Accountability and Standards System.

SEC. 558. SHARED BORDER MANAGEMENT. (a) STUDY.—The Comptroller General of the United States shall conduct a study on the Department of Homeland Security's use of shared border management to secure the international borders of the United States.

(b) REPORT.—The Comptroller General shall submit a report to Congress that describes—

(1) any negotiations, plans, or designs conducted by officials of the Department of Homeland Security regarding the practice of shared border management; and

(2) the factors required to be in place for shared border management to be successful.

SEC. 559. Amounts authorized to be appropriated in the Border Law Enforcement Relief Act of 2007 are increased by $50,000,000 for each of the fiscal years 2008 through 2012.

SEC. 560. GAO STUDY OF COST OF FENCING ON THE SOUTHERN BORDER. (a) INQUIRY AND REPORT REQUIRED.—The Comptroller of the United States shall conduct a study examining—

(1) the total amount of money that has been expended, as of June 20, 2007, to construct 90 miles of fencing on the southern border of the United States;

(2) the average cost per mile of the 90 miles of fencing on the southern border as of June 20, 2007;

(3) the average cost per mile of the 370 miles of fencing that the Department of Homeland Security is required to have completed on the southern border by December 31, 2008, which shall include $1,187,000,000 appropriated in fiscal year 2007 for ''border security fencing, technology, and infrastructure'' and the $1,000,000,000 appropriated under this Act under the heading ''Border Security Fencing, Infrastructure, and Technology'';

(4) the total cost and average cost per mile to construct the 700 linear miles (854 topographical miles) of fencing on the southern border required to be constructed under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 3 of the Secure Fence Act of 2006 (Public Law 109–367);

(5) the total cost and average cost per mile to construct the fencing described in paragraph (4) if the double layer fencing requirement were eliminated; and

(6) the number of miles of single layer fencing, if fencing were not accompanied by additional technology and infrastructure such as cameras, sensors, and roads, which could be built with the $1,187,000,000 appropriated in fiscal year 2007 for ''border security fencing, technology, and infrastructure'' and the $1,000,000,000 appropriated under this Act under the heading ''Border Security Fencing, Infrastructure, and Technology''.

(b) SUBMISSION OF REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study conducted pursuant to subsection (a) to—

(1) the Committee on Appropriations of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Appropriations of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

SEC. 561. SENSE OF SENATE ON IMMIGRATION.—(a) FINDINGS.—The Senate makes the following findings:

(1) On June 28th, 2007, the Senate, by a vote of 46 to 53, rejected a motion to invoke cloture on a bill to provide for comprehensive immigration reform.

(2) Illegal immigration remains the top domestic issue in the United States.

(3) The people of the United States continue to feel the effects of a failed immigration system on a daily basis, and they have not forgotten that Congress and the President have a duty to address the issue of illegal immigration and the security of the international borders of the United States.

(4) People from across the United States have shared with members of the Senate their wide ranging and passionate opinions on how best to reform the immigration system.

(5) There is no consensus on an approach to comprehensive immigration reform that does not first secure the international borders of the United States.

(6) There is unanimity that the Federal Government has a responsibility to, and immediately should, secure the international borders of the United States.

(7) Border security is an integral part of national security.

(8) The greatest obstacle the Federal Government faces with respect to the people of the United States is a lack of trust that the Federal Government will secure the international borders of the United States.

(9) This lack of trust is rooted in the past failures of the Federal Government to uphold and enforce immigration laws and the failure of the Federal Government to secure the international borders of the United States.

(10) Failure to uphold and enforce immigration laws has eroded respect for those laws and eliminated the faith of the people of the United States in the ability of their elected officials to responsibly administer immigration programs.

(11) It is necessary to regain the trust of the people of the United States in the competency of the Federal Government to enforce immigration laws and manage the immigration system.

(12) Securing the borders of the United States would serve as a starting point to begin to address other issues surrounding immigration reform on which there is not consensus.

(13) Congress has not fully funded some interior and border security activities that it has authorized.

(14) The President of the United States can initiate emergency spending by designating certain spending as ''emergency spending'' in a request to the Congress.

(15) The lack of security on the international borders of the United States rises to the level of an emergency.

(16) The Border Patrol are apprehending some, but not all, individuals from countries that the Secretary of State has determined have repeatedly provided support for acts of international terrorism who cross or attempt to cross illegally into the United States.

(17) The Federal Bureau of Investigation is investigating a human smuggling ring that has been bringing Iraqis and other Middle Eastern individuals across the international borders of the United States.

(b) SENSE OF SENATE.—It is the sense of Senate that—

(1) the Federal Government should work to regain the trust of the people of the United States in its ability of the Federal Government to secure the international borders of the United States;

(2) in order to restore the credibility of the Federal Government on this critical issue, the Federal Government should prove its ability to enforce immigration laws by taking actions such as securing the border, stopping the flow of illegal immigrants and drugs into the United States, and creating a tamper-proof biometric identification card for foreign workers; and

(3) the President should request emergency spending that fully funds—

(A) existing interior and border security authorizations that have not been funded by Congress; and

(B) the border and interior security initiatives contained in the bill to provide for comprehensive immigration reform and for other purposes (S. 1639) introduced in the Senate on June 18, 2007.

SEC. 562. ENSURING THE SAFETY OF AGRICULTURAL IMPORTS.—(a) FINDINGS.—Congress makes the following findings:

(1) The Food and Drug Administration, as part of its responsibility to ensure the safety of food and other imports, maintains a presence at 91 of the 320 points of entry into the United States.

(2) United States Customs and Border Protection personnel are responsible for monitoring imports and alerting the Food and Drug Administration to suspicious material entering the United States at the remaining 229 points of entry.

(b) REPORT.—The Commissioner of U.S. Customs and Border Protection shall submit a report to Congress that describes the training of U.S. Customs and Border Protection personnel to effectively assist the Food and Drug Administration in monitoring our Nation's food supply.

SEC. 563. (a) STUDY ON IMPLEMENTATION OF VOLUNTARY PROVISION OF EMERGENCY SERVICES PROGRAM.—

(1) Not later than 180 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration shall conduct a study on the implementation of the voluntary provision of emergency services program established pursuant to section 44944(a) of title 49, United States Code (referred to in this section as the ''program'').

(2) As part of the study required by paragraph (1), the Administrator shall assess the following:

(A) Whether training protocols established by air carriers and foreign air carriers include training pertinent to the program and whether such training is effective for purposes of the program.

(B) Whether employees of air carriers and foreign air carriers responsible for implementing the program are familiar with the provisions of the program.

(C) The degree to which the program has been implemented in airports.

(D) Whether a helpline or other similar mechanism of assistance provided by an air carrier, foreign air carrier, or the Transportation Security Administration should be established to provide assistance to employees of air carriers and foreign air carriers who are uncertain of the procedures of the program.

(3) In making the assessment required by paragraph (2)(C), the Administrator may make use of unannounced interviews or other reasonable and effective methods to test employees of air carriers and foreign air carriers responsible for registering law enforcement officers, firefighters, and emergency medical technicians as part of the program.

(4)(A) Not later than 60 days after the completion of the study required by paragraph (1), the Administrator shall submit to Congress a report on the findings of such study.

(B) The Administrator shall make such report available to the public by Internet web site or other appropriate method.

(b) PUBLICATION OF REPORT PREVIOUSLY SUBMITTED.—The Administrator shall make available to the public on the Internet web site of the Transportation Security Administration or the Department of Homeland Security the report required by section 554(b) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295).

(c) MECHANISM FOR REPORTING PROBLEMS.—The Administrator shall develop a mechanism on the Internet web site of the Transportation Security Administration or the Department of Homeland Security by which first responders may report problems with or barriers to volunteering in the program. Such mechanism shall also provide information on how to submit comments related to volunteering in the program.

(d) AIR CARRIER AND FOREIGN AIR CARRIER DEFINED.—In this section, the terms ''air carrier'' and ''foreign air carrier'' have the meaning given such terms in section 40102 of title 49, United States Code.

SEC. 564. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than $5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that the contractor or grantee has no unpaid Federal tax assessments, that the contractor or grantee has entered into an installment agreement or offer in compromise that has been accepted by the IRS to resolve any unpaid Federal tax assessments, or, in the case of unpaid Federal tax assessments other than for income, estate, and gift taxes, that the liability for the unpaid assessments is the subject of a non-frivolous administrative or judicial appeal. For purposes of the preceding sentence, the certification requirement of part 52.209–5 of the Federal Acquisition Regulation shall also include a requirement for a certification by a prospective contractor of whether, within the three-year period preceding the offer for the contract, the prospective contractor—

(1) has or has not been convicted of or had a civil judgment or other judicial determination rendered against the contractor for violating any tax law or failing to pay any tax;

(2) has or has not been notified of any delinquent taxes for which the liability remains unsatisfied; or

(3) has or has not received a notice of a tax lien filed against the contractor for which the liability remains unsatisfied or for which the lien has not been released.

SEC. 565. TRANSPORTATION FACILITY ACCESS CONTROL PROGRAMS.

The Secretary of Homeland Security shall work with appropriate officials of Florida and of other States to resolve the differences between the Transportation Worker Identification Credential program administered by the Transportation Security Administration and existing State transportation facility access control programs.

SEC. 566. None of the funds made available in this Act may be used for planning, testing, piloting, or developing a national identification card.

SEC. 567. ADDITIONAL ASSISTANCE FOR PREPARATION OF PLANS.

Subparagraph (L) of section 33(b)(3) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229(b)(3)) is amended to read as follows:

''(L) To fund fire prevention programs, including planning and preparation for wildland fires.''.

SEC. 568. SENSE OF CONGRESS. It is the sense of Congress that sufficient funds should be appropriated to allow the Secretary to increase the number of personnel of U.S. Customs and Border Protection protecting the northern border by 1,517 officers and 788 agents, as authorized by—

(1) section 402 of the Uniting and Strengthening America by Providing Appropriate Tools

Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56);

(2) section 331 of the Trade Act of 2002 (Public Law 107–210); and

(3) section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

SEC. 569. STUDY OF RADIO COMMUNICATIONS ALONG THE INTERNATIONAL BORDERS OF THE UNITED STATES.—(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall conduct a study to determine the areas along the international borders of the United States where Federal and State law enforcement officers are unable to achieve radio communication or where radio communication is inadequate.

(b) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—Upon the conclusion of the study described in subsection (a), the Secretary shall develop a plan for enhancing radio communication capability along the international borders of the United States.

(2) CONTENTS.—The plan developed under paragraph (1) shall include—

(A) an estimate of the costs required to implement the plan; and

(B) a description of the ways in which Federal, State, and local law enforcement officers could benefit from the implementation of the plan.

SEC. 570. Of the funds provided under this Act or any other Act to United States Citizenship and Immigration Services, not less than $1,000,000 shall be provided for a benefits fraud assessment of the H–1B Visa Program.

SEC. 571. (a) REPORT ON INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.—Not later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall submit to Congress a report, and make the report available on its website, on the implementation and use of interagency operational centers for port security under section 70107A of title 46, United States Code.

(b) ELEMENTS.—The report required by subsection shall include the following:

(1) A detailed description of the progress made in transitioning Project Seahawk in Charleston, South Carolina, from the Department of Justice to the Coast Guard, including all projects and equipment associated with that project.

(2) A detailed description of that actions being taken to assure the integrity of Project Seahawk and ensure there is no loss in cooperation between the agencies specified in section 70107A(b)(3) of title 46, United State Code.

(3) A detailed description and explanation of any changes in Project Seahawk as of the date of the report, including any changes in Federal, State, or local staffing of that project.

SEC. 572. (a) The amount appropriated by title III for necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 under the heading ''FIREFIGHTER ASSISTANCE GRANTS'' is hereby increased by $5,000,000 for necessary expenses to carry out the programs authorized under section 34 of that Act (15 U.S.C. 2229a).

(b) The amount appropriated by title III under the heading ''INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY'' is hereby reduced by $5,000,000.

SEC. 573. TSA ACQUISITION MANAGEMENT POLICY. (a) IN GENERAL.—Section 114 of title 49, United States Code, is amended by striking subsection (o) and redesignating subsections (p) through (t) as subsections (o) through (s), respectively.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 574. REPORT ON URBAN AREA SECURITY INITIATIVE. Not later than 180 days after the date of enactment of this Act, the Government Accountability Office shall submit a report to the appropriate congressional committees which describes the criteria and factors the Department of Homeland Security uses to determine the regional boundaries for Urban Area Security Initiative regions, including a determination if the Department is meeting its goal to implement a regional approach with respect to Urban Area Security Initiative regions, and provides recommendations for how the Department can better facilitate a regional approach for Urban Area Security Initiative regions.

SEC. 575. (a) In this section:

(1) The term ''covered funds'' means funds provided under section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) to a State that submits an application under that section not earlier than May 4, 2007, for a national emergency grant to address the effects of the May 4, 2007, Greensburg, Kansas tornado.

(2) The term ''professional municipal services'' means services that are necessary to facilitate the recovery of Greensburg, Kansas from that tornado, and necessary to plan for or provide basic management and administrative services, which may include—

(A) the overall coordination of disaster recovery and humanitarian efforts, oversight, and enforcement of building code compliance, and coordination of health and safety response units; or

(B) the delivery of humanitarian assistance to individuals affected by that tornado.

(b) Covered funds may be used to provide temporary public sector employment and services authorized under section 173 of such Act to individuals affected by such tornado, including individuals who were unemployed on the date of the tornado, or who are without employment history, in addition to individuals who are eligible for disaster relief employment under section 173(d)(2) of such Act.

(c) Covered funds may be used to provide professional municipal services for a period of not more than 24 months, by hiring or contracting with individuals or organizations (including individuals employed by contractors) that the State involved determines are necessary to provide professional municipal services.

(d) Covered funds expended under this section may be spent on costs incurred not earlier than May 4, 2007.

SEC. 576. DATA RELATING TO DECLARATIONS OF A MAJOR DISASTER. (a) IN GENERAL.—Notwithstanding any other provision of this Act, except as provided in subsection (b), and 30 days after the date that the President determines whether to declare a major disaster because of an event and any appeal is completed, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, and the Senate Committee on Appropriations, and publish on the website of the Federal Emergency Management Agency, a report regarding that decision, which shall summarize damage assessment information used to determine whether to declare a major disaster.

(b) EXCEPTION.—The Administrator may redact from a report under subsection (a) any data that the Administrator determines would compromise national security.

(c) DEFINITIONS.—In this section—

(1) the term ''Administrator'' means the Administrator of the Federal Emergency Management Agency; and

(2) the term ''major disaster'' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

SEC. 577. NATIONAL TRANSPORTATION SECURITY CENTER OF EXCELLENCE.—If the Secretary of Homeland Security establishes a National Transportation Security Center of Excellence to conduct research and education activities, and to develop or provide professional security training, including the training of transportation employees and transportation professionals, the Mineta Transportation Institute at San Jose State University may be included as a member institution of such Center.

SEC. 578. Of amounts appropriated under section 1003, $100,000,000, with $50,000,000 each to the Cities of Denver, Colorado, and St. Paul, Minnesota, shall be available for State and local law enforcement entities for security and related costs, including overtime, associated with the Democratic National Conventional and Republican National Convention in 2008. Amounts provided by this section are designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

TITLE VI—BORDER LAW ENFORCEMENT RELIEF ACT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Border Law Enforcement Relief Act of 2007''.

SEC. 602. BORDER RELIEF GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, subject to the availability of appropriations, to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2008 through 2012.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking 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 reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

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

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term ''eligible law enforcement agency'' means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.—The term ''High Impact Area'' means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Department of Homeland Security.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2008 through 2012 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.—Of the amounts authorized under paragraph (1)—

(A) ⅔ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) ⅓ shall be set aside for areas designated as a High Impact Area under subsection (d).

(f) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

SEC. 603. Enforcement of Federal Immigration Law.

Nothing in this title shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

TITLE VII—BORDER INFRASTRUCTURE AND TECHNOLOGY MODERNIZATION

SEC. 701. SHORT TITLE.

This title may be cited as the ''Border Infrastructure and Technology Modernization Act of 2007''.

SEC. 702. DEFINITIONS.—In this title:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of United States Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term ''maquiladora'' means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term ''northern border'' means the international border between the United States and Canada.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(5) SOUTHERN BORDER.—The term ''southern border'' means the international border between the United States and Mexico.

SEC. 703. HIRING AND TRAINING OF BORDER AND TRANSPORTATION SECURITY PERSONNEL.—(a) OFFICERS AND AGENTS.—

(1) INCREASE IN OFFICERS AND AGENTS.—Subject to the availability of appropriations, during each of fiscal years 2009 through 2013, the Secretary shall—

(A) increase the number of full-time agents and associated support staff in United States Immigration and Customs Enforcement of the Department of Homeland Security by the equivalent of at least 100 more than the number of such employees as of the end of the preceding fiscal year; and

(B) increase the number of full-time officers, agricultural specialists, and associated support staff in United States Customs and Border Protection by the equivalent of at least 200 more than the number of such employees as of the end of the preceding fiscal year.

(2) WAIVER OF FTE LIMITATION.—The Secretary is authorized to waive any limitation on the number of full-time equivalent personnel assigned to the Department of Homeland Security to fulfill the requirements of paragraph (1).

(b) TRAINING.—As necessary, the Secretary, acting through the Assistant Secretary for the United States Immigration and Customs Enforcement and the Commissioner, shall provide appropriate training for agents, officers, agricultural specialists, and associated support staff of the Department of Homeland Security to utilize new technologies and to ensure that the proficiency levels of such personnel are acceptable to protect the borders of the United States.

SEC. 704. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.—(a) REQUIREMENT TO UPDATE.—Not later than January 31 of every other year, the Commissioner, in consultation with the Administrator of General Services shall—

(1) review—

(A) the Port of Entry Infrastructure Assessment Study prepared by the United States Customs Service, the Immigration and Naturalization Service, and the General Services Administration in accordance with the matter relating to the ports of entry infrastructure assessment set forth in the joint explanatory statement on page 67 of conference report 106–319, accompanying Public Law 106–58; and

(B) the nationwide strategy to prioritize and address the infrastructure needs at the land ports of entry prepared by the Department of Homeland Security and the General Services Administration in accordance with the committee recommendations on page 22 of Senate report 108–86, accompanying Public Law 108–90;

(2) update the assessment of the infrastructure needs of all United States land ports of entry; and

(3) submit an updated assessment of land port of entry infrastructure needs to Congress.

(b) CONSULTATION.—In preparing the updated studies required under subsection (a), the Commissioner and the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and affected State and local agencies on the northern and southern borders of the United States.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 805; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project—

(A) to enhance the ability of United States Customs and Border Protection to achieve its mission and to support operations;

(B) to fulfill security requirements; and

(C) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner, as appropriate, shall—

(1) implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3); or

(2) forward the prioritized list of infrastructure and technology improvement projects to the Administrator of General Services for implementation in the order of priority assigned to each project under subsection (c)(3).

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, including immediate security needs, changes in infrastructure in Mexico or Canada, or similar concerns, compellingly alter the need for a project in the United States.

SEC. 705. NATIONAL LAND BORDER SECURITY PLAN.—(a) REQUIREMENT FOR PLAN.—Not later than January 31 of every other year, the Secretary, acting through the Commissioner, shall prepare a National Land Border Security Plan and submit such plan to Congress.

(b) CONSULTATION.—In preparing the plan required under subsection (a), the Commissioner shall consult with other appropriate Federal agencies, State and local law enforcement agencies, and private entities that are involved in international trade across the northern or southern border.

(c) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required under subsection (a) shall include a vulnerability, risk, and threat assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Secretary, acting through the Commissioner, may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required under subsection (a).

(d) COORDINATION WITH THE SECURE BORDER INITIATIVE.—The plan required under subsection (a) shall include a description of activities undertaken during the previous year as part of the Secure Border Initiative and actions planned for the coming year as part of the Secure Border Initiative.

SEC. 706. EXPANSION OF COMMERCE SECURITY PROGRAMS.—(a) COMMERCE SECURITY PROGRAMS.—(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the size and scope, including personnel needs, of the Customs-Trade Partnership Against Terrorism program or other voluntary programs involving government entities and the private sector to strengthen and improve the overall security of the international supply chain and security along the northern and southern border of the United States.

(2) SOUTHERN BORDER SUPPLY CHAIN SECURITY.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall provide Congress with a plan to improve supply chain security along the southern border, including, where appropriate, plans to implement voluntary programs involving government entities and the private sector to strengthen and improve the overall security of the international supply chain that have been successfully implemented on the northern border.

SEC. 707. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM. (a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, shall carry out a technology demonstration program to test and evaluate new port of entry technologies, refine port of entry technologies and operational concepts, and train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTED.—Under the demonstration program, the Commissioner shall test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(2) FACILITIES DEVELOPED.—At a demonstration site selected pursuant to subsection (c)(3), the Commissioner shall develop any facilities needed to provide appropriate training to Federal law enforcement personnel who have responsibility for border security, including cross-training among agencies, advanced law enforcement training, and equipment orientation to the extent that such training is not being conducted at existing Federal facilities.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Commissioner shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) LOCATION.—Of the sites selected under subsection (c)—

(A) at least 1 shall be located on the northern border of the United States; and

(B) at least 1 shall be located on the southern border of the United States.

(3) SELECTION CRITERIA.—To ensure that 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, 1 port of entry selected as a demonstration site may—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion onto not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 12 months preceding the date of the enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary, acting through the Commissioner, shall permit personnel from appropriate Federal agencies to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) CONTENT.—The report shall include an assessment by the Commissioner of the feasibility of incorporating any demonstrated technology for use throughout United States Customs and Border Protection.

SEC. 708. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any funds otherwise available, there are authorized to be appropriated such sums as may be necessary to carry out sections 703, 704, 705, 706, and 707 for fiscal years 2009 through 2013.

(b) INTERNATIONAL AGREEMENTS.—Funds authorized to be appropriated under this title may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this title.

DIVISION B—BORDER SECURITY

TITLE X—BORDER SECURITY REQUIREMENTS

SEC. 1001. SHORT TITLE.

This division may be cited as the ''Border Security First Act of 2007''.

SEC. 1002. BORDER SECURITY REQUIREMENTS.

(a) REQUIREMENTS.—Not later than 2 years after the date of the enactment of this Act, the President shall ensure that the following are carried out:

(1) OPERATIONAL CONTROL OF THE INTERNATIONAL BORDER WITH MEXICO.—The Secretary of Homeland Security shall establish and demonstrate operational control of 100 percent of the international land border between the United States and Mexico, including the ability to monitor such border through available methods and technology.

(2) STAFF ENHANCEMENTS FOR BORDER PATROL.—The United States Customs and Border Protection Border Patrol shall hire, train, and report for duty 23,000 full-time agents.

(3) STRONG BORDER BARRIERS.—The United States Customs and Border Protection Border Patrol shall—

(A) install along the international land border between the United States and Mexico at least—

(i) 300 miles of vehicle barriers;

(ii) 700 linear miles of fencing as required by the Secure Fence Act of 2006 (Public Law 109–367), as amended by this Act; and

(iii) 105 ground-based radar and camera towers; and

(B) deploy for use along the international land border between the United States and Mexico 4 unmanned aerial vehicles, and the supporting systems for such vehicles.

(4) CATCH AND RETURN.—The Secretary of Homeland Security shall detain all removable aliens apprehended crossing the international land border between the United States and Mexico in violation of Federal or State law, except as specifically mandated by Federal or State law or humanitarian circumstances, and United States Immigration and Customs Enforcement shall have the resources to maintain this practice, including the resources necessary to detain up to 45,000 aliens per day on an annual basis.

(b) PRESIDENTIAL PROGRESS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until the requirements under subsection (a) are met, the President shall submit a report to Congress detailing the progress made in funding, meeting, or otherwise satisfying each of the requirements described under paragraphs (1) through (4) of subsection (a), including detailing any contractual agreements reached to carry out such measures.

(2) PROGRESS NOT SUFFICIENT.—If the President determines that sufficient progress is not being made, the President shall include in the report required under paragraph (1) specific funding recommendations, authorization needed, or other actions that are or should be undertaken by the Secretary of Homeland Security.

SEC. 1003. APPROPRIATIONS FOR BORDER SECURITY.

There is hereby appropriated $3,000,000,000 to satisfy the requirements set out in section 1002(a) and, if any amount remains after satisfying such requirements, to achieve and maintain operational control over the international land and maritime borders of the United States, for employment eligibility verification improvements, for increased removal and detention of visa overstays, criminal aliens, aliens who have illegally reentered the United States, and for reimbursement of State and local section 287(g) expenses. These amounts are designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

This Act may be cited as the ''Department of Homeland Security Appropriations Act, 2008''.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Title 46 App., Section 1295 b(h), of the U.S. Code, appoints the following Senators to the Board of Visitors of the U.S. Merchant Marine Academy: the Senator from Hawaii, Mr. INOUYE, ex officio as Chairman of the Committee on Commerce, Science, and Transportation; the Senator from New Jersey, Mr. LAUTENBERG, from the Committee on Commerce, Science and Transportation; the Senator from Alaska, Mr. STEVENS, from the Committee on Commerce, Science and Transportation; and the Senator from South Carolina, Mr. GRAHAM, At Large.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 6968(a), appoints the following Senators to the Board of Visitors of the U.S. Naval Academy: the Senator from Mississippi, Mr. COCHRAN, from the Committee on Appropriations; the Senator from Maryland, Ms. MIKULSKI, from the Committee on Appropriations; the Senator from Arizona, Mr. MCCAIN, designated by the Chairman of the Committee on Armed Services; and the Senator from Maryland, Mr. CARDIN, At Large.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appoints the following Senators to the Board of Visitors of the U.S. Military Academy: the Senator from Texas, Mrs. HUTCHISON, from the Committee on Appropriations; the Senator from Louisiana, Ms. LANDRIEU, from the Committee on Appropriations; the Senator from Rhode Island, Mr. REED, Designated by the Chairman of the Committee on Armed Services; and the Senator from Maine, Ms. COLLINS, At Large.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 9355(a), appoints the following Senators to the Board of Visitors of the U.S. Air Force Academy: the Senator from Utah, Mr. BENNETT, from the Committee on Appropriations; the Senator from Nebraska, Mr. NELSON, from the Committee on Appropriations; and the Senator from Colorado, Mr. Allard, At Large.

SAFETY OF SENIORS ACT OF 2007

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 99, S. 845.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A bill (S. 845) to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 845

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safety of Seniors Act of 2007''.

SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended—

(1) by redesignating section 393B (as added by section 1401 of Public Law 106–386) as section 393C and transferring such section so that it appears after section 393B (as added by section 1301 of Public Law 106–310); and

(2) by inserting after section 393C (as redesignated by paragraph (1)) the following:

''SEC. 393D. PREVENTION OF FALLS AMONG OLDER ADULTS.

''(a) PUBLIC EDUCATION.—The Secretary may—

''(1) oversee and support a national education campaign to be carried out by a nonprofit organization with experience in designing and implementing national injury prevention programs, that is directed principally to older adults, their families, and health care providers, and that focuses on reducing falls among older adults and preventing repeat falls; and

''(2) award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, for the purpose of organizing State-level coalitions of appropriate State and local agencies, safety, health, senior citizen, and other organizations to design and carry out local education campaigns, focusing on reducing falls among older adults and preventing repeat falls.

''(b) RESEARCH.—

''(1) IN GENERAL.—The Secretary may—

''(A) conduct and support research to—

''(i) improve the identification of older adults who have a high risk of falling;

''(ii) improve data collection and analysis to identify fall risk and protective factors;

''(iii) design, implement, and evaluate the most effective fall prevention interventions;

''(iv) improve strategies that are proven to be effective in reducing falls by tailoring these strategies to specific populations of older adults;

''(v) conduct research in order to maximize the dissemination of proven, effective fall prevention interventions;

''(vi) intensify proven interventions to prevent falls among older adults;

''(vii) improve the diagnosis, treatment, and rehabilitation of elderly fall victims and older adults at high risk for falls; and

''(viii) assess the risk of falls occurring in various settings;

''(B) conduct research concerning barriers to the adoption of proven interventions with respect to the prevention of falls among older adults;

''(C) conduct research to develop, implement, and evaluate the most effective approaches to reducing falls among high-risk older adults living in communities and long-term care and assisted living facilities; and

''(D) evaluate the effectiveness of community programs designed to prevent falls among older adults.

''(2) EDUCATIONAL SUPPORT.—The Secretary, either directly or through awarding grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, may provide professional education for physicians and allied health professionals, and aging service providers in fall prevention, evaluation, and management.

''(c) DEMONSTRATION PROJECTS.—The Secretary may carry out the following:

''(1) Oversee and support demonstration and research projects to be carried out by qualified organizations, institutions, or consortia of qualified organizations and institutions, in the following areas:

''(A) A multistate demonstration project assessing the utility of targeted fall risk screening and referral programs.

''(B) Programs designed for community-dwelling older adults that utilize multicomponent fall intervention approaches, including physical activity, medication assessment and reduction when possible, vision enhancement, and home modification strategies.

''(C) Programs that are targeted to new fall victims who are at a high risk for second falls and which are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations.

''(D) Private sector and public-private partnerships to develop technologies to prevent falls among older adults and prevent or reduce injuries if falls occur.

''(2)(A) Award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, to design, implement, and evaluate fall prevention programs using proven intervention strategies in residential and institutional settings.

''(B) Award 1 or more grants, contracts, or cooperative agreements to 1 or more qualified organizations, institutions, or consortia of qualified organizations and institutions, in order to carry out a multistate demonstration project to implement and evaluate fall prevention programs using proven intervention strategies designed for single and multifamily residential settings with high concentrations of older adults, including—

''(i) identifying high-risk populations;

''(ii) evaluating residential facilities;

''(iii) conducting screening to identify high-risk individuals;

''(iv) providing fall assessment and risk reduction interventions and counseling;

''(v) coordinating services with health care and social service providers; and

''(vi) coordinating post-fall treatment and rehabilitation.

''(3) Award 1 or more grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, to conduct evaluations of the effectiveness of the demonstration projects described in this subsection.

''(d) STUDY OF EFFECTS OF FALLS ON HEALTH CARE COSTS.—

''(1) IN GENERAL.—The Secretary may conduct a review of the effects of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing health care costs associated with falls.

''(2) REPORT.—If the Secretary conducts the review under paragraph (1), the Secretary shall, not later than 36 months after the date of enactment of the Safety of Seniors Act of 2007, submit to Congress a report describing the findings of the Secretary in conducting such review.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 394A of the Public Health Service Act (42 U.S.C. 280b–3) is amended by striking ''$50,000,000'' and all that follows through the period and inserting ''$58,361,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 and 2010.''.

Mr. CASEY. Mr. President, I ask unanimous consent that the amendment at the desk be considered and agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; that any statements be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2622) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safety of Seniors Act of 2007''.

SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended—

(1) by redesignating section 393B (as added by section 1401 of Public Law 106–386) as section 393C and transferring such section so that it appears after section 393B (as added by section 1301 of Public Law 106–310); and

(2) by inserting after section 393C (as redesignated by paragraph (1)) the following:

''SEC. 393D. PREVENTION OF FALLS AMONG OLDER ADULTS.

''(a) PUBLIC EDUCATION.—The Secretary may—

''(1) oversee and support a national education campaign to be carried out by a nonprofit organization with experience in designing and implementing national injury prevention programs, that is directed principally to older adults, their families, and health care providers, and that focuses on reducing falls among older adults and preventing repeat falls; and

''(2) award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, for the purpose of organizing State-level coalitions of appropriate State and local agencies, safety, health, senior citizen, and other organizations to design and carry out local education campaigns, focusing on reducing falls among older adults and preventing repeat falls.

''(b) RESEARCH.—

''(1) IN GENERAL.—The Secretary may—

''(A) conduct and support research to—

''(i) improve the identification of older adults who have a high risk of falling;

''(ii) improve data collection and analysis to identify fall risk and protective factors;

''(iii) design, implement, and evaluate the most effective fall prevention interventions;

''(iv) improve strategies that are proven to be effective in reducing falls by tailoring these strategies to specific populations of older adults;

''(v) conduct research in order to maximize the dissemination of proven, effective fall prevention interventions;

''(vi) intensify proven interventions to prevent falls among older adults;

''(vii) improve the diagnosis, treatment, and rehabilitation of elderly fall victims and older adults at high risk for falls; and

''(viii) assess the risk of falls occurring in various settings;

''(B) conduct research concerning barriers to the adoption of proven interventions with respect to the prevention of falls among older adults;

''(C) conduct research to develop, implement, and evaluate the most effective approaches to reducing falls among high-risk older adults living in communities and long-term care and assisted living facilities; and

''(D) evaluate the effectiveness of community programs designed to prevent falls among older adults.

''(2) EDUCATIONAL SUPPORT.—The Secretary, either directly or through awarding grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, may provide professional education for physicians and allied health professionals, and aging service providers in fall prevention, evaluation, and management.

''(c) DEMONSTRATION PROJECTS.—The Secretary may carry out the following:

''(1) Oversee and support demonstration and research projects to be carried out by qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, in the following areas:

''(A) A multistate demonstration project assessing the utility of targeted fall risk screening and referral programs.

''(B) Programs designed for community-dwelling older adults that utilize multicomponent fall intervention approaches, including physical activity, medication assessment and reduction when possible, vision enhancement, and home modification strategies.

''(C) Programs that are targeted to new fall victims who are at a high risk for second

falls and which are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations.

''(D) Private sector and public-private partnerships to develop technologies to prevent falls among older adults and prevent or reduce injuries if falls occur.

''(2)(A) Award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, to design, implement, and evaluate fall prevention programs using proven intervention strategies in residential and institutional settings.

''(B) Award 1 or more grants, contracts, or cooperative agreements to 1 or more qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, in order to carry out a multistate demonstration project to implement and evaluate fall prevention programs using proven intervention strategies designed for single and multifamily residential settings with high concentrations of older adults, including—

''(i) identifying high-risk populations;

''(ii) evaluating residential facilities;

''(iii) conducting screening to identify high-risk individuals;

''(iv) providing fall assessment and risk reduction interventions and counseling;

''(v) coordinating services with health care and social service providers; and

''(vi) coordinating post-fall treatment and rehabilitation.

''(3) Award 1 or more grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, to conduct evaluations of the effectiveness of the demonstration projects described in this subsection.

''(d) PRIORITY.—In awarding grants, contracts, or cooperative agreements under this section, the Secretary may give priority to entities that explore the use of cost-sharing with respect to activities funded under the grant, contract, or agreement to ensure the institutional commitment of the recipients of such assistance to the projects funded under the grant, contract, or agreement. Such non-Federal cost sharing contributions may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

''(e) STUDY OF EFFECTS OF FALLS ON HEALTH CARE COSTS.—

''(1) IN GENERAL.—The Secretary may conduct a review of the effects of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing health care costs associated with falls.

''(2) REPORT.—If the Secretary conducts the review under paragraph (1), the Secretary shall, not later than 36 months after the date of enactment of the Safety of Seniors Act of 2007, submit to Congress a report describing the findings of the Secretary in conducting such review.''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 845), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

NATIONAL PERIPHERAL ARTERIAL DISEASE AWARENESS MONTH

Mr. CASEY. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. Res. 221, and that then the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 221) supporting National Peripheral Arterial Disease Awareness Month and efforts to educate people about peripheral arterial disease.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table en bloc; that any statements be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res 221) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 221

Whereas peripheral arterial disease is a vascular disease that occurs when narrowed arteries reduce blood flow to the limbs;

Whereas peripheral arterial disease is a significant vascular disease that can be as serious as a heart attack or stroke;

Whereas peripheral arterial disease affects approximately 8,000,000 to 12,000,000 Americans;

Whereas 1 in 5 patients with peripheral arterial disease will experience cardiovascular death, heart attack, stroke, or hospitalization within 1 year;

Whereas the survival rate for individuals with peripheral arterial disease is worse than the outcome for many common cancers;

Whereas peripheral arterial disease is a leading cause of lower limb amputation in the United States;

Whereas many patients with peripheral arterial disease have walking impairment that leads to a diminished quality of life and functional capacity;

Whereas a majority of patients with peripheral arterial disease are asymptomatic and less than half of individuals with peripheral arterial disease are aware of their diagnoses;

Whereas African-American ethnicity is a strong and independent risk factor for peripheral arterial disease, and yet this fact is not well known to those at risk;

Whereas effective treatments are available for people with peripheral arterial disease to reduce heart attacks, strokes, and amputations and to improve quality of life;

Whereas many patients with peripheral arterial disease are still untreated with proven therapies;

Whereas there is a need for comprehensive educational efforts designed to increase awareness of peripheral arterial disease among medical professionals and the greater public in order to promote early detection and proper treatment of this disease to improve quality of life, prevent heart attacks and strokes, and save lives and limbs; and

Whereas September 2007 is an appropriate month to observe National Peripheral Arterial Disease Awareness Month: Now, therefore, be it

Resolved, That the Senate—

(1) supports National Peripheral Arterial Disease Awareness Month and efforts to educate people about peripheral arterial disease;

(2) acknowledges the critical importance of peripheral arterial disease awareness to improve national cardiovascular health;

(3) supports raising awareness of the consequences of undiagnosed and untreated peripheral arterial disease and the need to seek appropriate care as a serious public health issue; and

(4) calls upon the people of the United States to observe the month with appropriate programs and activities.

HONORING THE LIFE OF BILL WALSH

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 290, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

Honoring the life and career of former San Francisco 49ers Head Coach Bill Walsh.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. FEINSTEIN. Mr. President, yesterday we lost a man who was the heart and soul of the great San Francisco 49er teams of the 1980s. Bill Walsh was a great coach and a fine friend.

I rise today with Senator BOXER to introduce a resolution to honor the life and career of a pioneer in the field of football, a true leader and teacher, and a dedicated husband, father and friend.

He touched so many in the bay area. He led the 49ers to three Super Bowls. And he gave this city a shot in the arm in some of its darkest hours.

I became mayor in 1978. Bill Walsh became head coach in 1979, after honing his skills at Stanford.

Many forget that the 49ers before Bill Walsh were an unremarkable team. They hadn't made the playoffs in years. The team was filled with journeymen.

San Francisco was a baseball town, and football played second fiddle.

But just 2 years later in the 1981 season Bill Walsh led the 49ers on an improbable run to a Super Bowl victory.

Led by a quarterback named Montana, these 49ers played an exciting new brand of football.

Only later would we discover that Bill Walsh had revolutionized the game—he transformed smash-mouth football into the elegant ''West Coast Offense.''

And this team became the stuff of legends. The players became household names. Montana. Rice. Lott. Clark. Young.

Even the plays became mythical. Who can forget ''The Catch''?

And Cinderella became a powerhouse and a powerhouse became a dynasty.

I look back on that time with great fondness.

One of the photos that I treasure most is in my home in Washington.

It was the parade after the first Super Bowl victory. Bill and Eddie DeBartolo and I were sitting on the rim of a car. We were worried that no one would show up. Some said that San Francisco doesn't do parades.

And then we turned down Market Street. And there were a million plus San Franciscans lining the streets.

I will never forget that moment.

Bill Walsh meant so much to this city.

He made the 49ers great at a point when the city needed it most.

The city was fragmented and divided in the early 1980s. Mayor George Moscone had been assassinated a few years earlier. There were riots. And there was little to bring us together.

But on Sundays, the differences melted away. The tensions diminished. The anxieties subsided.

There was nothing like Montana to Rice for an 80-yard touchdown. Nothing like a victory over the Los Angeles Rams. Nothing like a Super Bowl championship.

And on Mondays, after a victory, you would see a changed city. A little bit nicer, a little less mean.

So Bill Walsh brought this city together in ways that he, nor I, would ever really understand.

Football became the glue to bind this city together.

And during the 10 years I came to know Bill, I came to admire him, respect him, and love him.

And he made me, like so many others, a 49ers fan for life.

Bill Walsh, though, was more than a coach.

He was a leader. A mentor. A friend.

He didn't just revolutionize how football is played, but how it is coached and taught.

He believed, as I do, that the devil is in the details. And that you have to practice right to play right. He was the first to script the first 15 plays in a game.

And he didn't just coach men. He shaped them into good football players and good citizens.

His greatest skill may have been as a scout, identifying raw talent and sculpting it into masterpieces.

They said that Joe Montana didn't have a strong enough arm, that Jerry Rice wasn't fast enough, that Steve Young wasn't disciplined enough.

But Bill saw what other people missed. He saw the intangibles. He saw leadership. And work ethic. And character.

And there is no one who wouldn't want a Bill Walsh-coached player on their team.

Bill was a mentor as well. He wanted his players and coaches to fulfill their potential more than anyone. He encouraged them to spread their wings and go out on their own.

And you can see the results, more than half the coaches in the league have been in some way touched by Bill Walsh—either directly like Seattle Seahawk's Coach Mike Holmgren or Indianapolis Colts' Coach Tony Dungy or indirectly, by the second and third generation coaches who may not have coached or played under Bill, but are teaching his offense nonetheless.

But I think what we will miss most is not Bill Walsh the coach, but Bill Walsh the person.

He was decent, and good, and kind.

Sure, he was tough. In football, just as in public life, you have to be.

But he was fair. He expected his players and coaches to spend the time and effort it takes to be great. But he did not expect anything from them that he was not prepared to give himself.

Bill once said, ''Playing to one's full potential is the only purpose of playing at all.''

The good news is that Bill fulfilled his purpose. He played to his full potential in everything he did.

I know I speak for all San Francisco when I say that this is a sad day. He will truly be missed.

Bill Walsh may have been called a ''Genius'' when it comes to football, but his legacy goes well beyond the Xs and Os.

He touched this city, and we owe him a debt that can never be repaid.

Mr. CASEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table; that any statements be printed in the RECORD, as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res 290) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 290

Whereas William Ernest Walsh was born on November 30, 1931, in Fremont, California;

Whereas Bill Walsh graduated from San Jose State University in 1955 where he was a successful amateur boxer and wide receiver;

Whereas, in 1955, he married Geri Nadini, with whom he had 3 children: Steve, Craig, and Elizabeth;

Whereas Bill Walsh began his coaching career at Washington High School in Fremont, California, and later served as an assistant coach at the University of California at Berkeley and Stanford University;

Whereas Bill Walsh served as an assistant coach with the Oakland Raiders in 1966, with the Cincinnati Bengals from 1968 to 1975, and with the San Diego Chargers in 1976;

Whereas Bill Walsh served as head coach of Stanford University from 1977 to 1978 and again from 1992 to 1994, winning the Sun Bowl in 1977, the Bluebonnet Bowl in 1978, and the Blockbuster Bowl in 1992;

Whereas Bill Walsh became Head Coach of the San Francisco 49ers in 1979 and served in that position for 10 years, winning 6 Western Division titles and 3 National Football Conference Championships;

Whereas Bill Walsh led the 49ers to 3 Super Bowl wins in the 1980s: Super Bowl XVI, Super Bowl XIX, and Super Bowl XXIII;

Whereas Bill Walsh was the Associated Press and United Press International Coach of the Year in 1981;

Whereas Bill Walsh ended his professional coaching career with a record of 102 wins, 63 losses, and 1 tie;

Whereas Bill Walsh was elected to the Pro Football Hall of Fame in 1993;

Whereas Bill Walsh developed the innovative ''West Coast Offense'', which became widely used by many National Football League (NFL) teams;

Whereas Bill Walsh drafted and developed a countless number of NFL greats such as Joe Montana, Ronnie Lott, Dwight Clark, Steve Young, and Jerry Rice;

Whereas 14 of the NFL's 32 head coaches have some connection to Bill Walsh;

Whereas Bill Walsh developed the Minority Coaching Fellowship program to help African American coaches find jobs in the NFL and Division I college football;

Whereas Bill Walsh and the 49ers brought the people of San Francisco together following some of the most difficult times in the City's history and gave them much pride, joy, and excitement; and

Whereas Bill Walsh embodied the qualities of hard work, tenacity, dedication, attention to detail, respect, teamwork, and living up to one's potential: Now, therefore, be it

Resolved, That the Senate honors the life of William Ernest Walsh, a pioneer in the field of football, a true leader and teacher, and a dedicated husband, father, and friend.

NATIONALLY HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 291 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 291) designating the week beginning September 9, 2007, as ''National Historically Black Colleges and Universities Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 291) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 291

Whereas there are 103 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, that the Senate—

(1) designates the week beginning September 9, 2007, as ''National Historically Black Colleges and Universities Week''; and

(2) calls on the people of the United States and interested groups to observe the week

with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

MEASURE READ THE FIRST TIME—H.R. 2831

Mr. CASEY. Mr. President, I understand that H.R. 2831 has been received from the House and is at the desk.

The PRESIDING OFFICER. That is correct.

Mr. CASEY. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2831) to amend title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973 to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

Mr. CASEY. I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

ORDER FOR FIRST READING OF FISA LEGISLATION

Mr. CASEY. Mr. President, I ask unanimous consent that when the majority leader or his designee introduces FISA legislation on August 2, they be considered as having received their first reading on the legislative day of August 1, 2007.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar Nos. 162, 230, 231, 243, 244, 250, 251, 252, 253, 254, 257 through 272, and all nominations placed on the Secretary's desk; further, that the Senate Foreign Relations Committee be discharged from the following nominations: PN 579, Eric G. John to be Ambassador to Thailand, and PN 604, Michael Michalak to be Ambassador to Vietnam; that the Agriculture Committee be discharged from the following nominations: PN 479, Jill Sommers, and PN 480, Bartholomew Chilton, to be Commissioners of the Commodity Futures Trading Commission; that the nominations be confirmed, the motions to reconsider be laid upon the table, that any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, are as follows:

DEPARTMENT OF ENERGY

Thomas P. D'Agostino, of Maryland, to be Under Secretary for Nuclear Security, Department of Energy.

EXPORT-IMPORT BANK OF THE UNITED STATES

Bijan Rafiekian, of California, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2011. (Reappointment).

Diane G. Farrell, of Connecticut, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2011.

DEPARTMENT OF JUSTICE

Joe W. Stecher, of Nebraska, to be United States Attorney for the District of Nebraska for the term of four years.

DEPARTMENT OF VETERANS AFFAIRS

Charles L. Hopkins, of Massachusetts, to be an Assistant Secretary of Veterans Affairs (Operations, Preparedness, Security and Law Enforcement).

NATIONAL BOARD FOR EDUCATION SCIENCES

David C. Geary, of Missouri, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2010.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Miguel Campaneria, of Puerto Rico, to be a Member of the National Council on the Arts for a term expiring September 3, 2012.

DEPARTMENT OF EDUCATION

Diane Auer Jones, of Maryland, to be Assistant Secretary for Postsecondary Education, Department of Education.

DEPARTMENT OF THE TREASURY

Peter B. McCarthy, of Wisconsin, to be an Assistant Secretary of the Treasury.

David H. McCormick, of Pennsylvania, to be an Under Secretary of the Treasury.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Daniel J. Darnell, 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Lyn D. Sherlock, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Donald C. Wurster, 0000

The following named officer for appointment as the Vice Chief of Staff, United States Air Force, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 8034 and 601:

To be general

Gen. Duncan J. McNabb, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Arthur J. Lichte, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. John D. W. Corley, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Frank G. Klotz, 0000

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Robert R. Allardice, 0000
Brigadier General Herbert J. Carlisle, 0000
Brigadier General William A. Chambers, 0000
Brigadier General Kathleen D. Close, 0000
Brigadier General Charles R. Davis, 0000
Brigadier General Jack B. Egginton, 0000
Brigadier General David W. Eidsaune, 0000
Brigadier General Alfred K. Flowers, 0000
Brigadier General Maurice H. Forsyth, 0000
Brigadier General Marke F. Gibson, 0000
Brigadier General Patrick D. Gillett, Jr., 0000
Brigadier General Frank Gorenc, 0000
Brigadier General James P. Hunt, 0000
Brigadier General Larry D. James, 0000
Brigadier General William N. McCasland, 0000
Brigadier General Kay C. McClain, 0000
Brigadier General Robert H. McMahon, 0000
Brigadier General William J. Rew, 0000
Brigadier General Kip L. Self, 0000
Brigadier General Larry O. Spencer, 0000
Brigadier General Robert P. Steel, 0000
Brigadier General James A. Whitmore, 0000
Brigadier General Bobby J. Wilkes, 0000
Brigadier General Robert M. Worley, II, 0000

IN THE ARMY

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Bradly S. MacNealy, 0000

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Michael J. Trombetta, 0000

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Charles A. Anderson, 0000
Brigadier General Kevin J. Bergner, 0000
Brigadier General Daniel P. Bolger, 0000
Brigadier General James E. Chambers, 0000
Brigadier General Bernard S. Champoux, 0000
Brigadier General Robert W. Cone, 0000
Brigadier General Anthony A. Cucolo, III, 0000
Brigadier General Yves J. Fontaine, 0000
Brigadier General Mark A. Graham, 0000
Brigadier General David D. Halverson, 0000
Brigadier General Michael D. Jones, 0000
Brigadier General Purl K. Keen, 0000
Brigadier General David B. Lacquement, 0000
Brigadier General Raymond V. Mason, 0000
Brigadier General John F. Mulholland, Jr., 0000
Brigadier General Theodore C. Nicholas, 0000
Brigadier General Patrick J. O'Reilly, 0000
Brigadier General John E. Sterling, Jr., 0000

Brigadier General Randolph P. Strong, 0000
Brigadier General Merdith W. B. Temple, 0000
Brigadier General William J. Troy, 0000
Brigadier General Peter M. Vangjel, 0000
Brigadier General Dennis L. Via, 0000

IN THE NAVY

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Victor G. Guillory, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. David J. Mercer, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. David Architzel, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. John D. Stufflebeem, 0000

The following named officer for appointment as Chief of the Bureau of Medicine and Surgery and Surgeon General and for appointment to the grade indicated under title 10, D.S.C., sections 601 and 5137:

To be vice admiral

Rear Adm. (Selectee) Adam M. Robinson, Jr.,

NOMINATIONS PLACED ON THE SCRETARY'S DESK

IN THE AIR FORCE

PN368 AIR FORCE nominations (27) beginning MARIA M. ALSINA, and ending LE THI ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record of March 19, 2007.

PN741 AIR FORCE nomination of Jonathan L. Huggins, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN742 AIR FORCE nomination of Nelson L. Reynolds, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN743 AIR FORCE nomination of Bryan M. Boyles, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN744 AIR FORCE nomination of Michael S. Agabegi, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN745 AIR FORCE nomination of Freddie M. Goldwire, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN746 AIR FORCE nominations (4) beginning VAL C. HAGANS, and ending RUJING HAN, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN747 AIR FORCE nominations (3) beginning KENT S. THOMPSON, and ending JAVIER SANTIAGO, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN748 AIR FORCE nominations (4) beginning THOMAS S. BUTLER, and ending ADAM W. SCHNICKER, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

IN THE ARMY

PN628 ARMY nominations (32) beginning JAMES E. CARAWAY JR., and ending WILLIAM S. WEICHL, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2007.

PN749 ARMY nomination of Stephen T. Sauter, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN750 ARMY nomination of Terry D. Bonner, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN751 ARMY nomination of Mark Trawinski, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN752 ARMY nomination of Francisco C. Dominicci, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN753 ARMY nomination of Joseph E. Jones, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN754 ARMY nomination of Colin S. McKenzie, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN755 ARMY nominations (2) beginning LOZAY FOOTS, and ending JOSEPH L. KARHAN, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN756 ARMY nominations (2) beginning LOUIS R. KUBALA, and ending THOMAS K. SPEARS, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN757 ARMY nominations (2) beginning WILLIAM A. MCNAUGHTON, and ending MICHAEL B. VITT, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN758 ARMY nominations (3) beginning JAMES E. COLE, and ending MICHAEL F. TRAVER, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN759 ARMY nominations (2) beginning DANIEL L. DUECKER, and ending DOUGLAS L. WEEKS, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN760 ARMY nominations (44) beginning JOSEPH A. BERNIERRODRIGUEZ, and ending EDWARD M. WISE JR., which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN770 ARMY nominations (342) beginning MAZEN ABBAS, and ending TAMATHA F. ZEMZARS, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

IN THE NAVY

PN567 NAVY nominations (206) beginning NICHOLAS J. ALAGA JR., and ending MARK H. ZUHONE, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 2007.

PN702 NAVY nomination of PETER J. OLDMIXON, which was received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN703 NAVY nominations (43) beginning DAN L. AMMONS, and ending ROBERT D. WOODS, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN704 NAVY nominations (19) beginning GILBERT AYAN, and ending COLIN D. XANDER, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN705 NAVY nominations (16) beginning SIMONIA R. BLASSINGAME, and ending JASON L. WEBB, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN706 NAVY nominations (20) beginning JEFFREY A. BAYLESS, and ending WARREN YU, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN707 NAVY nominations (26) beginning CHRIS D. AGAR, and ending TYRONE L. WARD, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN708 NAVY nominations (27) beginning PAUL B. ANDERSON, and ending DARREN S. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN709 NAVY nominations (5) beginning CHRISTINA S. HAGEN, and ending RON A. STEINER, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN710 NAVY nominations (14) beginning CHRISTOPHER J. ARENDS, and ending KEITH E. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN711 NAVY nominations (10) beginning SARAH A. DACHOS, and ending CLAY G. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN712 NAVY nomination (26) beginning BENITO E. BAYLOSIS, and ending JON E. WITHEE, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN713 NAVY nominations (18) beginning DOUGLAS S. BELVIN, and ending KYLE T. TURCO, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN714 NAVY nominations (9) beginning FITZGERALD BRITTON, and ending JOHN F. ZREMBSKI, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN715 NAVY nominations (56) beginning WILLIAM L. ABBOTT, and ending ALLEN W. WOOTEN, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN716 NAVY nominations (538) beginning KEVIN T. AANESTAD, and ending WILLIAM A. ZIEGLER, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN761 NAVY nomination of BRUCE S. LAVIN, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN762 NAVY nominations (2) beginning CHRISTOPHER R. DAVIS, and ending ALAN J. FERGUSON, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN763 NAVY nominations (3) beginning ROBERT D. CLERY, and ending GARFIELD M. SICARD, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN771 NAVY nominations (56) beginning MICHAEL J. ALLANSON, and ending JANINE Y. WOOD, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

PN772 NAVY nominations (36) beginning MARIA L. AGUAYO, and ending STEVEN T. ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

PN773 NAVY nominations (27) beginning ANTONY BERCHMANZ, and ending GLEN WOOD, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

PN774 NAVY nominations (58) beginning ERIC J. BACH, and ending WILLIAM B. ZABICKI JR., which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

PN775 NAVY nominations (116) beginning ELIZABETH M. ADRIANO, and ending SCOT A. YOUNGBLOOD, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

DEPARTMENT OF STATE

Eric G. John, of Indiana, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

Michael W. Michalak, of Michigan, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of Vietnam.

COMMODITY FUTURES TRADING COMMISSION

Jill E. Sommers, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2009, vice Sharon Brown-Hruska, resigned.

Bartholomew H. Chilton, of Delaware, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2008, vice Frederick William Hatfield, resigned.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDERS FOR THURSDAY, AUGUST 2, 2007

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Thursday, August 2; that on Thursday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that the Senate then resume consideration of the House message on S. 1, and there be 2 hours of debate prior to a cloture vote on the motion to concur, with the time equally divided and controlled between the two leaders or their designees; that the two leaders be permitted to use their leader time at the expiration of the 2 hours, with the majority leader speaking immediately prior to the cloture vote; that upon the use of all of the time noted here, the Senate proceed to vote on the motion to invoke cloture; that the mandatory quorums be waived with respect to the cloture motions filed today; further that upon disposition of the message on S. 1, the Senate resume consideration of H.R. 976.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CASEY. Mr. President, if there is no further business today, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 8:39 p.m., adjourned until Thursday, August 2, 2007, at 9:30 a.m.

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

ERIC G. JOHN, OF INDIANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

MICHAEL W. MICHALAK, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

THE SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY WAS DISCHARGED FROM FURTHER CONSIDERATION OF THE FOLLOWING NOMINATIONS AND THE NOMINATIONS WERE CONFIRMED:

JILL E. SOMMERS, OF KANSAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 2009.

BARTHOLOMEW H. CHILTON, OF DELAWARE, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 2008.

CONFIRMATIONS

Executive Nominations confirmed by the Senate Wednesday, August 1, 2007:

DEPARTMENT OF ENERGY

THOMAS P. D'AGOSTINO, OF MARYLAND, TO BE UNDER SECRETARY FOR NUCLEAR SECURITY, DEPARTMENT OF ENERGY.

EXPORT-IMPORT BANK OF THE UNITED STATES

BIJAN RAFIEKIAN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2011.

DIANE G. FARRELL, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2011.

DEPARTMENT OF VETERANS AFFAIRS

CHARLES L. HOPKINS, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (OPERATIONS, PREPAREDNESS, SECURITY AND LAW ENFORCEMENT).

NATIONAL BOARD FOR EDUCATION SCIENCES

DAVID C. GEARY, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2010.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MIGUEL CAMPANERIA, OF PUERTO RICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2012.

DEPARTMENT OF EDUCATION

DIANE AUER JONES, OF MARYLAND, TO BE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

DEPARTMENT OF THE TREASURY

PETER B. MCCARTHY, OF WISCONSIN, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DAVID H. MCCORMICK, OF PENNSYLVANIA, TO BE AN UNDER SECRETARY OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COMMODITY FUTURES TRADING COMMISSION

JILL E. SOMMERS, OF KANSAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 2009.

BARTHOLOMEW H. CHILTON, OF DELAWARE, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 2008.

DEPARTMENT OF STATE

ERIC G. JOHN, OF INDIANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

MICHAEL W. MICHALAK, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

DEPARTMENT OF JUSTICE

JOE W. STECHER, OF NEBRASKA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEBRASKA FOR THE TERM OF FOUR YEARS.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DANIEL J. DARNELL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. LYN D. SHERLOCK, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DONALD C. WURSTER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE VICE CHIEF OF STAFF, UNITED STATES AIR FORCE, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8034 AND 601:

To be general

GEN. DUNCAN J. MCNABB, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. ARTHUR J. LICHTE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. JOHN D. W. CORLEY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. FRANK G. KLOTZ, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL ROBERT R. ALLARDICE, 0000
BRIGADIER GENERAL HERBERT J. CARLISLE, 0000
BRIGADIER GENERAL WILLIAM A. CHAMBERS, 0000
BRIGADIER GENERAL KATHLEEN D. CLOSE, 0000
BRIGADIER GENERAL CHARLES R. DAVIS, 0000
BRIGADIER GENERAL JACK B. EGGINTON, 0000
BRIGADIER GENERAL DAVID W. EIDSAUNE, 0000
BRIGADIER GENERAL ALFRED K. FLOWERS, 0000
BRIGADIER GENERAL MAURICE H. FORSYTH, 0000
BRIGADIER GENERAL MARKE F. GIBSON, 0000
BRIGADIER GENERAL PATRICK D. GILLETT, JR., 0000
BRIGADIER GENERAL FRANK GORENC, 0000
BRIGADIER GENERAL JAMES P. HUNT, 0000
BRIGADIER GENERAL LARRY D. JAMES, 0000
BRIGADIER GENERAL WILLIAM N. MCCASLAND, 0000
BRIGADIER GENERAL KAY C. MCCLAIN, 0000
BRIGADIER GENERAL ROBERT H. MCMAHON, 0000
BRIGADIER GENERAL WILLIAM J. REW, 0000
BRIGADIER GENERAL KIP L. SELF, 0000
BRIGADIER GENERAL LARRY O. SPENCER, 0000
BRIGADIER GENERAL ROBERT P. STEEL, 0000
BRIGADIER GENERAL JAMES A. WHITMORE, 0000
BRIGADIER GENERAL BOBBY J. WILKES, 0000
BRIGADIER GENERAL ROBERT M. WORLEY II, 0000

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. BRADLY S. MACNEALY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. MICHAEL J. TROMBETTA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL CHARLES A. ANDERSON, 0000
BRIGADIER GENERAL KEVIN J. BERGNER, 0000
BRIGADIER GENERAL DANIEL P. BOLGER, 0000
BRIGADIER GENERAL JAMES E. CHAMBERS, 0000
BRIGADIER GENERAL BERNARD S. CHAMPOUX, 0000

BRIGADIER GENERAL ROBERT W. CONE, 0000
BRIGADIER GENERAL ANTHONY A. CUCOLO III, 0000
BRIGADIER GENERAL YVES J. FONTAINE, 0000
BRIGADIER GENERAL MARK A. GRAHAM, 0000
BRIGADIER GENERAL DAVID D. HALVERSON, 0000
BRIGADIER GENERAL MICHAEL D. JONES, 0000
BRIGADIER GENERAL PURL K. KEEN, 0000
BRIGADIER GENERAL DAVID B. LACQUEMENT, 0000
BRIGADIER GENERAL RAYMOND V. MASON, 0000
BRIGADIER GENERAL JOHN F. MULHOLLAND, JR., 0000
BRIGADIER GENERAL THEODORE C. NICHOLAS, 0000
BRIGADIER GENERAL PATRICK J. O'REILLY, 0000
BRIGADIER GENERAL JOHN E. STERLING, JR., 0000
BRIGADIER GENERAL RANDOLPH P. STRONG, 0000
BRIGADIER GENERAL MERDITH W. B. TEMPLE, 0000
BRIGADIER GENERAL WILLIAM J. TROY, 0000
BRIGADIER GENERAL PETER M. VANGJEL, 0000
BRIGADIER GENERAL DENNIS L. VIA, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) VICTOR G. GUILLORY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. DAVID J. MERCER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DAVID ARCHITZEL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. JOHN D. STUFFLEBEEM, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF THE BUREAU OF MEDICINE AND SURGERY AND SURGEON GENERAL AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5137:

To be vice admiral

REAR ADM. (SELECTEE) ADAM M. ROBINSON, JR., 0000

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH MARIA M. ALSINA AND ENDING WITH LE THI ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 19, 2007.

AIR FORCE NOMINATION OF JONATHAN L. HUGGINS, 0000, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF NELSON L. REYNOLDS, 0000, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF BRYAN M. BOYLES, 0000, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF MICHAEL S. AGABEGI, 0000, TO BE MAJOR.

AIR FORCE NOMINATION OF FREDDIE M. GOLDWIRE, 0000, TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH VAL C. HAGANS AND ENDING WITH RUJING HAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

AIR FORCE NOMINATIONS BEGINNING WITH KENT S. THOMPSON AND ENDING WITH JAVIER SANTIAGO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

AIR FORCE NOMINATIONS BEGINNING WITH THOMAS S. BUTLER AND ENDING WITH ADAM W. SCHNICKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH JAMES E. CARAWAY, JR. AND ENDING WITH WILLIAM S. WEICHL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 4, 2007.

ARMY NOMINATION OF STEPHEN T. SAUTER, 0000, TO BE COLONEL.

ARMY NOMINATION OF TERRY D. BONNER, 0000, TO BE COLONEL.

ARMY NOMINATION OF MARK TRAWINSKI, 0000, TO BE LIEUTENANT COLONEL.

ARMY NOMINATION OF FRANCISCO C. DOMINICCI, 0000, TO BE MAJOR.

ARMY NOMINATION OF JOSEPH E. JONES, 0000, TO BE MAJOR.

ARMY NOMINATION OF COLIN S. MCKENZIE, 0000, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH LOZAY FOOTS AND ENDING WITH JOSEPH L. KARHAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH LOUIS R. KUBALA AND ENDING WITH THOMAS K. SPEARS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH WILLIAM A. MCNAUGHTON AND ENDING WITH MICHAEL B. VITT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH JAMES E. COLE AND ENDING WITH MICHAEL F. TRAVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH DANIEL L. DUECKER AND ENDING WITH DOUGLAS L. WEEKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH JOSEPH A. BERNIERRODRIGUEZ AND ENDING WITH EDWARD M. WISE, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH MAZEN ABBAS AND ENDING WITH TAMATHA F. ZEMZARS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH NICHOLAS J. ALAGA, JR. AND ENDING WITH MARK H. ZUHONE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 15, 2007.

NAVY NOMINATION OF PETER J. OLDMIXON, 0000, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATIONS BEGINNING WITH DAN L. AMMONS AND ENDING WITH ROBERT D. WOODS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH GILBERT AYAN AND ENDING WITH COLIN D. XANDER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH SIMONIA R. BLASSINGAME AND ENDING WITH JASON L. WEBB, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH JEFFREY A. BAYLESS AND ENDING WITH WARREN YU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH CHRIS D. AGAR AND ENDING WITH TYRONE L. WARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH PAUL B. ANDERSON AND ENDING WITH DARREN S. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH CHRISTINA S. HAGEN AND ENDING WITH RON A. STEINER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH CHRISTOPHER J. ARENDS AND ENDING WITH KEITH E. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH SARAH A. DACHOS AND ENDING WITH CLAY G. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH BENITO E. BAYLOSIS AND ENDING WITH JON E. WITHEE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH DOUGLAS S. BELVIN AND ENDING WITH KYLE T. TURCO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH FITZGERALD BRITTON AND ENDING WITH JOHN F. ZREMBSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH WILLIAM L. ABBOTT AND ENDING WITH ALLEN W. WOOTEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH KEVIN T. AANESTAD AND ENDING WITH WILLIAM A. ZIEGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATION OF BRUCE S. LAVIN, 0000, TO BE CAPTAIN.

NAVY NOMINATIONS BEGINNING WITH CHRISTOPHER R. DAVIS AND ENDING WITH ALAN J. FERGUSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

NAVY NOMINATIONS BEGINNING WITH ROBERT D. CLERY AND ENDING WITH GARFIELD M. SICARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

NAVY NOMINATIONS BEGINNING WITH MICHAEL J. ALLANSON AND ENDING WITH JANINE Y. WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

NAVY NOMINATIONS BEGINNING WITH MARIA L. AGUAYO AND ENDING WITH STEVEN T. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

NAVY NOMINATIONS BEGINNING WITH ANTONY BERCHMANZ AND ENDING WITH GLEN WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

NAVY NOMINATIONS BEGINNING WITH ERIC J. BACH AND ENDING WITH WILLIAM B. ZABICKI, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

NAVY NOMINATIONS BEGINNING WITH ELIZABETH M. ADRIANO AND ENDING WITH SCOT A. YOUNGBLOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

EXTENSIONS OF REMARKS

URGING THE GOVERNMENT OF CANADA TO END THE COMMERCIAL SEAL HUNT

SPEECH OF

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 2007

Mr. BROWN of South Carolina. Mr. Speaker, I would like to submit for the RECORD a letter from Canadian Ambassador Michael Wilson in regards to H. Res. 427 the bill introduced by Mr. LANTOS from California urging the Government of Canada to end the commercial seal hunt.

CANADIAN EMBASSY,
Washington, DC, June 25, 2007.

Hon. TOM LANTOS,
Chairman, Foreign Affairs Committee, House of Representatives, 2170 Rayburn House Office Building, Washington, DC.

Hon. ILEANA ROS-LEHTINEN,
Ranking Member, Foreign Affairs Committee, House of Representatives, B–360 Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN LANTOS AND RANKING MEMBER ROS-LEHTINEN: I am writing regarding House Resolution 427, urging the Government of Canada to end the commercial seal hunt, scheduled for mark up by the Foreign Affairs Committee on Tuesday, June 26, 2007. As outlined below, Canada pursues a sustainable and humane harvest of the seal herds. In this context, I would ask that the Committee on Foreign Affairs reconsider proceeding with this resolution.

The Government of Canada takes its role as steward of the environment and wildlife seriously and is committed to the sustainable management of its renewable resources. The Canadian seal hunt is a sustainable, economically viable activity based on sound conservation principles.

Canada sets quotas at levels that ensure the health and abundance of seal herds. The harp seal population, approximately 5.8 million animals based on a 2004 survey, is nearly triple what it was in the 1970s. In no way can seals—and harp seals in particular—be considered ''endangered species''. Fisheries and Oceans Canada manages the seal hunt and has put in place a five-year management plan for 2006–2010. In 2007 the total allowable catch was reduced considerably to ensure the resource remains sustainable.

The Canadian commercial quota is unrelated to groundfish stock levels. Several factors have contributed to the lack of recovery of Atlantic cod stocks, such as fishing effort, poor growth and physical condition of the fish, and environmental changes. In addition, there are many uncertainties in the estimates of the amount of fish consumed by seals.

The Government of Canada makes every effort to ensure the seal hunt is conducted in a safe and humane manner. The seal hunt is closely monitored and tightly regulated. Fisheries and Oceans Canada officers monitor catches, ensure humane harvesting practices, and enforce regulations and licence conditions. The hunting of harp seal pups (whitecoats) and hooded seal pups (bluebacks) is illegal—and has been since 1987. Penalties are substantial and can include court-imposed fines and orders to forfeit catches, gear, boats and licenses.

In September 2002 veterinarians from the Canadian Veterinary Medical Association (CVMA) issued a Special Report on Animal Welfare and the Harp Seal Hunt in Atlantic Canada. In independent observations of the seal hunt, the study concluded that 98 percent of seals taken during the hunt were harvested in an acceptably humane manner, contrary to the reference in tile resolution. Harvesting methods used for the seal hunt have also been studied and approved by the Royal Commission on Seals and Sealing.

An Independent Veterinarians' Working Group formed in 2005, with representatives from the United States and four other countries, made observations and recommendations to further improve management and hunting practices. Fisheries and Oceans Canada is currently working to adopt these and other recommendations including improved enforcement and sealer training. Neither of the above groups called for a ban on the hunt.

Seals are a valuable natural resource that provides 25–30 percent of an annual income to thousands of Canadians in many remote coastal communities. This is a significant income when average annual incomes may be only $17,OOOUSD a year and unemployment rates are far above the national average. Sealing and fishing are also time-honoured traditions that allow people to provide for their families through knowledge of the marine environment and hard work.

In light of this clarification on the sustainable management and humane harvest of the seal herds in Canada, I would ask that the Committee on Foreign Affairs reconsider whether proceeding with this resolution is warranted.

I have included a fact sheet that provides more information on the seal harvest in Canada. The Embassy staff remain available to meet with your staff to discuss these issues further.

Yours sincerely,

MICHAEL WILSON,
Ambassador.

ATTORNEY GENERAL ALBERTO GONZALES IMPEACHMENT INQUIRY RESOLUTION

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. INSLEE. Madam Speaker, I rise today with several of my colleagues to introduce a resolution that would require that the Judiciary Committee initiate an impeachment investigation of Attorney General Alberto Gonzales. I have introduced this resolution only after careful consideration and exercising a great deal of caution.

Alexander Hamilton in Federalist Paper No. 66 stated, ''the powers relating to impeachments are . . . an essential check in the hands of that body upon the encroachments of the executive.'' The ''encroachments'' made by this Attorney General subvert several core constitutional values.

I believe that it is clear the Attorney General was involved in the decisions to fire several U.S. Attorneys for not pursuing public corruption cases based on partisan political factors. I also believe that the Attorney General has made false or misleading statements to Congress in order to minimize his role in the warrantless surveillance program, the U.S. Attorney firings, and to otherwise obstruct congressional investigations.

Our judicial system must operate outside of the political process in order to preserve justice. The American people deserve an independent Justice Department that is not controlled by the political strategists at the White House. Gonzales' lack of candor before Congress perverts and undermines the ability of Congress to trust assurances made by the executive branch and it also retards Congress' ability to carry out its constitutionally mandated functions.

Based on the facts we know today, I believe that an investigation will reveal that the level of malfeasance of the Attorney General is impeachable. With the President showing no sign of replacing the Attorney General, Congress must assert itself and remove him from office. His removal is essential to preserve the strength of the Congress and to send the clear unambiguous message to future Attorneys General that the politicization of prosecutions and the U.S. Attorneys across the country is a repugnant degradation of the law.

IN HONOR OF THE MONTEREY JAZZ FESTIVAL

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. FARR. Madam Speaker, I rise today to honor the Monterey Jazz Festival, which will celebrate its 50th anniversary this September in remarkable style. The Monterey Jazz Festival is a nonprofit organization that provides year-round jazz education programs locally, regionally, nationally, and internationally. The festival is famous for being the longest running jazz festival in the world and deserves recognition for its dedication to enabling the uniquely American form of music to remain alive in our community and country.

The Monterey Jazz Festival began as a dream for cofounders Jimmy Lyons and Ralph Gleason. In 1958, the dream finally became a reality with the commencement of the first Monterey Jazz Festival. The festival attracted many brilliant artists to the stage such as Dizzy Gillespie, Louis Armstrong, John Lewis, Shelly Manne, Gerry Mulligan, Art Farmer, Ernestine Anderson, Harry James, Max Roach and Billie Holiday. Ever since that initial festival, one full weekend in September is devoted to the Monterey Jazz Festival, which presents the best jazz performers in the world for a 3-day celebration. The Monterey Jazz Festival not only presents live performances, but it also features jazz conversations, panel discussions, workshops, exhibitions, clinics,

and an international array of food, shopping and festivities spread across the 3-day extravaganza.

Although the Monterey Jazz Festival is mostly recognized for its importance to the legacy of jazz, it is also devoted to keeping jazz alive in future generations and has donated its proceeds to musical education since its beginning. In fact, every spring, the Monterey Jazz Festival holds the "Next Generation Festival" which invites top student bands from across the country to compete in several music competitions, attend clinics and concerts, and even audition for the Next Generation Jazz Orchestra. By conferring so many educational scholarships to deserving students, the Monterey Jazz Festival displays its commitment to music and education. After 50 years of incredible jazz performances, the Monterey Jazz Festival continues to keep the tradition alive.

Madam Speaker, it is an honor to recognize an organization that is so deeply devoted to the perpetuation and education of jazz. I am excited for this year's celebration and look forward to many more years of jazz in the Monterey Peninsula.

TRIBUTE TO THE MERCHANT MARINES

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Ms. WOOLSEY, Madam Speaker, I rise today to honor the great forgotten heroes of our country, the United States merchant marines who bravely served our Nation during World War II. For too long, these servicemen have been denied the recognition they deserve and the benefits they have earned, and I am proud to support H.R. 23, the Belated Thank You to the Merchant Mariners of World War II Act, which rights this historic wrong.

During World War II, civilians and merchant seamen served alongside our Armed Forces in the Pacific and Atlantic oceans to bring vital goods, materials, and manpower to the theaters of combat. Many former merchant seamen returned to serve during the war while others left school to volunteer in the merchant marine. At the end of the war, the merchant mariners were instrumental in safely transporting millions of members of the Armed Forces back home to the U.S. Although these men were not considered part of our Nation's "active duty" military service, their missions were characterized by more than 9,000 casualties as a result of attacks from enemy forces, the highest of any branch of armed service.

As a grateful nation, we cannot deny the heavy sacrifices endured by these important members of the greatest generation. The merchant mariners deserve compensation for having been refused access to G.I. bill benefits at the conclusion of World War II and a pension as a reward for their service. H.R. 23 will establish Merchant Mariner Equity Compensation Fund to provide monthly payments of $l,000 to eligible members of the merchant marine or their survivors who served during World War II. We can no longer ignore our responsibility to repay those who have defended and preserved our Nation.

Madam Speaker, I am proud that the House passed H.R. 23 and sent the bold message that we will support all of America's veterans. We owe the merchant mariners so much, and it's about time we give them the thank you they deserve.

IRAN SANCTIONS ACT OF 1996 AMENDMENTS

SPEECH OF

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 2007

Mr. LANTOS. Mr. Speaker, I ask that the following letters on the bill H.R. 957 from the Committee on Ways and Means, the Committee on Financial Services, and the Committee on Foreign Affairs be included during the debate on H.R. 957.

COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, July 13, 2007.

Hon. TOM LANTOS,
Chairman, Committee on Foreign Affairs, Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning H.R. 957, to amend the Iran Sanctions Act of 1996 to expand and clarify the entities against which sanctions may be imposed. This bill was introduced on February 8, 2007, and was referred to the Committee on Foreign Affairs, and in addition, to this Committee, among others. The bill has been reported by the Committee on Foreign Affairs.

There have been some very productive conversations between the staffs of our committees, during which we have proposed some changes to H.R. 957 that we believe help clarify the intent and scope of the measure. My understanding is that there is an agreement with regard to these changes, and so in order to expedite floor consideration, I agree to forego further consideration by the Committee on Financial Services. I do so with the understanding that this decision will not prejudice this Committee with respect to its jurisdictional prerogatives on this or similar legislation. I request your support for the appointment of conferees from this Committee should this bill be the subject of a House-Senate conference.

Please place this letter in the CONGRESSIONAL RECORD when this bill is considered by the House. I look forward to the bill's consideration and hope that it will command the broadest possible support.

BARNEY FRANK,
Chairman.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, July 27, 2007.

Hon. TOM LANTOS,
Chairman, Committee on Foreign Affairs, Washington, DC.

DEAR MR. CHAIRMAN: I am writing regarding H.R. 957—to amend the Iran Sanctions Act of 1996, to expand and clarify the entities against which sanctions may be imposed—which was reported by the House Foreign Affairs Committee on May 22, 2007, and is expected to be on the suspension calendar next week.

As you know, the Committee on Ways & Means has jurisdiction over import matters, such as the import ban and restrictions on imports imposed by the Iran Sanctions Act and the International Emergency Powers Act. Accordingly, the provisions of H.R. 957 fall under the Committee's jurisdiction.

There have been some very productive conversations between the staffs of our committees, during which we have proposed some changes to H.R. 957 that I believe help clarify the intent and scope of the measure. My understanding is that there is an agreement with regard to these changes.

In order to expedite this legislation for floor consideration, the Committee will forgo action on this bill and will not oppose its consideration on the suspension calendar. This is done with the understanding that it does not in any way prejudice the Committee or its jurisdictional prerogatives on this, or similar legislation in the future.

I would appreciate your response to this letter, confirming our understanding with respect to H.R. 957, and would ask that a copy of our exchange of letters on this matter be included in the RECORD.

I look forward to the bill's consideration on the floor and hope that it will command the broadest possible support.

Sincerely,

CHARLES B. RANGEL,
Chairman.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, July 27, 2007.

Hon. CHARLES B. RANGEL,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 957, which amends the Iran Sanctions Act to expand and clarify the entities against which sanctions may be imposed, and for other purposes.

I appreciate your willingness to work cooperatively on this legislation and the mutually agreed upon text that is being presented to the House. I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Ways and Means. I agree that the inaction of your Committee with respect to the bill does not in any way prejudice the Committee on Ways and Means or its jurisdictional prerogatives on this on this or similar legislation in the future.

I will ensure that our exchange of letters be included the CONGRESSIONAL RECORD.

Cordially,

TOM LANTOS,
Chairman.

ON THE RETIREMENT OF PAUL CULLINAN

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. SPRATT. Madam Speaker, Mr. RYAN of Wisconsin and I would like to gratefully acknowledge the expert assistance that the U.S. Congress has received from Paul Cullinan at the Congressional Budget Office. Paul is retiring from congressional service in August, and this institution will sorely miss him.

Dr. Cullinan arrived at CBO in 1981, and has contributed to a vast range of policy analyses, budget projections, and legislative cost estimates over the past 26 years. But more important than the amount and variety of such work is the consistently high quality of that work and Paul's continual dedication to providing the Congress with thorough and timely analysis.

For the past 13 years, Paul Cullinan has served as the Manager of CBO's Human Resources Cost Estimates Unit, a role in which he has excelled and one that has allowed CBO to provide critical support to the consideration of numerous and varied pieces of legislation including efforts to reauthorize and extend higher education programs and the Food

Stamps program, potential changes to Social Security, proposals to reform U.S. immigration policies, and changes, both big and small, to a large host of income security programs. Moreover, Paul has been a key contributor and coordinator of CBO work on long-term budget projections, which we have come to increasingly consider as we move towards the pending retirement of the baby-boom generation.

In addition to his superb analysis of legislative proposals, Paul has provided valued support to the House and Senate Budget Committees on a bipartisan and bicameral basis. In short, Paul Cullinan ranks among the top budget experts here on Capitol Hill, and we will miss his input, careful judgment, and dedication to providing the best budgetary information possible for congressional consideration.

INTRODUCTION OF H.R. 3235, THE NANOTECHNOLOGY ADVANCEMENT AND NEW OPPORTUNITIES ACT

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. HONDA. Madam Speaker, I rise today upon the introduction of H.R. 3235, the Nanotechnology Advancement and New Opportunities (NANO) Act.

The NANO Act is comprehensive bill to promote the development and responsible stewardship of nanotechnology in the United States. The legislation draws upon the recommendations of the Blue Ribbon Task Force on Nanotechnology, a panel of California nanotechnology experts with backgrounds in established industry, startup companies, consulting groups, non-profits, academia, government, medical research, and venture capital that I convened with then-California State Controller Steve Westly during 2005.

Nanotechnology has the potential to create entirely new industries and radically transform the basis of competition in other fields, and I am proud of my work with former Science Committee Chairman Sherwood Boehlert on the Nanotechnology Research and Development Act of 2003 to foster research in this area.

But one of the things policymakers have heard from experts is that while the United States is a leader in nanotechnology research, our foreign competitors are focusing more resources and effort on the commercialization of those research results than we are.

In its report Thinking Big About Thinking Small, which can be found on my website, the Blue Ribbon Task Force on Nanotechnology made a series of recommendations for ways that the Nation can promote the development and commercialization of nanotechnology, a number of which are included in H.R. 3235.

In addition, the bill addresses concerns that have been raised in recent months about whether the Federal Government is doing enough to address potential health and safety risks associated with nanotechnology. The NANO Act requires the development of a nanotechnology research strategy that establishes research priorities for the Federal Government and industry that will ensure the development and responsible stewardship of nanotechnology. This strategy will help to resolve the uncertainty that is one of the major obstacles to the commercialization of nanotechnology—uncertainty about what the risks might be and uncertainty about how the Federal Government might regulate nanotechnology in the future.

H.R. 3235 includes a number of provisions to create partnerships, raise awareness, and implement strategic policies to resolve obstacles and promote nanotechnology. It will: create a public-private investment partnership to address the nanotechnology commercialization gap; establish a tax credit for investment in nanotechnology firms; authorize a grant program to support the establishment and development of nanotechnology incubators; establish a Nanoscale Science and Engineering Center for ''nano-CAD'' tools; establish grant programs for nanotechnology research to address specific challenges in the areas of energy, environment, homeland security, and health; establish a tax credit for nanotechnology education and training program expenses; establish a grant program to support the development of curriculum materials for interdisciplinary nanotechnology courses at higher education institutions; direct NSF to establish a program to encourage manufacturing companies to enter into partnerships with occupational training centers for the development of training to support nanotechnology manufacturing; and call for the development of a strategy for increasing interaction on nanotechnology interests between DOE national labs and the informal science education community.

I look forward to working with my colleagues on the Science and Technology Committee to incorporate these provisions as we work to reauthorize the Nation's nanotechnology research and development program.

STATEMENT ON THE ELECTION OF PRATIBHA PATIL

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. CROWLEY. Madam Speaker, I rise to congratulate predident Pratibha Patil on her historic election.

On July 19, 2007, delegates from the Indian Parliament and various State legislatures elected Pratibha Patil the new president of India. She is the first female elected to the office of the presidency since India gained independence from the British in 1947. This is a monumental achievement for this emerging democracy, and it demonstrates the progressive ideals and forward-thinking ways of the people of India.

President Patil represents the United Progressive Alliance (UPA), the present coalition of ruling political parties that has had a strong and lasting presence in the Government of India since 2004, and she is a member of the Indian National Congress, which led the nation to Independence.

She won by nearly two-thirds of votes cast by the election body, representing the overwhelming support that President Patil has garnered while being a member of the UAP.

She has had a long history in elected office, her first victory coming in 1962 when she was elected the state of Maharashtra's legislature. Since then, she has demonstrated great skill in governing on both the state and national level. The turning point in her political career came in 2004 when she was elected the first female governor to the state of Rajasthan.

As President, Patil will not only serve as the First Citizen and Head of State of India, but she will be the Supreme Commander of the Indian Army and hold all executive powers of the Central Government.

The election of President Patil represents the merger of diversity and equality within the Government of India. She is not only the first woman president elected in the country, but also the first Maharashtrian to hold the position.

As a strong advocate of India-U.S. relations, I believe the election of President Patil signifies the pluralism that drives and provides efficient functioning of democratic systems.

I wish President Patil great success. She is a role model for all women around the world, and I hope her presidency helps to diminish some of the lingering discrimination against women in India. I also look forward to working with her and the Indian government on further developing a strong and lasting relationship between our two great democracies.

PERSONAL EXPLANATION

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mrs. McCARTHY of New York. Madam Speaker, on July 30, I was unavoidably detained in my district and missed several votes.

Rollcall No. 758, H.R. 2750, NASA Coin Act, ''yea'';

Rollcall No. 759, previous question, H. Res. 580, ''yea'';

Rollcall No. 760, H. Res. 580, ''yea'';

Rollcall No. 761, previous question, H. Res. 579, ''yea''; and

Rollcall No. 762, H. Res. 579, ''yea.''

INTRODUCING THE TEDDY ROOSEVELT BRING BACK OUR PUBLIC LANDS ACT

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. HUNTER. Madam Speaker, in 1909, when President Theodore Roosevelt signed the last piece of legislation successfully creating over 42 million acres of national forest, the American outdoorsman came into his own. Our great ''outdoor President,'' with a stroke of his pen, dedicated more land to American citizens for hunting and fishing than all the royal estates of Europe combined.

From the Adirondacks and the Blue Ridge of the East to the Sierra Nevada of California, every outdoorsman could now be the master of enormous sporting opportunities. The only price was a stretch of the legs and an investment of time and a modicum of woodsmanship.

Because of Teddy Roosevelt's leadership and efforts, the public land of the Federal

Government became truly the ''estate'' of the average American.

A carpenter in Indiana or Iowa could saddle up the old Chevy pick-up and take his sons elk or deer hunting on a long weekend in Colorado. A steel worker in Pennsylvania could drive ''straight through'' with his pals to that certain Aspen grove in western Wyoming where big bucks always abounded on opening morning. Thus, until a few years ago, the outdoor legacy of Teddy Roosevelt and the birthright of outdoor Americans were secure.

Not any more.

Today, bureaucracies in State governments are closing down the outdoor opportunities for average Americans. They are slamming the door on outdoor families the old-fashioned way: with outrageous fees for non-resident hunters, even when the hunting is done exclusively on Federal land.

For example, the out-of-State license fee in Wyoming is $281 for deer, $481 for elk; in Colorado it is $301 for deer, $501 for elk; in Montana, it is $643 for both. In New Mexico, if two sons decide to take their dad on a weekend getaway, they each face fees of $355 for deer and $ 766 for elk.

What makes these high prices so unfair is that they are applied to out-of-State American outdoorsmen who hunt exclusively on Federal property. The 190 million acres of national forest and 258 million acres of BLM are the birthright of all Americans. The notion that they are viewed as the domain of State legislatures runs against the principle of public usage of Federal property.

Certainly, individual States have the right to regulate the private land and state-owned property within their boundaries. No one quarrels with that. But placing prohibitive fees on hunting that is conducted on Federal public lands quickly becomes a method of exclusion.

What happens, for example, if New Mexico should raise its out-of-State fees to $2,000 for bull elk? This increase would have the same effect as a locked gate for thousands of average Americans who want to hunt elk on any of the six national forests in New Mexico, over 11 million acres of federally owned land.

The bill I am introducing today will restore acres for all American hunters to Theodore Roosevelt's ''Great Estate'' of national forests and other public land. I acknowledge that some small amount of States' wildlife resources are expended on federally owned and managed lands. Therefore, it is only right that out-of-State hunters share in this minimal expense.

My bill, therefore, says this: No State may charge more than $200 for a big game license, specifically, elk, deer, antelope or bear, for hunting that is carried out exclusively on national forest or BLM Federal land.

The $200 fee strikes a balance between two interests. The first interest is the State's legitimate need to recoup the few dollars that it expends in the management of Federal land. The second, and most important, is the interest of helping that father with two teenagers who does not have the $2,300 the State of New Mexico will charge this year for a family of three to hunt on national forest for bull elk.

In most cases, even a $200 fee will be a windfall for States, far out-pacing any help they give the Federal Government for wildlife management in national forests. Any American, from any State, should be allowed to earn a fall morning hunting elk in the Rockies with a healthy hike and a good shooting eye, regardless if he has a large bank account. My bill restores that opportunity.

IN HONOR OF CASCADES FALLS

HON. TIMOTHY WALBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. WALBERG. Madam Speaker, Let it be known, that it is my special privilege to congratulate the Cascades Falls on its 75th anniversary. I congratulate everyone who has been involved in the life of the falls for the last 75 years.

Cascades Falls is the result of a man's dream to do something for the people of Jackson and to build an attraction that would provide visitors with a positive impression of the city. That man was CPT William Sparks.

The falls opened on May 9, 1932, to a crowd of 25,000 people. Guy C. Core described the Cascades Falls premiere: ''As gloom of dusk thickened, water splashed down concrete falls into reflecting pools. Powerful lights flashed on, and the colorful, fast-changing spectacle drew gasps of admiration from the assembled crowd.''

Today the Cascades Falls are still described the same way by its visitors; the warm summer nights lit by the lights of the Cascades and the sky glowing with fireworks. The Cascades Falls are a monument of beauty and distinction that has remained a source of enjoyment and fond memories to millions of visitors.

In 1943, the Sparks family gifted the 465-acre Park and Cascades Falls to Jackson County.

The life of the Cascades Falls is dependent on the community and all of those at the County Parks and Recreation who dedicate themselves to the protection of the falls.

In special tribute, therefore, this document is signed and dedicated to honor the Cascades Falls on its 75th anniversary. May others know of my high regard for the Cascades Falls, and may generations to come enjoy this spectacular attraction.

CONGRATULATING R.L. POSEY ON CELEBRATION OF HIS 80TH BIRTHDAY

HON. STEVAN PEARCE

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. PEARCE. Madam Speaker, I rise today to recognize R.L. Posey on his 80th birthday. Although simply making it to his 80th birthday is truly a milestone, this has not been Mr. Posey's only accomplishment; throughout his life he has taken on one challenge after another and refused to quit until the job was done.

R.L. was brought into the world on August 21, 1927, in Alamogordo, NM. After attending grade school and graduating from Cloudcroft High School, R.L. answered the call to duty, and was commissioned as a second lieutenant in the United States Army. Second Lieutenant Posey served with the 384th Ordinance Tank Maintenance Company from February 22, 1946 to March 25, 1947. R.L. later attended New Mexico College of Agriculture and Mechanic Arts where he received a bachelor of science degree in mechanical engineering.

After returning home to New Mexico, he met and later married his wife Patty, in June of 1949. During their 58 years of marriage, R.L and Patty have brought up a wonderful, loving family of six. His family has since grown up and he now has 21 grandchildren and 12 great grandchildren.

After starting and raising his family R.L. returned to service and faithfully served in the civil service. He was appointed director of safety at the Air Force Operational Test and Evaluation Center, Kirtland Air Force Base, Albuquerque, NM. R.L retired from his position and now spends ample amounts of time with his family and friends. Aside from work Mr. Posey is an activist in his community, focusing on the environment and land issues.

Adventurer is not quite the word to describe Mr. Posey; servant and community leader is more his style. Whether serving as a husband to his wife, a father to his children, an activist in his community, as director of safety or an officer in the U.S. Army, R.L. has continuously placed the welfare of others before his own. Congratulations R.L, and happy birthday.

COMMENDING DR. JOHN ROBERT CAVANAUGH FOR HIS OUTSTANDING ACCOMPLISHMENTS AND DEDICATION WHILE CHANCELLOR OF LOUISIANA STATE UNIVERSITY AT ALEXANDRIA

HON. RODNEY ALEXANDER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. ALEXANDER. Madam Speaker, I rise today as Dr. John Robert Cavanaugh merits heartfelt recognition and commendation for his highly significant contributions as an extraordinary educator and citizen, as he prepares for retirement from this vital position.

Dr. Cavanaugh, currently the longest serving chancellor in the LSU system, has served as chancellor of Louisiana State University in Alexandria since 1994 and will retire on August 17, 2007. In the 13 years he has served as chancellor, Louisiana State University at Alexandria has grown from a 2-year community college with 2,500 students offering four associate degree programs to an institution of more than 3,000 students offering six baccalaureate degrees and seven associate degrees.

He earned his bachelor's degree in 1967, master's degree in 1968, and Ph.D. in 1971 in health and physical education from Louisiana State University. He held a graduate fellowship in special education at LSU as welL He served as an instructor, assistant professor, associate professor, Coordinator of the Education Selection, professor of Health and Physical Education, acting head of the Division of Liberal Arts, coordinator of Planning and Development, and vice chancellor of Academic Affairs before he was appointed as chancellor.

Dr. Cavanaugh is a remarkable man who represents all that is good in Louisiana.

Those who have worked closely with him throughout his exemplary career will continue

to respect and admire him for the indelible mark he has left on higher education in Louisiana. Under his tenure as chancellor, Louisiana State University at Alexandria has risen to a place of prominence in higher education for central Louisiana.

Madam Speaker, I ask my colleagues to join me in celebrating his outstanding accomplishments and dedication of Dr. John Robert Cavanaugh while chancellor of Louisiana State University at Alexandria. I acknowledge his invaluable and significant contribution to not only the State of Louisiana, but our Nation as well.

CONGRATULATING OUR NATION'S BUSINESS PUBLICATION EDITORS ON THEIR CODE OF ETHICS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mrs. MALONEY of New York. Madam Speaker, on August 2nd and 3rd, the American Society of Business Publication Editors (ASBPE) will be holding its national editorial conference in New York City for the first time in its almost 40-year history. I wanted to use this occasion to congratulate ASBPE for its outstanding efforts to increase the professionalization of our nation's trade press editors.

The work of trade publication editors is vitally important to not only our democracy but to the commercial success of our country as well. Each and every industry in the United States is served by an array of magazines, newsletters, newspapers, and Web publications whose only mission is to facilitate the free exchange of information among professionals in an industry. As the knowledgeable and highly trained specialists who create the content for and manage those publications, business editors are the key to the continued free flow of news, best practices, and technical research that's so critical to ensuring the continued success of American professionals and industry in a rapidly globalizing world. Trade editors are the indispensable knowledge workers who help shape the environment in which businesses and nonprofit organizations operate. These knowledge workers combine expertise in their subject matter with their skills as writers and editors to tell the stories that professionals in an industry rely on to grow their own expertise. Without our trade press editors, companies and organizations would operate in a black hole, devoid of information and unable to grow. In our post-industrial world, information is the currency of success.

It's especially fitting that ASBPE be acknowledged at this time, because it has recently released its revised Code of Ethics, which is unique in the scope of its effort to come to grips with the rapidly changing digital environment in which editors must work. Professionals throughout the world of business journalism have appropriately acknowledged the thoughtful, balanced approach taken by ASBPE to set guidelines for editors struggling to understand what's appropriate, and what's not, in today's highly digitalized world. Already ASBPE has received kudos from publishers and editors for balancing the needs of advertisers and the inviolable need for journalism objectivity in our brave new world of digital media, but I'd like to add my own congratulations for its admirable work in this area. ASBPE's Code of Ethics truly represents one of the first comprehensive efforts to give editors the same level of guidance in the digital world that they have had in the print world.

I have been very involved in many issues considered by this Congress that impact the job of journalism professionals like those who belong to ASBPE. As you know, as a member of the Subcommittee on Government Management, Finance, and Accountability, I have tried to ensure the rights of journalists to maintain access to government information, as intended in the first amendment to the U.S. Constitution. Among other things, I recognized early on the impact of digital communications on journalism by advocating passage of E–FOIA, a law that eases public access to information in an electronic format under the Freedom of Information Act. In the 109th Congress I was an early cosponsor of the OPEN Government Act, which would help independent bloggers and other new-media communicators obtain government information by expanding FOIA provisions to journalists not affiliated with institutions. Time and again I have called for openness over secrecy in the dissemination of information by the executive branch of the federal government, whether it involves testimony from former government officials on homeland security matters, or scientists' recommendations on contraceptive safety. In these efforts, I share many of the goals of the editorial professionals in the trade press.

It is with great pleasure that I welcome ASBPE to my city and congratulate its president, Roy Harris, Jr., of CFO Magazine in Boston, and its incoming president, Steven Roll of the Bureau of National Affairs in Washington, D.C., for the success of their growing organization. I also want to congratulate Warren Hersch, ASBPE's New York City chapter president, for hosting his organization in our great city. A congratulatory note, too, to ASBPE's two most recent past presidents, Paul Heney of Hydraulics & Pneumatics Magazine in Cleveland, and Robert Freedman of Realtor Magazine in Washington, D.C. Finally, a hearty good luck to ASBPE's other national officers, Vice President Portia Stewart of Firstline Magazine, in Kansas City, Kans., and Treasurer Ira Pilchin of the American Bar Association in Chicago, and the incoming vice president, Amy Fischbach of Kansas City, and Jyme Mariani of GMPRO in Fort Worth, Texas.

TRIBUTE TO TOBIAS ''TOBY'' GIACOMINI

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Ms. WOOLSEY. Madam Speaker, I rise with sadness today to honor Tobias ''Toby'' Giacomini who died July 17, 2007, at the age of 88. Toby was a long-time businessman and leader in the West Marin community whose warmth and generosity were as legendary as his' feed store and trucking enterprises.

Born in Petaluma in 1918, Toby moved to Point Reyes Station almost 70 years ago to manage the produce department in the Palace Market, which was purchased by his brother Waldo. A few years later, he acquired a truck and began a milk pick-up business, serving the far-flung ranches of the area. He soon expanded to include delivery of supplies and hay, later growing his own in Nevada, and opened Toby's Feed Barn to augment the delivery service.

The trucking and feed barn businesses grew into two of the largest in the area, developing in new directions to meet the changing needs of the community. And Toby always claimed his success was due to conducting business with his word and a handshake, not formal contracts.

In 1983, after a heart attack, Toby turned the businesses over to his sons, Joe, Toby, and Chris. However, he supervised both the business and Point Reyes Station's Main Street, from a rocking chair on the porch, where he always had a friendly word or a light-hearted joke to dispense along with a fresh selection from the store's produce stand. The accompanying twinkle in his eye never dimmed.

Locals enjoyed stopping by for a friendly chat because they appreciated his care for his community and its future.

Toby helped organize the West Marin Lions Club and was active in its Western Weekend Parade and Barbecue for many years. His support for the Halleck Creek Riding Club, which provides therapeutic horseback riding for the disabled, was crucial to the group's ability to serve an expanding need. He was a member of the Native Sons of the Golden West, the Young Men's Institute's Petaluma Council, and the Sacred Heart Catholic Church, and always supported the schools and other local nonprofits. Seeing working families getting priced out of the community, he advocated for affordable housing, making it possible for a housing project to acquire land he owned to construct rental homes.

Toby is survived by a loving family including his wife Vetalena ''Vet''; daughter Carol; sons Joe, Toby, and Chris; a brother Ralph and sister Esther; as well as 15 grandchildren and 18 great-grandchildren.

Madam Speaker, Tobias Giacomini will be missed in West Marin. His memory will live on in his good works and in Toby's Feed Barn, now a gathering place on Main Street which is host to a community garden, a summer farmer's market, an art gallery, and many popular events and classes. He exemplifies what caring people who follow their hearts mean to a community.

PERSONAL EXPLANATION

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. BISHOP of Georgia. Madam Speaker, I regret that I was unavoidably absent yesterday afternoon, July 30, on very urgent business. Had I been present for the three votes which occurred yesterday evening, I would have voted ''aye'' on H.R. 2750, rollcall vote No. 758; I would have voted ''aye'' on H. Res. 580, rollcall vote No. 759; I would have voted ''aye'' on H. Res. 580, rollcall vote No. 760; I would have voted ''aye'' on H. Res. 579, rollcall vote No. 761; and I would have voted ''aye'' on H. Res. 579, rollcall vote No. 762.

INTRODUCTION OF THE UNIVERSAL PRE-KINDERGARTEN AND EARLY CHILDHOOD EDUCATION ACT OF 2007

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Ms. NORTON. Madam Speaker, I am introducing today the Universal Pre-kindergarten and Early Childhood Education Act of 2007 (Universal Pre-K) to begin the process of providing universal, public school pre-kindergarten education for every child, regardless of income.

The bill is meant to fill the gaping hole in the President's No Child Left Behind law, which requires elementary and secondary school children to meet more rigorous standards while ignoring the preschool years which can best prepare them to do so. My bill would provide a breakthrough in elementary school education by taking a step at the Federal level to provide initial funding, and using such funding to encourage school districts themselves to add a grade to elementary schooling at ages three and four as an option for every child.

We cannot afford to continue to blithely let the most fertile years for reading go by while we wonder why we can't teach Johnny to read. As the President presses No Child Left Behind into high schools, my bill asks him to begin at the beginning when children should begin their education.

The Universal Pre-K Act responds both to the huge and growing needs of parents for educational childcare and to the new science showing that a child's brain development, which sets the stage for lifelong learning, begins much earlier than previously believed. However, parents who need childcare for their pre-K aged children are rarely able to afford the stimulating educational environment necessary to ensure optimal brain development. Universal pre-K education would be a part of school systems, adding a new grade for three- and four-year-olds similar to five-year-old kindergarten programs now routinely available in the United States. The bill would eliminate some of the major shortcomings of the uneven commercial daycare now available and would assure the qualified teachers and safe facilities of public schools.

This bill's introduction is particularly timely here in the District of Columbia, where more extensive integration of early childhood education is planned as part of a larger effort to improve D.C. public schools. A recent report highlighted the economic benefits of early childhood education, generating $221 million each year in the District while starting early to expand job, career, income, and academic prospects of children, decreasing the amount spent on social programs to address teen pregnancy, crime, and the like.

Compare the cost of daycare, most of it offered today with an inadequate educational emphasis, at an average cost of $6,171 per year, to the cost of in-state tuition at the University of Virginia, which costs $6,785 per year. Yet, more than 60 percent of mothers with children under age six work. That proportion is rapidly increasing as more mothers enter the labor force, including mothers leaving welfare, who also have no long term access to child care.

Because of decades of refusal by Congress to approve the large sums necessary for universal health coverage, the Universal Pre-K Act encourages school districts across the United States to apply to the Department of Education for grants to establish three and four-year-old kindergartens. Grants funded under Title IV of the Elementary and Secondary Education Act, ESEA, would be available to school systems which agree in turn to use the experience acquired with the Federal funding provided by my bill to then move forward, where possible, to phase in three and four-year-old kindergartens for all children in the school district in regular classrooms with teachers equivalent to those in other grades as part of their annual school district budgets.

The success of high quality Head Start and other pre-kindergarten programs combined with new scientific evidence concerning the importance of brain development in the early years virtually mandate the expansion of early childhood education to all of our children. Traditionally, early learning programs have been available only to the affluent and to lower income families in programs such as Head Start. My bill provides a practiced way to gradually move to universal pre-school education. The goal of the Universal Pre-K Act is to bring the benefits of educational pre-K within reach of the great majority of American working poor, lower middle class, and middle class families, most of whom have been left out.

Considering the staggering cost of daycare, the inaccessibility of early education, and the opportunity earlier education offers to improve a child's chances in life, three and four-year-old kindergarten is overdue. The absence of viable options for working families demands our immediate attention.

I strongly urge my colleagues to support this legislation.

TRIBUTE TO JOHN L. PUGH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. KILDEE. Madam Speaker, I rise today to recognize the accomplishments of John L. Pugh as he retires from Delta College after 36 years of service. John will be honored at a party of Friday, August 3, in Saginaw, MI.

John Pugh was born in Shubuta, MS, where he attended public school through eighth grade. He completed his secondary education in Newton, MS. He received his B.A. degree, cum laude, in economics from Florida Agricultural and Mechanical University, Tallahassee, FL, and his master degree from the University of Toledo in 1971. He also attended Tougaloo College, Tougaloo, MS, and spent 4 years in the U.S. Air Force before entering Florida A and M University.

John Pugh became involved in politics, economic empowerment, and civil rights efforts as a freshman at Tougaloo College, where he worked with Medgar Evers on a successful public boycott that encouraged businesses in Jackson, MS, to hire African-American employees. He continued his community involvement during his 3 years as a student at Florida A and M University as he worked on local campaigns for Black mayoral candidates and helped develop a student magazine.

He has managed several successful local and State political campaigns. Mr. Pugh served as chair of the Saginaw County Reverend Jesse Jackson for President Committee in 1984 and 1988. Rev. Jesse Jackson won in Saginaw County in 1984. In 1988, again under Mr. Pugh's leadership, Jackson won the Saginaw district. Mr. Pugh served as a delegate to the National Democratic Convention in 1988 and 1992.

His community involvement includes: founding board member of the Ruben Daniels Educational Foundation, member of Saginaw County Mental Health Authority, chair of the Saginaw Branch NAACP ACT–SO Program, member of Zion Missionary Baptist Church Deacon Board, chair of New You Design Men's Apparel Store, managed local campaign efforts for Rev. Jesse Jackson, President Bill Clinton and Democratic presidential nominee John Kerry.

During his 36 years at Delta College, he developed a wide range of programs and initiatives to assist students and the Saginaw urban community. Delta College's faculty and staff recognized Mr. Pugh in 1980 and 1995 for his extensive service to the college and community when he was presented the American Association of University Professor, AAUP, Award, the highest honor bestowed upon college administrators.

Mr. Pugh is married to Carolyn. They have three daughters, Yvette, Pamela, and Canika, and three grandchildren, Andrea, Delyn, and Kevin John.

Madam Speaker, I ask the House of Representatives to join me in congratulating John Pugh on his retirement from Delta College. He has devoted his life to nurturing the next generation of our country's leaders and has made the world a better place.

COUNCIL OF KHALISTAN WRITES TO CHIEF MINISTER TO DEMAND WITHDRAWAL OF WARRANT AGAINST DR. UDHOKE AND RELEASE OF MANN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. TOWNS. Madam Speaker, as I have discussed recently, the Punjab Government has issued an arrest warrant against Dr. Sukhpreet Singh Udhoke for the crime of writing about Sikh freedom and criticizing the chief minister. Mr. Mann's crime was placing a picture at the statue of the brutal late chief minister, Beant Singh.

The Council of Khalistan has recently written to Chief Minister Parkash Singh Badal to demand the withdrawal of the warrant against Dr. Udhoke and the release of Mr. Mann. We should join in that demand, Madam Speaker. We should stop aid and trade with India to support rights for everyone and we should demand a free and fair vote on freedom for Khalistan, the Sikh homeland, for Nagalim, for Kashmir, and for the other nations seeking their freedom.

I would like to add that letter to the RECORD, Madam Speaker.

COUNCIL OF KHALISTAN,
Washington, DC, June 28, 2007.

Hon. PARKASH SINGH BADAL,
Chief Minister of Punjab,
Chandigarh, Punjab, India.

DEAR CHIEF MINISTER BADAL: I am writing to you regarding the recent arrest warrant for Dr. Sukhpreet Singh Udhoke and the arrests of Sardar Simranjit Singh Mann and his associates. As you know, both were involved in peaceful political action, which is protected under the Indian constitution, at the time the warrants for their arrests were issued by your government. Dr. Udhoke's offense was publishing articles critical of you. Sardar Mann's was protesting and placing a picture of a Sikh martyr at the statue of the brutal, genocidal Beant Singh, who presided over the murders of over 50,000 Sikhs. Mann had previously been arrested for the dangerous crimes of making a speech and raising a flag.

You have been in opposition. You have engaged in political activities while in opposition. What would you think if you were arrested for those activities? That is exactly what your government is doing to S.S. Mann and proposes to do to Dr. Udhoke as soon as you can find him.

When did the right to protest peacefully disappear in Punjab, Khalistan? Are you determined to prove the late General Narinder Singh right that ''Punjab is a police state''?

On behalf of the 25 million strong Sikh Nation in Punjab, in India, and around the world, I am writing to demand the withdrawal of the arrest order against Dr. Udhoke and his associates and the immediate release of Simranjit Singh Mann and his associates. I do not do this for political reasons; Mann has been a vocal critic of this office and has cooperated with the Indian government. But if you truly believe in democracy—the system that put you back in power earlier this year—then you cannot in good conscience arrest people for dissent.

Indeed, Mann's arrest shows what can happen to a Sikh even if he cooperates with the Indian government, as you have done throughout your political career to the detriment of the Sikh Nation. One day, your utility to them will be exhausted and they may then have you thrown in jail for a peaceful political activity—simply because you are a Sikh. Who will you turn to defend you then? To this office?

Yet while you seem intent on prosecuting peaceful dissent, you are unwilling to take action against those who commit murder and other serious crimes. Is that because of your alliance with the BJP, which is the political arm of the pro-Fascist, militant Hindu nationalist, anti-Sikh RSS?

When you were elected in 1997, you promised the Sikhs of Punjab that you would appoint a commission to inquire into the atrocities in Punjab and prosecute the police officers who murdered Sikhs. Instead, you protected SSP Swaran Singh Ghotna, who murdered Akal Takht Jathedar Gurdev Singh Kaunke.

Just recently, Gurmit Ram Rahim Singh was fraudulently dressing as Guru Gobind Singh, performing baptisms that are reserved for the Panj Piaras, and advertising it in the newspaper. This was a desecration of the Sikh religion and a fraud. Yet you met with Ram Rahim to ask for his political support. But you couldn't even succeed in persuading this corrupt baba to support you! Yet when he perpetrated this fraud, you protected him until the political pressure to prosecute him got too intense. He still has not been arrested, nor has an arrest warrant been issued. I guess the jails are too crowded from holding the likes of Dr. Sukhbir Singh Udhoke and Simranjil Singh Mann.

In 1978, during your Chief Ministership, the Nirankari cult had a meeting and desecrated the Guru Granlh Sahib. Sant Jarnail Singh Bhindranwale and his supporters peacefully protested outside. Your police fired on the protestors, killing 13 of them, then your police escorted the Nirankari leader, Gurbachan Singh, safely out of Punjab.

Apparently, you were not through trying to destroy Sant Bhindranwale. According to letters reprinted in the book Chakravyuh: Web of Indian Secularism, you, along with Harcharan Singh Longowal and the late Gurcharan Singh Tohra, invited the Indian government to attack the Golden Temple in June 1984 to kill Sant Bhindranwale. 37 other Gurdwaras were attacked simultaneously. Over 20,000 Sikhs were killed in those attacks. Their blood is on your hands, Mr. Chief Minister.

Furthermore, your government in your previous term was the most corrupt in Punjab's history. You creatively invented a new term for bribery; ''fee for service.'' No fee, no service. The sale of government offices was standard operating procedure. Your wife even developed the handy skill of being able to tell how much money was in a bag just picking it up.

Furthermore, your operatives are calling this office repeatedly and harassing me about my website because it exposes you. You may be able to suppress the freedom of Sikhs in Punjab, but you cannot stop the Sikh diaspora from exposing your brutal and corrupt acts. Remember that Sikhs have a long memory of those who are traitors and murderers and who cooperate with the oppressors of the Sikh Nation. K.P.S. Gill's turban is still preserved in Belgium. When Khalsitan is free, it will be on display so that the Sikh Nation will never forget those who committed atrocities against us.

Punjab's water is being taken away by non-riparian states without compensation. At least your predecessor, who is from the Congress Party, the enemy of all Sikhs, tried to do something about it. He cancelled the water agreements. The bill passed by the Legislative Assembly expressly affirmed the sovereignty of Punjab.

Under your rule, the economy of Punjab is deteriorating. Sikh farmers are committing suicide because they cannot make a living, due to the fact that your friends in Delhi force them to pay exorbitant prices for fertilizer and seeds, but forces them to sell their crop at substandard prices. And you, who as Chief Minister and head of the Akali Dal are supposed to protect the interests of the Sikhs, sit there and kowtow to these criminals.

Even though the government of Pakistan said it would build a road to Kartapur, where Guru Nanak went to his heavenly abode, with no visas, your government has refused to build the Punjab side of the road so that Sikhs can go freely to this sacred site.

From these actions, it is clear where your loyalties lie, and they are not with the Sikh Nation or with the Sikh religion or with the people of Punjab, but with the violent, pro-Fascist, murderous Hinducrat thugs from Delhi who sponsor you and your career. But remember the warning I gave you earlier; when they are through with you, when you no longer have any usefulness to them, they will dispense with you as they have dispensed with so many other Sikhs who have served them.

That is why it is incumbent on every Sikh to engage in the ''long struggle'' to free Khalistan. Only then will Sikhs such as Dr. Udhoke, Sardar Mann, and even the likes of you be protected from the violent and brutal whims of the oppressive Hindustani regime. It is crucial to protect the Sikh religion and the Sikh Nation from this oppression by liberating Khalistan today, in accord with our declaration of October 7, 1987. For your good, Mr. Badal, I urge you to get on the right side of history today. Or would you rather be remembered as an enemy of the Sikh Nation?

Sincerely,

GURMIT SINGH AULAKH,
President, Council of Khalistan.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. GUTIERREZ. Madam Speaker, I was unavoidably absent from this Chamber yesterday. Had I been present, I would have voted ''yea'' on rollcall votes 758, 759, 760, 761, and 762.

INTRODUCTION OF THE ''POVERTY MEASUREMENT IMPROVEMENT ACT''

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. WELLER of Illinois. Madam Speaker, today I am introducing the ''Poverty Measurement Improvement Act.'' This legislation is designed to improve the way our Nation counts various antipoverty benefits we currently provide low-income families—to better understand both who is poor and how effective those antipoverty efforts are.

The Ways and Means Committee and its Income Security and Family Support Subcommittee, on which I serve as ranking member, has recently held a series of hearings on poverty, reviewing the cost of poverty, how U.S. poverty measurement differs from other countries, and possible solutions to poverty.

As several Members noted in those hearings, one of the first failings of our current poverty measure is the fact it does not count tens of billions of dollars in taxpayer funded assistance provided to reduce poverty for literally millions of families each year.

This omission limits the usefulness of today's poverty measure. It also devalues the sacrifices of taxpayers who pay for those benefits with their hard-earned tax dollars. And it increases the apparent number of families in poverty.

On August 1 the Income Security Subcommittee will hold another hearing on how poverty is measured in the U.S. Several witnesses will suggest counting the value of more antipoverty benefits to determine whether families are poor or not. That is exactly what the ''Poverty Measurement Improvement Act'' would do. Major assistance not counted today includes food stamps, public housing, earned income tax credits, and health coverage. These also constitute the fastest growing portions of our Nation's safety net designed to help low-income families escape poverty. So unless we act, more and more of our effort to alleviate poverty will be ignored each passing year.

Consider what this means for families.

Let's say the Jones family of four has an annual income of $30,000—all from wages. Current rules count wages as income for purposes of judging whether a family is poor.

Since the poverty threshold for a family of four is about $20,000, and the income of the Jones family is above that level, the Jones family is officially ''not poor.''

Now let's say their neighbors the Smith family also is a family of four. The Smith family also has a total of $30,000 in annual income. But the Smith's income comes from multiple sources—$18,000 from wages, plus a total of $12,000 in housing, health care, food stamp, and earned income tax credit benefits provided by taxpayers. Under current rules, none of the $12,000 in taxpayer benefits provided the Smith family is counted as income. So since their $18,000 in wages falls short of the $20,000 poverty threshold for a family of four, the Smith family is ''officially'' poor.

This makes little sense.

The ''Poverty Measurement Improvement Act'' would direct the Census Bureau to report on poverty as measured three ways. First, Census would retitle the current official poverty rate as the ''partial benefits poverty rate,'' which is what it is. The second measure, called the ''full benefits poverty rate'' would include means-tested food, housing and health care benefits as income. The final measure, called the ''full benefits and taxes poverty rate,'' would also add in the value tax credits like the EITC, and subtract taxes paid.

This legislation would help us better understand both who is poor and the effectiveness of current antipoverty benefits. And it would put income from earnings and income from government benefits on the same level, so that the Jones and Smith families would be recognized as having the same disposable incomes, regardless of its source.

More needs to be done to help families lift themselves out of poverty. That means pressing on with more of what works to reduce poverty. As we saw in the progress against poverty following the 1996 welfare reform law, that starts with promoting more full-time work instead of welfare dependence. And it includes promoting more healthy marriage, which also reduces poverty and welfare dependence for the long run.

But we also should do a better job understanding how current antipoverty efforts are working, and the effect of means-tested benefits in improving the incomes and wellbeing of families. The ''Poverty Measurement Improvement Act'' I am introducing today does just that, and I urge all Members to support it.

IRAN SANCTIONS ACT OF 1996 AMENDMENTS

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 2007

Mr. BLUMENAUER. Mr. Speaker, I opposed this bill, much as I opposed the ''Iran Freedom Support Act'' last year, because it threatens the united international diplomatic front that's needed to block Iran's nuclear weapons program. Instead of sanctioning Iran, this bill will sanction allies in Europe and Asia.

I do not object to efforts to punish ''sham'' subsidiaries that are set up specifically to evade U.S. sanctions on Iran. However, the U.S. government already has this authority under the International Emergency Economic Powers Act and the language in H.R. 957 is clearly meant to extend sanctions to overseas subsidiaries that are legally and legitimately incorporated outside of the United States. Passage of this bill will set back our diplomatic efforts with regards to Iran and only serve to diminish our global influence on this very important issue.

RECOGNIZING THE STONE GARDENS HOLOCAUST MEMORIAL

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mrs. JONES of Ohio. Madam Speaker, I rise today to applaud the efforts of Mr. Albert Blitstein and the Mitzvah Corps of Stone Gardens in Menorah Park who decided to commemorate the Holocaust with a living memorial. With donations from Mr. Blitstein's children and the residents of Stone Gardens, a memorial consisting of six weeping cherry trees representing the six million men, women, and children of the Jewish faith who perished during the Holocaust, was planted in a peaceful and reflecting setting.

A published author, Mr. Blitstein provided the quote that was placed on the commemorative plaque:

> This living memorial is dedicated to the six million Jews who died in the Holocaust. It is to verify that we will never forget them. The six living trees planted in their memory are called weeping cherry trees. Although six decades have passed since the Holocaust, we still weep for them.

I join with the residents of the Stone Gardens, family, friends and the Stone Garden Mitzvah Corps in dedicating the Stone Gardens Holocaust Memorial. As a world community may we never forget the lives of those who died and may their memories never stray far from our minds as we affirm that we will never forget.

On behalf of the United States Congress and the residents of the Eleventh Congressional District, Ohio, I salute the Stone Gardens Mitzvah Corps for their dedication and generosity in the construction of this great memorial. May the Stone Gardens Holocaust Memorial be a lasting reminder and a living tribute to those who perished in one of the world's greatest tragedies.

50TH ANNIVERSARY OF SCLC

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. RUSH. Madam Speaker, we are here tonight to pay tribute to an historic American institution. This August the Southern Christian Leadership Conference, the SCLC, will celebrate its 50th anniversary.

The SCLC is one of the oldest and most influential civil rights organizations in American history. From its storied beginning, under the leadership of Dr. Martin Luther King, Jr., the SCLC has practiced the cornerstone of its founding principles: nonviolence in the fight for civil and human rights.

Originating from the Montgomery Bus Boycott that began after Rosa Parks was arrested for refusing to give up her seat, the SCLC has been a stalwart in the struggle for equal rights and human dignity for all.

The bus boycott organized under the leadership of Dr. King and Ralph David Abernathy signaled to Black America the beginning of a new phase in the long struggle in what has come to be known as the modern civil rights movement.

Bombings, threats, and arrests could not dissuade church leaders from all over the Deep South from coming together and organizing under a simple mission and platform.

At its first convention in Montgomery, Alabama in August 1957, the Southern Leadership Conference adopted the current name, the Southern Christian Leadership Conference, and the newly-formed group issued a document declaring that civil rights were essential to democracy, that segregation must end, and that all Black people should reject segregation absolutely and nonviolently.

Founders at these early meetings adopted nonviolent mass action as the centerpiece of their strategy against segregation and inequality. Additionally, the organization made the determination to open up the SCLC movement to people of all races, religions, and backgrounds.

At that time in American history there were many of us who questioned solely using nonviolent protest as a tactic in the fight for civil rights. However, today there can be no question that the strategy was effective.

One of the most dramatic moments in America history occurred during a SCLC campaign in Birmingham, Alabama. On May 2, 1957 more than 1,000 Black school children joined in the peaceful demonstrations where hundreds were arrested. The following day, 2,500 more students showed up, and Public Safety Commissioner Bull Connor met them with police dogs and high-pressure fire hoses.

That evening, television news programs showed the nation, and the world, scenes of fire hoses knocking down school children and dogs attacking individual demonstrators, who had no means of protecting themselves.

Public outrage led the Kennedy administration to intervene more forcefully. A settlement was announced on May 10, under which the downtown Birmingham businesses would desegregate and eliminate discriminatory hiring practices, and the city would release the jailed protesters.

During this turbulent episode, the brutal response of local police and ''Bull'' Connor stood in stark contrast to the nonviolent civil disobedience of the activists, and public sentiment came down on the side of justice.

Madam Speaker, I take pride in doing my part to continue the work of Dr. King and other prominent SCLC members and moving the civil rights agenda forward.

Tonight my colleagues and I would like to salute the efforts and hard work of the SCLC. The world is a better place today because of their actions throughout these past fifty years. I want to extend my heartfelt congratulations and gratitude for the legacy the SCLC has established, here in America and around the globe.

PERSONAL EXPLANATION

HON. ALBIO SIRES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. SIRES. Madam Speaker, on July 30, 2007, I missed rollcall vote Nos. 758, 759, 760, 761, and 762. Had I been present, I would have voted ''yes'' on rollcall 758, ''yes'' on rollcall 759, ''yes'' on rollcall 760, ''yes'' on rollcall 761, and ''yes'' on rollcall 762.

REAUTHORIZING THE UNDERGROUND RAILROAD EDUCATIONAL AND CULTURAL PROGRAM

SPEECH OF

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 30, 2007

Mrs. JONES of Ohio. Mr. Speaker, I rise today in strong support of H.R. 2707 which acknowledges the necessity to continue funding the Underground Railroad Educational and Cultural Program. Reflecting upon the nearly four hundred years of slavery, another century and a half of severe violations of American civil rights and continued hardship experienced by minorities everywhere, I feel that this measure warrants our support. The time has come for tolerance and understanding to triumph over racism and bigotry.

Our society is one that was formed by those who sought and dared to believe in freedom. Though these individuals committed transgressions of their own, they set the cornerstone for a union of states based on eminent documents and progressive ideals. Just to whom the notions of liberty, prosperity and happiness applied, would have to be settled in an undiplomatic nature, yet thankfully and virtuously the rights of all men prevailed. Before the Compromise of 1820 was agreed upon, a network now known as the Underground Railroad began to take form between those that wanted to gain and to give the ability to live freely.

Now legally armed with the rights and privileges endowed to all men and women, we find our society struggling to remain committed to not only remembering the plight of those who struggled to gain their freedom but what freedom explicitly implies. The struggle of protecting one's civil rights and the capability to act in one's best interests now faces our nation. We have developed as a people but must not stop or even slow our progression forward. The themes of our Founding Fathers must ring in our ears and our souls as loudly today as they did through the fights for our national and personal independence.

This legislation provides continued support for organizations such as the National Underground Freedom Center and the magnificent professionals who are dedicated to improving our community through education. I would like to thank my colleagues for their time and continued support for this institution of which I am proud to have been an original co-sponsor of its founding legislation back in 1999. This leg insures that The Underground Freedom Center and other institutions of the like will continue to educate and inspire generations to come.

RESOLUTION FROM THE CITIZENS OF WASHINGTON, CONNECTICUT

HON. CHRISTOPHER S. MURPHY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. MURPHY of Connecticut. Madam Speaker, when we invaded Iraq in March of 2003, we were told that we did so only to prevent the spread of weapons of mass destruction and to enforce compliance with a United Nations resolution. Now, four years and over 3,600 American lives later, we are mired in a bloody civil war that only grows more intractable every day. Despite overwhelming evidence and an increasingly broad public consensus, the Bush Administration refuses to yield to the reality that our presence in Iraq is not only failing to accomplish our goals, it is hindering them.

So many of the reasons and explanations given to justify this war have proven woefully misleading, were prefaced on faulty intelligence and inaccurate information and—in some cases—wishful thinking. The grave threat posed by Saddam Hussein's burgeoning chemical, nuclear and biological weapons arsenal is now believed never to have existed. Iraq's oil infrastructure, which was supposed to fully fund the country's postwar reconstruction efforts, remains severely damaged and in some cases, actively supporting the Iraqi insurgency. We have been saddled with a war that now actively fuels the forces of terror it was waged to prevent.

While the war's greatest cost lies in human lives, it continues to drain our Nation's treasury at an alarming rate. Nearly $600 billion has been spent toward the Iraq war thus far, and we continue to expend tens of billions of dollars in funding it every month. Equally disheartening is the estimated $10 billion in missing Iraq reconstruction funds that simply cannot be accounted for.

Meanwhile, the Bush administration refuses to abandon its hopelessly naive belief that major progress is just around the comer in Iraq, despite the conclusions of its own interim report released days ago on the troop ''surge'' strategy, which found only 8 of 18 major benchmarks had been met by the Iraqi government to date.

As the secret NSA wiretapping program and his use of so-called ''signing statements'' have demonstrated, the President's irresponsibility in office extends beyond calamitous military decisions to Iraq to an outright disregard for the rule of law. Tragically, this has led an unprecedented number of Americans to lose their trust and belief in government. Where Americans once believed that government had the potential to affect meaningful change, they now see it largely as a tool for cronyism, corruption and deception at the hands of their leaders.

I have seen and heard that disillusion firsthand from my constituents, neighbors and friends. The outcry against our wrongheaded strategy in Iraq and the President's disregard for the rule of law comes not merely from opinion makers, retired generals and former cabinet members, but from the very people who elected us to represent them in our Nation's capitol. My office receives dozens of phone calls every week from people so distraught by this President that they can see no other choice but to call for his impeachment.

On April 2, 2007, a coalition of concerned citizens from Washington, Connecticut banded together to pass a resolution calling for the President's impeachment. These citizens include Janet Buonaiuto, John Buonaiuto, Sandra Canning, Ken Cornet, Bill C. Davis, Diane Dupuis, Rita Frenkel, Paul Frenkel, Helen Gray, Diana Hardee, Joe Mustich, Mildred Pond, Davyne Verstandig. These conscientious residents of Connecticut's Fifth District presented me with their resolution and asked me to raise their concerns to the full House. I commend them for their activism and concern, and wish to register their views before Congress here today.

Thankfully, with the new Democratic majorities here in both houses of the 110th Congress, we now have the ability and the will to take a stand against this administration and its reckless conduct at home and abroad. We will continue to confront this President at every turn on his mismanagement of this war, and we will not cease to challenge the corrosive secrecy and corruption that his lack of leadership has spawned. While the battle is proving to be a hard-fought one, I am confident that we can bring the will of the people to the people's house of Congress.

IN HONOR OF DR. JOHN GARANG DE MABIOR

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. WOLF. Madam Speaker, I rise in honor of the late Dr. John Garang de Mabior, known to those close to him as ''Dr. John.'' Dr. John was president of the Government of Southern Sudan and chairman of the Sudan People's Liberation Movement/Army, SPLM/A. Yesterday was the second anniversary of Dr. John's sudden death in a helicopter crash.

Dr. John led a heroic life, leading the South of Sudan through the decades-long war with the tyrannical northern government eventually to peace, culminating in the signing of the Comprehensive Peace Agreement on January 9, 2005. The southerners saw him as their founding father, their leader, their inspiration. Dr. John transformed his guerilla movement into an organized rebel force, and then into a political party, and eventually into a partner in the coalition government with the North. His influence over the South's destiny was clear; his leadership set the country on a track toward an agreement to share Sudan's vast wealth and power.

While Dr. John's passing deeply saddened us all, those who desire a bright future for Sudan hold in their memories the strength of Dr. John's character, and his strong and abiding belief that Sudan will indeed one day find peace.

HONORING NORMAN MOLLARD, JR.

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. HENSARLING. Madam Speaker, today I would like to honor LCDR Norman Mollard, Jr. Lieutenant Commander Mollard is an asset to the City of Palestine and one of our country's true patriots. When he joined the Navy in September of 1942, Norman began a journey that would earn him the prestigious Navy Cross, the Distinguished Flying Cross, and the Presidential Unit Citation with three stars among many other honors. During World War II, he was stationed aboard the USS *San Jacinto*, where he received the honorable designation of Fighter Ace.

After retiring from the Navy in July 1969, LCDR Mollard returned to Palestine where he continues to work to preserve the history and culture of east Texas. He is an active member of the Palestine Chamber of Commerce and spends much of his time volunteering at the Museum for East Texas Culture, the YMCA, and the Humane Society. He also participates in the Downtown Merchants Association, the Lions Club, and the local Masonic Lodge. LCDR Mollard's active life has been a service both to the City of Palestine and to our Nation.

Madam Speaker, as the Representative of the City of Palestine, Texas, it is my pleasure to congratulate Norman Mollard on his many accomplishments. I am sure that Norman's 6 children and many grandchildren are very proud of what he has accomplished in such a long and distinguished lifetime.

RETIREMENT ANNOUNCEMENT

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. LAHOOD. Madam Speaker, this year marks my 30th year in public service. On November 8, 1994, I was honored to be elected to represent the citizens of the 18th District. After working for Congressman Bob Michel and Congressman Tom Railsback for 17 years in the minority party, I never imagined that first election night would cap the day that swept the Republican Party back into the majority on Capitol Hill.

Since that first election almost 13 years ago, I have always maintained that this was not a lifetime job. The time has come to honor that commitment.

Therefore, today I am announcing that I will not run for re-election in 2008. There is still much to be done in the 110th Congress, and I look forward to that work, but I will retire from public life at the conclusion of this term in January of 2009.

I truly believe that public service is a noble profession. The citizens of the 18th District, by electing me as their Representative in the U.S. House, have given me a wonderful opportunity to serve not only them, but all the people of Illinois and of our great country. Being chosen by one's neighbors to represent them in Congress is one of the greatest honors free people can bestow on a fellow citizen. I owe a great debt of gratitude to my supporters for this chance to serve.

It is hard to express in words what it means to have the opportunity to represent a district which was once represented by such political giants as Abraham Lincoln, Everett Dirksen, and Bob Michel.

Today I cannot help but think of my parents who instilled in me an ethic of hard work and my grandparents, who immigrated to the U.S. through Ellis Island and eventually settled in Peoria. They were welcomed with the typical generosity and warmth that characterizes our part of the world. They were good citizens, who worked hard, and raised a great family. That their grandson was able to become a U.S. Representative is proof that "the American dream" is not just a slogan but a continuing living reality to those who are willing to make it work. I know that is true, because my fellow citizens helped me live that dream.

In the end it is my family to whom I will be forever indebted. During the past 30 years, my family, and particularly my wife Kathy, has carried many burdens and responsibilities alone as I spent time away from them in an effort to live out my political dream and fulfill my obligations as a public servant. They have supported and encouraged me over the past three decades.

It is time for me to attempt to repay that debt, and I truly look forward to many wonderful years with my wife, my children, and my grandchildren.

God bless the citizens of Illinois who have given me this wonderful opportunity. God bless my family for everything they have endured, and God bless the United States of America.

"MARVIN ZINDLER—EYEWITNESS NEWS"

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 31, 2007

Mr. POE. Madam Speaker, to the residents of Houston and the surrounding cities, the name "Marvin Zindler" was synonymous with "champion" and "crusader." You see, Marvin Zindler has just as many stories as the Lone Ranger himself—just as many tales about his struggles for justice too. He was a fighter for the "little man," defending those who were swindled or scammed—seeking retribution the only way he knew how, with a bright light, an all-seeing camera lens, and a television audience.

For the last thirty-four years, Marvin has been the much loved and revered face of television station KTRK Channel 13 in Houston, Texas. He was known for his consumer reporting—one of the first in the business to do so—letting the unsuspecting public in on the down and dirty dealing of local businesses throughout Southeast Texas. It was his thirst for integrity and justice among his fellow citizens that led Marvin to work day in and out to unmask the unscrupulous. But to truly understand Marvin, you have to understand the man behind the camera—who he was before he became "The Marvin Zindler."

Marvin was born into the wealth and privilege of society in 1921 and he was not sure where he wanted to go in his life. Torn between careers, Marvin came roaring into the media world as a DJ and spot reporter for a former, local radio station. He moved onto a career with a former Houston newspaper and did spot news reports for a local television station. It was during his early stint in the media that Marvin began to lean towards the law enforcement profession. In the early 1950s, he was a volunteer police officer—all while continuing to be a voice in the media.

In 1962, Marvin put aside his media career and became a member of the Sheriffs Department. Assigned to the fugitive apprehension unit, it was his responsibility to round and rope up those who sought to flee American justice. Madam Speaker, legend has it that Marvin Zindler once chased a Texas fugitive through the heat of the Mexican deserts and into the rainforests of Central America, where he caught up with the Texas outlaw in what was then the U.S. held territory of the Panama Canal Zone. Marvin had a U.S. warrant for this criminal's arrest, but it was not sufficient enough to arrest him in Mexico or Central America. So he just waited until the fugitive touched U.S. soil—the Panama Canal. He then brought him back to face the Texas courts.

I first met Marvin back when I was a prosecutor. I have the honor and privilege of calling him a personal friend of mine and remained so throughout my judicial career. I can attest to his larger than life personality and his determination to make a difference in the world.

With the Sheriff's Department, Marvin established and ran the consumer fraud division. He was good at his job, perhaps a little too good as rumor has it. In 1972, Marvin was fired from the Sheriff's Department because local businesses were angered by his consumer fraud investigations. It was soon after his abrupt departure from law enforcement, he was hired by Channel 13 to be their on-air consumer reporter. From then on, a star was born.

Marvin Zindler stalked unscrupulous businesses like a lion stalks its prey. He was famous for his "rat and roach reports" on health inspections of local restaurants. He stood up to the bureaucrats who tried to walk on the backs of poor Houston residents, who did not have two dimes to rub together and had been swindled. He sought out immoral used car salesmen who made double-crossing deals of one-sided contracts and high interest rates—milking the consumers out of hundreds of dollars.

While the Houston public adored their TV crusader, Marvin did make some enemies, including a local county sheriff. In 1973, not yet a year into his TV career, Marvin exposed the State's best kept secret, a brothel called the Chicken Ranch in La Grange, Texas. His news story not only led to several ladies of the night being out of a job and national notoriety for his efforts and the embarrassment of local patrons, but a public fist fight with a county sheriff—who also happened to be a dishearten customer. The sheriff broke two of Marvin's ribs and snatched the toupee right off his head. It was this story that the famous long-running Broadway hit musical and eventual movie, "The Best Little Whorehouse in Texas," was based on.

Marvin Zindler had a heart of gold. Using his fame and his voice, Marvin began "Marvin's Angels"—a group of doctors who specialized in plastic and reconstructive surgery. These doctors then performed surgery

on children who were born with facial deformities, such as a clef palate, and of course, at no charge to the child's family. He was the worshiped face of Houston. In fact, he was so beloved that Channel 13 signed him to a lifetime contract in 1988—a rarity in the television world. It was something he always honored.

Even when he was diagnosed with cancer in July, Marvin continued to make on-air appearances for Channel 13. Either from his sick bed or clothed in a robe and slippers, citizens could breathe easier knowing that Marvin was still fighting the good fight for them—the ordinary, everyday individuals, the people he cared the most for.

Madam Speaker, on Sunday, July 29th, Marvin Zindler, the crusader of Houston, Texas, passed away from pancreatic cancer. He was 85 years old.

Robert Pelton, Marvin's good friend, had this to say about this extraordinary champion of the little guy, ''Marvin Zindler was the Lone Ranger and Superman, not just in Houston, but in the world. Marvin Zindler was a one man army for the underdog. With Marvin Zindler, there was no Governmental Red Tape.—He walked right through it. If he heard of an injustice or public corruption, he was there to expose and stop it. Marvin was a hero to every man, woman, and child who was a victim of discrimination and wrongdoing. He helped the crippled, blind, poor, and sick get help wherever they were. 'I'll Call Marvin Zindler' was the battle cry of the underdog and it always worked. Being his lawyer, friend, and angel for 31 years was the highest honor anyone could have.''

Madam Speaker, people in the Great State of Texas fondly recall a man who was their champion—their ''Lone Ranger.'' For wherever Marvin Zindler went, unscrupulous business owners quaked in fear, trepidation, apprehension, and panic knowing that they were being caught with ''Slime in the Ice Machine''—one of Marvin's most famous sayings. Tonight, my thoughts and prayers are with his wife, his children, grandchildren, great-grandchildren, and the entire Houston community as we mourn the loss of our dear friend, consumer advocate, Marvin Zindler. He was a man who served our Houston community and the people with honor and duty. He will be gravely missed.

Madam Speaker, Each night Marvin signed off with the same words on his nightly newscast and I quote them for the last time, ''Marvin Zindler—Eyewitness News.''

And That's Just The Way It Is.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007

SPEECH OF

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 27, 2007

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes:

Mr. SHAYS. Mr. Chairman, I want to express my opposition to the Farm Bill Extension Act for a number of reasons, including the extension of our depression era system of quotas and commodity support payments. One issue I particularly want to highlight is the opportunity we have missed here to make meaningful strides towards establishing the humane treatment of farm animals. I am disappointed that there are no provisions in this bill that work to this end.

I believe that there is a need to encourage agriculture companies to work towards adding protections for farm animals into their work practices. Billions of animals are raised for food every year in the United States, giving our families nourishment and helping feed the world. But there is no Federal law regarding the humane treatment of the animals while they are on the farm.

On March 28, 2007, Congressman PETER DEFAZIO and I introduced the Farm Animal Stewardship Purchasing Act. This legislation that would require that those supplying food to the Federal Government—including the military, federal prisons, school lunches, and other programs—meet a basic set of modest welfare standards for farm animals.

The humane treatment of animals speaks to our Nation's core values. Modest standards preventing Federal suppliers from engaging in the most inhumane current industrial farming practices is a step in the right direction.

In 1958 Congress passed the Humane Methods of Slaughter Act, deciding that farm animals deserve a merciful death. Half a century later, we must take steps towards giving them a merciful life on the farm. And just as the Federal Government already imposes numerous standards on contractors, including wage and labor requirements and fuel economy standards for government vehicles, we believe it's time to have basic humane standards for food purchased with tax dollars.

I urge opposition to this legislation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, August 2, 2007 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 3

8 a.m.

Armed Services

To receive a closed briefing regarding the treatment of detainees.

SR–222

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S10531–S10683

Measures Introduced: Twenty-four bills and four resolutions were introduced, as follows: S. 1910–1933, and S. Res. 288–291. **Pages S10604–05**

Measures Reported:

S. 793, to provide for the expansion and improvement of traumatic brain injury programs, with an amendment in the nature of a substitute. (S. Rept. No. 110–140)

H.R. 1260, to designate the facility of the United States Postal Service located at 6301 Highway 58 in Harrison, Tennessee, as the ''Claude Ramsey Post Office''.

H.R. 1335, to designate the facility of the United States Postal Service located at 508 East Main Street in Seneca, South Carolina, as the ''S Sgt Lewis G. Watkins Post Office Building''.

H.R. 1425, to designate the facility of the United States Postal Service located at 4551 East 52nd Street in Odessa, Texas, as the ''Staff Sergeant Marvin ''Rex'' Young Post Office Building''.

H.R. 1434, to designate the facility of the United States Postal Service located at 896 Pittsburgh Street in Springdale, Pennsylvania, as the ''Rachel Carson Post Office Building''.

H.R. 1617, to designate the facility of the United States Postal Service located at 561 Kingsland Avenue in University City, Missouri, as the ''Harriett F. Woods Post Office Building''.

H.R. 1722, to designate the facility of the United States Postal Service located at 601 Banyan Trail in Boca Raton, Florida, as the ''Leonard W. Herman Post Office''.

H.R. 2025, to designate the facility of the United States Postal Service located at 11033 South State Street in Chicago, Illinois, as the ''Willye B. White Post Office Building''.

H.R. 2077, to designate the facility of the United States Postal Service located at 20805 State Route 125 in Blue Creek, Ohio, as the ''George B. Lewis Post Office Building''.

H.R. 2078, to designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio, as the ''Staff Sergeant Omer T. 'O.T.'' Hawkins Post Office'.

H.R. 2127, to designate the facility of the United States Postal Service located at 408 West 6th Street in Chelsea, Oklahoma, as the ''Clem Rogers McSpadden Post Office Building''.

H.R. 2563, to designate the facility of the United States Postal Service located at 309 East Linn Street in Marshalltown, Iowa, as the ''Major Scott Nisely Post Office''.

H.R. 2570, to designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado, as the ''Dr. Karl E. Carson Post Office Building''.

S. 1011, to change the name of the National Institute on Drug Abuse to the National Institute on Diseases of Addiction and to change the name of the National Institute on Alcohol Abuse and Alcoholism to the National Institute on Alcohol Disorders and Health, with an amendment.

S. 1539, to designate the post office located at 309 East Linn Street, Marshalltown, Iowa, as the ''Major Scott Nisely Post Office''.

S. 1596, to designate the facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, as the ''Dolph S. Briscoe, Jr. Post Office Building''.

S. 1693, to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States, with an amendment in the nature of a substitute.

S. 1732, to designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado, as the ''Dr. Karl E. Carson Post Office Building''.

S. 1772, to designate the facility of the United States Postal Service located at 127 South Elm Street in Gardner, Kansas, as the ''Private First Class Shane R. Austin Post Office''.

S. 1781, to designate the facility of the United States Postal Service located at 118 Minner Avenue in Bakersfield, California, as the ''Buck Owens Post Office''.

S. 1896, to designate the facility of the United States Postal Service located at 11 Central Street in

Hillsborough, New Hampshire, as the "Officer Jeremy Todd Charron Post Office".

S. 1923, to authorize appropriations for assistance for the Housing Assistance Council, the Raza Development Fund, and for the Housing Partnership Network (HPN) and its members. **Pages S10603–04**

Measures Passed:

Safety of Seniors Act: Senate passed S. 845, to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S10676–78**

Casey (for Enzi/Mikulski) Amendment No. 2622, in the nature of a substitute. **Pages S10677–78**

National Peripheral Arterial Disease Awareness Month: Committee on Health, Education, Labor, and Pensions was discharged from further consideration of S. Res. 221, supporting National Peripheral Arterial Disease Awareness Month and efforts to educate people about peripheral arterial disease, and the resolution was then agreed to. **Page S10678**

Honoring Coach Bill Walsh: Senate agreed to S. Res. 290, honoring the life and career of former San Francisco 49ers Head Coach Bill Walsh. **Pages S10678–79**

National Historically Black Colleges and Universities Week: Senate agreed to S. Res. 291, designating the week beginning September 9, 2007, as "National Historically Black Colleges and Universities Week". **Pages S10679–80**

Measures Considered:

Small Business Tax Relief Act: Senate continued consideration of H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, taking action on the following amendments proposed thereto: **Pages S10537–92**

Rejected:

By 26 yeas to 58 nays (Vote No. 287), Grassley (for Ensign) Amendment No. 2538 (to Amendment No. 2530), to amend the Internal Revenue Service Code of 1986 to create a Disease Prevention and Treatment Research Trust Fund. **Pages S10537–40**

By 42 yeas to 53 nays (Vote No. 288), Gregg Amendment No. 2587 (to Amendment No. 2530), to limit the matching rate for coverage other than for low-income children or pregnant women covered through a waiver and to prohibit any new waivers for coverage of adults other than pregnant women. **Pages S10537, S10541–42**

By 32 yeas to 64 nays (Vote No. 289), Dole Amendment No. 2554 (to Amendment No. 2530), to amend the Congressional Budget Act of 1974 to provide for a 60-vote point of order against legislation that includes a Federal excise tax rate increase which disproportionately affects taxpayers with earned income of less than 200 percent of the Federal poverty level. **Pages S10556–58, S10581**

Bunning Amendment No. 2547 (to Amendment No. 2530), to eliminate the exception for certain States to cover children under SCHIP whose income exceeds 300 percent of the Federal poverty level. (By 53 yeas to 43 nays (Vote No. 290), Senate tabled the amendment.) **Pages S10537, S10577–78, S10581–82**

By 35 yeas to 61 nays (Vote No. 291), Lott Modified Amendment No. 2593 (to Amendment No. 2530), of a perfecting nature. **Pages S10542–44, S10575, S10589, S10582–83**

By 36 yeas to 60 (Vote No. 292), Kerry Modified Amendment No. 2602 (to Amendment No. 2530), to provide sufficient funding and incentives to increase the enrollment of uninsured children. **Pages S10558–75, S10578–80, S10583–84**

Pending:

Baucus Amendment No. 2530, in the nature of a substitute. **Page S10537**

Dorgan Amendment No. 2534 (to Amendment No. 2530), to revise and extend the Indian Health Care Improvement Act. **Page S10537**

McConnell/Specter Amendment No. 2599 (to Amendment No. 2530), to express the sense of the Senate that Judge Leslie Southwick should receive a vote by the full Senate. **Pages S10544–56**

Thune Amendment No. 2579 (to Amendment No. 2530), to exclude individuals with alternative minimum tax liability from eligibility from SCHIP coverage. **Pages S10575–77**

Grassley (for Ensign) Amendment No. 2541 (to Amendment No. 2530), to prohibit a State from providing child health assistance or health benefits coverage to individuals whose family income exceeds 200 percent of the Federal Poverty Level unless the State demonstrates that it has enrolled 95 percent of the targeted low-income children who reside in the State. **Pages S10537, S10580–81**

Grassley (for Ensign) Amendment No. 2540 (to Amendment No. 2530), to prohibit a State from using SCHIP funds to provide coverage for nonpregnant adults until the State first demonstrates that it has adequately covered targeted low-income children who reside in the State. **Pages S10580–81**

Grassley (for Graham) Amendment No. 2558 (to Amendment No. 2530), to sunset the increase in the tax on tobacco products on September 30, 2012. **Pages S10584–86**

Grassley (for Kyl) Amendment No. 2537 (to Amendment No. 2530), to minimize the erosion of private health coverage. **Pages S10584–86, S10589–92**

Grassley (for Kyl) Amendment No. 2562 (to Amendment No. 2530), to amend the Internal Revenue Code of 1986 to extend and modify the 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements and to provide a 15-year straight-line cost recovery for certain improvements to retail space.

Pages S10584–86

Baucus (for Specter) Amendment No. 2557 (to Amendment No. 2530), to amend the Internal Revenue Code of 1986 to reset the rate of tax under the alternative minimum tax at 24 percent.

Pages S10586–88

Webb Amendment No. 2618 (to Amendment No. 2530), to eliminate the deferral of taxation on certain income of United States shareholders attributable to controlled foreign corporations.

Pages S10588–89

A motion was entered to close further debate on Baucus Amendment No. 2530, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Friday, August 3, 2007. **Page S10589**

A motion was entered to close further debate on the bill, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Friday, August 3, 2007. **Page S10589**

A unanimous-consent agreement was reached providing for further consideration of the bill upon disposition of the House message on S. 1. **Page S10682**

Appointments:

Board of Visitors of the U.S. Military Academy: The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appointed the following Senators to the Board of Visitors of the U.S. Military Academy: Senator Hutchison, from the Committee on Appropriations, Senator Landrieu, from the Committee on Appropriations, Senator Reed, designated by the Chairman of the Committee on Armed Services, and Senator Collins, at Large. **Page S10676**

Board of Visitors of the U.S. Naval Academy: The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 6968(a), appointed the following Senators to the Board of Visitors of the U.S. Naval Academy: Senator Cochran, from the Committee on Appropriations, Senator Mikulski, from the Committee on Appropriations, Senator McCain, designated by the Chairman of the Committee on Armed Services, and Senator Cardin, at Large. **Page S10676**

FISA Legislation—Agreement: A unanimous-consent agreement was reached providing that when the Majority Leader, or his designee, introduces Foreign Intelligence Surveillance Act (FISA) legislation, on Thursday, August 2, 2007, they be considered as having received their first reading on the Legislative day of Wednesday, August 1, 2007. **Page S10680**

Legislative Transparency and Accountability Act—Agreement: A unanimous-consent agreement was reached providing that at approximately 9:30 a.m. on Thursday, August 2, 2007, Senate resume consideration of the amendment of the House to S. 1, to provide greater transparency in the legislative process; that there be two hours of debate prior to a vote on the motion to invoke cloture on the motion to concur in the amendment of the House; provided further, that the Majority Leader and the Republican Leader be permitted to use their Leadership Time at the expiration of the two hours, with the Majority Leader speaking immediately prior to the vote on the motion to invoke cloture; provided further, that upon the use of all time, Senate to vote on the motion to invoke cloture. **Page S10682**

Nominations Confirmed: Senate confirmed the following nominations:

David C. Geary, of Missouri, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2010.

Bijan Rafiekian, of California, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2011.

Peter B. McCarthy, of Wisconsin, to be an Assistant Secretary of the Treasury.

Charles L. Hopkins, of Massachusetts, to be an Assistant Secretary of Veterans Affairs (Operations, Preparedness, Security and Law Enforcement).

Joe W. Stecher, of Nebraska, to be United States Attorney for the District of Nebraska for the term of four years.

Jill E. Sommers, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2009.

(Prior to this action, Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration.)

Bartholomew H. Chilton, of Delaware, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2008.

(Prior to this action, Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration.)

Miguel Campaneria, of Puerto Rico, to be a Member of the National Council on the Arts for a term expiring September 3, 2012.

Thomas P. D'Agostino, of Maryland, to be Under Secretary for Nuclear Security, Department of Energy.

Eric G. John, of Indiana, to be Ambassador to the Kingdom of Thailand.

(Prior to this action, Committee on Foreign Relations was discharged from further consideration.)

Diane Auer Jones, of Maryland, to be Assistant Secretary for Postsecondary Education, Department of Education.

Diane G. Farrell, of Connecticut, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2011.

Michael W. Michalak, of Michigan, to be Ambassador to the Socialist Republic of Vietnam.

(Prior to this action, Committee on Foreign Relations was discharged from further consideration.)

David H. McCormick, of Pennsylvania, to be an Under Secretary of the Treasury.

31 Air Force nominations in the rank of general.

25 Army nominations in the rank of general.

5 Navy nominations in the rank of admiral.

Routine lists in the Air Force, Army, Navy.

Pages S10604, S10682–83

Messages from the House: **Page S10602**

Measures Placed on the Calendar: **Page S10602**

Measures Read the First Time: **Pages S10585, S10680**

Executive Communications: **Pages S10602–03**

Petitions and Memorials: **Page S10603**

Executive Reports of Committees: **Page S10604**

Additional Cosponsors: **Pages S10605–06**

Statements on Introduced Bills/Resolutions: **Pages S10606–28**

Additional Statements: **Pages S10600–01**

Amendments Submitted: **Pages S10628–58**

Authorities for Committees To Meet: **Pages S10658–60**

Privileges of the Floor: **Page S10660**

Text of H.R. 2638 as Previously Passed: **Pages S10660–76**

Record Votes: Six record votes were taken today. (Total—292) **Pages S10539–40, S10542, S10581, S10582, S10583, S10584**

Adjournment: Senate convened at 9:30 a.m. and adjourned at 8:39 p.m., until 9:30 a.m. on Thursday, August 2, 2007. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S10682.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the following:

S. 1677, to amend the Exchange Rates and International Economic Coordination Act of 1988, with an amendment in the nature of a substitute;

An original bill (S. 1923), to authorize appropriations for assistance for the Housing Assistance Council, the Raza Development Fund, and for the Housing Partnership Network (HPN) and its members;

An original bill to establish requirements for private lenders to protect student borrowers receiving private educational loans; and

An original bill to establish a nonpartisan Commission on Natural Catastrophe Risk Management and Insurance.

U.S. DEPARTMENT OF COMMERCE OVERSIGHT

Committee on Commerce, Science, and Transportation: Committee concluded an oversight hearing to examine the Department of Commerce, after receiving from Carlos Gutierrez, Secretary of Commerce.

CLEAN COAL TECHNOLOGY

Committee on Energy and Natural Resources: Committee concluded an oversight hearing to examine recent advances in clean coal technology, focusing on the prospects for deploying these technologies at a commercial scale in the near future, after receiving testimony from Carl O. Bauer, Director, National Energy Technology Laboratory, Department of Energy; Jerry Hollinden, URS Corp, Louisville, Kentucky, on behalf of the National Coal Council, Inc.; Jeffrey N. Phillips, Electric Power Research Institute, Charlotte, North Carolina; Donald C. Langley, Babcock and Wilcox Company, Barberton, Ohio; Andrew Perlman, Great Point Energy, Cambridge, Massachusetts; Frank Alix, Powerspan Corp., Portsmouth, New Hampshire; Jim Rosborough, Dow Chemical Company, Midland, Michigan; and Bill Fehrman, PacifiCorp Energy, Salt Lake City, Utah.

WATER BILLS

Committee on Energy and Natural Resources: Subcommittee on Water and Power concluded to examine S. 1054 and H.R. 122, bills to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga Valley Water District recycling project, S. 1472, to authorize the

Secretary of the Interior to create a Bureau of Reclamation partnership with the North Bay Water Reuse Authority and other regional partners to achieve objectives relating to water supply, water quality, and environmental restoration, S. 1475 and H.R. 1526, bills to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Bay Area Regional Water Recycling Program, H.R. 30, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Eastern Municipal Water District Recycled Water System Pressurization and Expansion Project, H.R. 609, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Central Texas Water Recycling and Reuse Project, and H.R. 1175, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project, after receiving testimony from Representative Edwards; Larry Todd, Deputy Commissioner, Bureau of Reclamation, Department of the Interior; Larry Groth, City of Waco, Waco, Texas; Richard W. Atwater, Inland Empire Utilities Agency, Chino, California; Gary W. Darling, City of Antioch, Antioch, California; Bill Long, North Bay Water Reuse Authority, North San Pablo Bay, California; and Randy A. Record, Eastern Municipal Water District, Riverside County, California.

UNITED STATES AFRICA COMMAND

Committee on Foreign Relations: Subcommittee on African Affairs concluded a hearing to examine the United States Africa Command, focusing on a new strategic relationship with Africa, after receiving testimony from Jendayi E. Frazer, Assistant Secretary of State for African Affairs; Theresa Whelan, Deputy Assistant Secretary for African Affairs, and Major General Jonathan S. Gration, USAF (Ret.), former Director, Strategy, Policy, and Assessments, United States European Command, both of the Department of Defense; Michael E. Hess, Assistant Administrator, Bureau for Democracy, Conflict, and Humanitarian Assistance, United States Agency for International Development; and J. Stephen Morrison, Center for Strategic and International Studies, and Mark Malan, Refugees International, both of Washington, D.C.

BUSINESS MEETING

Committee on Homeland Security and Governmental Affairs: Committee ordered favorably reported the following:

S. 680, to ensure proper oversight and accountability in Federal contracting; with an amendment in the nature of a substitute;

H.R. 1254, to amend title 44, United States Code, to require information contributors to Presidential library fundraising organizations, with an amendment;

An original bill to provide for the flexibility of certain disaster relief funds, and for improved evacuation and sheltering during disasters and catastrophes;

S. 1446, to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for maintaining and improving the transit system of the Washington Metropolitan Area Transit Authority;

S. 547, to establish a Deputy Secretary of Homeland Security for Management;

S. 1245, to reform mutual aid agreements for the National Capital Region;

S. 597, to extend the special postage stamp for breast cancer research for 2 years;

H.R. 2570 and S. 1732, bills to designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado, as the ''Dr. Karl E. Carson Post Office Building'';

S. 1772, to designate the facility of the United States Postal Service located at 127 South Elm Street in Gardner, Kansas, as the ''Private First Class Shane R. Austin Post Office'';

S. 1781, to designate the facility of the United States Postal Service located at 118 Minner Avenue in Bakersfield, California, as the ''Buck Owens Post Office'';

H.R. 2127, to designate the facility of the United States Postal Service located at 408 West 6th Street in Chelsea, Oklahoma, as the ''Clem Rogers McSpadden Post Office Building'';

H.R. 2563, to designate the facility of the United States Postal Service located at 309 East Linn Street in Marshalltown, Iowa, as the ''Major Scott Nisely Post Office'';

S. 1539, to designate the post office located at 309 East Linn Street, Marshalltown, Iowa, as the ''Major Scott Nisely Post Office'';

S. 1596, to designate the facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, as the ''Dolph S. Briscoe, Jr. Post Office Building'';

H.R. 1722, to designate the facility of the United States Postal Service located at 601 Banyan Trail in Boca Raton, Florida, as the ''Leonard W. Herman Post Office'';

H.R. 1425, to designate the facility of the United States Postal Service located at 4551 East 52nd

Street in Odessa, Texas, as the ''Staff Sergeant Marvin 'Rex' Young Post Office Building'';

H.R. 2078, to designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio, as the ''Staff Sergeant Omer T. 'O.T.' Hawkins Post Office'';

H.R. 2077, to designate the facility of the United States Postal Service located at 20805 State Route 125 in Blue Creek, Ohio, as the ''George B. Lewis Post Office Building'';

H.R. 1617, to designate the facility of the United States Postal Service located at 561 Kingsland Avenue in University City, Missouri, as the ''Harriett F. Woods Post Office Building'';

H.R. 2025, to designate the facility of the United States Postal Service located at 11033 South State Street in Chicago, Illinois, as the ''Willye B. White Post Office Building'';

H.R. 1335, to designate the facility of the United States Postal Service located at 508 East Main Street in Seneca, South Carolina, as the ''S/Sgt Lewis G. Watkins Post Office Building'';

H.R. 1260, to designate the facility of the United States Postal Service located at 6301 Highway 58 in Harrison, Tennessee, as the ''Claude Ramsey Post Office'';

H.R. 1434, to designate the facility of the United States Postal Service located at 896 Pittsburgh Street in Springdale, Pennsylvania, as the ''Rachel Carson Post Office Building'';

S. 1896, to designate the facility of the United States Postal Service located at 11 Central Street in Hillsborough, New Hampshire, as the ''Officer Jeremy Todd Charron Post Office''; and

The nominations of Jim Nussle, of Iowa, to be Director of the Office of Management and Budget, and Dennis R. Schrader, of Maryland, to be Deputy Administrator for National Preparedness, Federal Emergency Management Agency, Department of Homeland Security.

POST–9/11 AMERICAN DIPLOMATIC PRESENCE

Committee on Homeland Security and Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia concluded a hearing to examine the under-representation of Americans at the United Nations and its organizations, focusing on ways to build a stronger American diplomatic presence, including staffing shortfalls since the implementation of the Diplomatic Readiness Initiative, and filling gaps in the language proficiency of Foreign Service officers and other staff, after receiving testimony Heather M. Hodges, Acting Director General of the Foreign Service, Director of Human Resources, and James B. Warlick, Principal Deputy Assistant Secretary for International Organization Affairs, both of the Department of State; Jess T. Ford, and Thomas Melito, each a Director, International Affairs and Trade, Government Accountability Office; John K. Naland, American Foreign Service Association, and Thomas D. Boyatt, Foreign Affairs Council, both of Washington, D.C.; and Deborah Derrick, Better World Campaign, New York, New York.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported S. 625, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, with an amendment in the nature of a substitute.

NOMINATION

Select Committee on Intelligence: Committee concluded a hearing on the nomination of Donald M. Kerr, of Virginia, to be Principal Deputy Director of National Intelligence, after the nominee, who was introduced by Senators Bingaman and Warner, testified and answered questions in his own behalf.

House of Representatives

Chamber Action

Public bills and Resolutions Introduced: 41 public bills, H.R. 3270–3310; and 7 resolutions, H. Con. Res. 196–198; and H. Res. 593, 603–605 were introduced. **Pages H9466–68**

Additional Cosponsors: **Pages H9468–69**

Reports Filed: Reports were filed today as follows:

Conference Report on H.R. 2272, to invest in innovation through research development, and to improve the competitiveness of the United States (H. Rept. 110–289);

H. Res. 599, providing for 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 (H. Rept. 110–290);

H. Res. 600, providing for consideration of motions to suspend the rules (H. Rept. 110–291);

H. Res. 601, 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 (H. Rept. 110–292); and

H. Res. 602, 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 (H. Rept. 110–293).

Pages H9414–65, H9466

Speaker: Read a letter from the Speaker wherein she appointed Representative Tauscher to act as Speaker Pro Tempore for today. **Page H9281**

Journal: The House agreed to the Speaker's approval for the Journal by a yea-and-nay vote of 214 yeas to 189 nays, Roll No. 780. **Page H9281, H9286–87**

Motion to Adjourn: Rejected the Price (GA) motion to adjourn by a yea-and-nay vote of 177 yeas to 231 nays, Roll No. 779. **Pages H9285–86**

Motion to Adjourn: Rejected the Abercrombie motion to adjourn by a recorded vote of 154 ayes to 236 noes, Roll No. 781. **Page H9287**

Motion to Adjourn: Rejected the Sessions motion to adjourn by a yea-and-nay vote of 172 yeas to 246 nays, Roll No. 783. **Pages H9298–99**

Children's Health and Medicare Protection Act of 2007: The House passed 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, by a yea-and-nay vote of 225 yeas to 204 nays, Roll No. 787.

Pages H9302–H9414, (continued next issue)

Rejected the Granger motion to recommit the bill to the Committees on Energy and Commerce and Ways and Means with instructions to report the same back to the House forthwith with amendments, by a yea-and-nay vote of 202 yeas to 226 nays, Roll No. 786. **(See next issue.)**

Pursuant to the rule, 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 H. Rept. 110–285, shall be considered as adopted.

(See next issue.)

H. Res. 594, the rule providing for consideration of the bill, was agreed to by a recorded vote of 224 ayes to 197 noes, Roll No. 785, after agreeing to order the previous question by a yea-and-nay vote of 228 yeas to 190 nays, Roll No. 784.

Page H9287–98, H9299–H9302

Earlier, the House agreed to consider the resolution by a yea-and-nay vote of 222 yeas to 197 nays, Roll No. 782. **Pages H9289–90**

Presidential Message: Read a message from the President wherein he notified Congress of an Executive Order declaring a national emergency with respect to Lebanon—referred to the Committee on Foreign Affairs and ordered printed (H. Doc. 110–53). **(See next issue.)**

Suspensions: The House agreed to suspend the rules and pass the following measure:

SAFETEA–LU Technical Corrections Act of 2007: H.R. 3248, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, by a 2/3 yea-and-nay vote of 422 yeas to 1 nay, Roll No. 789. **(See next issue.)**

Water Resources Development Act of 2007: The House agreed to the conference report to accompany H.R. 1495, to provide for the conservation and development of water and related resources and to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, by a yea-and-nay vote of 381 yeas to 40 nays, Roll No. 790. **(See next issue.)**

H. Res. 597, the rule providing for consideration of the conference report, was agreed to by voice vote. **(See next issue.)**

Meeting Hour: Agreed that when the House adjourns today, it adjourn to meet at 9:00 a.m. tomorrow, August 2nd, by a yea-and-nay vote of 403 yeas to 15 nays, Roll No. 788. **(See next issue.)**

Senate Messages: Messages received from the Senate today appear on pages H9281 and H9302.

Senate Referrals: S. J. Res. 7 and S. J. Res. 8 were referred to the Committee on House Administration and S. Con. Res. 26 was held at the desk. **Page H9465**

Amendments: Amendments ordered printed pursuant to the rule appear on pages (See next issue.).

Quorum Calls—Votes: Eleven yea-and-nay votes and one recorded vote developed during the proceedings of today and appear on pages H9285–86, H9286–87, H9287, H9289–90, H9298–99, H9300–01, H9301. There were no quorum calls.

Adjournment: The House met at 10:00 a.m. and adjourned at 11:30 p.m.

Committee Meetings

CAPITOL POWER PLANT UTILITY TUNNELS

Committee on Appropriations: Subcommittee on Legislative Branch held a hearing on Capitol Power Plant Utility Tunnels. Testimony was heard from Terrell Dorn, Director, Physical Infrastructure Issues, GAO;

Peter Eveleth, General Counsel, Office of Compliance; the following officials of the Office of the Architect of the Capitol: Stephen T. Ayers, Acting Architect; and Paul McMahon, Project Executive; and John Thayer, former Supervisor, Utility Tunnels Maintenance Crew, Office of the Architect of the Capitol.

ARMY-GUARD-RESERVE RECRUITING AND RETENTION

Committee on Armed Services: Subcommittee on Military Personnel held a hearing on active Army, Army Guard and Army Reserve recruiting and retention. Testimony was heard from the following officials of the Department of Defense: Michael L. Dominguez, Principal Deputy Under Secretary, Personnel and Readiness; LTG Michael D. Rochelle, USA, Deputy Chief of Staff, G–1, Headquarters, U.S. Army; LTG Clyde A. Vaughan, USA, Director, Army National Guard; and MG Thomas P. Bostick, USA, Commanding General, U.S. Army Recruiting Command, Fort Knox, Kentucky.

POST-KATRINA HEALTH CARE

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations continued hearings on Post-Katrina Health Care in the New Orleans Region: Progress and Continuing Concerns—Part II. Testimony was heard from Elizabeth Richter, Acting Director, Center for Medicare Management, Centers for Medicare and Medicaid Services, Department of Health and Human Services; Frederick P. Cerise, M.D., Secretary, Department of Health and Hospitals, State of Louisiana; Robert L. Neary, Executive-In-Charge, Officer of Construction and Facilities Management, Department of Veterans Affairs; Ray Nagin, Mayor, New Orleans, State of Louisiana; and public witnesses.

TERRORISM RISK INSURANCE REVISION AND EXTENSION ACT OF 2007

Committee on Financial Services: Ordered reported, as amended, H.R. 2761, Terrorism Risk Insurance Revision and Extension Act of 2007.

THAILAND-FIJI COUP-RELATED SANCTIONS

Committee on Foreign Affairs: Subcommittee on Asia, the Pacific, and the Global Environment held a hearing on the Impact of Coup-Related Sanctions on Thailand and Fiji: Helpful or Harmful to U.S. Relations? Testimony was heard from Representative Kirk; and the following officials of the Bureau of East Asian and Pacific Affairs, Department of State: Eric G. John, Deputy Assistant Secretary, Southeast Asia, and Glyn T. Davies, Deputy Assistant Secretary, Australia, New Zealand, and the Pacific Islands.

SOUTH ASIA POLITICAL CRISES

Committee on Foreign Affairs: Subcommittee on the Middle East and South Asia held a hearing on Political Crises in South Asia: Pakistan, Bangladesh, Sri Lanka and Nepal. Testimony was heard from Representative Pallone; and the following officials of the Bureau of South and Central Asian Affairs, Department of State: Steven R. Mann, Principal Deputy Assistant Secretary; and John A. Gastright, Jr., Deputy Assistant Secretary.

MISCELLANEOUS MEASURES

Committee on Homeland Security: Ordered reported, as amended, the following bills: H.R. 1413, To direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to address vulnerabilities in aviation security by carrying out a pilot program to screen airport workers with access to secure and sterile areas of airports; H.R. 1717, To amend the Homeland Security Act of 2002 to establish a National Bio and Agro-defense Facility; and H.R. 1955, Homegrown Terrorism, Prevention Act of 2007.

TSA FEDERAL ACQUISITION EXEMPTION

Committee on Homeland Security: Subcommittee on Management, Investigations, and Oversight held a hearing entitled ''Playing by Its Own Rules: TSA's Exemption from the Federal Acquisition Regulation, and How it Impacts Partnerships with the Private Sector.'' Testimony was heard from the following officials of the Department of Homeland Security: Elaine Duke, Chief Procurement Officer; and Rick Gunderson, Assistant Administrator, Acquisition, Transportation Security Administration; and public witnesses.

SMITHSONIAN TRANSITION

Committee on House Administration: Held an oversight hearing on The Smithsonian in Transition. Testimony was heard from Representative Matsui; the following officials of the Smithsonian Institution: Cristian Samper, Acting Secretary; and A. Sprightley Ryan, Inspector General; and Charles Bowsher, Chairman, Independent Review Committee, and former Comptroller General of the United States.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported as amended, the following bills: H.R. 400, War Profiteering Prevention Act of 2007; and H.R. 2102, Free Flow of Information Act.

Committee recessed subject to call.

PAT TILLMAN FRATRICIDE

Committee on Oversight and Government Reform: Held a hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew. Testimony was heard from former Secretary of Defense: Donald H. Rumsfeld; and the following officials of the Department of the Army: GEN Richard Myers, USA, former Chair, Joint Chiefs of Staff; GEN John P. Abizaid, former Commander, U.S. Central Command; and GEN Bryan Douglas Brown, USA, former Commander, U.S. Special Operations Command.

DOE'S SAVANNAH RIVER ECOLOGY LABORATORY SUPPORT

Committee on Science and Technology: Subcommittee on Investigations and Oversight, and the Subcommittee on Energy and Environment continued joint hearings on the Department of Energy's Support for the Savannah River Ecology Laboratory (SREL), Part II. Testimony was heard from the following officials of the Department of Energy: Clay Sell, Deputy Secretary; Jeff Allison, Manager, Savannah River Site; Paul Gilbertson, Deputy Assistant Secretary, Engineering and Technology, Office of Environmental Management; and Yvette Colazzo, Assistant Manager, Closure Project, Savannah River Operations Office; and public witnesses.

PAYING SMALL HEALTH CARE PROVIDERS

Committee on Small Business: Subcommittee on Regulation, Health Care and Trade held a hearing entitled ''Ensuring Prompt Payment for Small Health Care Providers.'' Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Transportation and Infrastructure: Subcommittee on Economic Development, Public Buildings, and Emergency Management approved for full Committee action the following measures: H.R. 3246, Regional Economic and Infrastructure Development Act of 2007; H.R. 3224, Dam Rehabilitation and Repair Act of 2007; H.R. 3247, Hurricanes Katrina and Rita Recovery Facilitation Act of 2007; H.R. 3068, Federal Protective Service Guard Contracting Reform Act of 2007; H.R. 2671, To designate the United States courthouse located at 301 North Miami Avenue, Miami, Florida, as the ''C. Clyde Atkins United States Courthouse;'' and H.R. 2728, To designate the station of the United States Border Patrol located at 25762 Madison Avenue in Murrieta, California, as the ''Theodore L. Newton, Jr. and George F. Azrak Border Patrol Station.''

MEASURING POVERTY IN AMERICA

Committee on Ways and Means: Subcommittee on Income Security and Family Support held a hearing on Measuring Poverty in America. Testimony was heard from public witnesses.

AVIATION TAXES

Committee on Ways and Means: Subcommittee on Select Revenue Measures held a hearing on Aviation Taxes. Testimony was heard from Representatives Oberstar and Mica; Marion C. Blakey, Administrator, FAA, Department of Transportation; Joseph Kile, Assistant Director Microeconomic Studies Division, CBO; Gerald L. Dillingham, Director, Physical Infrastructure Issues, GAO; and public witnesses.

BRIEFING—SIGINT

Permanent Select Committee on Intelligence: Subcommittee on Terrorism, Human Intelligence Analysis and Counterintelligence and the Subcommittee on Technical and Tactical Intelligence met in executive session to receive a joint briefing on SIGINT. The Subcommittees were briefed by departmental witnesses.

CONFERENCE REPORT—21ST CENTURY COMPETITIVENESS ACT OF 2007

Committee on Rules. Granted, by a voice vote, a rule providing for the 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. The rule waives all points of order against the conference report and against its consideration. The rule also provides that the conference report be considered as read. Testimony was heard by Chairman Gordon.

THE ENSURING MILITARY READINESS THROUGH STABILITY AND PREDICTABILITY DEPLOYMENT POLICY ACT OF 2007

Committee on Rules. Granted, by a vote of 7 to 2, a closed rule. The rule provides one hour of debate on H.R. 3159, Ensuring Military Readiness Through Stability and Predictability Deployment Policy Act of 2007, equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill shall be considered as adopted and the bill, as amended, shall be considered as read. The rule waives all points of order against the provisions in the bill, as amended. The rule provides one motion to recommit with or without instructions. Finally, the rule provides that the Chair may postpone further consideration of the bill to a time designated by the Speaker. Testimony was heard by Chairman Skelton, Representatives Hunter, Tauscher, Sestak, Wolf, Shays, Castle, Gerlach, McCaul, and Dent.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Committee on Rules: Granted, by a voice vote, a rule authorizing the Speaker to entertain motions that the House suspend the rules at any time through the legislative day of Friday, August 3, 2007 on the following measures:

(1) The bill (H.R. 3087) to require the President, in coordination with the Secretary of State, the Secretary of Defense, the Joint Chiefs of Staff, and other senior military leaders, to develop and transmit to Congress a comprehensive strategy for the redeployment of United States Armed Forces in Iraq; and

(2) A bill to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain electronic surveillance.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES PROGRAMS, FY 2008

Committee on Rules: Granted, by a vote of 8 to 4, a structured rule. The rule provides 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. The rule provides that the bill shall be considered as read and that no further debate on any pending amendment shall be in order. The rule provides for further general debate not to exceed 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule provides that the amendments printed in part A of the Rules Committee report shall be considered as adopted in the House and in the Committee of the Whole. No further amendment shall be in order except those prined in part B of the Rules Committee report. The rule provides that each amendment printed in part B of the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The rule waives all points of order against such amendments except for clauses 9 and 10 of Rule XXI. The rule provides one motion to recommit with or without instructions.

The rule further provides that after the motion that the Committee rise has been rejected on a legislative day, the chair may entertain another such motion on that day only if offered by the Chairman of the Committee on Appropriations or the Majority Leader. It also provides that after a motion to strike out the enacting words of the bill has been rejected, the Chair may not entertain another such motion during further consideration of the bill. Testimony was heard by Representative Kingston.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1101)*

S. 1868, to temporarily extend the programs under the Higher Education Act of 1965.

Signed on July 31, 2007. (Public Law 110–51)

COMMITTEE MEETINGS FOR THURSDAY, AUGUST 2, 2007

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: to receive a closed briefing on drawdown planning for the United States forces in Iraq, 11:30 a.m., S–407, Capitol.

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine the nominations of Randall S. Kroszner, of New Jersey, Larry Allan Klane, of the District of Columbia, and Elizabeth A. Duke, of Virginia, all to be Members of the Board of Governors of the Federal Reserve System, 9:30 a.m., SD–538.

Subcommittee on Security and International Trade and Finance, to hold hearings to examine reforming key international financial institutions for the 21st century, 2:30 p.m., SD–538.

Committee on the Budget: business meeting to consider the nomination of Jim Nussle, of Iowa, to be Director of the Office of Management and Budget, 2:30 p.m., S–120, Capitol.

Committee on Commerce, Science, and Transportation: business meeting to consider pending calendar business, 10 a.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on National Parks, to hold hearings to examine S. 1253, to establish a fund for the National Park Centennial Challenge, 2:30 p.m., SD–366.

Committee on Homeland Security and Governmental Affairs: Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, to hold hearings to examine the Postal Accountability and Enhancement Act (Public Law 109–435), focusing on the services that are provided to customers, 10 a.m., SD–342.

Committee on the Judiciary: to continue hearings to examine the Department of Justice politicizing the hiring and firing of United States Attorneys, focusing on preserving prosecutorial independence, 10 a.m., SD–226.

Full Committee, business meeting to consider S. 1692, to grant a Federal charter to Korean War Veterans Association, Incorporated, S. 1060, to reauthorize the grant program for reentry of offenders into the community in the Omnibus Crime Control and Safe Streets Act of 1968, to improve reentry planning and implementation, S. 453, to prohibit deceptive practices in Federal elections, S. 1845, to provide for limitations in certain communications between the Department of Justice and the White House Office relating to civil and criminal investigations, a bill entitled, "School Safety and Law Enforcement Act", and the nominations of Rosa Emilia Rodriguez-Velez, to be United States Attorney for the District of Puerto Rico, Richard A. Jones, to be United States District Judge for the Western District of Washington, Sharion Aycock, to be United States District Judge for the Northern District of Mississippi, and Leslie Southwick, of Mississippi, to be United States Circuit Judge for the Fifth Circuit, 11:30 a.m., SD–226.

Select Committee on Intelligence: to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Armed Services, Subcommittee on Military Personnel, hearing to follow-up on the notification of

family members of next of kin of deceased and wounded process for the Marine Corps, 2 p.m., 2212 Rayburn.

Committee on the Budget, hearing on Hurricanes Katrina and Rita: What will be the long-term effect on the federal budget? 10 a.m., 210 Cannon.

Committee on Energy and Commerce, Subcommittee on Environment and Hazardous Materials, to consider H.R. 1534, Mercury Export Ban Act of 2007, 10 a.m., 2123 Rayburn.

Committee on Foreign Affairs, Subcommittee on Africa, and Global Health, hearing on Africa Command: Opportunity for Enhanced Engagement or the Militarization of U.S.-Africa Relations," 2 p.m., 2172 Rayburn.

Committee on House Administration, Subcommittee on Elections, oversight hearing on the Election Assistance Commission, 2 p.m., 1310 Longworth.

Committee on the Judiciary, to mark up the following bills: H.R. 3013, Attorney-Client Privilege Protection Act of 2007; H.R. 2740, MEJA Expansion and Enforcement Act of 2007; H.R. 1119, Purple Heart Family Equity Act of 2007; and H.R. 1071, September 11 Family Humanitarian Relief and Patriotism Act, 11 a.m., 2141 Rayburn.

Committee on Natural Resources, Subcommittee on Fisheries, Wildlife and Oceans, hearing on H.R. 1769, Endangered Salmon Predation Prevention Act, 10 a.m., 1334 Longworth.

Subcommittee on National Parks, and Public Lands, hearing on the following bills: H.R. 3094, National Park Centennial Fund Act; and H.R. 2959, National Park Centennial Challenge Fund Act, 10 a.m., 1324 Longworth.

Committee on Oversight and Government Reform, to consider the following: H.R. 312, Civilian Service Recognition Act of 2007; H.R. 928, Improving Government Accountability Act; H. Res. 554, Supporting the Goals and Ideals of National Passport Month; H.R. 3106, To designate the facility of the United States Postal Service located at 805 Main Street in Ferdinand, Indiana, as the "Staff Sergeant David L. Nord Post Office;" H.R. 2778, To designate the facility of the United States Postal Service located at 3 Quaker Ridge Road in New Rochelle, New York, as the "Robert Merrill Postal Station;" H.R. 733, District of Columbia Budget Autonomy Act of 2007; H.R. 1054, District of Columbia Legislative Autonomy Act of 2007; H. Res. 544, Expressing the sympathy and pledging the support of the House of Representatives and the people of the United States for the victims of the devastating thunderstorms that caused severe flooding in 20 counties in eastern Kansas beginning on June 26, 2007; and Subpoenas, 10 a.m., 2154 Rayburn.

Subcommittee on Federal Workforce, Postal Services, and the District of Columbia, hearings on Federal Compensation, Part 2, Benefits, 2 p.m., 2154 Rayburn.

Committee on Rules, to consider the following: H.R. 2776, Renewable Energy and Energy Conservation Tax Act of 2007; and H.R. 3221, New Direction for Energy Independence, National Security, and Consumer Protection Act, 3 p.m., H–313 Capitol.

Committee on Small Business, hearing entitled "Disaster Planning and Recovery: Are We Ready for Another Katrina?" 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, to consider the following: H.R. 3246, Regional Economic and Infrastructure Development Act of 2007; H.R. 3224, Dam Rehabilitation and Repair Act of 2007; H.R. 3247. Hurricanes Katrina and Rita Recovery Facilitation Act of 2007; H.R. 409, To amend title 23, United States Code, to inspect highway tunnels; H.R. 2671, To designate the United States courthouse located at 301 North Miami Avenue, Miami, Florida, as the "C. Clyde Atkins United States Courthouse;" H.R. 2728, To designate the station of the United States Border Patrol located at 25762 Madison Avenue in Murrieta, California, as the "Theodore L. Newton, Jr., and George F. Azrak Border Patrol Station;" H. Res. 444, Supporting the goals and ideals of National Aviation Maintenance Technician Day, honoring the invaluable contributions of Charles Edward Taylor, regarded as the father of aviation maintenance, and recognizing the essential role of aviation maintenance technicians in ensuring the safety and security of civil and military aircraft; and H. Res. 549, Recognizing the importance of America's Waterway Watch programs, 11 a.m., 2167 Rayburn.

Subcommittee on Coast Guard and Maritime Transportation, hearing on Challenges Facing the Coast Guard's Marine Safety Program, 2 p.m., 2167 Rayburn.

Committee on Ways and Means, Subcommittee on Trade, hearing on Legislation Related to Trade with China, 9 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, executive, briefing on Intelligence Community Update on Iraq, 10 a.m., H–405 Capitol.

Subcommittee on Terrorism, Human Intelligence, Analysis and Counterintelligence, executive, briefing on CIA new Counter Terrorism Activity, 1 p.m., H–405 Capitol.

Joint Meetings

Commission on Security and Cooperation in Europe: to hold hearings to examine freedom of the media in the Organization for Security and Cooperation in Europe region, 2 p.m., 340CHOB.

Résumé of Congressional Activity

FIRST SESSION OF THE ONE HUNDRED TENTH CONGRESS

The first table gives a comprehensive résumé of all legislative business transacted by the Senate and House. The second table accounts for all nominations submitted to the Senate by the President for Senate confirmation.

DATA ON LEGISLATIVE ACTIVITY

January 4 through July 31, 2007

	Senate	*House*	*Total*
Days in session	117	107	..
Time in session	895 hrs., 41′	980 hrs., 13′	..
Congressional Record:			
Pages of proceedings	10,529	9,251	..
Extensions of Remarks	..	1,667	..
Public bills enacted into law	13	35	..
Private bills enacted into law	..	..	..
Bills in conference	4	5	..
Measures passed, total	334	676	1,010
Senate bills	46	22	..
House bills	47	310	..
Senate joint resolutions	3	..	..
House joint resolutions	2	2	..
Senate concurrent resolutions	15	4	..
House concurrent resolutions	24	58	..
Simple resolutions	197	280	..
Measures reported, total	*235	*273	*508
Senate bills	136	2	..
House bills	28	189	..
Senate joint resolutions	3	..	..
House joint resolutions	..	..	..
Senate concurrent resolutions	6	..	..
House concurrent resolutions	3	6	..
Simple resolutions	59	76	..
Special reports	13	6	..
Conference reports	1	4	..
Measures pending on calendar	193	22	..
Measures introduced, total	2,246	4,108	6,354
Bills	1,901	3,269	..
Joint resolutions	16	47	..
Concurrent resolutions	42	195	..
Simple resolutions	287	597	..
Quorum calls	6	7	..
Yea-and-nay votes	286	346	..
Recorded votes	..	425	..
Bills vetoed	1	1	..
Vetoes overridden	..	..	..

* These figures include all measures reported, even if there was no accompanying report. A total of 139 reports have been filed in the Senate, a total of 288 reports have been filed in the House.

DISPOSITION OF EXECUTIVE NOMINATIONS

January 4 through July 31, 2007

Civilian nominations, totaling 341, disposed of as follows:	
Confirmed	133
Unconfirmed	192
Withdrawn	16
Other Civilian nominations, totaling 2,229, disposed of as follows:	
Confirmed	2,226
Unconfirmed	3
Air Force nominations, totaling 5,959, disposed of as follows:	
Confirmed	5,132
Unconfirmed	827
Army nominations, totaling 2,386, disposed of as follows:	
Confirmed	1,814
Unconfirmed	572
Navy nominations, totaling 2,402, disposed of as follows:	
Confirmed	958
Unconfirmed	1,444
Marine Corps nominations, totaling 1,327, disposed of as follows:	
Confirmed	1,324
Unconfirmed	3

Summary

Total nominations carried over from the First Session	0
Total nominations received this Session	14,644
Total confirmed	11,587
Total unconfirmed	3,041
Total withdrawn	16
Total returned to the White House	0

Next Meeting of the SENATE

9:30 a.m., Thursday, August 2

Senate Chamber

Program for Thursday: Senate will resume consideration of the amendment of the House to S. 1, Legislative Transparency and Accountability Act, and after a period of debate, vote on the motion to invoke cloture thereon, and upon its disposition, Senate will continue consideration of H.R. 976, Small Business Tax Relief Act.

Next Meeting of THE HOUSE OF REPRESENTATIVES

9 a.m., Thursday, August 2

House Chamber

Program for Thursday: To be announced.

Extensions of Remarks, as inserted in this issue

HOUSE

Alexander, Rodney, La., E1672
Bishop, Sanford D., Jr., Ga., E1673
Blumenauer, Earl, Ore., E1676
Brown, Henry E., Jr., S.C., E1669
Crowley, Joseph, N.Y., E1671
Farr, Sam, Calif., E1669
Gutierrez, Luis V., Ill., E1675
Hensarling, Jeb, Tex., E1678
Honda, Michael M., Calif., E1671
Hunter, Duncan, Calif., E1671
Inslee, Jay, Wash., E1669
Jones, Stephanie Tubbs, Ohio, E1676, E1677
Kildee, Dale E., Mich., E1674
LaHood, Ray, Ill., E1678
Lantos, Tom, Calif., E1670
McCarthy, Carolyn, N.Y., E1671
Maloney, Carolyn B., N.Y., E1673
Murphy, Christopher S., Conn., E1677, E1679
Norton, Eleanor Holmes, D.C., E1674
Pearce, Stevan, N.M., E1672
Poe, Ted, Tex., E1678
Rush, Bobby L., Ill., E1676
Sires, Albio, N.J., E1677
Spratt, John M., Jr., S.C., E1670
Towns, Edolphus, N.Y., E1674
Walberg, Timothy, Mich., E1672
Weller, Jerry, Ill., E1675
Wolf, Frank R., Va., E1677
Woolsey, Lynn C., Calif., E1670, E1673

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