

In the Senate of the United States,

December 21, 2005.

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

SENATE AMENDMENT TO HOUSE AMENDMENT:

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

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Deficit Reduction Act*
3 *of 2005”.*

4 ***SEC. 2. TABLE OF TITLES.***

5 *The table of titles is as follows:*

*TITLE I—AGRICULTURE PROVISIONS**TITLE II—HOUSING AND DEPOSIT INSURANCE PROVISIONS**TITLE III—DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY**TITLE IV—TRANSPORTATION PROVISIONS**TITLE V—MEDICARE**TITLE VI—MEDICAID AND SCHIP**TITLE VII—HUMAN RESOURCES AND OTHER PROVISIONS**TITLE VIII—EDUCATION AND PENSION BENEFIT PROVISIONS**TITLE IX—LIHEAP PROVISIONS**TITLE X—JUDICIARY RELATED PROVISIONS*

1 ***TITLE I—AGRICULTURE***
 2 ***PROVISIONS***

3 ***SECTION 1001. SHORT TITLE.***

4 *This title may be cited as the “Agricultural Reconcili-*
 5 *ation Act of 2005”.*

6 ***Subtitle A—Commodity Programs***

7 ***SEC. 1101. NATIONAL DAIRY MARKET LOSS PAYMENTS.***

8 *(a) AMOUNT.—Section 1502(c) of the Farm Security*
 9 *and Rural Investment Act of 2002 (7 U.S.C. 7982(c)) is*
 10 *amended by striking paragraph (3) and inserting the fol-*
 11 *lowing new paragraph:*

12 *“(3)(A) during the period beginning on the first*
 13 *day of the month the producers on a dairy farm enter*
 14 *into a contract under this section and ending on Sep-*
 15 *tember 30, 2005, 45 percent;*

1 “(B) during the period beginning on October 1,
2 2005, and ending on August 31, 2007, 34 percent;
3 and

4 “(C) during the period beginning on September
5 1, 2007, 0 percent.”.

6 (b) *DURATION*.—Section 1502 of the Farm Security
7 and Rural Investment Act of 2002 (7 U.S.C. 7982) is
8 amended by striking “2005” each place it appears in sub-
9 sections (f) and (g)(1) and inserting “2007”.

10 (c) *CONFORMING AMENDMENTS*.—Section 1502 of the
11 Farm Security and Rural Investment Act of 2002 (7 U.S.C.
12 7982) is amended—

13 (1) in subsection (g)(1), by striking “and sub-
14 section (h)”; and

15 (2) by striking subsection (h).

16 **SEC. 1102. ADVANCE DIRECT PAYMENTS.**

17 (a) *COVERED COMMODITIES*.—Section 1103(d)(2) of
18 the Farm Security and Rural Investment Act of 2002 (7
19 U.S.C. 7913(d)(2)) is amended in the first sentence by strik-
20 ing “2007 crop years” and inserting “2005 crop years, up
21 to 40 percent of the direct payment for a covered commodity
22 for the 2006 crop year, and up to 22 percent of the direct
23 payment for a covered commodity for the 2007 crop year,”.

24 (b) *PEANUTS*.—Section 1303(e)(2) of the Farm Secu-
25 rity and Rural Investment Act of 2002 (7 U.S.C.

1 7953(e)(2)) is amended in the first sentence by striking
 2 “2007 crop years” and inserting “2005 crop years, up to
 3 40 percent of the direct payment for the 2006 crop year,
 4 and up to 22 percent of the direct payment for the 2007
 5 crop year.”.

6 **SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.**

7 (a) *REPEAL OF AUTHORITY TO ISSUE COTTON USER*
 8 *MARKETING CERTIFICATES.*—Section 1207 of the Farm Se-
 9 *curity and Rural Investment Act of 2002 (7 U.S.C. 7937)*
 10 *is amended—*

11 (1) *by striking subsection (a); and*

12 (2) *in subsection (b)(1)—*

13 (A) *in subparagraph (B), by striking “, ad-*
 14 *justed for the value of any certificate issued*
 15 *under subsection (a),”;* and

16 (B) *in subparagraph (C), by striking “, for*
 17 *the value of any certificates issued under sub-*
 18 *section (a)”.*

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

21 ***Subtitle B—Conservation***

22 **SEC. 1201. WATERSHED REHABILITATION PROGRAM.**

23 *The authority to obligate funds previously made avail-*
 24 *able under section 14(h)(1) of the Watershed Protection and*
 25 *Flood Prevention Act (16 U.S.C. 1012(h)(1)) for a fiscal*

1 year and unobligated as of October 1, 2006, is hereby can-
 2 celled effective on that date.

3 **SEC. 1202. CONSERVATION SECURITY PROGRAM.**

4 (a) *EXTENSION.*—Section 1238A(a) of the Food Secu-
 5 rity Act of 1985 (16 U.S.C. 3838a(a)) is amended by strik-
 6 ing “2007” and inserting “2011”.

7 (b) *FUNDING.*—Section 1241(a)(3) of the Food Secu-
 8 rity Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by
 9 striking “not more than \$6,037,000,000” and all that fol-
 10 lows through “2014.” and inserting the following: “not more
 11 than—

12 “(A) \$1,954,000,000 for the period of fiscal
 13 years 2006 through 2010; and

14 “(B) \$5,650,000,000 for the period of fiscal
 15 years 2006 through 2015.”.

16 **SEC. 1203. ENVIRONMENTAL QUALITY INCENTIVES PRO-**
 17 **GRAM.**

18 (a) *EXTENSION.*—Section 1240B(a)(1) of the Food Se-
 19 curity Act of 1985 (16 U.S.C. 3839aa–2(a)(1)) is amended
 20 by striking “2007” and inserting “2010”.

21 (b) *LIMITATION ON PAYMENTS.*—Section 1240G of the
 22 Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amend-
 23 ed by striking “the period of fiscal years 2002 through
 24 2007” and inserting “any six-year period”.

1 (c) *FUNDING.*—Section 1241(a)(6) of the Food Secu-
2 rity Act of 1985 (16 U.S.C. 3841(a)(6)) is amended—

3 (1) by striking “and” at the end of subpara-
4 graph (D); and

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

7 “(E) \$1,270,000,000 in each of fiscal years
8 2007 through 2009; and

9 “(F) \$1,300,000,000 in fiscal year 2010.”.

10 **Subtitle C—Energy**

11 **SEC. 1301. RENEWABLE ENERGY SYSTEMS AND ENERGY EF-** 12 **FICIENCY IMPROVEMENTS PROGRAM.**

13 Section 9006(f) of the Farm Security and Rural In-
14 vestment Act of 2002 (7 U.S.C. 8106(f)) is amended by
15 striking “2007” and inserting “2006 and \$3,000,000 for fis-
16 cal year 2007”.

17 **Subtitle D—Rural Development**

18 **SEC. 1401. ENHANCED ACCESS TO BROADBAND TELE-** 19 **COMMUNICATIONS SERVICES IN RURAL** 20 **AREAS.**

21 The authority to obligate funds previously made avail-
22 able under section 601(j)(1) of the Rural Electrification Act
23 of 1936 for a fiscal year and unobligated as of October 1,
24 2006, is hereby cancelled effective on that date.

1 **SEC. 1402. VALUE-ADDED AGRICULTURAL PRODUCT MAR-**
 2 **KET DEVELOPMENT GRANTS.**

3 *The authority to obligate funds previously made avail-*
 4 *able under section 231(b)(4) of the Agricultural Risk Pro-*
 5 *tection Act of 2000 (Pub. L. 106–224; 7 U.S.C. 1621 note)*
 6 *for a fiscal year and unobligated as of October 1, 2006, is*
 7 *hereby cancelled effective on that date.*

8 **SEC. 1403. RURAL BUSINESS INVESTMENT PROGRAM.**

9 *(a) TERMINATION OF FISCAL YEAR 2007 AND SUBSE-*
 10 *QUENT FUNDING.—Subsection (a)(1) of section 384S of the*
 11 *Consolidated Farm and Rural Development Act (7 U.S.C.*
 12 *2009cc–18) is amended by inserting after “necessary” the*
 13 *following: “through fiscal year 2006”.*

14 *(b) CANCELLATION OF UNOBLIGATED PRIOR-YEAR*
 15 *FUNDS.—The authority to obligate funds previously made*
 16 *available under such section and unobligated as of October*
 17 *1, 2006, is hereby cancelled effective on that date.*

18 **SEC. 1404. RURAL BUSINESS STRATEGIC INVESTMENT**
 19 **GRANTS.**

20 *The authority to obligate funds previously made avail-*
 21 *able under section 385E of the Consolidated Farm and*
 22 *Rural Development Act and unobligated as of October 1,*
 23 *2006, is hereby cancelled effective on that date.*

1 **SEC. 1405. RURAL FIREFIGHTERS AND EMERGENCY PER-**
 2 **SONNEL GRANTS.**

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

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

12 ***Subtitle E—Research***

13 **SEC. 1501. INITIATIVE FOR FUTURE FOOD AND AGRICULTURE SYSTEMS.**
 14 **CULTURE SYSTEMS.**

15 (a) *TERMINATION OF FISCAL YEAR 2007, 2008, AND*
 16 *2009 TRANSFERS.*—*Subsection (b)(3)(D) of section 401 of*
 17 *the Agricultural Research, Extension, and Education Re-*
 18 *form Act of 1998 (7 U.S.C. 7621) is amended by striking*
 19 *“2006” and inserting “2009”.*

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

23 “(6) *AVAILABILITY OF FUNDS.*—

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

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

4 “(B) *EXCEPTION FOR FISCAL YEAR 2006*
 5 *TRANSFER.—In the case of the funds required to*
 6 *be transferred by subsection (b)(3)(C), the funds*
 7 *shall be available to the Secretary for obligation*
 8 *for the 1-year period beginning on October 1,*
 9 *2005.”*

10 **TITLE II—HOUSING AND DE-**
 11 **POSIT INSURANCE PROVI-**
 12 **SIONS**

13 **Subtitle A—FHA Asset Disposition**

14 **SEC. 2001. DEFINITIONS.**

15 For purposes of this subtitle, the following definitions
 16 shall apply:

17 (1) The term “affordability requirements” means
 18 any requirements or restrictions imposed by the Sec-
 19 retary, at the time of sale, on a multifamily real
 20 property or a multifamily loan, such as use restric-
 21 tions, rent restrictions, and rehabilitation require-
 22 ments.

23 (2) The term “discount sale” means the sale of
 24 a multifamily real property in a transaction, such as
 25 a negotiated sale, in which the sale price is lower

1 *than the property market value and is set outside of*
2 *a competitive bidding process that has no afford-*
3 *ability requirements.*

4 (3) *The term “discount loan sale” means the sale*
5 *of a multifamily loan in a transaction, such as a ne-*
6 *gotiated sale, in which the sale price is lower than the*
7 *loan market value and is set outside of a competitive*
8 *bidding process that has no affordability require-*
9 *ments.*

10 (4) *The term “loan market value” means the*
11 *value of a multifamily loan, without taking into ac-*
12 *count any affordability requirements.*

13 (5) *The term “multifamily real property” means*
14 *any rental or cooperative housing project of 5 or more*
15 *units owned by the Secretary that prior to acquisition*
16 *by the Secretary was security for a loan or loans in-*
17 *sured under title II of the National Housing Act.*

18 (6) *The term “multifamily loan” means a loan*
19 *held by the Secretary and secured by a multifamily*
20 *rental or cooperative housing project of 5 or more*
21 *units that was formerly insured under title II of the*
22 *National Housing Act.*

23 (7) *The term “property market value” means the*
24 *value of a multifamily real property for its current*

1 *use, without taking into account any affordability re-*
 2 *quirements.*

3 (8) *The term “Secretary” means the Secretary of*
 4 *Housing and Urban Development.*

5 **SEC. 2002. APPROPRIATED FUNDS REQUIREMENT FOR**
 6 **BELOW-MARKET SALES.**

7 (a) *DISCOUNT SALES.—Notwithstanding any other*
 8 *provision of law, except for affordability requirements for*
 9 *the elderly and disabled required by statute, disposition by*
 10 *the Secretary of a multifamily real property during fiscal*
 11 *years 2006 through 2010 through a discount sale under sec-*
 12 *tions 207(l) or 246 of the National Housing Act (12 U.S.C.*
 13 *1713(l), 1715z–11), section 203 of the Housing and Com-*
 14 *munity Development Amendments of 1978 (12 U.S.C.*
 15 *1701z–11), or section 204 of the Departments of Veterans*
 16 *Affairs and Housing and Urban Development, and Inde-*
 17 *pendent Agencies Appropriations Act, 1997 (12 U.S.C.*
 18 *1715z–11a), shall be subject to the availability of appro-*
 19 *priations to the extent that the property market value ex-*
 20 *ceeds the sale proceeds. If the multifamily real property is*
 21 *sold, during such fiscal years, for an amount equal to or*
 22 *greater than the property market value then the transaction*
 23 *is not subject to the availability of appropriations.*

24 (b) *DISCOUNT LOAN SALES.—Notwithstanding any*
 25 *other provision of law and in accordance with the Federal*

1 *Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a discount*
 2 *loan sale during fiscal years 2006 through 2010 under sec-*
 3 *tion 207(k) of the National Housing Act (12 U.S.C.*
 4 *1713(k)), section 203(k) of the Housing and Community*
 5 *Development Amendments of 1978 (12 U.S.C. 1701z–11(k)),*
 6 *or section 204(a) of the Departments of Veterans Affairs*
 7 *and Housing and Urban Development, and Independent*
 8 *Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–*
 9 *11a(a)), shall be subject to the availability of appropria-*
 10 *tions to the extent that the loan market value exceeds the*
 11 *sale proceeds. If the multifamily loan is sold, during such*
 12 *fiscal years, for an amount equal to or greater than the*
 13 *loan market value then the transaction is not subject to the*
 14 *availability of appropriations.*

15 (c) *APPLICABILITY.—This section shall not apply to*
 16 *any transaction that formally commences within one year*
 17 *prior to the enactment of this section.*

18 **SEC. 2003. UP-FRONT GRANTS.**

19 (a) *1997 ACT.—Section 204(a) of the Departments of*
 20 *Veterans Affairs and Housing and Urban Development, and*
 21 *Independent Agencies Appropriations Act, 1997 (12 U.S.C.*
 22 *1715z–11a(a)) is amended by adding at the end the fol-*
 23 *lowing new sentence: “A grant provided under this sub-*
 24 *section during fiscal years 2006 through 2010 shall be*
 25 *available only to the extent that appropriations are made*

1 *in advance for such purposes and shall not be derived from*
 2 *the General Insurance Fund.”.*

3 (b) 1978 ACT.—Section 203(f)(4) of the *Housing and*
 4 *Community Development Amendments of 1978 (12 U.S.C.*
 5 *1701z–11(f)(4)) is amended by adding at the end the fol-*
 6 *lowing new sentence: “This paragraph shall be effective dur-*
 7 *ing fiscal years 2006 through 2010 only to the extent that*
 8 *such budget authority is made available for use under this*
 9 *paragraph in advance in appropriation acts.”.*

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

14 ***Subtitle B—Deposit Insurance***

15 **SEC. 2101. SHORT TITLE.**

16 *This subtitle may be cited as the “Federal Deposit In-*
 17 *surance Reform Act of 2005”.*

18 **SEC. 2102. MERGING THE BIF AND SAIF.**

19 (a) IN GENERAL.—

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

23 (2) DISPOSITION OF ASSETS AND LIABILITIES.—

24 *All assets and liabilities of the Bank Insurance Fund*

1 *and the Savings Association Insurance Fund shall be*
 2 *transferred to the Deposit Insurance Fund.*

3 (3) *NO SEPARATE EXISTENCE.—The separate ex-*
 4 *istence of the Bank Insurance Fund and the Savings*
 5 *Association Insurance Fund shall cease on the effec-*
 6 *tive date of the merger thereof under this section.*

7 (b) *REPEAL OF OUTDATED MERGER PROVISION.—Sec-*
 8 *tion 2704 of the Deposit Insurance Funds Act of 1996 (12*
 9 *U.S.C. 1821 note) is repealed.*

10 (c) *EFFECTIVE DATE.—This section shall take effect*
 11 *no later than the first day of the first calendar quarter that*
 12 *begins after the end of the 90-day period beginning on the*
 13 *date of the enactment of this Act.*

14 **SEC. 2103. INCREASE IN DEPOSIT INSURANCE COVERAGE.**

15 (a) *IN GENERAL.—Section 11(a)(1) of the Federal De-*
 16 *posit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—*

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

19 “(B) *NET AMOUNT OF INSURED DEPOSIT.—*
 20 *The net amount due to any depositor at an in-*
 21 *sured depository institution shall not exceed the*
 22 *standard maximum deposit insurance amount as*
 23 *determined in accordance with subparagraphs*
 24 *(C), (D), (E) and (F) and paragraph (3).”;* and

1 (2) *by adding at the end the following new sub-*
 2 *paragraphs:*

3 “(E) *STANDARD MAXIMUM DEPOSIT INSUR-*
 4 *ANCE AMOUNT DEFINED.—For purposes of this*
 5 *Act, the term ‘standard maximum deposit insur-*
 6 *ance amount’ means \$100,000, adjusted as pro-*
 7 *vided under subparagraph (F) after March 31,*
 8 *2010.*

9 “(F) *INFLATION ADJUSTMENT.—*

10 “(i) *IN GENERAL.—By April 1 of*
 11 *2010, and the 1st day of each subsequent 5-*
 12 *year period, the Board of Directors and the*
 13 *National Credit Union Administration*
 14 *Board shall jointly consider the factors set*
 15 *forth under clause (v), and, upon deter-*
 16 *mining that an inflation adjustment is ap-*
 17 *propriate, shall jointly prescribe the amount*
 18 *by which the standard maximum deposit*
 19 *insurance amount and the standard max-*
 20 *imum share insurance amount (as defined*
 21 *in section 207(k) of the Federal Credit*
 22 *Union Act) applicable to any depositor at*
 23 *an insured depository institution shall be*
 24 *increased by calculating the product of—*

25 “(I) *\$100,000; and*

1 “(II) the ratio of the published
2 annual value of the Personal Consump-
3 tion Expenditures Chain-Type Price
4 Index (or any successor index thereto),
5 published by the Department of Com-
6 merce, for the calendar year preceding
7 the year in which the adjustment is
8 calculated under this clause, to the
9 published annual value of such index
10 for the calendar year preceding the
11 date this subparagraph takes effect
12 under the Federal Deposit Insurance
13 Reform Act of 2005.

14 *The values used in the calculation under*
15 *subclause (II) shall be, as of the date of the*
16 *calculation, the values most recently pub-*
17 *lished by the Department of Commerce.*

18 “(ii) *ROUNDING.*—*If the amount deter-*
19 *mined under clause (ii) for any period is*
20 *not a multiple of \$10,000, the amount so*
21 *determined shall be rounded down to the*
22 *nearest \$10,000.*

23 “(iii) *PUBLICATION AND REPORT TO*
24 *THE CONGRESS.*—*Not later than April 5 of*
25 *any calendar year in which an adjustment*

1 is required to be calculated under clause (i)
2 to the standard maximum deposit insurance
3 amount and the standard maximum share
4 insurance amount under such clause, the
5 Board of Directors and the National Credit
6 Union Administration Board shall—

7 “(I) publish in the Federal Reg-
8 ister the standard maximum deposit
9 insurance amount, the standard max-
10 imum share insurance amount, and
11 the amount of coverage under para-
12 graph (3)(A) and section 207(k)(3) of
13 the Federal Credit Union Act, as so
14 calculated; and

15 “(II) jointly submit a report to
16 the Congress containing the amounts
17 described in subclause (I).

18 “(iv) 6-MONTH IMPLEMENTATION PE-
19 RIOD.—Unless an Act of Congress enacted
20 before July 1 of the calendar year in which
21 an adjustment is required to be calculated
22 under clause (i) provides otherwise, the in-
23 crease in the standard maximum deposit
24 insurance amount and the standard max-
25 imum share insurance amount shall take ef-

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

3 “(v) *INFLATION ADJUSTMENT CONSID-*
 4 *ERATION.—In making any determination*
 5 *under clause (i) to increase the standard*
 6 *maximum deposit insurance amount and*
 7 *the standard maximum share insurance*
 8 *amount, the Board of Directors and the Na-*
 9 *tional Credit Union Administration Board*
 10 *shall jointly consider—*

11 “(I) *the overall state of the De-*
 12 *posit Insurance Fund and the eco-*
 13 *nomie conditions affecting insured de-*
 14 *pository institutions;*

15 “(II) *potential problems affecting*
 16 *insured depository institutions; or*

17 “(III) *whether the increase will*
 18 *cause the reserve ratio of the fund to*
 19 *fall below 1.15 percent of estimated in-*
 20 *sured deposits.”.*

21 (b) *COVERAGE FOR CERTAIN EMPLOYEE BENEFIT*

22 *PLAN DEPOSITS.—Section 11(a)(1)(D) of the Federal De-*
 23 *posit Insurance Act (12 U.S.C. 1821(a)(1)(D)) is amended*
 24 *to read as follows:*

1 “(D) *COVERAGE FOR CERTAIN EMPLOYEE*
2 *BENEFIT PLAN DEPOSITS.*—

3 “(i) *PASS-THROUGH INSURANCE.*—*The*
4 *Corporation shall provide pass-through de-*
5 *posit insurance for the deposits of any em-*
6 *ployee benefit plan.*

7 “(ii) *PROHIBITION ON ACCEPTANCE OF*
8 *BENEFIT PLAN DEPOSITS.*—*An insured de-*
9 *pository institution that is not well capital-*
10 *ized or adequately capitalized may not ac-*
11 *cept employee benefit plan deposits.*

12 “(iii) *DEFINITIONS.*—*For purposes of*
13 *this subparagraph, the following definitions*
14 *shall apply:*

15 “(I) *CAPITAL STANDARDS.*—*The*
16 *terms ‘well capitalized’ and ‘ade-*
17 *quately capitalized’ have the same*
18 *meanings as in section 38.*

19 “(II) *EMPLOYEE BENEFIT*
20 *PLAN.*—*The term ‘employee benefit*
21 *plan’ has the same meaning as in*
22 *paragraph (5)(B)(ii), and includes any*
23 *eligible deferred compensation plan de-*
24 *scribed in section 457 of the Internal*
25 *Revenue Code of 1986.*

1 “(III) *PASS-THROUGH DEPOSIT*
 2 *INSURANCE.*—*The term ‘pass-through*
 3 *deposit insurance’ means, with respect*
 4 *to an employee benefit plan, deposit*
 5 *insurance coverage based on the inter-*
 6 *est of each participant, in accordance*
 7 *with regulations issued by the Corpora-*
 8 *tion.”.*

9 (c) *INCREASED AMOUNT OF DEPOSIT INSURANCE FOR*
 10 *CERTAIN RETIREMENT ACCOUNTS.*—*Section 11(a)(3)(A) of*
 11 *the Federal Deposit Insurance Act (12 U.S.C.*
 12 *1821(a)(3)(A)) is amended by striking “\$100,000” and in-*
 13 *serting “\$250,000 (which amount shall be subject to infla-*
 14 *tion adjustments as provided in paragraph (1)(F), except*
 15 *that \$250,000 shall be substituted for \$100,000 wherever*
 16 *such term appears in such paragraph)”.*

17 (d) *EFFECTIVE DATE.*—*This section and the amend-*
 18 *ments made by this section shall take effect on the date the*
 19 *final regulations required under section 9(a)(2) take effect.*

20 **SEC. 2104. SETTING ASSESSMENTS AND REPEAL OF SPE-**
 21 **CIAL RULES RELATING TO MINIMUM ASSESS-**
 22 **MENTS AND FREE DEPOSIT INSURANCE.**

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

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

3 “(A) *IN GENERAL.—The Board of Directors*
4 *shall set assessments for insured depository insti-*
5 *tutions in such amounts as the Board of Direc-*
6 *tors may determine to be necessary or appro-*
7 *priate, subject to subparagraph (D).*

8 “(B) *FACTORS TO BE CONSIDERED.—In set-*
9 *ting assessments under subparagraph (A), the*
10 *Board of Directors shall consider the following*
11 *factors:*

12 “(i) *The estimated operating expenses*
13 *of the Deposit Insurance Fund.*

14 “(ii) *The estimated case resolution ex-*
15 *penses and income of the Deposit Insurance*
16 *Fund.*

17 “(iii) *The projected effects of the pay-*
18 *ment of assessments on the capital and*
19 *earnings of insured depository institutions.*

20 “(iv) *The risk factors and other factors*
21 *taken into account pursuant to paragraph*
22 *(1) under the risk-based assessment system,*
23 *including the requirement under such para-*
24 *graph to maintain a risk-based system.*

1 “(v) Any other factors the Board of Di-
2 rectors may determine to be appropriate.”;

3 and

4 (2) by inserting after subparagraph (C) the fol-
5 lowing new subparagraph:

6 “(D) NO DISCRIMINATION BASED ON
7 SIZE.—No insured depository institution shall be
8 barred from the lowest-risk category solely be-
9 cause of size.”.

10 (b) ASSESSMENT RECORDKEEPING PERIOD SHORT-
11 ENED.—Paragraph (5) of section 7(b) of the Federal De-
12 posit Insurance Act (12 U.S.C. 1817(b)) is amended to read
13 as follows:

14 “(5) DEPOSITORY INSTITUTION REQUIRED TO
15 MAINTAIN ASSESSMENT-RELATED RECORDS.—Each
16 insured depository institution shall maintain all
17 records that the Corporation may require for
18 verifying the correctness of any assessment on the in-
19 sured depository institution under this subsection
20 until the later of—

21 “(A) the end of the 3-year period beginning
22 on the due date of the assessment; or

23 “(B) in the case of a dispute between the in-
24 sured depository institution and the Corporation

1 *with respect to such assessment, the date of a*
 2 *final determination of any such dispute.”.*

3 (c) *INCREASE IN FEES FOR LATE ASSESSMENT PAY-*
 4 *MENTS.—Subsection (h) of section 18 of the Federal Deposit*
 5 *Insurance Act (12 U.S.C. 1828(h)) is amended to read as*
 6 *follows:*

7 “(h) *PENALTY FOR FAILURE TO TIMELY PAY ASSESS-*
 8 *MENTS.—*

9 “(1) *IN GENERAL.—Subject to paragraph (3),*
 10 *any insured depository institution which fails or re-*
 11 *fuses to pay any assessment shall be subject to a pen-*
 12 *alty in an amount of not more than 1 percent of the*
 13 *amount of the assessment due for each day that such*
 14 *violation continues.*

15 “(2) *EXCEPTION IN CASE OF DISPUTE.—Para-*
 16 *graph (1) shall not apply if—*

17 “(A) *the failure to pay an assessment is due*
 18 *to a dispute between the insured depository insti-*
 19 *tution and the Corporation over the amount of*
 20 *such assessment; and*

21 “(B) *the insured depository institution de-*
 22 *posits security satisfactory to the Corporation for*
 23 *payment upon final determination of the issue.*

24 “(3) *SPECIAL RULE FOR SMALL ASSESSMENT*
 25 *AMOUNTS.—If the amount of the assessment which an*

1 *insured depository institution fails or refuses to pay*
 2 *is less than \$10,000 at the time of such failure or re-*
 3 *fusals, the amount of any penalty to which such insti-*
 4 *tution is subject under paragraph (1) shall not exceed*
 5 *\$100 for each day that such violation continues.*

6 *“(4) AUTHORITY TO MODIFY OR REMIT PEN-*
 7 *ALTY.—The Corporation, in the sole discretion of the*
 8 *Corporation, may compromise, modify or remit any*
 9 *penalty which the Corporation may assess or has al-*
 10 *ready assessed under paragraph (1) upon a finding*
 11 *that good cause prevented the timely payment of an*
 12 *assessment.”.*

13 *(d) STATUTE OF LIMITATIONS FOR ASSESSMENT AC-*
 14 *TIONS.—Subsection (g) of section 7 of the Federal Deposit*
 15 *Insurance Act (12 U.S.C. 1817(g)) is amended to read as*
 16 *follows:*

17 *“(g) ASSESSMENT ACTIONS.—*

18 *“(1) IN GENERAL.—The Corporation, in any*
 19 *court of competent jurisdiction, shall be entitled to re-*
 20 *cover from any insured depository institution the*
 21 *amount of any unpaid assessment lawfully payable*
 22 *by such insured depository institution.*

23 *“(2) STATUTE OF LIMITATIONS.—The following*
 24 *provisions shall apply to actions relating to assess-*

1 *ments, notwithstanding any other provision in Fed-*
2 *eral law, or the law of any State:*

3 *“(A) Any action by an insured depository*
4 *institution to recover from the Corporation the*
5 *overpaid amount of any assessment shall be*
6 *brought within 3 years after the date the assess-*
7 *ment payment was due, subject to the exception*
8 *in subparagraph (E).*

9 *“(B) Any action by the Corporation to re-*
10 *cover from an insured depository institution the*
11 *underpaid amount of any assessment shall be*
12 *brought within 3 years after the date the assess-*
13 *ment payment was due, subject to the exceptions*
14 *in subparagraphs (C) and (E).*

15 *“(C) If an insured depository institution*
16 *has made a false or fraudulent statement with*
17 *intent to evade any or all of its assessment, the*
18 *Corporation shall have until 3 years after the*
19 *date of discovery of the false or fraudulent state-*
20 *ment in which to bring an action to recover the*
21 *underpaid amount.*

22 *“(D) Except as provided in subparagraph*
23 *(C), assessment deposit information contained in*
24 *records no longer required to be maintained pur-*

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

3 “(E) *Any action for the underpaid or over-*
 4 *paid amount of any assessment that became due*
 5 *before the amendment to this subsection under*
 6 *the Federal Deposit Insurance Reform Act of*
 7 *2005 took effect shall be subject to the statute of*
 8 *limitations for assessments in effect at the time*
 9 *the assessment became due.”.*

10 (e) *EFFECTIVE DATE.—This section and the amend-*
 11 *ments made by this section shall take effect on the date that*
 12 *the final regulations required under section 9(a)(5) take ef-*
 13 *fect.*

14 **SEC. 2105. REPLACEMENT OF FIXED DESIGNATED RESERVE**
 15 **RATIO WITH RESERVE RANGE.**

16 (a) *IN GENERAL.—Section 7(b)(3) of the Federal De-*
 17 *posit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to*
 18 *read as follows:*

19 “(3) *DESIGNATED RESERVE RATIO.—*

20 “(A) *ESTABLISHMENT.—*

21 “(i) *IN GENERAL.—Before the begin-*
 22 *ning of each calendar year, the Board of*
 23 *Directors shall designate the reserve ratio*
 24 *applicable with respect to the Deposit In-*

1 *urance Fund and publish the reserve ratio*
 2 *so designated.*

3 “(ii) *RULEMAKING REQUIREMENT.—*
 4 *Any change to the designated reserve ratio*
 5 *shall be made by the Board of Directors by*
 6 *regulation after notice and opportunity for*
 7 *comment.*

8 “(B) *RANGE.—The reserve ratio designated*
 9 *by the Board of Directors for any year—*

10 “(i) *may not exceed 1.5 percent of esti-*
 11 *mated insured deposits; and*

12 “(ii) *may not be less than 1.15 percent*
 13 *of estimated insured deposits.*

14 “(C) *FACTORS.—In designating a reserve*
 15 *ratio for any year, the Board of Directors*
 16 *shall—*

17 “(i) *take into account the risk of losses*
 18 *to the Deposit Insurance Fund in such year*
 19 *and future years, including historic experi-*
 20 *ence and potential and estimated losses*
 21 *from insured depository institutions;*

22 “(ii) *take into account economic condi-*
 23 *tions generally affecting insured depository*
 24 *institutions so as to allow the designated re-*
 25 *serve ratio to increase during more favor-*

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

7 *“(iii) seek to prevent sharp swings in*
8 *the assessment rates for insured depository*
9 *institutions; and*

10 *“(iv) take into account such other fac-*
11 *tors as the Board of Directors may deter-*
12 *mine to be appropriate, consistent with the*
13 *requirements of this subparagraph.*

14 *“(D) PUBLICATION OF PROPOSED CHANGE*
15 *IN RATIO.—In soliciting comment on any pro-*
16 *posed change in the designated reserve ratio in*
17 *accordance with subparagraph (A), the Board of*
18 *Directors shall include in the published proposal*
19 *a thorough analysis of the data and projections*
20 *on which the proposal is based.”.*

21 *(b) EFFECTIVE DATE.—This section and the amend-*
22 *ments made by this section shall take effect on the date that*
23 *the final regulations required under section 9(a)(1) take ef-*
24 *fect.*

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

3 *Section 7(b)(1) of the Federal Deposit Insurance Act*
4 *(12 U.S.C. 1817(b)(1)) is amended by adding at the end*
5 *the following new subparagraphs:*

6 *“(E) INFORMATION CONCERNING RISK OF*
7 *LOSS AND ECONOMIC CONDITIONS.—*

8 *“(i) SOURCES OF INFORMATION.—For*
9 *purposes of determining risk of losses at in-*
10 *sured depository institutions and economic*
11 *conditions generally affecting depository in-*
12 *stitutions, the Corporation shall collect in-*
13 *formation, as appropriate, from all sources*
14 *the Board of Directors considers appro-*
15 *priate, such as reports of condition, inspec-*
16 *tion reports, and other information from all*
17 *Federal banking agencies, any information*
18 *available from State bank supervisors, State*
19 *insurance and securities regulators, the Se-*
20 *curities and Exchange Commission (includ-*
21 *ing information described in section 35),*
22 *the Secretary of the Treasury, the Com-*
23 *modity Futures Trading Commission, the*
24 *Farm Credit Administration, the Federal*
25 *Trade Commission, any Federal reserve*
26 *bank or Federal home loan bank, and other*

1 *regulators of financial institutions, and any*
2 *information available from credit rating en-*
3 *tities, and other private economic or busi-*
4 *ness analysts.*

5 “(ii) *CONSULTATION WITH FEDERAL*
6 *BANKING AGENCIES.—*

7 “(I) *IN GENERAL.—Except as pro-*
8 *vided in subclause (II), in assessing the*
9 *risk of loss to the Deposit Insurance*
10 *Fund with respect to any insured de-*
11 *pository institution, the Corporation*
12 *shall consult with the appropriate Fed-*
13 *eral banking agency of such institu-*
14 *tion.*

15 “(II) *TREATMENT ON AGGREGATE*
16 *BASIS.—In the case of insured deposi-*
17 *tory institutions that are well capital-*
18 *ized (as defined in section 38) and, in*
19 *the most recent examination, were*
20 *found to be well managed, the consulta-*
21 *tion under subclause (I) concerning the*
22 *assessment of the risk of loss posed by*
23 *such institutions may be made on an*
24 *aggregate basis.*

1 “(iii) *RULE OF CONSTRUCTION.*—No
 2 *provision of this paragraph shall be con-*
 3 *strued as providing any new authority for*
 4 *the Corporation to require submission of in-*
 5 *formation by insured depository institutions*
 6 *to the Corporation.*

7 “(F) *MODIFICATIONS TO THE RISK-BASED*
 8 *ASSESSMENT SYSTEM ALLOWED ONLY AFTER NO-*
 9 *TICE AND COMMENT.*—*In revising or modifying*
 10 *the risk-based assessment system at any time*
 11 *after the date of the enactment of the Federal De-*
 12 *posit Insurance Reform Act of 2005, the Board*
 13 *of Directors may implement such revisions or*
 14 *modification in final form only after notice and*
 15 *opportunity for comment.”.*

16 **SEC. 2107. REFUNDS, DIVIDENDS, AND CREDITS FROM DE-**
 17 **POSIT INSURANCE FUND.**

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

21 “(e) *REFUNDS, DIVIDENDS, AND CREDITS.*—

22 “(1) *REFUNDS OF OVERPAYMENTS.*—*In the case*
 23 *of any payment of an assessment by an insured de-*
 24 *pository institution in excess of the amount due to the*
 25 *Corporation, the Corporation may—*

1 “(A) refund the amount of the excess pay-
2 ment to the insured depository institution; or

3 “(B) credit such excess amount toward the
4 payment of subsequent assessments until such
5 credit is exhausted.

6 “(2) *DIVIDENDS FROM EXCESS AMOUNTS IN DE-*
7 *POSIT INSURANCE FUND.—*

8 “(A) *RESERVE RATIO IN EXCESS OF 1.5*
9 *PERCENT OF ESTIMATED INSURED DEPOSITS.—*
10 *If, at the end of a calendar year, the reserve*
11 *ratio of the Deposit Insurance Fund exceeds 1.5*
12 *percent of estimated insured deposits, the Cor-*
13 *poration shall declare the amount in the Fund*
14 *in excess of the amount required to maintain the*
15 *reserve ratio at 1.5 percent of estimated insured*
16 *deposits, as dividends to be paid to insured de-*
17 *pository institutions.*

18 “(B) *RESERVE RATIO EQUAL TO OR IN EX-*
19 *CESS OF 1.35 PERCENT OF ESTIMATED INSURED*
20 *DEPOSITS AND NOT MORE THAN 1.5 PERCENT.—*
21 *If, at the end of a calendar year, the reserve*
22 *ratio of the Deposit Insurance Fund equals or*
23 *exceeds 1.35 percent of estimated insured deposits*
24 *and is not more than 1.5 percent of such depos-*
25 *its, the Corporation shall declare the amount in*

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

6 “(C) *BASIS FOR DISTRIBUTION OF DIVI-*
7 *DENDS.—*

8 “(i) *IN GENERAL.—Solely for the pur-*
9 *poses of dividend distribution under this*
10 *paragraph, the Corporation shall determine*
11 *each insured depository institution’s rel-*
12 *ative contribution to the Deposit Insurance*
13 *Fund (or any predecessor deposit insurance*
14 *fund) for calculating such institution’s*
15 *share of any dividend declared under this*
16 *paragraph, taking into account the factors*
17 *described in clause (ii).*

18 “(ii) *FACTORS FOR DISTRIBUTION.—In*
19 *implementing this paragraph in accordance*
20 *with regulations, the Corporation shall take*
21 *into account the following factors:*

22 “(I) *The ratio of the assessment*
23 *base of an insured depository institu-*
24 *tion (including any predecessor) on*
25 *December 31, 1996, to the assessment*

1 *base of all eligible insured depository*
2 *institutions on that date.*

3 “(II) *The total amount of assess-*
4 *ments paid on or after January 1,*
5 *1997, by an insured depository institu-*
6 *tion (including any predecessor) to the*
7 *Deposit Insurance Fund (and any*
8 *predecessor deposit insurance fund).*

9 “(III) *That portion of assessments*
10 *paid by an insured depository institu-*
11 *tion (including any predecessor) that*
12 *reflects higher levels of risk assumed by*
13 *such institution.*

14 “(IV) *Such other factors as the*
15 *Corporation may determine to be ap-*
16 *propriate.*

17 “(D) *NOTICE AND OPPORTUNITY FOR COM-*
18 *MENT.—The Corporation shall prescribe by regu-*
19 *lation, after notice and opportunity for com-*
20 *ment, the method for the calculation, declaration,*
21 *and payment of dividends under this paragraph.*

22 “(E) *LIMITATION.—The Board of Directors*
23 *may suspend or limit dividends paid under sub-*
24 *paragraph (B), if the Board determines in writ-*
25 *ing that—*

1 “(i) a significant risk of losses to the
2 *Deposit Insurance Fund* exists over the next
3 1-year period; and

4 “(ii) it is likely that such losses will be
5 sufficiently high as to justify a finding by
6 the Board that the reserve ratio should tem-
7 porarily be allowed—

8 “(I) to grow without requiring
9 dividends under subparagraph (B); or

10 “(II) to exceed the maximum
11 amount established under subsection
12 (b)(3)(B)(i).

13 “(F) *CONSIDERATIONS*.—In making a de-
14 termination under subparagraph (E), the Board
15 shall consider—

16 “(i) national and regional conditions
17 and their impact on insured depository in-
18 stitutions;

19 “(ii) potential problems affecting in-
20 sured depository institutions or a specific
21 group or type of depository institution;

22 “(iii) the degree to which the contin-
23 gent liability of the Corporation for antici-
24 pated failures of insured institutions ade-

1 *quately addresses concerns over funding lev-*
 2 *els in the Deposit Insurance Fund; and*

3 *“(iv) any other factors that the Board*
 4 *determines are appropriate.*

5 *“(G) REVIEW OF DETERMINATION.—*

6 *“(i) ANNUAL REVIEW.—A determina-*
 7 *tion to suspend or limit dividends under*
 8 *subparagraph (E) shall be reviewed by the*
 9 *Board of Directors annually.*

10 *“(ii) ACTION BY BOARD.—Based on*
 11 *each annual review under clause (i), the*
 12 *Board of Directors shall either renew or re-*
 13 *move a determination to suspend or limit*
 14 *dividends under subparagraph (E), or shall*
 15 *make a new determination in accordance*
 16 *with this paragraph. Unless justified under*
 17 *the terms of the renewal or new determina-*
 18 *tion, the Corporation shall be required to*
 19 *provide cash dividends under subparagraph*
 20 *(A) or (B), as appropriate.*

21 *“(3) ONE-TIME CREDIT BASED ON TOTAL AS-*
 22 *SESSMENT BASE AT YEAR-END 1996.—*

23 *“(A) IN GENERAL.—Before the end of the*
 24 *270-day period beginning on the date of the en-*
 25 *actment of the Federal Deposit Insurance Reform*

1 *Act of 2005, the Board of Directors shall, by reg-*
2 *ulation after notice and opportunity for com-*
3 *ment, provide for a credit to each eligible insured*
4 *depository institution (or a successor insured de-*
5 *pository institution), based on the assessment*
6 *base of the institution on December 31, 1996, as*
7 *compared to the combined aggregate assessment*
8 *base of all eligible insured depository institu-*
9 *tions, taking into account such factors as the*
10 *Board of Directors may determine to be appro-*
11 *priate.*

12 *“(B) CREDIT LIMIT.—The aggregate*
13 *amount of credits available under subparagraph*
14 *(A) to all eligible insured depository institutions*
15 *shall equal the amount that the Corporation*
16 *could collect if the Corporation imposed an as-*
17 *essment of 10.5 basis points on the combined as-*
18 *essment base of the Bank Insurance Fund and*
19 *the Savings Association Insurance Fund as of*
20 *December 31, 2001.*

21 *“(C) ELIGIBLE INSURED DEPOSITORY IN-*
22 *STITUTION DEFINED.—For purposes of this para-*
23 *graph, the term ‘eligible insured depository insti-*
24 *tution’ means any insured depository institution*
25 *that—*

1 “(i) was in existence on December 31,
2 1996, and paid a deposit insurance assess-
3 ment prior to that date; or

4 “(ii) is a successor to any insured de-
5 pository institution described in clause (i).

6 “(D) APPLICATION OF CREDITS.—

7 “(i) IN GENERAL.—Subject to clause
8 (ii), the amount of a credit to any eligible
9 insured depository institution under this
10 paragraph shall be applied by the Corpora-
11 tion, subject to subsection (b)(3)(E), to the
12 assessments imposed on such institution
13 under subsection (b) that become due for as-
14 sessment periods beginning after the effec-
15 tive date of regulations prescribed under
16 subparagraph (A).

17 “(ii) TEMPORARY RESTRICTION ON USE
18 OF CREDITS.—The amount of a credit to
19 any eligible insured depository institution
20 under this paragraph may not be applied to
21 more than 90 percent of the assessments im-
22 posed on such institution under subsection
23 (b) that become due for assessment periods
24 beginning in fiscal years 2008, 2009, and
25 2010.

1 “(iii) *REGULATIONS.*—*The regulations*
 2 *prescribed under subparagraph (A) shall es-*
 3 *tablish the qualifications and procedures*
 4 *governing the application of assessment*
 5 *credits pursuant to clause (i).*

6 “(E) *LIMITATION ON AMOUNT OF CREDIT*
 7 *FOR CERTAIN DEPOSITORY INSTITUTIONS.*—*In*
 8 *the case of an insured depository institution that*
 9 *exhibits financial, operational, or compliance*
 10 *weaknesses ranging from moderately severe to*
 11 *unsatisfactory, or is not adequately capitalized*
 12 *(as defined in section 38) at the beginning of an*
 13 *assessment period, the amount of any credit al-*
 14 *lowed under this paragraph against the assess-*
 15 *ment on that depository institution for such pe-*
 16 *riod may not exceed the amount calculated by*
 17 *applying to that depository institution the aver-*
 18 *age assessment rate on all insured depository in-*
 19 *stitutions for such assessment period.*

20 “(F) *SUCCESSOR DEFINED.*—*The Corpora-*
 21 *tion shall define the term ‘successor’ for purposes*
 22 *of this paragraph, by regulation, and may con-*
 23 *sider any factors as the Board may deem appro-*
 24 *priate.*

25 “(4) *ADMINISTRATIVE REVIEW.*—

1 “(A) *IN GENERAL.*—*The regulations pre-*
2 *scribed under paragraphs (2)(D) and (3) shall*
3 *include provisions allowing an insured deposi-*
4 *tory institution a reasonable opportunity to*
5 *challenge administratively the amount of the*
6 *credit or dividend determined under paragraph*
7 *(2) or (3) for such institution.*”

8 “(B) *ADMINISTRATIVE REVIEW.*—*Any re-*
9 *view under subparagraph (A) of any determina-*
10 *tion of the Corporation under paragraph (2) or*
11 *(3) shall be final and not subject to judicial re-*
12 *view.*”.

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

17 “(3) *RESERVE RATIO.*—*The term ‘reserve ratio’,*
18 *when used with regard to the Deposit Insurance Fund*
19 *other than in connection with a reference to the des-*
20 *ignated reserve ratio, means the ratio of the net worth*
21 *of the Deposit Insurance Fund to the value of the ag-*
22 *gregate estimated insured deposits.*”.

1 **SEC. 2108. DEPOSIT INSURANCE FUND RESTORATION**
 2 **PLANS.**

3 *Section 7(b)(3) of the Federal Deposit Insurance Act*
 4 *(12 U.S.C. 1817(b)(3)) (as amended by section 2105(a) of*
 5 *this subtitle) is amended by adding at the end the following*
 6 *new subparagraph:*

7 *“(E) DIF RESTORATION PLANS.—*

8 *“(i) IN GENERAL.—Whenever—*

9 *“(I) the Corporation projects that*
 10 *the reserve ratio of the Deposit Insur-*
 11 *ance Fund will, within 6 months of*
 12 *such determination, fall below the min-*
 13 *imum amount specified in subpara-*
 14 *graph (B)(i) for the designated reserve*
 15 *ratio; or*

16 *“(II) the reserve ratio of the De-*
 17 *posit Insurance Fund actually falls*
 18 *below the minimum amount specified*
 19 *in subparagraph (B)(i) for the des-*
 20 *ignated reserve ratio without any de-*
 21 *termination under subclause (I) having*
 22 *been made,*

23 *the Corporation shall establish and imple-*
 24 *ment a Deposit Insurance Fund restoration*
 25 *plan within 90 days that meets the require-*
 26 *ments of clause (i) and such other condi-*

1 *tions as the Corporation determines to be*
2 *appropriate.*

3 “(ii) *REQUIREMENTS OF RESTORATION*
4 *PLAN.—A Deposit Insurance Fund restora-*
5 *tion plan meets the requirements of this*
6 *clause if the plan provides that the reserve*
7 *ratio of the Fund will meet or exceed the*
8 *minimum amount specified in subpara-*
9 *graph (B)(ii) for the designated reserve*
10 *ratio before the end of the 5-year period be-*
11 *ginning upon the implementation of the*
12 *plan (or such longer period as the Corpora-*
13 *tion may determine to be necessary due to*
14 *extraordinary circumstances).*

15 “(iii) *RESTRICTION ON ASSESSMENT*
16 *CREDITS.—As part of any restoration plan*
17 *under this subparagraph, the Corporation*
18 *may elect to restrict the application of as-*
19 *essment credits provided under subsection*
20 *(e)(3) for any period that the plan is in ef-*
21 *fect.*

22 “(iv) *LIMITATION ON RESTRICTION.—*
23 *Notwithstanding clause (iii), while any res-*
24 *toration plan under this subparagraph is in*
25 *effect, the Corporation shall apply credits*

1 *provided to an insured depository institu-*
 2 *tion under subsection (e)(3) against any as-*
 3 *essment imposed on the institution for any*
 4 *assessment period in an amount equal to*
 5 *the lesser of—*

6 “(I) *the amount of the assessment;*

7 *or*

8 “(II) *the amount equal to 3 basis*
 9 *points of the institution’s assessment*
 10 *base.*

11 “(v) *TRANSPARENCY.—Not more than*
 12 *30 days after the Corporation establishes*
 13 *and implements a restoration plan under*
 14 *clause (i), the Corporation shall publish in*
 15 *the Federal Register a detailed analysis of*
 16 *the factors considered and the basis for the*
 17 *actions taken with regard to the plan.”.*

18 **SEC. 2109. REGULATIONS REQUIRED.**

19 (a) *IN GENERAL.—Not later than 270 days after the*
 20 *date of the enactment of this Act, the Board of Directors*
 21 *of the Federal Deposit Insurance Corporation shall pre-*
 22 *scribe final regulations, after notice and opportunity for*
 23 *comment—*

24 (1) *designating the reserve ratio for the Deposit*
 25 *Insurance Fund in accordance with section 7(b)(3) of*

1 *the Federal Deposit Insurance Act (as amended by*
2 *section 2105 of this subtitle);*

3 *(2) implementing increases in deposit insurance*
4 *coverage in accordance with the amendments made by*
5 *section 2103 of this subtitle;*

6 *(3) implementing the dividend requirement*
7 *under section 7(e)(2) of the Federal Deposit Insurance*
8 *Act (as amended by section 2107 of this subtitle);*

9 *(4) implementing the 1-time assessment credit to*
10 *certain insured depository institutions in accordance*
11 *with section 7(e)(3) of the Federal Deposit Insurance*
12 *Act, as amended by section 2107 of this subtitle, in-*
13 *cluding the qualifications and procedures under*
14 *which the Corporation would apply assessment cred-*
15 *its; and*

16 *(5) providing for assessments under section 7(b)*
17 *of the Federal Deposit Insurance Act, as amended by*
18 *this subtitle.*

19 *(b) TRANSITION PROVISIONS.—*

20 *(1) CONTINUATION OF EXISTING ASSESSMENT*
21 *REGULATIONS.—No provision of this subtitle or any*
22 *amendment made by this subtitle shall be construed*
23 *as affecting the authority of the Corporation to set or*
24 *collect deposit insurance assessments pursuant to any*

1 *regulations in effect before the effective date of the*
 2 *final regulations prescribed under subsection (a).*

3 (2) *TREATMENT OF DIF MEMBERS UNDER EXIST-*
 4 *ING REGULATIONS.—As of the date of the merger of*
 5 *the Bank Insurance Fund and the Savings Associa-*
 6 *tion Insurance Fund pursuant to section 2102, the*
 7 *assessment regulations in effect immediately before the*
 8 *date of the enactment of this Act shall continue to*
 9 *apply to all members of the Deposit Insurance Fund,*
 10 *until such regulations are modified by the Corpora-*
 11 *tion, notwithstanding that such regulations may refer*
 12 *to “Bank Insurance Fund members” or “Savings As-*
 13 *sociation Insurance Fund members”.*

14 **TITLE III—DIGITAL TELEVISION**
 15 **TRANSITION AND PUBLIC**
 16 **SAFETY**

17 **SEC. 3001. SHORT TITLE; DEFINITION.**

18 (a) *SHORT TITLE.—This title may be cited as the*
 19 *“Digital Television Transition and Public Safety Act of*
 20 *2005”.*

21 (b) *DEFINITION.—As used in this Act, the term “As-*
 22 *sistant Secretary” means the Assistant Secretary for Com-*
 23 *munications and Information of the Department of Com-*
 24 *merce.*

1 **SEC. 3002. ANALOG SPECTRUM RECOVERY: FIRM DEADLINE.**

2 (a) *AMENDMENTS.*—Section 309(j)(14) of the Commu-
3 nications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

4 (1) in subparagraph (A)—

5 (A) by inserting “full-power” before “tele-
6 vision broadcast license”; and

7 (B) by striking “December 31, 2006” and
8 inserting “February 17, 2009”;

9 (2) by striking subparagraph (B);

10 (3) in subparagraph (C)(i)(I), by striking “or
11 (B)”;

12 (4) in subparagraph (D), by striking “subpara-
13 graph (C)(i)” and inserting “subparagraph (B)(i)”;
14 and

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

17 (b) *TERMINATIONS OF ANALOG LICENSES AND BROAD-
18 CASTING.*—The Federal Communications Commission shall
19 take such actions as are necessary—

20 (1) to terminate all licenses for full-power tele-
21 vision stations in the analog television service, and to
22 require the cessation of broadcasting by full-power
23 stations in the analog television service, by February
24 18, 2009; and

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

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

7 *(c) CONFORMING AMENDMENTS.—*

8 *(1) Section 337(e) of the Communications Act of*
9 *1934 (47 U.S.C. 337(e)) is amended—*

10 *(A) in paragraph (1)—*

11 *(i) by striking “CHANNELS 60 TO 69”*
12 *and inserting “CHANNELS 52 TO 69”;*

13 *(ii) by striking “person who” and in-*
14 *serting “full-power television station li-*
15 *censee that”;*

16 *(iii) by striking “746 and 806 mega-*
17 *hertz” and inserting “698 and 806 mega-*
18 *hertz”; and*

19 *(iv) by striking “the date on which the*
20 *digital television service transition period*
21 *terminates, as determined by the Commis-*
22 *sion” and inserting “February 17, 2009”;*
23 *and*

24 *(B) in paragraph (2), by striking “746*
25 *megahertz” and inserting “698 megahertz”.*

1 **SEC. 3003. AUCTION OF RECOVERED SPECTRUM.**

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

5 (1) by redesignating the second paragraph (15)
6 of such section (as added by section 203(b) of the
7 *Commercial Spectrum Enhancement Act* (Pub. L.
8 108–494; 118 Stat. 3993)), as paragraph (16) of such
9 section; and

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

15 “(v) *ADDITIONAL DEADLINES FOR RE-*
16 *COVERED ANALOG SPECTRUM.*—Notwith-
17 *standing subparagraph (B), the Commis-*
18 *sion shall conduct the auction of the licenses*
19 *for recovered analog spectrum by com-*
20 *mencing the bidding not later than January*
21 *28, 2008, and shall deposit the proceeds of*
22 *such auction in accordance with paragraph*
23 *(8)(E)(ii) not later than June 30, 2008.*

24 “(vi) *RECOVERED ANALOG SPEC-*
25 *TRUM.*—For purposes of clause (v), the term
26 ‘recovered analog spectrum’ means the spec-

1 *trum between channels 52 and 69, inclusive*
 2 *(between frequencies 698 and 806 mega-*
 3 *hertz, inclusive) reclaimed from analog tele-*
 4 *vision service broadcasting under para-*
 5 *graph (14), other than—*

6 *“(I) the spectrum required by sec-*
 7 *tion 337 to be made available for pub-*
 8 *lic safety services; and*

9 *“(II) the spectrum auctioned*
 10 *prior to the date of enactment of the*
 11 *Digital Television Transition and Pub-*
 12 *lic Safety Act of 2005.”.*

13 *(b) EXTENSION OF AUCTION AUTHORITY.—Section*
 14 *309(j)(11) of such Act (47 U.S.C. 309(j)(11)) is amended*
 15 *by striking “2007” and inserting “2011”.*

16 **SEC. 3004. RESERVATION OF AUCTION PROCEEDS.**

17 *Section 309(j)(8) of the Communications Act of 1934*
 18 *(47 U.S.C. 309(j)(8)) is amended—*

19 *(1) in subparagraph (A), by striking “subpara-*
 20 *graph (B) or subparagraph (D)” and inserting “sub-*
 21 *paragraphs (B), (D), and (E)”;*

22 *(2) in subparagraph (C)(i), by inserting before*
 23 *the semicolon at the end the following: “, except as*
 24 *otherwise provided in subparagraph (E)(ii)”;* and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(E) *TRANSFER OF RECEIPTS.*—

4 “(i) *ESTABLISHMENT OF FUND.*—There
5 is established in the Treasury of the United
6 States a fund to be known as the Digital
7 Television Transition and Public Safety
8 Fund.

9 “(ii) *PROCEEDS FOR FUNDS.*—Not-
10 withstanding subparagraph (A), the pro-
11 ceeds (including deposits and upfront pay-
12 ments from successful bidders) from the use
13 of a competitive bidding system under this
14 subsection with respect to recovered analog
15 spectrum shall be deposited in the Digital
16 Television Transition and Public Safety
17 Fund.

18 “(iii) *TRANSFER OF AMOUNT TO*
19 *TREASURY.*—On September 30, 2009, the
20 Secretary shall transfer \$7,363,000,000
21 from the Digital Television Transition and
22 Public Safety Fund to the general fund of
23 the Treasury.

24 “(iv) *RECOVERED ANALOG SPEC-*
25 *TRUM.*—For purposes of clause (i), the term

1 ‘recovered analog spectrum’ has the mean-
2 ing provided in paragraph (15)(C)(vi).”.

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

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

6 (1) *implement and administer a program*
7 *through which households in the United States may*
8 *obtain coupons that can be applied toward the pur-*
9 *chase of digital-to-analog converter boxes; and*

10 (2) *make payments of not to exceed*
11 *\$990,000,000, in the aggregate, through fiscal year*
12 *2009 to carry out that program from the Digital Tele-*
13 *vision Transition and Public Safety Fund established*
14 *under section 309(j)(8)(E) of the Communications Act*
15 *of 1934 (47 U.S.C. 309(j)(8)(E)).*

16 (b) *CREDIT.*—*The Assistant Secretary may borrow*
17 *from the Treasury beginning on October 1, 2006 such sums*
18 *as may be necessary, but not to exceed \$1,500,000,000, to*
19 *implement this section. The Assistant Secretary shall reim-*
20 *burse the Treasury, without interest, as funds are deposited*
21 *into the Digital Television Transition and Public Safety*
22 *Fund.*

23 (c) *PROGRAM SPECIFICATIONS.*—

24 (1) *LIMITATIONS.*—

1 (A) *TWO-PER-HOUSEHOLD MAXIMUM.*—A
2 household may obtain coupons by making a re-
3 quest as required by the regulations under this
4 section between January 1, 2008, and March 31,
5 2009, inclusive. The Assistant Secretary shall en-
6 sure that each requesting household receives, via
7 the United States Postal Service, no more than
8 two coupons.

9 (B) *NO COMBINATIONS OF COUPONS.*—Two
10 coupons may not be used in combination toward
11 the purchase of a single digital-to-analog con-
12 verter box.

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

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

19 (A) all administrative expenses for the pro-
20 gram, including not more than \$5,000,000 for
21 consumer education concerning the digital tele-
22 vision transition and the availability of the dig-
23 ital-to-analog converter box program; and

1 (B) the total maximum value of all the cou-
2 pons redeemed, and issued but not expired, does
3 not exceed \$990,000,000.

4 (3) *USE OF ADDITIONAL AMOUNT.*—If the Assist-
5 ant Secretary transmits to the Committee on Energy
6 and Commerce of the House of Representatives and
7 Committee on Commerce, Science, and Transpor-
8 tation of the Senate a statement certifying that the
9 sum permitted to be expended under paragraph (2)
10 will be insufficient to fulfill the requests for coupons
11 from eligible households—

12 (A) paragraph (2) shall be applied—

13 (i) by substituting “\$160,000,000” for
14 “\$100,000,000”; and

15 (ii) by substituting “\$1,500,000,000”
16 for “\$990,000,000”;

17 (B) subsection (a)(2) shall be applied by
18 substituting “\$1,500,000,000” for
19 “\$990,000,000”; and

20 (C) the additional amount permitted to be
21 expended shall be available 60 days after the As-
22 sistant Secretary sends such statement.

23 (4) *COUPON VALUE.*—The value of each coupon
24 shall be \$40.

1 (d) *DEFINITION OF DIGITAL-TO-ANALOG CONVERTER*
 2 *BOX.*—*For purposes of this section, the term “digital-to-*
 3 *analog converter box” means a stand-alone device that does*
 4 *not contain features or functions except those necessary to*
 5 *enable a consumer to convert any channel broadcast in the*
 6 *digital television service into a format that the consumer*
 7 *can display on television receivers designed to receive and*
 8 *display signals only in the analog television service, but*
 9 *may also include a remote control device.*

10 **SEC. 3006. PUBLIC SAFETY INTEROPERABLE COMMUNICA-**
 11 **TIONS.**

12 (a) *CREATION OF PROGRAM.*—*The Assistant Sec-*
 13 *retary, in consultation with the Secretary of the Depart-*
 14 *ment of Homeland Security—*

15 (1) *may take such administrative action as is*
 16 *necessary to establish and implement a grant pro-*
 17 *gram to assist public safety agencies in the acquisi-*
 18 *tion of, deployment of, or training for the use of*
 19 *interoperable communications systems that utilize, or*
 20 *enable interoperability with communications systems*
 21 *that can utilize, reallocated public safety spectrum for*
 22 *radio communication; and*

23 (2) *shall make payments of not to exceed*
 24 *\$1,000,000,000, in the aggregate, through fiscal year*
 25 *2010 to carry out that program from the Digital Tele-*

1 *vision Transition and Public Safety Fund established*
 2 *under section 309(j)(8)(E) of the Communications Act*
 3 *of 1934 (47 U.S.C. 309(j)(8)(E)).*

4 (b) *CREDIT.—The Assistant Secretary may borrow*
 5 *from the Treasury beginning on October 1, 2006 such sums*
 6 *as may be necessary, but not to exceed \$1,000,000,000, to*
 7 *implement this section. The Assistant Secretary shall reim-*
 8 *burse the Treasury, without interest, as funds are deposited*
 9 *into the Digital Television Transition and Public Safety*
 10 *Fund.*

11 (c) *CONDITION OF GRANTS.—In order to obtain a*
 12 *grant under the grant program, a public safety agency shall*
 13 *agree to provide, from non-Federal sources, not less than*
 14 *20 percent of the costs of acquiring and deploying the inter-*
 15 *operable communications systems funded under the grant*
 16 *program.*

17 (d) *DEFINITIONS.—For purposes of this section:*

18 (1) *PUBLIC SAFETY AGENCY.—The term “public*
 19 *safety agency” means any State, local, or tribal gov-*
 20 *ernment entity, or nongovernmental organization au-*
 21 *thorized by such entity, whose sole or principal pur-*
 22 *pose is to protect the safety of life, health, or property.*

23 (2) *INTEROPERABLE COMMUNICATIONS SYS-*
 24 *TEMS.—The term “interoperable communications sys-*
 25 *tems” means communications systems which enable*

1 *public safety agencies to share information amongst*
 2 *local, State, Federal, and tribal public safety agencies*
 3 *in the same area via voice or data signals.*

4 (3) *REALLOCATED PUBLIC SAFETY SPECTRUM.—*
 5 *The term “reallocated public safety spectrum” means*
 6 *the bands of spectrum located at 764–776 megahertz*
 7 *and 794–806 megahertz, inclusive.*

8 **SEC. 3007. NYC 9/11 DIGITAL TRANSITION.**

9 (a) *FUNDS AVAILABLE.—From the Digital Television*
 10 *Transition and Public Safety Fund established under sec-*
 11 *tion 309(j)(8)(E) of the Communications Act of 1934 (47*
 12 *U.S.C. 309(j)(8)(E)) the Assistant Secretary shall make*
 13 *payments of not to exceed \$30,000,000, in the aggregate,*
 14 *which shall be available to carry out this section for fiscal*
 15 *years 2007 through 2008. The Assistant Secretary may bor-*
 16 *row from the Treasury beginning October 1, 2006 such sums*
 17 *as may be necessary not to exceed \$30,000,000 to implement*
 18 *and administer the program in accordance with this sec-*
 19 *tion. The Assistant Secretary shall reimburse the Treasury,*
 20 *without interest, as funds are deposited into the Digital Tel-*
 21 *evision Transition and Public Safety Fund.*

22 (b) *USE OF FUNDS.—The sums available under sub-*
 23 *section (a) shall be made available by the Assistant Sec-*
 24 *retary by grant to be used to reimburse the Metropolitan*
 25 *Television Alliance for costs incurred in the design and de-*

1 *ployment of a temporary digital television broadcast system*
 2 *to ensure that, until a permanent facility atop the Freedom*
 3 *Tower is constructed, the members of the Metropolitan Tele-*
 4 *vision Alliance can provide the New York City area with*
 5 *an adequate digital television signal as determined by the*
 6 *Federal Communications Commission.*

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

8 *(1) METROPOLITAN TELEVISION ALLIANCE.—The*
 9 *term “Metropolitan Television Alliance” means the*
 10 *organization formed by New York City television*
 11 *broadcast station licensees to locate new shared facili-*
 12 *ties as a result of the attacks on September 11, 2001*
 13 *and the loss of use of shared facilities that housed*
 14 *broadcast equipment.*

15 *(2) NEW YORK CITY AREA.—The term “New York*
 16 *City area” means the five counties comprising New*
 17 *York City and counties of northern New Jersey in im-*
 18 *mediate proximity to New York City (Bergen, Essex,*
 19 *Union, and Hudson Counties) .*

20 **SEC. 3008. LOW-POWER TELEVISION AND TRANSLATOR DIG-**
 21 **ITAL-TO-ANALOG CONVERSION.**

22 *(a) CREATION OF PROGRAM.—The Assistant Secretary*
 23 *shall make payments of not to exceed \$10,000,000, in the*
 24 *aggregate, during the fiscal year 2008 and 2009 period from*
 25 *the Digital Television Transition and Public Safety Fund*

1 *established under section 309(j)(8)(E) of the Communica-*
2 *tions Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement*
3 *and administer a program through which each eligible low-*
4 *power television station may receive compensation toward*
5 *the cost of the purchase of a digital-to-analog conversion*
6 *device that enables it to convert the incoming digital signal*
7 *of its corresponding full-power television station to analog*
8 *format for transmission on the low-power television sta-*
9 *tion's analog channel. An eligible low-power television sta-*
10 *tion may receive such compensation only if it submits a*
11 *request for such compensation on or before February 17,*
12 *2009. Priority compensation shall be given to eligible low-*
13 *power television stations in which the license is held by a*
14 *non-profit corporation and eligible low-power television sta-*
15 *tions that serve rural areas of fewer than 10,000 viewers.*

16 (b) *CREDIT.—The Assistant Secretary may borrow*
17 *from the Treasury beginning October 1, 2006 such sums as*
18 *may be necessary, but not to exceed \$10,000,000, to imple-*
19 *ment this section. The Assistant Secretary shall reimburse*
20 *the Treasury, without interest, as funds are deposited into*
21 *the Digital Television Transition and Public Safety Fund.*

22 (c) *ELIGIBLE STATIONS.—For purposes of this section,*
23 *the term “eligible low-power television station” means a*
24 *low-power television broadcast station, Class A television*

1 station, television translator station, or television booster
2 station—

3 (1) that is itself broadcasting exclusively in ana-
4 log format; and

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

9 **SEC. 3009. LOW-POWER TELEVISION AND TRANSLATOR UP-**
10 **GRADE PROGRAM.**

11 (a) *ESTABLISHMENT.*—The Assistant Secretary shall
12 make payments of not to exceed \$65,000,000, in the aggre-
13 gate, during fiscal year 2009 the Digital Television Transi-
14 tion and Public Safety Fund established under section
15 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C.
16 309(j)(8)(E)) to implement and administer a program
17 through which each licensee of an eligible low-power tele-
18 vision station may receive reimbursement for equipment to
19 upgrade low-power television stations from analog to digital
20 in eligible rural communities, as that term is defined in
21 section 610(b)(2) of the Rural Electrification Act of 1937
22 (7 U.S.C. 950bb(b)(2)). Such reimbursements shall be issued
23 to eligible stations no earlier than October 1, 2010. Priority
24 reimbursements shall be given to eligible low-power tele-
25 vision stations in which the license is held by a non-profit

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

3 (b) *ELIGIBLE STATIONS.*—*For purposes of this section,*
4 *the term “eligible low-power television station” means a*
5 *low-power television broadcast station, Class A television*
6 *station, television translator station, or television booster*
7 *station—*

8 (1) *that is itself broadcasting exclusively in ana-*
9 *log format; and*

10 (2) *that has not converted from analog to digital*
11 *operations prior to the date of enactment of the Dig-*
12 *ital Television Transition and Public Safety Act of*
13 *2005.*

14 **SEC. 3010. NATIONAL ALERT AND TSUNAMI WARNING PRO-**
15 **GRAM.**

16 *The Assistant Secretary shall make payments of not*
17 *to exceed \$156,000,000, in the aggregate, during the fiscal*
18 *year 2007 through 2012 period from the Digital Television*
19 *Transition and Public Safety Fund established under sec-*
20 *tion 309(j)(8)(E) of the Communications Act of 1934 (47*
21 *U.S.C. 309(j)(8)(E)) to implement a unified national alert*
22 *system capable of alerting the public, on a national, re-*
23 *gional, or local basis to emergency situations by using a*
24 *variety of communications technologies. The Assistant Sec-*

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

3 **SEC. 3011. ENHANCE 911.**

4 *The Assistant Secretary shall make payments of not*
5 *to exceed \$43,500,000, in the aggregate, from the Digital*
6 *Television Transition and Public Safety Fund established*
7 *under section 309(j)(8)(E) of the Communications Act of*
8 *1934 (47 U.S.C. 309(j)(8)(E)) to implement the ENHANCE*
9 *911 Act of 2004.*

10 **SEC. 3012. ESSENTIAL AIR SERVICE PROGRAM.**

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

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

24 *(1) appropriated for that fiscal year; or*

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

6 (c) *ADVANCES.—The Secretary of Transportation may*
7 *borrow from the Treasury such sums as may be necessary,*
8 *but not to exceed \$30,000,000 on a temporary and reim-*
9 *bursable basis to implement subsection (a). The Secretary*
10 *of Transportation shall reimburse the Treasury, without in-*
11 *terest, as funds are deposited into the Digital Television*
12 *Transition and Public Safety Fund under section*
13 *309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C.*
14 *309(j)(8)(E)) and made available to the Secretary under*
15 *subsection (a).*

16 **SEC. 3013. SUPPLEMENTAL LICENSE FEES.**

17 *In addition to any fees assessed under the Communica-*
18 *tions Act of 1934 (47 U.S.C. 151 et seq.), the Federal Com-*
19 *munications Commission shall assess extraordinary fees for*
20 *licenses in the aggregate amount of \$10,000,000, which shall*
21 *be deposited in the Treasury during fiscal year 2006 as off-*
22 *setting receipts.*

1 **TITLE IV—TRANSPORTATION**
 2 **PROVISIONS**

3 **SEC. 4001. EXTENSION OF VESSEL TONNAGE DUTIES.**

4 (a) *EXTENSION OF DUTIES.*—Section 36 of the Act en-
 5 titled “An Act to provide revenue, equalize duties and en-
 6 courage the industries of the United States, and for other
 7 purposes”, approved August 5, 1909 (36 Stat. 111; 46
 8 U.S.C. App. 121), is amended—

9 (1) by striking “9 cents per ton” and all that fol-
 10 lows through “2002,” the first place it appears and
 11 inserting “4.5 cents per ton, not to exceed in the ag-
 12 gregate 22.5 cents per ton in any one year, for fiscal
 13 years 2006 through 2010,”; and

14 (2) by striking “27 cents per ton” and all that
 15 follows through “2002,” and inserting “13.5 cents per
 16 ton, not to exceed 67.5 cents per ton per annum, for
 17 fiscal years 2006 through 2010,”.

18 (b) *CONFORMING AMENDMENT.*—The Act entitled “An
 19 Act concerning tonnage duties on vessels entering otherwise
 20 than by sea”, approved March 8, 1910 (36 Stat. 234; 46
 21 U.S.C. App. 132), is amended by striking “9 cents per ton”
 22 and all that follows through “and 2 cents” and inserting
 23 “4.5 cents per ton, not to exceed in the aggregate 22.5 cents
 24 per ton in any one year, for fiscal years 2006 through 2010,
 25 and 2 cents”.

1 **TITLE V—MEDICARE**
2 **Subtitle A—Provisions Relating to**
3 **Part A**

4 **SEC. 5001. HOSPITAL QUALITY IMPROVEMENT.**

5 (a) *SUBMISSION OF HOSPITAL DATA.*—Section
6 1886(b)(3)(B) of the Social Security Act (42 U.S.C.
7 1395ww(b)(3)(B)) is amended—

8 (1) in clause (i)—

9 (A) in subclause (XIX), by striking “2007”
10 and inserting “2006”; and

11 (B) in subclause (XX), by striking “for fis-
12 cal year 2008 and each subsequent fiscal year,”
13 and inserting “for each subsequent fiscal year,
14 subject to clause (viii),”;

15 (2) in clause (vii)—

16 (A) in subclause (I), by striking “for each
17 of fiscal years 2005 through 2007” and inserting
18 “for fiscal years 2005 and 2006”; and

19 (B) in subclause (II), by striking “Each”
20 and inserting “For fiscal years 2005 and 2006,
21 each”; and

22 (3) by adding at the end the following new
23 clauses:

24 “(viii)(I) For purposes of clause (i) for
25 fiscal year 2007 and each subsequent fiscal

1 year, in the case of a subsection (d) hospital
2 that does not submit, to the Secretary in ac-
3 cordance with this clause, data required to
4 be submitted on measures selected under this
5 clause with respect to such a fiscal year, the
6 applicable percentage increase under clause
7 (i) for such fiscal year shall be reduced by
8 2.0 percentage points. Such reduction shall
9 apply only with respect to the fiscal year
10 involved and the Secretary shall not take
11 into account such reduction in computing
12 the applicable percentage increase under
13 clause (i) for a subsequent fiscal year, and
14 the Secretary and the Medicare Payment
15 Advisory Commission shall carry out the re-
16 quirements under section 5001(b) of the Def-
17 icit Reduction Act of 2005.

18 “(II) Each subsection (d) hospital shall
19 submit data on measures selected under this
20 clause to the Secretary in a form and man-
21 ner, and at a time, specified by the Sec-
22 retary for purposes of this clause.

23 “(III) The Secretary shall expand, be-
24 yond the measures specified under clause
25 (vii)(II) and consistent with the succeeding

1 *subclauses, the set of measures that the Sec-*
2 *retary determines to be appropriate for the*
3 *measurement of the quality of care fur-*
4 *nished by hospitals in inpatient settings.*

5 “(IV) *Effective for payments beginning*
6 *with fiscal year 2007, in expanding the*
7 *number of measures under subclause (III),*
8 *the Secretary shall begin to adopt the base-*
9 *line set of performance measures as set forth*
10 *in the November 2005 report by the Insti-*
11 *tute of Medicine of the National Academy of*
12 *Sciences under section 238(b) of the Medi-*
13 *care Prescription Drug, Improvement, and*
14 *Modernization Act of 2003.*

15 “(V) *Effective for payments beginning*
16 *with fiscal year 2008, the Secretary shall*
17 *add other measures that reflect consensus*
18 *among affected parties and, to the extent*
19 *feasible and practicable, shall include meas-*
20 *ures set forth by one or more national con-*
21 *sensus building entities.*

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

1 compliance or the measures or indicators
2 have been subsequently shown not to rep-
3 resent the best clinical practice.

4 “(VII) The Secretary shall establish
5 procedures for making data submitted
6 under this clause available to the public.
7 Such procedures shall ensure that a hospital
8 has the opportunity to review the data that
9 are to be made public with respect to the
10 hospital prior to such data being made pub-
11 lic. The Secretary shall report quality meas-
12 ures of process, structure, outcome, patients’
13 perspectives on care, efficiency, and costs of
14 care that relate to services furnished in in-
15 patient settings in hospitals on the Internet
16 website of the Centers for Medicare & Med-
17 icaid Services.”.

18 (b) *PLAN FOR HOSPITAL VALUE BASED PURCHASING*
19 *PROGRAM.*—

20 (1) *IN GENERAL.*—The Secretary of Health and
21 Human Services shall develop a plan to implement a
22 value based purchasing program for payments under
23 the Medicare program for subsection (d) hospitals be-
24 ginning with fiscal year 2009.

1 (2) *DETAILS.*—*Such a plan shall include consid-*
 2 *eration of the following issues:*

3 (A) *The on-going development, selection,*
 4 *and modification process for measures of quality*
 5 *and efficiency in hospital inpatient settings.*

6 (B) *The reporting, collection, and valida-*
 7 *tion of quality data.*

8 (C) *The structure of value based payment*
 9 *adjustments, including the determination of*
 10 *thresholds or improvements in quality that*
 11 *would substantiate a payment adjustment, the*
 12 *size of such payments, and the sources of funding*
 13 *for the value based payments.*

14 (D) *The disclosure of information on hos-*
 15 *pital performance.*

16 *In developing such a plan, the Secretary shall consult*
 17 *with relevant affected parties and shall consider expe-*
 18 *rience with such demonstrations that are relevant to*
 19 *the value based purchasing program under this sub-*
 20 *section.*

21 (c) *QUALITY ADJUSTMENT IN DRG PAYMENTS FOR*
 22 *CERTAIN HOSPITAL ACQUIRED INFECTIONS.*—

23 (1) *IN GENERAL.*—*Section 1886(d)(4) of the So-*
 24 *cial Security Act (42 U.S.C. 1395ww(d)(4)) is*

1 *amended by adding at the end the following new sub-*
2 *paragraph:*

3 *“(D)(i) For discharges occurring on or after October*
4 *1, 2008, the diagnosis-related group to be assigned under*
5 *this paragraph for a discharge described in clause (ii) shall*
6 *be a diagnosis-related group that does not result in higher*
7 *payment based on the presence of a secondary diagnosis*
8 *code described in clause (iv).*

9 *“(ii) A discharge described in this clause is a discharge*
10 *which meets the following requirements:*

11 *“(I) The discharge includes a condition identi-*
12 *fied by a diagnosis code selected under clause (iv) as*
13 *a secondary diagnosis.*

14 *“(II) But for clause (i), the discharge would have*
15 *been classified to a diagnosis-related group that re-*
16 *sults in a higher payment based on the presence of a*
17 *secondary diagnosis code selected under clause (iv).*

18 *“(III) At the time of admission, no code selected*
19 *under clause (iv) was present.*

20 *“(iii) As part of the information required to be re-*
21 *ported by a hospital with respect to a discharge of an indi-*
22 *vidual in order for payment to be made under this sub-*
23 *section, for discharges occurring on or after October 1, 2007,*
24 *the information shall include the secondary diagnosis of the*
25 *individual at admission.*

1 “(iv) *By not later than October 1, 2007, the Secretary*
2 *shall select diagnosis codes associated with at least two con-*
3 *ditions, each of which codes meets all of the following re-*
4 *quirements (as determined by the Secretary):*

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

7 “(II) *The code results in the assignment of a case*
8 *to a diagnosis-related group that has a higher pay-*
9 *ment when the code is present as a secondary diag-*
10 *nosis.*

11 “(III) *The code describes such conditions that*
12 *could reasonably have been prevented through the ap-*
13 *plication of evidence-based guidelines.*

14 *The Secretary may from time to time revise (through addi-*
15 *tion or deletion of codes) the diagnosis codes selected under*
16 *this clause so long as there are diagnosis codes associated*
17 *with at least two conditions selected for discharges occur-*
18 *ring during any fiscal year.*

19 “(v) *In selecting and revising diagnosis codes under*
20 *clause (iv), the Secretary shall consult with the Centers for*
21 *Disease Control and Prevention and other appropriate enti-*
22 *ties.*

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

1 *the weighting factors under subparagraph (C)(i) or in ap-*
 2 *plying budget neutrality under subparagraph (C)(iii).”.*

3 (2) *NO JUDICIAL REVIEW.—Section*
 4 *1886(d)(7)(B) of such Act (42 U.S.C.*
 5 *1395ww(d)(7)(B)) is amended by inserting before the*
 6 *period the following: “, including the selection and re-*
 7 *vision of codes under paragraph (4)(D).”.*

8 **SEC. 5002. CLARIFICATION OF DETERMINATION OF MED-**
 9 **ICAID PATIENT DAYS FOR DSH COMPUTA-**
 10 **TION.**

11 (a) *IN GENERAL.—Section 1886(d)(5)(F)(vi) of the*
 12 *Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(vi)) is*
 13 *amended by adding after and below subclause (II) the fol-*
 14 *lowing:*

15 *“In determining under subclause (II) the number of the hos-*
 16 *pital’s patient days for such period which consist of pa-*
 17 *tients who (for such days) were eligible for medical assist-*
 18 *ance under a State plan approved under title XIX, the Sec-*
 19 *retary may, to the extent and for the period the Secretary*
 20 *determines appropriate, include patient days of patients*
 21 *not so eligible but who are regarded as such because they*
 22 *receive benefits under a demonstration project approved*
 23 *under title XI.”.*

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

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

9 (2) *NO APPLICATION TO CLOSED COST RE-*
10 *PORTS.*—Paragraph (1) shall not be applied in a
11 manner that requires the reopening of any cost re-
12 ports which are closed as of the date of the enactment
13 of this Act.

14 (3) *REGULATIONS DESCRIBED.*—For purposes of
15 paragraph (1), the regulations described in this para-
16 graph are as follows:

17 (A) *2000 REGULATION.*—Regulations pro-
18 mulgated on January 20, 2000, at 65 Federal
19 Register 3136 et seq., including the policy in
20 such regulations regarding discharges occurring
21 prior to January 20, 2000.

22 (B) *2003 REGULATION.*—Regulations pro-
23 mulgated on August 1, 2003, at 68 Federal Reg-
24 ister 45345 et seq.

1 **SEC. 5003. IMPROVEMENTS TO THE MEDICARE-DEPENDENT**
2 **HOSPITAL (MDH) PROGRAM.**

3 *(a) 5-YEAR EXTENSION.—*

4 *(1) EXTENSION OF PAYMENT METHODOLOGY.—*
5 *Section 1886(d)(5)(G) of the Social Security Act (42*
6 *U.S.C. 1395ww(d)(5)(G)) is amended—*

7 *(A) in clause (i), by striking “October 1,*
8 *2006” and inserting “October 1, 2011”; and*

9 *(B) in clause (ii)(II)—*

10 *(i) by striking “October 1, 2006” and*
11 *inserting “October 1, 2011”; and*

12 *(ii) by inserting “or for discharges in*
13 *the fiscal year” after “for the cost reporting*
14 *period”.*

15 *(2) CONFORMING AMENDMENTS.—*

16 *(A) EXTENSION OF TARGET AMOUNT.—Sec-*
17 *tion 1886(b)(3)(D) of such Act (42 U.S.C.*
18 *1395ww(b)(3)(D)) is amended—*

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

20 *(I) by striking “beginning” and*
21 *inserting “occurring”; and*

22 *(II) by striking “October 1, 2006”*
23 *and inserting “October 1, 2011”; and*

24 *(ii) in clause (iv), by striking “through*
25 *fiscal year 2005” and inserting “through*
26 *fiscal year 2011”.*

1 (B) *PERMITTING HOSPITALS TO DECLINE*
2 *RECLASSIFICATION.*—Section 13501(e)(2) of the
3 *Omnibus Budget Reconciliation Act of 1993* (42
4 *U.S.C. 1395ww note*) is amended by striking
5 “through fiscal year 2005” and inserting
6 “through fiscal year 2011”.

7 (b) *OPTION TO USE 2002 AS BASE YEAR.*—Section
8 1886(b)(3) of such Act (42 *U.S.C. 1395ww(b)(3)*) is
9 amended—

10 (1) in subparagraph (D), by inserting “subject to
11 subparagraph (K),” after “(d)(5)(G),”; and

12 (2) by adding at the end the following new sub-
13 paragraph:

14 “(K)(i) With respect to discharges occurring on or
15 after October 1, 2006, in the case of a medicare-dependent,
16 small rural hospital, for purposes of applying subpara-
17 graph (D)—

18 “(I) there shall be substituted for the base cost re-
19 porting period described in subparagraph (D)(i) the
20 12-month cost reporting period beginning during fis-
21 cal year 2002; and

22 “(II) any reference in such subparagraph to the
23 ‘first cost reporting period’ described in such subpara-
24 graph is deemed a reference to the first cost reporting
25 period beginning on or after October 1, 2006.

1 “(ii) This subparagraph shall only apply to a hospital
2 if the substitution described in clause (i)(I) results in an
3 increase in the target amount under subparagraph (D) for
4 the hospital.”.

5 (c) *ENHANCED PAYMENT FOR AMOUNT BY WHICH THE*
6 *TARGET EXCEEDS THE PPS RATE.*—Section
7 1886(d)(5)(G)(ii)(II) of such Act (42 U.S.C.
8 1395ww(d)(5)(G)(iv)(II)) is amended by inserting “(or 75
9 percent in the case of discharges occurring on or after Octo-
10 ber 1, 2006)” after “50 percent”.

11 (d) *ENHANCED DISPROPORTIONATE SHARE HOSPITAL*
12 *(DSH) TREATMENT FOR MEDICARE-DEPENDENT HOS-*
13 *PITALS.*—Section 1886(d)(5)(F)(xiv)(II) of such Act (42
14 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended by inserting
15 “or, in the case of discharges occurring on or after October
16 1, 2006, as a medicare-dependent, small rural hospital
17 under subparagraph (G)(iv)” before the period at the end.

18 **SEC. 5004. REDUCTION IN PAYMENTS TO SKILLED NURSING**

19 **FACILITIES FOR BAD DEBT.**

20 (a) *IN GENERAL.*—Section 1861(v)(1) of the Social Se-
21 curity Act (42 U.S.C. 1395x(v)(1)) is amended by adding
22 at the end the following new subparagraph:

23 “(V) In determining such reasonable costs for skilled
24 nursing facilities with respect to cost reporting periods be-
25 ginning on or after October 1, 2005, the amount of bad

1 *debts otherwise treated as allowed costs which are attrib-*
 2 *utable to the coinsurance amounts under this title for indi-*
 3 *viduals who are entitled to benefits under part A and—*

4 “(i) are not described in section
 5 1935(c)(6)(A)(ii) shall be reduced by 30 percent of
 6 such amount otherwise allowable; and

7 “(ii) are described in such section shall not be re-
 8 duced.”.

9 (b) *TECHNICAL AMENDMENT.*—Section 1861(v)(1)(T)
 10 *of such Act (42 U.S.C. 1395x(v)(1)(T)) is amended by strik-*
 11 *ing “section 1833(t)(5)(B)” and inserting “section*
 12 *1833(t)(8)(B)”.*

13 **SEC. 5005. EXTENDED PHASE-IN OF THE INPATIENT REHA-**
 14 **BILITATION FACILITY CLASSIFICATION CRI-**
 15 **TERIA.**

16 (a) *IN GENERAL.*—Notwithstanding section
 17 412.23(b)(2) of title 42, Code of Federal Regulations, the
 18 Secretary of Health and Human Services shall apply the
 19 applicable percent specified in subsection (b) in the classi-
 20 fication criterion used under the IRF regulation (as defined
 21 in subsection (c)) to determine whether a hospital or unit
 22 of a hospital is an inpatient rehabilitation facility under
 23 the Medicare program under title XVIII of the Social Secu-
 24 rity Act.

1 (b) *APPLICABLE PERCENT.*—For purposes of sub-
 2 section (a), the applicable percent specified in this sub-
 3 section for cost reporting periods—

4 (1) beginning during the 12-month period begin-
 5 ning on July 1, 2006, is 60 percent;

6 (2) beginning during the 12-month period begin-
 7 ning on July 1, 2007, is 65 percent; and

8 (3) beginning on or after July 1, 2008, is 75
 9 percent.

10 (c) *IRF REGULATION.*—For purposes of subsection (a),
 11 the term “*IRF regulation*” means the rule published in the
 12 *Federal Register* on May 7, 2004, entitled “*Medicare Pro-*
 13 *gram; Final Rule; Changes to the Criteria for Being Classi-*
 14 *fied as an Inpatient Rehabilitation Facility*” (69 *Fed. Reg.*
 15 25752).

16 **SEC. 5006. DEVELOPMENT OF A STRATEGIC PLAN REGARD-**
 17 **ING PHYSICIAN INVESTMENT IN SPECIALTY**
 18 **HOSPITALS.**

19 (a) *DEVELOPMENT.*—

20 (1) *IN GENERAL.*—The Secretary of Health and
 21 Human Services (in this section referred to as the
 22 “Secretary”) shall develop a strategic and imple-
 23 menting plan to address issues described in para-
 24 graph (2) regarding physician investment in spe-
 25 cialty hospitals (as defined in section 1877(h)(7)(A)

1 of the Social Security Act (42 U.S.C.
2 1395nn(h)(7)(A)).

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

5 (A) *Proportionality of investment return.*

6 (B) *Bona fide investment.*

7 (C) *Annual disclosure of investment infor-*
8 *mation.*

9 (D) *The provision by specialty hospitals*
10 *of—*

11 (i) *care to patients who are eligible for*
12 *medical assistance under a State plan ap-*
13 *proved under title XIX of the Social Secu-*
14 *rity Act, including patients not so eligible*
15 *but who are regarded as such because they*
16 *receive benefits under a demonstration*
17 *project approved under title XI of such Act;*
18 *and*

19 (ii) *charity care.*

20 (E) *Appropriate enforcement.*

21 (b) *REPORTS.*—

22 (1) *INTERIM REPORT.*—*Not later than 3 months*
23 *after the date of the enactment of this Act, the Sec-*
24 *retary shall submit an interim report to the appro-*
25 *priate committees of jurisdiction of Congress on the*

1 *status of the development of the plan under subsection*
 2 *(a).*

3 (2) *FINAL REPORT.*—*Not later than six months*
 4 *after the date of the enactment of this Act, the Sec-*
 5 *retary shall submit a final report to the appropriate*
 6 *committees of jurisdiction of Congress on the plan de-*
 7 *veloped under subsection (a) together with rec-*
 8 *ommendations for such legislation and administrative*
 9 *actions as the Secretary considers appropriate.*

10 (c) *CONTINUATION OF SUSPENSION ON ENROLL-*
 11 *MENT.*—

12 (1) *IN GENERAL.*—*Subject to paragraph (2), the*
 13 *Secretary shall continue the suspension on enrollment*
 14 *of new specialty hospitals (as so defined) under title*
 15 *XVIII of the Social Security Act until the earlier of—*

16 (A) *the date that the Secretary submits the*
 17 *final report under subsection (b)(2); or*

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

20 (2) *EXTENSION OF SUSPENSION.*—*If the Sec-*
 21 *retary fails to submit the final report described in*
 22 *subsection (b)(2) by the date required under such sub-*
 23 *section, the Secretary shall—*

1 (A) *extend the suspension on enrollment*
 2 *under paragraph (1) for an additional two*
 3 *months; and*

4 (B) *provide a certification to the appro-*
 5 *priate committees of jurisdiction of Congress of*
 6 *such failure.*

7 (d) *WAIVER.—In developing the plan and report re-*
 8 *quired under this section, the Secretary may waive such*
 9 *requirements of section 553 of title 5, United States Code,*
 10 *as the Secretary determines necessary.*

11 (e) *FUNDING.—Out of any funds in the Treasury not*
 12 *otherwise appropriated, there are appropriated to the Sec-*
 13 *retary for fiscal year 2006, \$2,000,000 to carry out this*
 14 *section.*

15 **SEC. 5007. MEDICARE DEMONSTRATION PROJECTS TO PER-**
 16 **MIT GAINSHARING ARRANGEMENTS.**

17 (a) *ESTABLISHMENT.—The Secretary shall establish*
 18 *under this section a qualified gainsharing demonstration*
 19 *program under which the Secretary shall approve dem-*
 20 *onstration projects by not later than November 1, 2006, to*
 21 *test and evaluate methodologies and arrangements between*
 22 *hospitals and physicians designed to govern the utilization*
 23 *of inpatient hospital resources and physician work to im-*
 24 *prove the quality and efficiency of care provided to Medi-*
 25 *care beneficiaries and to develop improved operational and*

1 *financial hospital performance with sharing of remunera-*
 2 *tion as specified in the project. Such projects shall be oper-*
 3 *ational by not later than January 1, 2007.*

4 (b) *REQUIREMENTS DESCRIBED.—A demonstration*
 5 *project under this section shall meet the following require-*
 6 *ments for purposes of maintaining or improving quality*
 7 *while achieving cost savings:*

8 (1) *ARRANGEMENT FOR REMUNERATION AS*
 9 *SHARE OF SAVINGS.—The demonstration project shall*
 10 *involve an arrangement between a hospital and a*
 11 *physician under which the hospital provides remun-*
 12 *eration to the physician that represents solely a*
 13 *share of the savings incurred directly as a result of*
 14 *collaborative efforts between the hospital and the phy-*
 15 *sician.*

16 (2) *WRITTEN PLAN AGREEMENT.—The dem-*
 17 *onstration project shall be conducted pursuant to a*
 18 *written agreement that—*

19 (A) *is submitted to the Secretary prior to*
 20 *implementation of the project; and*

21 (B) *includes a plan outlining how the*
 22 *project will achieve improvements in quality and*
 23 *efficiency.*

24 (3) *PATIENT NOTIFICATION.—The demonstration*
 25 *project shall include a notification process to inform*

1 *patients who are treated in a hospital participating*
2 *in the project of the participation of the hospital in*
3 *such project.*

4 (4) *MONITORING QUALITY AND EFFICIENCY OF*
5 *CARE.—The demonstration project shall provide*
6 *measures to ensure that the quality and efficiency of*
7 *care provided to patients who are treated in a hos-*
8 *pital participating in the demonstration project is*
9 *continuously monitored to ensure that such quality*
10 *and efficiency is maintained or improved.*

11 (5) *INDEPENDENT REVIEW.—The demonstration*
12 *project shall certify, prior to implementation, that the*
13 *elements of the demonstration project are reviewed by*
14 *an organization that is not affiliated with the hos-*
15 *pital or the physician participating in the project.*

16 (6) *REFERRAL LIMITATIONS.—The demonstra-*
17 *tion project shall not be structured in such a manner*
18 *as to reward any physician participating in the*
19 *project on the basis of the volume or value of referrals*
20 *to the hospital by the physician.*

21 (c) *WAIVER OF CERTAIN RESTRICTIONS.—*

22 (1) *IN GENERAL.—An incentive payment made*
23 *by a hospital to a physician under and in accordance*
24 *with a demonstration project shall not constitute—*

1 (A) remuneration for purposes of section
2 1128B of the Social Security Act (42 U.S.C.
3 1320a-7b);

4 (B) a payment intended to induce a physi-
5 cian to reduce or limit services to a patient enti-
6 tled to benefits under Medicare or a State plan
7 approved under title XIX of such Act in viola-
8 tion of section 1128A of such Act (42 U.S.C.
9 1320a-7a); or

10 (C) a financial relationship for purposes of
11 section 1877 of such Act (42 U.S.C. 1395nn).

12 (2) *PROTECTION FOR EXISTING ARRANGE-*
13 *MENTS.—In no case shall the failure to comply with*
14 *the requirements described in paragraph (1) affect a*
15 *finding made by the Inspector General of the Depart-*
16 *ment of Health and Human Services prior to the date*
17 *of the enactment of this Act that an arrangement be-*
18 *tween a hospital and a physician does not violate*
19 *paragraph (1) or (2) of section 1128A(a) of the Social*
20 *Security Act (42 U.S.C. 1320a-7(a)).*

21 (d) *PROGRAM ADMINISTRATION.—*

22 (1) *SOLICITATION OF APPLICATIONS.—By not*
23 *later than 90 days after the date of the enactment of*
24 *this Act, the Secretary shall solicit applications for*
25 *approval of a demonstration project, in such form*

1 *and manner, and at such time specified by the Sec-*
2 *retary.*

3 (2) *NUMBER OF PROJECTS APPROVED.*—*The Sec-*
4 *retary shall approve not more than 6 demonstration*
5 *projects, at least 2 of which shall be located in a rural*
6 *area.*

7 (3) *DURATION.*—*The qualified gainsharing dem-*
8 *onstration program under this section shall be con-*
9 *ducted for the period beginning on January 1, 2007,*
10 *and ending on December 31, 2009.*

11 (e) *REPORTS.*—

12 (1) *INITIAL REPORT.*—*By not later than Decem-*
13 *ber 1, 2006, the Secretary shall submit to Congress a*
14 *report on the number of demonstration projects that*
15 *will be conducted under this section.*

16 (2) *PROJECT UPDATE.*—*By not later than De-*
17 *cember 1, 2007, the Secretary shall submit to Con-*
18 *gress a report on the details of such projects (includ-*
19 *ing the project improvements towards quality and ef-*
20 *iciency described in subsection (b)(2)(B)).*

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

1 *gainsharing demonstration program established under*
2 *subsection (a).*

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

6 (f) *FUNDING.*—

7 (1) *IN GENERAL.*—*Out of any funds in the*
8 *Treasury not otherwise appropriated, there are ap-*
9 *propriated to the Secretary for fiscal year 2006*
10 *\$6,000,000, to carry out this section.*

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

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

15 (1) *DEMONSTRATION PROJECT.*—*The term “dem-*
16 *onstration project” means a project implemented*
17 *under the qualified gainsharing demonstration pro-*
18 *gram established under subsection (a).*

19 (2) *HOSPITAL.*—*The term “hospital” means a*
20 *hospital that receives payment under section 1886(d)*
21 *of the Social Security Act (42 U.S.C. 1395ww(d)),*
22 *and does not include a critical access hospital (as de-*
23 *finied in section 1861(mm) of such Act (42 U.S.C.*
24 *1395x(mm))).*

1 (3) *MEDICARE.*—*The term “Medicare” means the*
2 *programs under title XVIII of the Social Security*
3 *Act.*

4 (4) *PHYSICIAN.*—*The term “physician” means,*
5 *with respect to a demonstration project, a physician*
6 *described in paragraph (1) or (3) of section 1861(r)*
7 *of the Social Security Act (42 U.S.C. 1395x(r)) who*
8 *is licensed as such a physician in the area in which*
9 *the project is located and meets requirements to pro-*
10 *vide services for which benefits are provided under*
11 *Medicare. Such term shall be deemed to include a*
12 *practitioner described in section 1842(e)(18)(C) of*
13 *such Act (42 U.S.C. 1395u(e)(18)(C)).*

14 (5) *SECRETARY.*—*The term “Secretary” means*
15 *the Secretary of Health and Human Services.*

16 **SEC. 5008. POST-ACUTE CARE PAYMENT REFORM DEM-**
17 **ONSTRATION PROGRAM.**

18 (a) *ESTABLISHMENT.*—

19 (1) *IN GENERAL.*—*By not later than January 1,*
20 *2008, the Secretary of Health and Human Services*
21 *(in this section referred to as the “Secretary”) shall*
22 *establish a demonstration program for purposes of*
23 *understanding costs and outcomes across different*
24 *post-acute care sites. Under such program, with re-*
25 *spect to diagnoses specified by the Secretary, an indi-*

1 *vidual who receives treatment from a provider for*
2 *such a diagnosis shall receive a single comprehensive*
3 *assessment on the date of discharge from a subsection*
4 *(d) hospital (as defined in section 1886(d)(1)(B) of*
5 *the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)))*
6 *of the needs of the patient and the clinical character-*
7 *istics of the diagnosis to determine the appropriate*
8 *placement of such patient in a post-acute care site.*
9 *The Secretary shall use a standardized patient assess-*
10 *ment instrument across all post-acute care sites to*
11 *measure functional status and other factors during*
12 *the treatment and at discharge from each provider.*
13 *Participants in the program shall provide informa-*
14 *tion on the fixed and variable costs for each indi-*
15 *vidual. An additional comprehensive assessment shall*
16 *be provided at the end of the episode of care.*

17 (2) *NUMBER OF SITES.*—*The Secretary shall*
18 *conduct the demonstration program under this section*
19 *with sufficient numbers to determine statistically reli-*
20 *able results.*

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

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

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

4 (c) *REPORT.*—Not later than 6 months after the com-
 5 pletion of the demonstration program under this section,
 6 the Secretary shall submit to Congress a report on such pro-
 7 gram, that includes the results of the program and rec-
 8 ommendations for such legislation and administrative ac-
 9 tion as the Secretary determines to be appropriate.

10 (d) *FUNDING.*—The Secretary shall provide for the
 11 transfer from the Federal Hospital Insurance Trust Fund
 12 established under section 1817 of the Social Security Act
 13 (42 U.S.C. 1395i), \$6,000,000 for the costs of carrying out
 14 the demonstration program under this section.

15 ***Subtitle B—Provisions Relating to***
 16 ***Part B***

17 ***CHAPTER 1—PAYMENT PROVISIONS***

18 ***SEC. 5101. BENEFICIARY OWNERSHIP OF CERTAIN DURA-***

19 ***BLE MEDICAL EQUIPMENT (DME).***

20 (a) *DME.*—

21 (1) *IN GENERAL.*—Section 1834(a)(7)(A) of the
 22 Social Security Act (42 U.S.C. 1395m(a)(7)(A)) is
 23 amended to read as follows:

24 “(A) *PAYMENT.*—In the case of an item of
 25 durable medical equipment not described in

1 paragraphs (2) through (6), the following rules
2 shall apply:

3 “(i) RENTAL.—

4 “(I) IN GENERAL.—Except as pro-
5 vided in clause (iii), payment for the
6 item shall be made on a monthly basis
7 for the rental of the item during the
8 period of medical need (but payments
9 under this clause may not extend over
10 a period of continuous use (as deter-
11 mined by the Secretary) of longer than
12 36 months).

13 “(II) PAYMENT AMOUNT.—Subject
14 to subparagraph (B), the amount rec-
15 ognized for the item, for each of the
16 first 3 months of such period, is 10
17 percent of the purchase price recog-
18 nized under paragraph (8) with respect
19 to the item, and, for each of the re-
20 maining months of such period, is 7.5
21 percent of such purchase price.

22 “(ii) OWNERSHIP AFTER RENTAL.—On
23 the first day that begins after the 36th con-
24 tinuous month during which payment is
25 made for the rental of an item under clause

1 *(i), the supplier of the item shall transfer*
2 *title to the item to the individual.*

3 “(iii) *PURCHASE AGREEMENT OPTION*
4 *FOR POWER-DRIVEN WHEELCHAIRS.—In the*
5 *case of a power-driven wheelchair, at the*
6 *time the supplier furnishes the item, the*
7 *supplier shall offer the individual the option*
8 *to purchase the item, and payment for such*
9 *item shall be made on a lump-sum basis if*
10 *the individual exercises such option.*

11 “(iv) *MAINTENANCE AND SERVICING.—*
12 *After the supplier transfers title to the item*
13 *under clause (ii) or in the case of a power-*
14 *driven wheelchair for which a purchase*
15 *agreement has been entered into under*
16 *clause (iii), maintenance and servicing pay-*
17 *ments shall, if the Secretary determines*
18 *such payments are reasonable and nec-*
19 *essary, be made (for parts and labor not*
20 *covered by the supplier’s or manufacturer’s*
21 *warranty, as determined by the Secretary to*
22 *be appropriate for the particular type of*
23 *durable medical equipment), and such pay-*
24 *ments shall be in an amount determined to*
25 *be appropriate by the Secretary.”.*

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

5 (b) *OXYGEN EQUIPMENT.*—

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

8 (A) *in subparagraph (A), by striking “and*
 9 *(E)” and inserting “(E), and (F)”;* and

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

12 “(F) *OWNERSHIP OF EQUIPMENT.*—

13 “(i) *IN GENERAL.*—*Payment for oxy-*
 14 *gen equipment (including portable oxygen*
 15 *equipment) under this paragraph may not*
 16 *extend over a period of continuous use (as*
 17 *determined by the Secretary) of longer than*
 18 *36 months.*

19 “(ii) *OWNERSHIP.*—

20 “(I) *TRANSFER OF TITLE.*—*On*
 21 *the first day that begins after the 36th*
 22 *continuous month during which pay-*
 23 *ment is made for the equipment under*
 24 *this paragraph, the supplier of the*

1 *equipment shall transfer title to the*
2 *equipment to the individual.*

3 “(II) *PAYMENTS FOR OXYGEN AND*
4 *MAINTENANCE AND SERVICING.*—*After*
5 *the supplier transfers title to the equip-*
6 *ment under subclause (I)—*

7 “(aa) *payments for oxygen*
8 *shall continue to be made in the*
9 *amount recognized for oxygen*
10 *under paragraph (9) for the pe-*
11 *riod of medical need; and*

12 “(bb) *maintenance and serv-*
13 *icing payments shall, if the Sec-*
14 *retary determines such payments*
15 *are reasonable and necessary, be*
16 *made (for parts and labor not*
17 *covered by the supplier’s or manu-*
18 *facturer’s warranty, as deter-*
19 *mined by the Secretary to be ap-*
20 *propriate for the equipment), and*
21 *such payments shall be in an*
22 *amount determined to be appro-*
23 *priate by the Secretary.”.*

24 (2) *EFFECTIVE DATE.*—

1 (A) *IN GENERAL.*—*The amendments made*
 2 *by paragraph (1) shall take effect on January 1,*
 3 *2006.*

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

12 **SEC. 5102. ADJUSTMENTS IN PAYMENT FOR IMAGING SERV-**
 13 **ICES.**

14 (a) *MULTIPLE PROCEDURE PAYMENT REDUCTION FOR*
 15 *IMAGING EXEMPTED FROM BUDGET NEUTRALITY.*—*Sec-*
 16 *tion 1848(c)(2)(B) of the Social Security Act (42 U.S.C.*
 17 *1395w-4(c)(2)(B)) is amended—*

18 (1) *in clause (ii)(II), by striking “clause (iv)”*
 19 *and inserting “clauses (iv) and (v)”;*

20 (2) *in clause (iv) in the heading, by inserting*
 21 *“OF CERTAIN ADDITIONAL EXPENDITURES” after “EX-*
 22 *EMPTION”;* and

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

1 “(v) *EXEMPTION OF CERTAIN REDUCED*
 2 *EXPENDITURES FROM BUDGET-NEUTRALITY*
 3 *CALCULATION.—The following reduced ex-*
 4 *penditures, as estimated by the Secretary,*
 5 *shall not be taken into account in applying*
 6 *clause (i)(II):*

7 “(I) *REDUCED PAYMENT FOR*
 8 *MULTIPLE IMAGING PROCEDURES.—Ef-*
 9 *fective for fee schedules established be-*
 10 *ginning with 2007, reduced expendi-*
 11 *tures attributable to the multiple pro-*
 12 *cedure payment reduction for imaging*
 13 *under the final rule published by the*
 14 *Secretary in the Federal Register on*
 15 *November 21, 2005 (42 CFR 405, et*
 16 *al.) insofar as it relates to the physi-*
 17 *cian fee schedules for 2006 and 2007.”.*

18 (b) *REDUCTION IN PHYSICIAN FEE SCHEDULE TO*
 19 *OPD PAYMENT AMOUNT FOR IMAGING SERVICES.—Section*
 20 *1848 of such Act (42 U.S.C. 1395w-4) is amended—*

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

23 “(4) *SPECIAL RULE FOR IMAGING SERVICES.—*

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

4 “(i) *the technical component (includ-*
5 *ing the technical component portion of a*
6 *global fee) of the service established for a*
7 *year under the fee schedule described in*
8 *paragraph (1) without application of the*
9 *geographic adjustment factor described in*
10 *paragraph (1)(C), exceeds*

11 “(ii) *the Medicare OPD fee schedule*
12 *amount established under the prospective*
13 *payment system for hospital outpatient de-*
14 *partment services under paragraph (3)(D)*
15 *of section 1833(t) for such service for such*
16 *year, determined without regard to geo-*
17 *graphic adjustment under paragraph (2)(D)*
18 *of such section,*

19 *the Secretary shall substitute the amount de-*
20 *scribed in clause (ii), adjusted by the geographic*
21 *adjustment factor described in paragraph (1)(C),*
22 *for the fee schedule amount for such technical*
23 *component for such year.*

24 “(B) *IMAGING SERVICES DESCRIBED.*—*For*
25 *purposes of subparagraph (A), imaging services*

1 *described in this subparagraph are imaging and*
 2 *computer-assisted imaging services, including X-*
 3 *ray, ultrasound (including echocardiography),*
 4 *nuclear medicine (including positron emission*
 5 *tomography), magnetic resonance imaging, com-*
 6 *puted tomography, and fluoroscopy, but exclud-*
 7 *ing diagnostic and screening mammography.”;*
 8 *and*

9 *(2) in subsection (c)(2)(B)(v), as added by sub-*
 10 *section (a)(3), by adding at the end the following new*
 11 *subclause:*

12 “(II) *OPD PAYMENT CAP FOR IM-*
 13 *AGING SERVICES.—Effective for fee*
 14 *schedules established beginning with*
 15 *2007, reduced expenditures attributable*
 16 *to subsection (b)(4).”.*

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

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

21 *(1) in subparagraph (A), by inserting “subject to*
 22 *subparagraph (E),” after “subparagraph (D),”;*

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

1 paragraph (E) were to continue to apply, as esti-
 2 mated by the Secretary”; and

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

5 “(E) With respect to surgical procedures furnished on
 6 or after January 1, 2007, and before the effective date of
 7 the implementation of a revised payment system under sub-
 8 paragraph (D), if—

9 “(i) the standard overhead amount under sub-
 10 paragraph (A) for a facility service for such proce-
 11 dure, without the application of any geographic ad-
 12 justment, exceeds

13 “(ii) the Medicare OPD fee schedule amount es-
 14 tablished under the prospective payment system for
 15 hospital outpatient department services under para-
 16 graph (3)(D) of section 1833(t) for such service for
 17 such year, determined without regard to geographic
 18 adjustment under paragraph (2)(D) of such section,
 19 the Secretary shall substitute under subparagraph (A) the
 20 amount described in clause (i) for the standard overhead
 21 amount for such service referred to in clause (i).”.

22 **SEC. 5104. UPDATE FOR PHYSICIANS’ SERVICES FOR 2006.**

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

1 (1) *in paragraph (4)(B), in the matter preceding*
 2 *clause (i), by striking “paragraph (5)” and inserting*
 3 *“paragraphs (5) and (6)”;* and

4 (2) *by adding at the end the following new para-*
 5 *graph:*

6 “(6) *UPDATE FOR 2006.—The update to the sin-*
 7 *gle conversion factor established in paragraph (1)(C)*
 8 *for 2006 shall be 0 percent.”.*

9 (b) *NOT TREATED AS CHANGE IN LAW AND REGULA-*
 10 *TION IN SUSTAINABLE GROWTH RATE DETERMINATION.—*
 11 *The amendments made by subsection (a) shall not be treated*
 12 *as a change in law for purposes of applying section*
 13 *1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w-*
 14 *4(f)(2)(D)).*

15 (c) *MEDPAC REPORT.—*

16 (1) *IN GENERAL.—By not later than March 1,*
 17 *2007, the Medicare Payment Advisory Commission*
 18 *shall submit a report to Congress on mechanisms that*
 19 *could be used to replace the sustainable growth rate*
 20 *system under section 1848(f) of the Social Security*
 21 *Act (42 U.S.C. 1395w-4(f)).*

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

24 (A) *identify and examine alternative meth-*
 25 *ods for assessing volume growth;*

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

5 (C) examine the application of volume con-
6 trols under the Medicare physician fee schedule
7 under section 1848 of the Social Security Act (42
8 U.S.C. 1395w-4);

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

13 (E) examine the administrative feasibility
14 of implementing the options reviewed under sub-
15 paragraph (B), including the availability of
16 data and time lags;

17 (F) examine the extent to which the alter-
18 native methods identified and examined under
19 subparagraph (A) should be specified in such sec-
20 tion 1848; and

21 (G) identify the appropriate level of discre-
22 tion for the Secretary of Health and Human
23 Services to change payment rates under the
24 Medicare physician fee schedule or otherwise take
25 steps that affect physician behavior.

1 *Such report shall include such recommendations on*
 2 *alternative mechanisms to replace the sustainable*
 3 *growth rate system as the Medicare Payment Advi-*
 4 *sory Commission determines appropriate.*

5 (3) *FUNDING.*—*Out of any funds in the Treas-*
 6 *ury not otherwise appropriated, there are appro-*
 7 *priated to the Medicare Payment Advisory Commis-*
 8 *sion \$550,000, to carry out this subsection.*

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

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

16 (1) *by inserting “(I)” before “In the case”; and*

17 (2) *by adding at the end the following new sub-*
 18 *clause:*

19 *“(II) In the case of a hospital located*
 20 *in a rural area and that has not more than*
 21 *100 beds and that is not a sole community*
 22 *hospital (as defined in section*
 23 *1886(d)(5)(D)(iii)), for covered OPD serv-*
 24 *ices furnished on or after January 1, 2006,*
 25 *and before January 1, 2009, for which the*

1 *PPS amount is less than the pre-BBA*
 2 *amount, the amount of payment under this*
 3 *subsection shall be increased by the applica-*
 4 *ble percentage of the amount of such dif-*
 5 *ference. For purposes of the previous sen-*
 6 *tence, with respect to covered OPD services*
 7 *furnished during 2006, 2007, or 2008, the*
 8 *applicable percentage shall be 95 percent,*
 9 *90 percent, and 85 percent, respectively.”.*

10 **SEC. 5106. UPDATE TO THE COMPOSITE RATE COMPONENT**
 11 **OF THE BASIC CASE-MIX ADJUSTED PROSPEC-**
 12 **TIVE PAYMENT SYSTEM FOR DIALYSIS SERV-**
 13 **ICES.**

14 *Section 1881(b)(12) of the Social Security Act (42*
 15 *U.S.C. 1395rr(b)(12)) is amended—*

16 *(1) in subparagraph (F), in the flush matter at*
 17 *the end, by striking “Nothing” and inserting “Except*
 18 *as provided in subparagraph (G), nothing”;*

19 *(2) by redesignating subparagraph (G) as sub-*
 20 *paragraph (H); and*

21 *(3) by inserting after subparagraph (F) the fol-*
 22 *lowing new subparagraph:*

23 *“(G) The Secretary shall increase the amount of the*
 24 *composite rate component of the basic case-mix adjusted*
 25 *system under subparagraph (B) for dialysis services fur-*

1 nished on or after January 1, 2006, by 1.6 percent above
 2 the amount of such composite rate component for such serv-
 3 ices furnished on December 31, 2005.”.

4 **SEC. 5107. REVISIONS TO PAYMENTS FOR THERAPY SERV-**
 5 **ICES.**

6 (a) *EXCEPTION TO CAPS FOR 2006.*—

7 (1) *IN GENERAL.*—Section 1833(g) of the Social
 8 Security Act (42 U.S.C. 1395l(g)) is amended—

9 (A) in each of paragraphs (1) and (3), by
 10 striking “paragraph (4)” and inserting “para-
 11 graphs (4) and (5)”; and

12 (B) by adding at the end the following new
 13 paragraph:

14 “(5) With respect to expenses incurred during 2006 for
 15 services, the Secretary shall implement a process under
 16 which an individual enrolled under this part may, upon
 17 request of the individual or a person on behalf of the indi-
 18 vidual, obtain an exception from the uniform dollar limita-
 19 tion specified in paragraph (2), for services described in
 20 paragraphs (1) and (3) if the provision of such services is
 21 determined to be medically necessary. Under such process,
 22 if the Secretary does not make a decision on such a request
 23 for an exception within 10 business days of the date of the
 24 Secretary’s receipt of the request, the Secretary shall be

1 *deemed to have found the services to be medically nec-*
 2 *essary.”.*

3 (2) *TIMELY IMPLEMENTATION.*—*The Secretary of*
 4 *Health and Human Services shall waive such provi-*
 5 *sions of law and regulation (including those described*
 6 *in section 110(c) of Pub. L. 108–173) as are nec-*
 7 *essary to implement the amendments made by para-*
 8 *graph (1) on a timely basis and, notwithstanding any*
 9 *other provision of law, may implement such amend-*
 10 *ments by program instruction or otherwise. There*
 11 *shall be no administrative or judicial review under*
 12 *section 1869 or section 1878 of the Social Security*
 13 *Act (42 U.S.C. 1395ff and 1395oo), or otherwise of the*
 14 *process (including the establishment of the process)*
 15 *under section 1833(g)(5) of such Act, as added by*
 16 *paragraph (1).*

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

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

4 **CHAPTER 2—MISCELLANEOUS**

5 **SEC. 5111. ACCELERATED IMPLEMENTATION OF INCOME-**
 6 **RELATED REDUCTION IN PART B PREMIUM**
 7 **SUBSIDY.**

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

10 *(1) in the heading, by striking “5-YEAR” and in-*
 11 *serting “3-YEAR”;*

12 *(2) in the matter preceding clause (i), by strik-*
 13 *ing “2011” and inserting “2009”;*

14 *(3) in clause (i), by striking “20 percent” and*
 15 *inserting “33 percent”;*

16 *(4) in clause (ii), by striking “40 percent” and*
 17 *inserting “67 percent”; and*

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

19 **SEC. 5112. MEDICARE COVERAGE OF ULTRASOUND SCREEN-**
 20 **ING FOR ABDOMINAL AORTIC ANEURYSMS.**

21 *(a) IN GENERAL.—Section 1861 of the Social Security*
 22 *Act (42 U.S.C. 1395x) is amended—*

23 *(1) in subsection (s)(2)—*

24 *(A) by striking “and” at the end of sub-*
 25 *paragraph (Y);*

1 (B) by adding “and” at the end of subpara-
2 graph (Z) and moving such subparagraph 2 ems
3 to the left; and

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

6 “(AA) ultrasound screening for abdominal aortic
7 aneurysm (as defined in subsection (bbb)) for an
8 individual—

9 “(i) who receives a referral for such an
10 ultrasound screening as a result of an initial
11 preventive physical examination (as defined in
12 section 1861(w)(1));

13 “(ii) who has not been previously furnished
14 such an ultrasound screening under this title;
15 and

16 “(iii) who—

17 “(I) has a family history of abdominal
18 aortic aneurysm; or

19 “(II) manifests risk factors included in
20 a beneficiary category recommended for
21 screening by the United States Preventive
22 Services Task Force regarding abdominal
23 aortic aneurysms;”;

24 (2) by adding at the end the following new sub-
25 section:

1 *“Ultrasound Screening for Abdominal Aortic Aneurysm*

2 *“(bbb) The term ‘ultrasound screening for abdominal*
 3 *aortic aneurysm’ means—*

4 *“(1) a procedure using sound waves (or such*
 5 *other procedures using alternative technologies, of*
 6 *commensurate accuracy and cost, that the Secretary*
 7 *may specify) provided for the early detection of ab-*
 8 *dominal aortic aneurysm; and*

9 *“(2) includes a physician’s interpretation of the*
 10 *results of the procedure.”.*

11 *(b) INCLUSION OF ULTRASOUND SCREENING FOR AB-*
 12 *DOMINAL AORTIC ANEURYSM IN INITIAL PREVENTIVE*
 13 *PHYSICAL EXAMINATION.—Section 1861(w)(2) of such*
 14 *Act (42 U.S.C. 1395x(w)(2)) is amended by adding at the*
 15 *end the following new subparagraph:*

16 *“(L) Ultrasound screening for abdominal aortic*
 17 *aneurysm as defined in section 1861(bbb).”.*

18 *(c) PAYMENT FOR ULTRASOUND SCREENING FOR AB-*
 19 *DOMINAL AORTIC ANEURYSM.—Section 1848(j)(3) of such*
 20 *Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting*
 21 *“(2)(AA),” after “(2)(W).”.*

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

24 *(1) by striking “and” at the end of subpara-*
 25 *graph (L);*

1 (2) by striking the semicolon at the end of sub-
2 paragraph (M) and inserting “, and”; and

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

5 “(N) in the case of ultrasound screening for ab-
6 dominal aortic aneurysm which is performed more
7 frequently than is provided for under section
8 1861(s)(2)(AA);”.

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

12 (1) by striking “and” before “(6)”; and

13 (2) by inserting “, and (7) such deductible shall
14 not apply with respect to ultrasound screening for ab-
15 dominal aortic aneurysm (as defined in section
16 1861(bbb))” before the period at the end.

17 (f) *EFFECTIVE DATE*.—The amendments made by this
18 section shall apply to services furnished on or after January
19 1, 2007.

20 **SEC. 5113. IMPROVING PATIENT ACCESS TO, AND UTILIZA-**
21 **TION OF, COLORECTAL CANCER SCREENING.**

22 (a) *NON-APPLICATION OF DEDUCTIBLE FOR*
23 *COLORECTAL CANCER SCREENING TESTS*.—Section
24 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)), as

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

3 (1) by striking “and” before “(7)”; and

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

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

11 (1) by striking “DEDUCTIBLE AND” in the head-
12 ing; and

13 (2) in subclause (I), by striking “deductible or”
14 each place it appears.

15 (c) **EFFECTIVE DATE.**—The amendments made by this
16 section shall apply to services furnished on or after January
17 1, 2007.

18 **SEC. 5114. DELIVERY OF SERVICES AT FEDERALLY QUALI-**
19 **FIED HEALTH CENTERS.**

20 (a) **COVERAGE.**—

21 (1) **IN GENERAL.**—Section 1861(aa)(3) of the So-
22 cial Security Act (42 U.S.C. 1395x(aa)(3)) is
23 amended—

1 (A) in subparagraph (A), by striking “,
2 and” and inserting “and services described in
3 subsections (qq) and (vv); and”;

4 (B) in subparagraph (B), by striking “sec-
5 tions 329, 330, and 340” and inserting “section
6 330”; and

7 (C) in the flush matter at the end, by in-
8 serting “by the center or by a health care profes-
9 sional under contract with the center” after
10 “outpatient of a Federally qualified health cen-
11 ter”.

12 (2) *CONSOLIDATED BILLING.*—The first sentence
13 of section 1842(b)(6)(F) of such Act (42 U.S.C.
14 1395u(b)(6)(F)) is amended—

15 (A) by striking “and (G)” and inserting
16 “(G)”; and

17 (B) by inserting before the period at the end
18 the following: “, and (H) in the case of services
19 described in section 1861(aa)(3) that are fur-
20 nished by a health care professional under con-
21 tract with a Federally qualified health center,
22 payment shall be made to the center”.

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

1 1395x(aa)(4)(A)) are each amended by striking “(other
2 than subsection (h))”.

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

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

8 (a) *IN GENERAL.*—

9 (1) *WAIVER OF PENALTY.*—Section 1839(b) of
10 the Social Security Act (42 U.S.C. 1395r(b)) is
11 amended in the second sentence by inserting the fol-
12 lowing before the period at the end: “or months for
13 which the individual can demonstrate that the indi-
14 vidual was an individual described in section
15 1837(k)(3)”.

16 (2) *SPECIAL ENROLLMENT PERIOD.*—

17 (A) *IN GENERAL.*—Section 1837 of such Act
18 (42 U.S.C. 1395p) is amended by adding at the
19 end the following new subsection:

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

21 “(A) at the time the individual first satisfies
22 paragraph (1) or (2) of section 1836, is described in
23 paragraph (3), and has elected not to enroll (or to be
24 deemed enrolled) under this section during the indi-
25 vidual’s initial enrollment period; or

1 “(B) *has terminated enrollment under this sec-*
 2 *tion during a month in which the individual is de-*
 3 *scribed in paragraph (3),*
 4 *there shall be a special enrollment period described in para-*
 5 *graph (2).*

6 “(2) *The special enrollment period described in this*
 7 *paragraph is the 6-month period beginning on the first day*
 8 *of the month which includes the date that the individual*
 9 *is no longer described in paragraph (3).*

10 “(3) *For purposes of paragraph (1), an individual de-*
 11 *scribed in this paragraph is an individual who—*

12 “(A) *is serving as a volunteer outside of the*
 13 *United States through a program—*

14 “(i) *that covers at least a 12-month period;*
 15 *and*

16 “(ii) *that is sponsored by an organization*
 17 *described in section 501(c)(3) of the Internal*
 18 *Revenue Code of 1986 and exempt from taxation*
 19 *under section 501(a) of such Code; and*

20 “(B) *demonstrates health insurance coverage*
 21 *while serving in the program.”.*

22 (B) *COVERAGE PERIOD.—Section 1838 of*
 23 *such Act (42 U.S.C. 1395g) is amended by add-*
 24 *ing at the end the following new subsection:*

1 “(f) Notwithstanding subsection (a), in the case of an
2 individual who enrolls during a special enrollment period
3 pursuant to section 1837(k), the coverage period shall begin
4 on the first day of the month following the month in which
5 the individual so enrolls.”.

6 (b) *EFFECTIVE DATE*.—The amendment made by sub-
7 section (a)(1) shall apply to months beginning with Janu-
8 ary 2007 and the amendments made by subsection (a)(2)
9 shall take effect on January 1, 2007.

10 ***Subtitle C—Provisions Relating to***
11 ***Parts A and B***

12 ***SEC. 5201. HOME HEALTH PAYMENTS.***

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

16 (1) in subclause (III), by striking “each of 2005
17 and 2006” and inserting “all of 2005”;

18 (2) by striking “or” at the end of subclause (III);

19 (3) in subclause (IV), by striking “2007 and”
20 and by redesignating such subclause as subclause (V);
21 and

22 (4) by inserting after subclause (III) the fol-
23 lowing new subclause:

24 “(IV) 2006, 0 percent; and”.

1 **(b) APPLYING RURAL ADD-ON POLICY FOR 2006.**—
 2 Section 421(a) of Medicare Prescription Drug, Improve-
 3 ment, and Modernization Act of 2003 (Pub. L. 108–173;
 4 117 Stat. 2283) is amended by inserting “and episodes and
 5 visits beginning on or after January 1, 2006, and before
 6 January 1, 2007,” after “April 1, 2005.”

7 **(c) HOME HEALTH CARE QUALITY IMPROVEMENT.**—
 8 Section 1895(b)(3)(B) of the Social Security Act (42 U.S.C.
 9 1395fff(b)(3)(B)) is amended—

10 (1) in clause (ii)(V), as redesignated by sub-
 11 section (a)(3), by inserting “subject to clause (v),”
 12 after “subsequent year,”; and

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

15 “(v) **ADJUSTMENT IF QUALITY DATA**
 16 **NOT SUBMITTED.**—

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

1 duced by 2 percentage points. Such re-
2 duction shall apply only with respect
3 to the year involved, and the Secretary
4 shall not take into account such reduc-
5 tion in computing the prospective pay-
6 ment amount under this section for a
7 subsequent year, and the Medicare
8 Payment Advisory Commission shall
9 carry out the requirements under sec-
10 tion 5201(d) of the Deficit Reduction
11 Act of 2005.

12 “(II) SUBMISSION OF QUALITY
13 DATA.—For 2007 and each subsequent
14 year, each home health agency shall
15 submit to the Secretary such data that
16 the Secretary determines are appro-
17 priate for the measurement of health
18 care quality. Such data shall be sub-
19 mitted in a form and manner, and at
20 a time, specified by the Secretary for
21 purposes of this clause.

22 “(III) PUBLIC AVAILABILITY OF
23 DATA SUBMITTED.—The Secretary
24 shall establish procedures for making
25 data submitted under subclause (II)

1 *available to the public. Such proce-*
2 *dures shall ensure that a home health*
3 *agency has the opportunity to review*
4 *the data that is to be made public with*
5 *respect to the agency prior to such data*
6 *being made public.”.*

7 (d) *MEDPAC REPORT ON VALUE BASED PUR-*
8 *CHASING.—*

9 (1) *IN GENERAL.—Not later than June 1, 2007,*
10 *the Medicare Payment Advisory Commission shall*
11 *submit to Congress a report that includes rec-*
12 *ommendations on a detailed structure of value based*
13 *payment adjustments for home health services under*
14 *the Medicare program under title XVIII of the Social*
15 *Security Act. Such report shall include recommenda-*
16 *tions concerning the determination of thresholds, the*
17 *size of such payments, sources of funds, and the rela-*
18 *tionship of payments for improvement and attain-*
19 *ment of quality.*

20 (2) *FUNDING.—Out of any funds in the Treas-*
21 *ury not otherwise appropriated, there are appro-*
22 *priated to the Medicare Payment Advisory Commis-*
23 *sion \$550,000, to carry out this subsection.*

1 **SEC. 5202. REVISION OF PERIOD FOR PROVIDING PAYMENT**
2 **FOR CLAIMS THAT ARE NOT SUBMITTED**
3 **ELECTRONICALLY.**

4 (a) *REVISION.*—

5 (1) *PART A.*—Section 1816(c)(3)(B)(ii) of the
6 *Social Security Act (42 U.S.C. 1395h(c)(3)(B)(ii))* is
7 *amended by striking “26 days” and inserting “28*
8 *days”.*

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

12 (b) *EFFECTIVE DATE.*—*The amendments made by this*
13 *section shall apply to claims submitted on or after January*
14 *1, 2006.*

15 **SEC. 5203. TIMEFRAME FOR PART A AND B PAYMENTS.**

16 *Notwithstanding sections 1816(c) and 1842(c)(2) of the*
17 *Social Security Act or any other provision of law—*

18 (1) *any payment from the Federal Hospital In-*
19 *surance Trust Fund under section 1817 of the Social*
20 *Security Act (42 U.S.C. 1395i) or from the Federal*
21 *Supplementary Medical Insurance Trust Fund under*
22 *section 1841 of such Act (42 U.S.C. 1395t) for claims*
23 *submitted under part A or B of title XVIII of such*
24 *Act for items and services furnished under such part*
25 *A or B, respectively, that would otherwise be payable*
26 *during the period beginning on September 22, 2006,*

1 *and ending on September 30, 2006, shall be paid on*
2 *the first business day of October 2006; and*

3 *(2) no interest or late penalty shall be paid to*
4 *an entity or individual for any delay in a payment*
5 *by reason of the application of paragraph (1).*

6 **SEC. 5204. MEDICARE INTEGRITY PROGRAM FUNDING.**

7 *Section 1817(k)(4) of the Social Security Act (42*
8 *U.S.C. 1395i(k)(4)) is amended—*

9 *(1) in subparagraph (B), by striking “The*
10 *amount” and inserting “Subject to subparagraph (C),*
11 *the amount”; and*

12 *(2) by adding at the end the following new sub-*
13 *paragraph:*

14 *“(C) ADJUSTMENTS.—The amount appro-*
15 *priated under subparagraph (A) for a fiscal year*
16 *is increased as follows:*

17 *“(i) For fiscal year 2006,*
18 *\$100,000,000.”.*

1 ***Subtitle D—Provisions Relating to***
 2 ***Part C***

3 ***SEC. 5301. PHASE-OUT OF RISK ADJUSTMENT BUDGET NEU-***
 4 ***TRALITY IN DETERMINING THE AMOUNT OF***
 5 ***PAYMENTS TO MEDICARE ADVANTAGE ORGA-***
 6 ***NIZATIONS.***

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

9 *(1) in subsection (j)(1)—*

10 *(A) in subparagraph (A)—*

11 *(i) by inserting “(or, beginning with*
 12 *2007, $\frac{1}{12}$ of the applicable amount deter-*
 13 *mined under subsection (k)(1))” after*
 14 *“1853(c)(1)”;* and

15 *(ii) by inserting “(for years before*
 16 *2007)” after “adjusted as appropriate”;*

17 *(B) in subparagraph (B), by inserting “(for*
 18 *years before 2007)” after “adjusted as appro-*
 19 *priate”;* and

20 *(2) by adding at the end the following new sub-*
 21 *section:*

22 ***“(k) DETERMINATION OF APPLICABLE AMOUNT FOR***
 23 ***PURPOSES OF CALCULATING THE BENCHMARK***
 24 ***AMOUNTS.—***

1 “(1) *APPLICABLE AMOUNT DEFINED.*—For pur-
2 poses of subsection (j), subject to paragraph (2), the
3 term ‘applicable amount’ means for an area—

4 “(A) for 2007—

5 “(i) if such year is not specified under
6 subsection (c)(1)(D)(ii), an amount equal to
7 the amount specified in subsection (c)(1)(C)
8 for the area for 2006—

9 “(I) first adjusted by the rescaling
10 factor for 2006 for the area (as made
11 available by the Secretary in the an-
12 nouncement of the rates on April 4,
13 2005, under subsection (b)(1), but ex-
14 cluding any national adjustment fac-
15 tors for coding intensity and risk ad-
16 justment budget neutrality that were
17 included in such factor); and

18 “(II) then increased by the na-
19 tional per capita MA growth percent-
20 age, described in subsection (c)(6) for
21 2007, but not taking into account any
22 adjustment under subparagraph (C) of
23 such subsection for a year before 2004;

1 “(ii) if such year is specified under
2 subsection (c)(1)(D)(ii), an amount equal to
3 the greater of—

4 “(I) the amount determined under
5 clause (i) for the area for the year; or

6 “(II) the amount specified in sub-
7 section (c)(1)(D) for the area for the
8 year; and

9 “(B) for a subsequent year—

10 “(i) if such year is not specified under
11 subsection (c)(1)(D)(ii), an amount equal to
12 the amount determined under this para-
13 graph for the area for the previous year (de-
14 termined without regard to paragraph (2)),
15 increased by the national per capita MA
16 growth percentage, described in subsection
17 (c)(6) for that succeeding year, but not tak-
18 ing into account any adjustment under sub-
19 paragraph (C) of such subsection for a year
20 before 2004; and

21 “(ii) if such year is specified under
22 subsection (c)(1)(D)(ii), an amount equal to
23 the greater of—

24 “(I) the amount determined under
25 clause (i) for the area for the year; or

1 “(II) *the amount specified in sub-*
 2 *section (c)(1)(D) for the area for the*
 3 *year.*

4 “(2) *PHASE-OUT OF BUDGET NEUTRALITY FAC-*
 5 *TOR.—*

6 “(A) *IN GENERAL.—Except as provided in*
 7 *subparagraph (D), in the case of 2007 through*
 8 *2010, the applicable amount determined under*
 9 *paragraph (1) shall be multiplied by a factor*
 10 *equal to 1 plus the product of—*

11 “(i) *the percent determined under sub-*
 12 *paragraph (B) for the year; and*

13 “(ii) *the applicable phase-out factor for*
 14 *the year under subparagraph (C).*

15 “(B) *PERCENT DETERMINED.—*

16 “(i) *IN GENERAL.—For purposes of*
 17 *subparagraph (A)(i), subject to clause (iv),*
 18 *the percent determined under this subpara-*
 19 *graph for a year is a percent equal to a*
 20 *fraction the numerator of which is described*
 21 *in clause (ii) and the denominator of which*
 22 *is described in clause (iii).*

23 “(ii) *NUMERATOR BASED ON DIF-*
 24 *ERENCE BETWEEN DEMOGRAPHIC RATE*
 25 *AND RISK RATE.—*

1 “(I) *IN GENERAL.*—*The numer-*
2 *ator described in this clause is an*
3 *amount equal to the amount by which*
4 *the demographic rate described in sub-*
5 *clause (II) exceeds the risk rate de-*
6 *scribed in subclause (III).*

7 “(II) *DEMOGRAPHIC RATE.*—*The*
8 *demographic rate described in this sub-*
9 *clause is the Secretary’s estimate of the*
10 *total payments that would have been*
11 *made under this part in the year if all*
12 *the monthly payment amounts for all*
13 *MA plans were equal to $\frac{1}{12}$ of the an-*
14 *nuual MA capitation rate under sub-*
15 *section (c)(1) for the area and year,*
16 *adjusted pursuant to subsection*
17 *(a)(1)(C).*

18 “(III) *RISK RATE.*—*The risk rate*
19 *described in this subclause is the Sec-*
20 *retary’s estimate of the total payments*
21 *that would have been made under this*
22 *part in the year if all the monthly*
23 *payment amounts for all MA plans*
24 *were equal to the amount described in*
25 *subsection (j)(1)(A) (determined as if*

1 *this paragraph had not applied) under*
2 *subsection (j) for the area and year,*
3 *adjusted pursuant to subsection*
4 *(a)(1)(C).*

5 “(iii) *DENOMINATOR BASED ON RISK*
6 *RATE.—The denominator described in this*
7 *clause is equal to the total amount esti-*
8 *mated for the year under clause (ii)(III).*

9 “(iv) *REQUIREMENTS.—In estimating*
10 *the amounts under the previous clauses, the*
11 *Secretary shall—*

12 “(I) *use a complete set of the most*
13 *recent and representative Medicare Ad-*
14 *vantage risk scores under subsection*
15 *(a)(3) that are available from the risk*
16 *adjustment model announced for the*
17 *year;*

18 “(II) *adjust the risk scores to re-*
19 *flect changes in treatment and coding*
20 *practices in the fee-for-service sector;*

21 “(III) *adjust the risk scores for*
22 *differences in coding patterns between*
23 *Medicare Advantage plans and pro-*
24 *viders under the original Medicare fee-*
25 *for-service program under parts A and*

1 *B to the extent that the Secretary has*
 2 *identified such differences, as required*
 3 *in subsection (a)(1)(C);*

4 “(IV) as necessary, adjust the risk
 5 scores for late data submitted by Medi-
 6 care Advantage organizations;

7 “(V) as necessary, adjust the risk
 8 scores for lagged cohorts; and

9 “(VI) as necessary, adjust the risk
 10 scores for changes in enrollment in
 11 Medicare Advantage plans during the
 12 year.

13 “(v) *AUTHORITY.*—*In computing such*
 14 *amounts the Secretary may take into ac-*
 15 *count the estimated health risk of enrollees*
 16 *in preferred provider organization plans*
 17 *(including MA regional plans) for the year.*

18 “(C) *APPLICABLE PHASE-OUT FACTOR.*—
 19 *For purposes of subparagraph (A)(ii), the term*
 20 *‘applicable phase-out factor’ means—*

21 “(i) for 2007, 0.55;

22 “(ii) for 2008, 0.40;

23 “(iii) for 2009, 0.25; and

24 “(iv) for 2010, 0.05.

1 “(D) *TERMINATION OF APPLICATION.*—Sub-
 2 paragraph (A) shall not apply in a year if the
 3 amount estimated under subparagraph
 4 (B)(ii)(III) for the year is equal to or greater
 5 than the amount estimated under subparagraph
 6 (B)(ii)(II) for the year.

7 “(3) *NO REVISION IN PERCENT.*—

8 “(A) *IN GENERAL.*—The Secretary may not
 9 make any adjustment to the percent determined
 10 under paragraph (2)(B) for any year.

11 “(B) *RULE OF CONSTRUCTION.*—Nothing in
 12 this subsection shall be construed to limit the au-
 13 thority of the Secretary to make adjustments to
 14 the applicable amounts determined under para-
 15 graph (1) as appropriate for purposes of updat-
 16 ing data or for purposes of adopting an im-
 17 proved risk adjustment methodology.”.

18 (b) *REFINEMENTS TO HEALTH STATUS ADJUST-*
 19 *MENT.*—Section 1853(a)(1)(C) of such Act (42 U.S.C.
 20 1395w-23) is amended—

21 (1) by designating the matter after the heading
 22 as a clause (i) with the following heading: “*IN GEN-*
 23 *ERAL.*—” and indenting appropriately; and

24 (2) by adding at the end the following:

1 “(i) *APPLICATION DURING PHASE-OUT*
2 *OF BUDGET NEUTRALITY FACTOR.—For*
3 *2006 through 2010:*

4 “(I) *In applying the adjustment*
5 *under clause (i) for health status to*
6 *payment amounts, the Secretary shall*
7 *ensure that such adjustment reflects*
8 *changes in treatment and coding prac-*
9 *tices in the fee-for-service sector and re-*
10 *fects differences in coding patterns be-*
11 *tween Medicare Advantage plans and*
12 *providers under part A and B to the*
13 *extent that the Secretary has identified*
14 *such differences.*

15 “(II) *In order to ensure payment*
16 *accuracy, the Secretary shall conduct*
17 *an analysis of the differences described*
18 *in subclause (I). The Secretary shall*
19 *complete such analysis by a date nec-*
20 *essary to ensure that the results of such*
21 *analysis are incorporated into the risk*
22 *scores only for 2008, 2009, and 2010.*
23 *In conducting such analysis, the Sec-*
24 *retary shall use data submitted with*

1 *respect to 2004 and subsequent years,*
2 *as available.”.*

3 **SEC. 5302. RURAL PACE PROVIDER GRANT PROGRAM.**

4 (a) *DEFINITIONS.—In this section:*

5 (1) *CMS.—The term “CMS” means the Centers*
6 *for Medicare & Medicaid Services.*

7 (2) *PACE PROGRAM.—The term “PACE pro-*
8 *gram” has the meaning given that term in sections*
9 *1894(a)(2) and 1934(a)(2) of the Social Security Act*
10 *(42 U.S.C. 1395eee(a)(2); 1396u-4(a)(2)).*

11 (3) *PACE PROVIDER.—The term “PACE pro-*
12 *vider” has the meaning given that term in section*
13 *1894(a)(3) or 1934(a)(3) of the Social Security Act*
14 *(42 U.S.C. 1395eee(a)(3); 1396u-4(a)(3)).*

15 (4) *RURAL AREA.—The term “rural area” has*
16 *the meaning given that term in section 1886(d)(2)(D)*
17 *of the Social Security Act (42 U.S.C.*
18 *1395ww(d)(2)(D)).*

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

1 (6) *SECRETARY.*—*The term “Secretary” means*
2 *the Secretary of Health and Human Services.*

3 (b) *SITE DEVELOPMENT GRANTS AND TECHNICAL AS-*
4 *SISTANCE PROGRAM.*—

5 (1) *SITE DEVELOPMENT GRANTS.*—

6 (A) *IN GENERAL.*—*The Secretary shall es-*
7 *tablish a process and criteria to award site de-*
8 *velopment grants to qualified PACE providers*
9 *that have been approved to serve a rural area.*

10 (B) *AMOUNT PER AWARD.*—*A site develop-*
11 *ment grant awarded under subparagraph (A) to*
12 *any individual rural PACE pilot site shall not*
13 *exceed \$750,000.*

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

17 (D) *USE OF FUNDS.*—*Funds made available*
18 *under a site development grant awarded under*
19 *subparagraph (A) may be used for the following*
20 *expenses only to the extent such expenses are in-*
21 *curring in relation to establishing or delivering*
22 *PACE program services in a rural area:*

23 (i) *Feasibility analysis and planning.*

24 (ii) *Interdisciplinary team develop-*
25 *ment.*

- 1 (iii) *Development of a provider net-*
2 *work, including contract development.*
- 3 (iv) *Development or adaptation of*
4 *claims processing systems.*
- 5 (v) *Preparation of special education*
6 *and outreach efforts required for the PACE*
7 *program.*
- 8 (vi) *Development of expense reporting*
9 *required for calculation of outlier payments*
10 *or reconciliation processes.*
- 11 (vii) *Development of any special qual-*
12 *ity of care or patient satisfaction data col-*
13 *lection efforts.*
- 14 (viii) *Establishment of a working cap-*
15 *ital fund to sustain fixed administrative,*
16 *facility, or other fixed costs until the pro-*
17 *vider reaches sufficient enrollment size.*
- 18 (ix) *Startup and development costs in-*
19 *curring prior to the approval of the rural*
20 *PACE pilot site's PACE provider applica-*
21 *tion by CMS.*
- 22 (x) *Any other efforts determined by the*
23 *rural PACE pilot site to be critical to its*
24 *successful startup, as approved by the Sec-*
25 *retary.*

1 (E) *APPROPRIATION.*—

2 (i) *IN GENERAL.*—*Out of funds in the*
 3 *Treasury not otherwise appropriated, there*
 4 *are appropriated to the Secretary to carry*
 5 *out this subsection for fiscal year 2006,*
 6 *\$7,500,000.*

7 (ii) *AVAILABILITY.*—*Funds appro-*
 8 *priated under clause (i) shall remain avail-*
 9 *able for expenditure through fiscal year*
 10 *2008.*

11 (2) *TECHNICAL ASSISTANCE PROGRAM.*—*The*
 12 *Secretary shall establish a technical assistance pro-*
 13 *gram to provide—*

14 (A) *outreach and education to State agen-*
 15 *cies and provider organizations interested in es-*
 16 *tablishing PACE programs in rural areas; and*

17 (B) *technical assistance necessary to sup-*
 18 *port rural PACE pilot sites.*

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

21 (1) *ESTABLISHMENT OF FUND FOR REIMBURSE-*
 22 *MENT OF OUTLIER COSTS.*—*Notwithstanding any*
 23 *other provision of law, the Secretary shall establish*
 24 *an outlier fund to reimburse rural PACE pilot sites*
 25 *for recognized outlier costs (as defined in paragraph*

1 (3)) incurred for eligible outlier participants (as de-
 2 fined in paragraph (2)) in an amount, subject to
 3 paragraph (4), equal to 80 percent of the amount by
 4 which the recognized outlier costs exceeds \$50,000.

5 (2) *ELIGIBLE OUTLIER PARTICIPANT.*—For pur-
 6 poses of this subsection, the term “eligible outlier par-
 7 ticipant” means a PACE program eligible individual
 8 (as defined in sections 1894(a)(5) and 1934(a)(5) of
 9 the Social Security Act (42 U.S.C. 1395eee(a)(5);
 10 1396u–4(a)(5))) who resides in a rural area and with
 11 respect to whom the rural PACE pilot site incurs
 12 more than \$50,000 in recognized costs in a 12-month
 13 period.

14 (3) *RECOGNIZED OUTLIER COSTS DEFINED.*—

15 (A) *IN GENERAL.*—For purposes of this sub-
 16 section, the term “recognized outlier costs”
 17 means, with respect to services furnished to an
 18 eligible outlier participant by a rural PACE
 19 pilot site, the least of the following (as docu-
 20 mented by the site to the satisfaction of the Sec-
 21 retary) for the provision of inpatient and related
 22 physician and ancillary services for the eligible
 23 outlier participant in a given 12-month period:

24 (i) If the services are provided under a
 25 contract between the pilot site and the pro-

1 *vider, the payment rate specified under the*
2 *contract.*

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

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

8 *(B) INCLUSION IN ONLY ONE PERIOD.—Rec-*
9 *ognized outlier costs may not be included in*
10 *more than one 12-month period.*

11 *(3) OUTLIER EXPENSE PAYMENT.—*

12 *(A) PAYMENT FOR OUTLIER COSTS.—Sub-*
13 *ject to subparagraph (B), in the case of a rural*
14 *PACE pilot site that has incurred outlier costs*
15 *for an eligible outlier participant, the rural*
16 *PACE pilot site shall receive an outlier expense*
17 *payment equal to 80 percent of such costs that*
18 *exceed \$50,000.*

19 *(4) LIMITATIONS.—*

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

1 *month period shall not exceed \$100,000 for the*
2 *12-month period used to calculate the payment.*

3 *(B) COSTS INCURRED PER PROVIDER.—No*
4 *rural PACE pilot site may receive more than*
5 *\$500,000 in total outlier expense payments in a*
6 *12-month period.*

7 *(C) LIMITATION OF OUTLIER COST REIM-*
8 *BURSEMENT PERIOD.—A rural PACE pilot site*
9 *shall only receive outlier expense payments*
10 *under this subsection with respect to costs in-*
11 *curring during the first 3 years of the site's oper-*
12 *ation.*

13 *(5) REQUIREMENT TO ACCESS RISK RESERVES*
14 *PRIOR TO PAYMENT.—A rural PACE pilot site shall*
15 *access and exhaust any risk reserves held or arranged*
16 *for the provider (other than revenue or reserves main-*
17 *tained to satisfy the requirements of section 460.80(c)*
18 *of title 42, Code of Federal Regulations) and any*
19 *working capital established through a site develop-*
20 *ment grant awarded under subsection (b)(1), prior to*
21 *receiving any payment from the outlier fund.*

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

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

3 (B) a certification that the site has com-
4 plied with the requirements under paragraph
5 (4); and

6 (C) such additional information as the Sec-
7 retary may require.

8 (7) APPROPRIATION.—

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

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

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

21 (e) AMOUNTS IN ADDITION TO PAYMENTS UNDER SO-
22 CIAL SECURITY ACT.—Any amounts paid under the author-
23 ity of this section to a PACE provider shall be in addition
24 to payments made to the provider under section 1894 or

1 1934 of the Social Security Act (42 U.S.C. 1395eee; 1396u–
2 4).

3 **TITLE VI—MEDICAID AND SCHIP**
4 **Subtitle A—Medicaid**
5 **CHAPTER 1—PAYMENT FOR**
6 **PRESCRIPTION DRUGS**

7 **SEC. 6001. FEDERAL UPPER PAYMENT LIMIT FOR MULTIPLE**
8 **SOURCE DRUGS AND OTHER DRUG PAYMENT**
9 **PROVISIONS.**

10 (a) *MODIFICATION OF FEDERAL UPPER PAYMENT*
11 *LIMIT FOR MULTIPLE SOURCE DRUGS; DEFINITION OF*
12 *MULTIPLE SOURCE DRUGS.*—Section 1927 of the Social Se-
13 *curity Act (42 U.S.C. 1396r–8) is amended—*

14 (1) *in subsection (e)(4)—*

15 (A) *by striking “The Secretary” and insert-*
16 *ing “Subject to paragraph (5), the Secretary”;*
17 *and*

18 (B) *by inserting “(or, effective January 1,*
19 *2007, two or more)” after “three or more”;*

20 (2) *by adding at the end of subsection (e) the fol-*
21 *lowing new paragraph:*

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

1 *Regulations, the Secretary shall substitute 250 percent*
 2 *of the average manufacturer price (as computed with-*
 3 *out regard to customary prompt pay discounts ex-*
 4 *tended to wholesalers) for 150 percent of the published*
 5 *price.”;*

6 *(3) in subsection (k)(7)(A)(i), in the matter pre-*
 7 *ceding subclause (I), by striking “are 2 or more drug*
 8 *products” and inserting “at least 1 other drug prod-*
 9 *uct”;* and

10 *(4) in subclauses (I), (II), and (III) of subsection*
 11 *(k)(7)(A)(i), by striking “are” and inserting “is” each*
 12 *place it appears.*

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

16 *(1) in subparagraph (A)—*

17 *(A) in clause (i), by inserting “month of a”*
 18 *after “last day of each”;* and

19 *(B) by adding at the end the following: “Be-*
 20 *ginning July 1, 2006, the Secretary shall provide*
 21 *on a monthly basis to States under subpara-*
 22 *graph (D)(iv) the most recently reported average*
 23 *manufacturer prices for single source drugs and*
 24 *for multiple source drugs and shall, on at least*

1 *a quarterly basis, update the information posted*
 2 *on the website under subparagraph (D)(v).”; and*
 3 *(2) in subparagraph (D)—*

4 *(A) by striking “and” at the end of clause*
 5 *(ii);*

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

8 *(C) by inserting after clause (iii) the fol-*
 9 *lowing new clauses:*

10 *“(iv) to States to carry out this title,*

11 *and*

12 *“(v) to the Secretary to disclose*
 13 *(through a website accessible to the public)*
 14 *average manufacturer prices.”.*

15 *(c) DEFINITION OF AVERAGE MANUFACTURER*
 16 *PRICE.—*

17 *(1) EXCLUSION OF CUSTOMARY PROMPT PAY DIS-*
 18 *COUNTS EXTENDED TO WHOLESALERS.—Subsection*
 19 *(k)(1) of such section is amended—*

20 *(A) by striking “The term” and inserting*
 21 *the following:*

22 *“(A) IN GENERAL.—Subject to subpara-*
 23 *graph (B), the term”;*

24 *(B) by striking “, after deducting cus-*
 25 *tomary prompt pay discounts”; and*

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

2 “(B) *EXCLUSION OF CUSTOMARY PROMPT*
3 *PAY DISCOUNTS EXTENDED TO WHOLESALERS.*—
4 *The average manufacturer price for a covered*
5 *outpatient drug shall be determined without re-*
6 *gard to customary prompt pay discounts ex-*
7 *tended to wholesalers.”.*

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

12 (3) *REQUIREMENT TO PROMULGATE REGULA-*
13 *TION.*—

14 (A) *INSPECTOR GENERAL RECOMMENDA-*
15 *TIONS.*—*Not later than June 1, 2006, the Inspec-*
16 *tor General of the Department of Health and*
17 *Human Services shall—*

18 (i) *review the requirements for, and*
19 *manner in which, average manufacturer*
20 *prices are determined under section 1927 of*
21 *the Social Security Act, as amended by this*
22 *section; and*

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

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

3 (B) *DEADLINE FOR PROMULGATION.*—*Not*
 4 *later than July 1, 2007, the Secretary of Health*
 5 *and Human Services shall promulgate a regula-*
 6 *tion that clarifies the requirements for, and*
 7 *manner in which, average manufacturer prices*
 8 *are determined under section 1927 of the Social*
 9 *Security Act, taking into consideration the rec-*
 10 *ommendations submitted to the Secretary in ac-*
 11 *cordance with subparagraph (A)(ii).*

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

14 (1) *MANUFACTURER REPORTING OF SALES.*—
 15 *Subsection (b)(3)(A)(iii) of such section is amended*
 16 *by inserting before the period at the end the following:*
 17 *“, and, for calendar quarters beginning on or after*
 18 *January 1, 2007 and only with respect to the infor-*
 19 *mation described in subclause (III), for covered out-*
 20 *patient drugs”.*

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

24 “(D) *LIMITATION ON SALES AT A NOMINAL*
 25 *PRICE.*—

1 “(i) *IN GENERAL.*—For purposes of
2 subparagraph (C)(ii)(III) and subsection
3 (b)(3)(A)(iii)(III), only sales by a manufac-
4 turer of covered outpatient drugs at nomi-
5 nal prices to the following shall be consid-
6 ered to be sales at a nominal price or mere-
7 ly nominal in amount:

8 “(I) *A covered entity described in*
9 *section 340B(a)(4) of the Public Health*
10 *Service Act.*

11 “(II) *An intermediate care facil-*
12 *ity for the mentally retarded.*

13 “(III) *A State-owned or operated*
14 *nursing facility.*

15 “(IV) *Any other facility or entity*
16 *that the Secretary determines is a safe-*
17 *ty net provider to which sales of such*
18 *drugs at a nominal price would be ap-*
19 *propriate based on the factors described*
20 *in clause (ii).*

21 “(ii) *FACTORS.*—The factors described
22 in this clause with respect to a facility or
23 entity are the following:

24 “(I) *The type of facility or entity.*

1 “(II) *The services provided by the*
2 *facility or entity.*

3 “(III) *The patient population*
4 *served by the facility or entity.*

5 “(IV) *The number of other facili-*
6 *ties or entities eligible to purchase at*
7 *nominal prices in the same service*
8 *area.*

9 “(iii) *NONAPPLICATION.—Clause (i)*
10 *shall not apply with respect to sales by a*
11 *manufacturer at a nominal price of covered*
12 *outpatient drugs pursuant to a master*
13 *agreement under section 8126 of title 38,*
14 *United States Code.”.*

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

19 “(f) *SURVEY OF RETAIL PRICES; STATE PAYMENT AND*
20 *UTILIZATION RATES; AND PERFORMANCE RANKINGS.—*

21 “(1) *SURVEY OF RETAIL PRICES.—*

22 “(A) *USE OF VENDOR.—The Secretary may*
23 *contract services for—*

24 “(i) *the determination on a monthly*
25 *basis of retail survey prices for covered out-*

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

7 *“(ii) the notification of the Secretary*
8 *when a drug product that is therapeutically*
9 *and pharmaceutically equivalent and bio-*
10 *equivalent becomes generally available.*

11 “(B) *SECRETARY RESPONSE TO NOTIFICA-*
12 *TION OF AVAILABILITY OF MULTIPLE SOURCE*
13 *PRODUCTS.—If contractor notifies the Secretary*
14 *under subparagraph (A)(ii) that a drug product*
15 *described in such subparagraph has become gen-*
16 *erally available, the Secretary shall make a de-*
17 *termination, within 7 days after receiving such*
18 *notification, as to whether the product is now de-*
19 *scribed in subsection (e)(4).*

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

24 *“(i) surveying and determining, on a*
25 *representative nationwide basis, retail*

1 *prices for ingredient costs of prescription*
2 *drugs;*

3 “(ii) *working with retail pharmacies,*
4 *commercial payers, and States in obtaining*
5 *and disseminating such price information;*
6 *and*

7 “(iii) *collecting and reporting such*
8 *price information on at least a monthly*
9 *basis.*

10 *In contracting for such services, the Secretary*
11 *may waive such provisions of the Federal Acqui-*
12 *sition Regulation as are necessary for the effi-*
13 *cient implementation of this subsection, other*
14 *than provisions relating to confidentiality of in-*
15 *formation and such other provisions as the Sec-*
16 *retary determines appropriate.*

17 “(D) *ADDITIONAL PROVISIONS.—A contract*
18 *with a vendor under this paragraph shall in-*
19 *clude such terms and conditions as the Secretary*
20 *shall specify, including the following:*

21 “(i) *The vendor must monitor the mar-*
22 *ketplace and report to the Secretary each*
23 *time there is a new covered outpatient drug*
24 *generally available.*

1 “(ii) *The vendor must update the Sec-*
2 *retary no less often than monthly on the re-*
3 *tail survey prices for covered outpatient*
4 *drugs.*

5 “(iii) *The contract shall be effective for*
6 *a term of 2 years.*

7 “(E) *AVAILABILITY OF INFORMATION TO*
8 *STATES.—Information on retail survey prices ob-*
9 *tained under this paragraph, including applica-*
10 *ble information on single source drugs, shall be*
11 *provided to States on at least a monthly basis.*
12 *The Secretary shall devise and implement a*
13 *means for providing access to each State agency*
14 *designated under section 1902(a)(5) with respon-*
15 *sibility for the administration or supervision of*
16 *the administration of the State plan under this*
17 *title of the retail survey price determined under*
18 *this paragraph.*

19 “(2) *ANNUAL STATE REPORT.—Each State shall*
20 *annually report to the Secretary information on—*

21 “(A) *the payment rates under the State*
22 *plan under this title for covered outpatient*
23 *drugs;*

24 “(B) *the dispensing fees paid under such*
25 *plan for such drugs; and*

1 “(C) *utilization rates for noninnovator mul-*
2 *tipl* *source drugs under such plan.*”

3 “(3) *ANNUAL STATE PERFORMANCE RANKINGS.—*

4 “(A) *COMPARATIVE ANALYSIS.—The Sec-*
5 *retary annually shall compare, for the 50 most*
6 *widely prescribed drugs identified by the Sec-*
7 *retary, the national retail sales price data (col-*
8 *lected under paragraph (1)) for such drugs with*
9 *data on prices under this title for each such drug*
10 *for each State.*”

11 “(B) *AVAILABILITY OF INFORMATION.—The*
12 *Secretary shall submit to Congress and the*
13 *States full information regarding the annual*
14 *rankings made under subparagraph (A).*”

15 “(4) *APPROPRIATION.—Out of any funds in the*
16 *Treasury not otherwise appropriated, there is appro-*
17 *priated to the Secretary of Health and Human Serv-*
18 *ices \$5,000,000 for each of fiscal years 2006 through*
19 *2010 to carry out this subsection.”.*

20 “(f) *MISCELLANEOUS AMENDMENTS.—*

21 “(1) *IN GENERAL.—Sections 1927(g)(1)(B)(i)(II)*
22 *and 1861(t)(2)(B)(ii)(I) of such Act are each amend-*
23 *ed by inserting “(or its successor publications)” after*
24 *“United States Pharmacopoeia-Drug Information”.*”

1 (2) *PAPERWORK REDUCTION.*—*The last sentence*
 2 *of section 1927(g)(2)(A)(ii) of such Act (42 U.S.C.*
 3 *1396r–8(g)(2)(A)(ii)) is amended by inserting before*
 4 *the period at the end the following: “, or to require*
 5 *verification of the offer to provide consultation or a*
 6 *refusal of such offer”.*

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

10 (g) *EFFECTIVE DATE.*—*Except as otherwise provided,*
 11 *the amendments made by this section shall take effect on*
 12 *January 1, 2007, without regard to whether or not final*
 13 *regulations to carry out such amendments have been pro-*
 14 *mulgated by such date.*

15 **SEC. 6002. COLLECTION AND SUBMISSION OF UTILIZATION**
 16 **DATA FOR CERTAIN PHYSICIAN ADMINIS-**
 17 **TERED DRUGS.**

18 (a) *IN GENERAL.*—*Section 1927(a) of the Social Secu-*
 19 *rity Act (42 U.S.C. 1396r–8(a)) is amended by adding at*
 20 *the end the following new paragraph:*

21 “(7) *REQUIREMENT FOR SUBMISSION OF UTILI-*
 22 *ZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED*
 23 *DRUGS.*—

24 “(A) *SINGLE SOURCE DRUGS.*—*In order for*
 25 *payment to be available under section 1903(a)*

1 *for a covered outpatient drug that is a single*
2 *source drug that is physician administered*
3 *under this title (as determined by the Secretary),*
4 *and that is administered on or after January 1,*
5 *2006, the State shall provide for the collection*
6 *and submission of such utilization data and cod-*
7 *ing (such as J-codes and National Drug Code*
8 *numbers) for each such drug as the Secretary*
9 *may specify as necessary to identify the manu-*
10 *facturer of the drug in order to secure rebates*
11 *under this section for drugs administered for*
12 *which payment is made under this title.*

13 “(B) *MULTIPLE SOURCE DRUGS.—*

14 “(i) *IDENTIFICATION OF MOST FRE-*
15 *QUENTLY PHYSICIAN ADMINISTERED MUL-*
16 *TIPLE SOURCE DRUGS.—Not later than*
17 *January 1, 2007, the Secretary shall pub-*
18 *lish a list of the 20 physician administered*
19 *multiple source drugs that the Secretary de-*
20 *termines have the highest dollar volume of*
21 *physician administered drugs dispensed*
22 *under this title. The Secretary may modify*
23 *such list from year to year to reflect changes*
24 *in such volume.*

1 “(ii) *REQUIREMENT.*—*In order for*
2 *payment to be available under section*
3 *1903(a) for a covered outpatient drug that*
4 *is a multiple source drug that is physician*
5 *administered (as determined by the Sec-*
6 *retary), that is on the list published under*
7 *clause (i), and that is administered on or*
8 *after January 1, 2008, the State shall pro-*
9 *vide for the submission of such utilization*
10 *data and coding (such as J-codes and Na-*
11 *tional Drug Code numbers) for each such*
12 *drug as the Secretary may specify as nec-*
13 *essary to identify the manufacturer of the*
14 *drug in order to secure rebates under this*
15 *section.*

16 “(C) *USE OF NDC CODES.*—*Not later than*
17 *January 1, 2007, the information shall be sub-*
18 *mitted under subparagraphs (A) and (B)(ii)*
19 *using National Drug Code codes unless the Sec-*
20 *retary specifies that an alternative coding system*
21 *should be used.*

22 “(D) *HARDSHIP WAIVER.*—*The Secretary*
23 *may delay the application of subparagraph (A)*
24 *or (B)(ii), or both, in the case of a State to pre-*
25 *vent hardship to States which require additional*

1 *time to implement the reporting system required*
 2 *under the respective subparagraph.”.*

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

5 (1) *by striking “and” at the end of subpara-*
 6 *graph (A);*

7 (2) *by striking “or” at the end of subparagraph*
 8 *(B) and inserting “and”; and*

9 (3) *by adding at the end the following new sub-*
 10 *paragraph:*

11 *“(C) with respect to covered outpatient*
 12 *drugs described in section 1927(a)(7), unless in-*
 13 *formation respecting utilization data and coding*
 14 *on such drugs that is required to be submitted*
 15 *under such section is submitted in accordance*
 16 *with such section; or”.*

17 **SEC. 6003. IMPROVED REGULATION OF DRUGS SOLD UNDER**
 18 **A NEW DRUG APPLICATION APPROVED**
 19 **UNDER SECTION 505(c) OF THE FEDERAL**
 20 **FOOD, DRUG, AND COSMETIC ACT.**

21 **(a) INCLUSION WITH OTHER REPORTED AVERAGE**
 22 **MANUFACTURER AND BEST PRICES.**—*Section*
 23 *1927(b)(3)(A) of the Social Security Act (42 U.S.C. 1396r-*
 24 *8(b)(3)(A)) is amended—*

1 (1) *by striking clause (i) and inserting the fol-*
2 *lowing:*

3 “(i) *not later than 30 days after the*
4 *last day of each rebate period under the*
5 *agreement—*

6 “(I) *on the average manufacturer*
7 *price (as defined in subsection (k)(1))*
8 *for covered outpatient drugs for the re-*
9 *bate period under the agreement (in-*
10 *cluding for all such drugs that are sold*
11 *under a new drug application ap-*
12 *proved under section 505(c) of the Fed-*
13 *eral Food, Drug, and Cosmetic Act);*
14 *and*

15 “(II) *for single source drugs and*
16 *innovator multiple source drugs (in-*
17 *cluding all such drugs that are sold*
18 *under a new drug application ap-*
19 *proved under section 505(c) of the Fed-*
20 *eral Food, Drug, and Cosmetic Act), on*
21 *the manufacturer’s best price (as de-*
22 *fined in subsection (c)(1)(C)) for such*
23 *drugs for the rebate period under the*
24 *agreement;”;* and

1 (2) *in clause (ii), by inserting “(including for*
 2 *such drugs that are sold under a new drug applica-*
 3 *tion approved under section 505(c) of the Federal*
 4 *Food, Drug, and Cosmetic Act)” after “drugs”.*

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

7 (1) *in subsection (c)(1)(C)—*

8 (A) *in clause (i), in the matter preceding*
 9 *subclause (I), by inserting after “or innovator*
 10 *multiple source drug of a manufacturer” the fol-*
 11 *lowing: “(including the lowest price available to*
 12 *any entity for any such drug of a manufacturer*
 13 *that is sold under a new drug application ap-*
 14 *proved under section 505(c) of the Federal Food,*
 15 *Drug, and Cosmetic Act)”;* *and*

16 (B) *in clause (ii)—*

17 (i) *in subclause (II), by striking “and”*
 18 *at the end;*

19 (ii) *in subclause (III), by striking the*
 20 *period at the end and inserting “; and”;*
 21 *and*

22 (iii) *by adding at the end the fol-*
 23 *lowing:*

24 “*(IV) in the case of a manufac-*
 25 *turer that approves, allows, or other-*

1 *wise permits any other drug of the*
2 *manufacturer to be sold under a new*
3 *drug application approved under sec-*
4 *tion 505(c) of the Federal Food, Drug,*
5 *and Cosmetic Act, shall be inclusive of*
6 *the lowest price for such authorized*
7 *drug available from the manufacturer*
8 *during the rebate period to any manu-*
9 *facturer, wholesaler, retailer, provider,*
10 *health maintenance organization, non-*
11 *profit entity, or governmental entity*
12 *within the United States, excluding*
13 *those prices described in subclauses (I)*
14 *through (IV) of clause (i).”; and*

15 (2) *in subsection (k), as amended by section*
16 *6001(c)(1), by adding at the end the following:*

17 “(C) *INCLUSION OF SECTION 505(c)*
18 *DRUGS.—In the case of a manufacturer that ap-*
19 *proves, allows, or otherwise permits any drug of*
20 *the manufacturer to be sold under a new drug*
21 *application approved under section 505(c) of the*
22 *Federal Food, Drug, and Cosmetic Act, such*
23 *term shall be inclusive of the average price paid*
24 *for such drug by wholesalers for drugs distrib-*
25 *uted to the retail pharmacy class of trade.”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section take effect on January 1, 2007.*

3 **SEC. 6004. CHILDREN’S HOSPITAL PARTICIPATION IN SEC-**
4 **TION 340B DRUG DISCOUNT PROGRAM.**

5 (a) *IN GENERAL.*—*Section 1927(a)(5)(B) of the Social*
6 *Security Act (42 U.S.C. 1396r–8(a)(5)(B)) is amended by*
7 *inserting before the period at the end the following: “and*
8 *a children’s hospital described in section 1886(d)(1)(B)(iii)*
9 *which meets the requirements of clauses (i) and (iii) of sec-*
10 *tion 340B(b)(4)(L) of the Public Health Service Act and*
11 *which would meet the requirements of clause (ii) of such*
12 *section if that clause were applied by taking into account*
13 *the percentage of care provided by the hospital to patients*
14 *eligible for medical assistance under a State plan under this*
15 *title”.*

16 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
17 *section (a) shall apply to drugs purchased on or after the*
18 *date of the enactment of this Act.*

1 **CHAPTER 2—LONG-TERM CARE UNDER**
 2 **MEDICAID**

3 **Subchapter A—Reform of Asset Transfer**
 4 **Rules**

5 **SEC. 6011. LENGTHENING LOOK-BACK PERIOD; CHANGE IN**
 6 **BEGINNING DATE FOR PERIOD OF INELIGI-**
 7 **BILITY.**

8 (a) *LENGTHENING LOOK-BACK PERIOD FOR ALL DIS-*
 9 *POSALS TO 5 YEARS.*—Section 1917(c)(1)(B)(i) of the So-
 10 *cial Security Act (42 U.S.C. 1396p(c)(1)(B)(i)) is amended*
 11 *by inserting “or in the case of any other disposal of assets*
 12 *made on or after the date of the enactment of the Deficit*
 13 *Reduction Act of 2005” before “, 60 months”.*

14 (b) *CHANGE IN BEGINNING DATE FOR PERIOD OF IN-*
 15 *ELIGIBILITY.*—Section 1917(c)(1)(D) of such Act (42 U.S.C.
 16 *1396p(c)(1)(D)) is amended—*

17 (1) *by striking “(D) The date” and inserting*
 18 *“(D)(i) In the case of a transfer of asset made before*
 19 *the date of the enactment of the Deficit Reduction Act*
 20 *of 2005, the date”; and*

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

23 *“(ii) In the case of a transfer of asset made on or after*
 24 *the date of the enactment of the Deficit Reduction Act of*
 25 *2005, the date specified in this subparagraph is the first*

1 *day of a month during or after which assets have been*
 2 *transferred for less than fair market value, or the date on*
 3 *which the individual is eligible for medical assistance under*
 4 *the State plan and would otherwise be receiving institu-*
 5 *tional level care described in subparagraph (C) based on*
 6 *an approved application for such care but for the applica-*
 7 *tion of the penalty period, whichever is later, and which*
 8 *does not occur during any other period of ineligibility*
 9 *under this subsection.”.*

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

13 *(d) AVAILABILITY OF HARDSHIP WAIVERS.—Each*
 14 *State shall provide for a hardship waiver process in accord-*
 15 *ance with section 1917(c)(2)(D) of the Social Security Act*
 16 *(42 U.S.C. 1396p(c)(2)(D))—*

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

20 *(A) of medical care such that the individ-*
 21 *ual’s health or life would be endangered; or*

22 *(B) of food, clothing, shelter, or other neces-*
 23 *sities of life; and*

24 *(2) which provides for—*

1 (A) notice to recipients that an undue hard-
2 ship exception exists;

3 (B) a timely process for determining wheth-
4 er an undue hardship waiver will be granted;
5 and

6 (C) a process under which an adverse deter-
7 mination can be appealed.

8 (e) *ADDITIONAL PROVISIONS ON HARDSHIP WAIV-*
9 *ERS.*—

10 (1) *APPLICATION BY FACILITY.*—Section
11 1917(c)(2) of the Social Security Act (42 U.S.C.
12 1396p(c)(2)) is amended—

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

15 (B) by adding after and below such sub-
16 paragraph the following:

17 “*The procedures established under subparagraph (D)*
18 *shall permit the facility in which the institutionalized*
19 *individual is residing to file an undue hardship*
20 *waiver application on behalf of the individual with*
21 *the consent of the individual or the personal rep-*
22 *resentative of the individual.”.*

23 (2) *AUTHORITY TO MAKE BED HOLD PAYMENTS*
24 *FOR HARDSHIP APPLICANTS.*—Such section is further
25 amended by adding at the end the following: “*While*

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

9 **SEC. 6012. DISCLOSURE AND TREATMENT OF ANNUITIES.**

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

14 *“(e)(1) In order to meet the requirements of this section*
 15 *for purposes of section 1902(a)(18), a State shall require,*
 16 *as a condition for the provision of medical assistance for*
 17 *services described in subsection (e)(1)(C)(i) (relating to*
 18 *long-term care services) for an individual, the application*
 19 *of the individual for such assistance (including any recer-*
 20 *tification of eligibility for such assistance) shall disclose a*
 21 *description of any interest the individual or community*
 22 *spouse has in an annuity (or similar financial instrument,*
 23 *as may be specified by the Secretary), regardless of whether*
 24 *the annuity is irrevocable or is treated as an asset. Such*
 25 *application or recertification form shall include a statement*

1 *that under paragraph (2) the State becomes a remainder*
2 *beneficiary under such an annuity or similar financial in-*
3 *strument by virtue of the provision of such medical assist-*
4 *ance.*

5 “(2)(A) *In the case of disclosure concerning an annu-*
6 *ity under subsection (c)(1)(F), the State shall notify the*
7 *issuer of the annuity of the right of the State under such*
8 *subsection as a preferred remainder beneficiary in the an-*
9 *nuity for medical assistance furnished to the individual.*
10 *Nothing in this paragraph shall be construed as preventing*
11 *such an issuer from notifying persons with any other re-*
12 *mainder interest of the State’s remainder interest under*
13 *such subsection.*

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

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

1 “(4) *Nothing in this subsection shall be construed as*
 2 *preventing a State from denying eligibility for medical as-*
 3 *sistance for an individual based on the income or resources*
 4 *derived from an annuity described in paragraph (1).”.*

5 **(b) REQUIREMENT FOR STATE TO BE NAMED AS A**
 6 **REMAINDER BENEFICIARY.**—*Section 1917(c)(1) of such Act*
 7 *(42 U.S.C. 1396p(c)(1)), is amended by adding at the end*
 8 *the following:*

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

12 “(i) *the State is named as the remainder bene-*
 13 *ficiary in the first position for at least the total*
 14 *amount of medical assistance paid on behalf of the*
 15 *annuitant under this title; or*

16 “(ii) *the State is named as such a beneficiary in*
 17 *the second position after the community spouse or*
 18 *minor or disabled child and is named in the first po-*
 19 *sition if such spouse or a representative of such child*
 20 *disposes of any such remainder for less than fair*
 21 *market value.”.*

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

1 “(G) For purposes of this paragraph with respect to
2 a transfer of assets, the term ‘assets’ includes an annuity
3 purchased by or on behalf of an annuitant who has applied
4 for medical assistance with respect to nursing facility serv-
5 ices or other long-term care services under this title unless—

6 “(i) the annuity is—

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

10 “(II) purchased with proceeds from—

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

14 “(bb) a simplified employee pension
15 (within the meaning of section 408(k) of
16 such Code); or

17 “(cc) a Roth IRA described in section
18 408A of such Code; or

19 “(ii) the annuity—

20 “(I) is irrevocable and nonassignable;

21 “(II) is actuarially sound (as determined in
22 accordance with actuarial publications of the Of-
23 fice of the Chief Actuary of the Social Security
24 Administration); and

1 “(III) provides for payments in equal
2 amounts during the term of the annuity, with no
3 deferral and no balloon payments made.”.

4 (d) *EFFECTIVE DATE.*—The amendments made by this
5 section shall apply to transactions (including the purchase
6 of an annuity) occurring on or after the date of the enact-
7 ment of this Act.

8 **SEC. 6013. APPLICATION OF “INCOME-FIRST” RULE IN AP-**
9 **PLYING COMMUNITY SPOUSE’S INCOME BE-**
10 **FORE ASSETS IN PROVIDING SUPPORT OF**
11 **COMMUNITY SPOUSE.**

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

15 “(6) *APPLICATION OF ‘INCOME FIRST’ RULE TO*
16 *REVISION OF COMMUNITY SPOUSE RESOURCE ALLOW-*
17 *ANCE.*—For purposes of this subsection and sub-
18 sections (c) and (e), a State must consider that all in-
19 come of the institutionalized spouse that could be
20 made available to a community spouse, in accordance
21 with the calculation of the community spouse monthly
22 income allowance under this subsection, has been
23 made available before the State allocates to the com-
24 munity spouse an amount of resources adequate to
25 provide the difference between the minimum monthly

1 *maintenance needs allowance and all income avail-*
 2 *able to the community spouse.”.*

3 *(b) EFFECTIVE DATE.—The amendment made by sub-*
 4 *section (a) shall apply to transfers and allocations made*
 5 *on or after the date of the enactment of this Act by individ-*
 6 *uals who become institutionalized spouses on or after such*
 7 *date.*

8 **SEC. 6014. DISQUALIFICATION FOR LONG-TERM CARE AS-**
 9 **SISTANCE FOR INDIVIDUALS WITH SUBSTAN-**
 10 **TIAL HOME EQUITY.**

11 *(a) IN GENERAL.—Section 1917 of the Social Security*
 12 *Act, as amended by section 6012(a), is further amended by*
 13 *redesignating subsection (f) as subsection (g) and by insert-*
 14 *ing after subsection (e) the following new subsection:*

15 *“(f)(1)(A) Notwithstanding any other provision of this*
 16 *title, subject to subparagraphs (B) and (C) of this para-*
 17 *graph and paragraph (2), in determining eligibility of an*
 18 *individual for medical assistance with respect to nursing*
 19 *facility services or other long-term care services, the indi-*
 20 *vidual shall not be eligible for such assistance if the individ-*
 21 *ual’s equity interest in the individual’s home exceeds*
 22 *\$500,000.*

23 *“(B) A State may elect, without regard to the require-*
 24 *ments of section 1902(a)(1) (relating to statewideness) and*
 25 *section 1902(a)(10)(B) (relating to comparability), to*

1 *apply subparagraph (A) by substituting for ‘\$500,000’, an*
2 *amount that exceeds such amount, but does not exceed*
3 *\$750,000.*

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

9 “(2) *Paragraph (1) shall not apply with respect to an*
10 *individual if—*

11 “(A) *the spouse of such individual, or*

12 “(B) *such individual’s child who is under age*
13 *21, or (with respect to States eligible to participate*
14 *in the State program established under title XVI) is*
15 *blind or permanently and totally disabled, or (with*
16 *respect to States which are not eligible to participate*
17 *in such program) is blind or disabled as defined in*
18 *section 1614,*

19 *is lawfully residing in the individual’s home.*

20 “(3) *Nothing in this subsection shall be construed as*
21 *preventing an individual from using a reverse mortgage or*
22 *home equity loan to reduce the individual’s total equity in-*
23 *terest in the home.*

1 “(4) *The Secretary shall establish a process whereby*
 2 *paragraph (1) is waived in the case of a demonstrated hard-*
 3 *ship.*”.

4 **(b) EFFECTIVE DATE.**—*The amendment made by sub-*
 5 *section (a) shall apply to individuals who are determined*
 6 *eligible for medical assistance with respect to nursing facil-*
 7 *ity services or other long-term care services based on an ap-*
 8 *plication filed on or after January 1, 2006.*

9 **SEC. 6015. ENFORCEABILITY OF CONTINUING CARE RETIRE-**
 10 **MENT COMMUNITIES (CCRC) AND LIFE CARE**
 11 **COMMUNITY ADMISSION CONTRACTS.**

12 **(a) ADMISSION POLICIES OF NURSING FACILITIES.**—
 13 *Section 1919(c)(5) of the Social Security Act (42 U.S.C.*
 14 *1396r(c)(5)) is amended—*

15 (1) *in subparagraph (A)(i)(II), by inserting*
 16 *“subject to clause (v),” after “(II); and*

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

19 “(v) **TREATMENT OF CONTINUING CARE**
 20 **RETIREMENT COMMUNITIES ADMISSION CON-**
 21 **TRACTS.**—*Notwithstanding subclause (II) of*
 22 *subparagraph (A)(i), subject to subsections*
 23 *(c) and (d) of section 1924, contracts for ad-*
 24 *mission to a State licensed, registered, cer-*
 25 *tified, or equivalent continuing care retire-*

1 *ment community or life care community,*
 2 *including services in a nursing facility that*
 3 *is part of such community, may require*
 4 *residents to spend on their care resources*
 5 *declared for the purposes of admission be-*
 6 *fore applying for medical assistance.”.*

7 **(b) TREATMENT OF ENTRANCE FEES.**—Section 1917
 8 *of such Act (42 U.S.C. 1396p), as amended by sections*
 9 *6012(a) and 6014(a), is amended by redesignating sub-*
 10 *section (g) as subsection (h) and by inserting after sub-*
 11 *section (f) the following new subsection:*

12 **“(g) TREATMENT OF ENTRANCE FEES OF INDIVIDUALS**
 13 **RESIDING IN CONTINUING CARE RETIREMENT COMMU-**
 14 **NITIES.**—

15 **“(1) IN GENERAL.**—*For purposes of determining*
 16 *an individual’s eligibility for, or amount of, benefits*
 17 *under a State plan under this title, the rules specified*
 18 *in paragraph (2) shall apply to individuals residing*
 19 *in continuing care retirement communities or life*
 20 *care communities that collect an entrance fee on ad-*
 21 *mission from such individuals.*

22 **“(2) TREATMENT OF ENTRANCE FEE.**—*For pur-*
 23 *poses of this subsection, an individual’s entrance fee*
 24 *in a continuing care retirement community or life*

1 *care community shall be considered a resource avail-*
 2 *able to the individual to the extent that—*

3 *“(A) the individual has the ability to use*
 4 *the entrance fee, or the contract provides that the*
 5 *entrance fee may be used, to pay for care should*
 6 *other resources or income of the individual be in-*
 7 *sufficient to pay for such care;*

8 *“(B) the individual is eligible for a refund*
 9 *of any remaining entrance fee when the indi-*
 10 *vidual dies or terminates the continuing care re-*
 11 *tirement community or life care community con-*
 12 *tract and leaves the community; and*

13 *“(C) the entrance fee does not confer an*
 14 *ownership interest in the continuing care retire-*
 15 *ment community or life care community.”.*

16 **SEC. 6016. ADDITIONAL REFORMS OF MEDICAID ASSET**
 17 **TRANSFER RULES.**

18 *(a) REQUIREMENT TO IMPOSE PARTIAL MONTHS OF*
 19 *INELIGIBILITY.—Section 1917(c)(1)(E) of the Social Secu-*
 20 *rity Act (42 U.S.C. 1396p(c)(1)(E)) is amended by adding*
 21 *at the end the following:*

22 *“(iv) A State shall not round down, or otherwise dis-*
 23 *regard any fractional period of ineligibility determined*
 24 *under clause (i) or (ii) with respect to the disposal of as-*
 25 *sets.”.*

1 **(b) AUTHORITY FOR STATES TO ACCUMULATE MUL-**
 2 **TIPLE TRANSFERS INTO ONE PENALTY PERIOD.**—Section
 3 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended
 4 by subsections (b) and (c) of section 6012, is amended by
 5 adding at the end the following:

6 “(H) Notwithstanding the preceding provisions of this
 7 paragraph, in the case of an individual (or individual’s
 8 spouse) who makes multiple fractional transfers of assets
 9 in more than 1 month for less than fair market value on
 10 or after the applicable look-back date specified in subpara-
 11 graph (B), a State may determine the period of ineligibility
 12 applicable to such individual under this paragraph by—

13 “(i) treating the total, cumulative uncompen-
 14 sated value of all assets transferred by the individual
 15 (or individual’s spouse) during all months on or after
 16 the look-back date specified in subparagraph (B) as 1
 17 transfer for purposes of clause (i) or (ii) (as the case
 18 may be) of subparagraph (E); and

19 “(ii) beginning such period on the earliest date
 20 which would apply under subparagraph (D) to any
 21 of such transfers.”.

22 **(c) INCLUSION OF TRANSFER OF CERTAIN NOTES AND**
 23 **LOANS ASSETS.**—Section 1917(c)(1) of such Act (42 U.S.C.
 24 1396p(c)(1)), as amended by subsection (b), is amended by
 25 adding at the end the following:

1 “(I) For purposes of this paragraph with respect to
 2 a transfer of assets, the term ‘assets’ includes funds used
 3 to purchase a promissory note, loan, or mortgage unless
 4 such note, loan, or mortgage—

5 “(i) has a repayment term that is actuarially
 6 sound (as determined in accordance with actuarial
 7 publications of the Office of the Chief Actuary of the
 8 Social Security Administration);

9 “(ii) provides for payments to be made in equal
 10 amounts during the term of the loan, with no deferral
 11 and no balloon payments made; and

12 “(iii) prohibits the cancellation of the balance
 13 upon the death of the lender.

14 In the case of a promissory note, loan, or mortgage that
 15 does not satisfy the requirements of clauses (i) through (iii),
 16 the value of such note, loan, or mortgage shall be the out-
 17 standing balance due as of the date of the individual’s ap-
 18 plication for medical assistance for services described in
 19 subparagraph (C).”.

20 (d) *INCLUSION OF TRANSFERS TO PURCHASE LIFE*
 21 *ESTATES.*—Section 1917(c)(1) of such Act (42 U.S.C.
 22 1396p(c)(1)), as amended by subsection (c), is amended by
 23 adding at the end the following:

24 “(J) For purposes of this paragraph with respect to
 25 a transfer of assets, the term ‘assets’ includes the purchase

1 of a life estate interest in another individual's home unless
 2 the purchaser resides in the home for a period of at least
 3 1 year after the date of the purchase.”.

4 (e) *EFFECTIVE DATES.*—

5 (1) *IN GENERAL.*—*Except as provided in para-*
 6 *graphs (2) and (3), the amendments made by this sec-*
 7 *tion shall apply to payments under title XIX of the*
 8 *Social Security Act (42 U.S.C. 1396 et seq.) for cal-*
 9 *endar quarters beginning on or after the date of en-*
 10 *actment of this Act, without regard to whether or not*
 11 *final regulations to carry out such amendments have*
 12 *been promulgated by such date.*

13 (2) *EXCEPTIONS.*—*The amendments made by*
 14 *this section shall not apply—*

15 (A) *to medical assistance provided for serv-*
 16 *ices furnished before the date of enactment;*

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

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

21 (3) *EXTENSION OF EFFECTIVE DATE FOR STATE*
 22 *LAW AMENDMENT.*—*In the case of a State plan under*
 23 *title XIX of the Social Security Act (42 U.S.C. 1396*
 24 *et seq.) which the Secretary of Health and Human*
 25 *Services determines requires State legislation in order*

1 *for the plan to meet the additional requirements im-*
 2 *posed by the amendments made by a provision of this*
 3 *section, the State plan shall not be regarded as failing*
 4 *to comply with the requirements of such title solely on*
 5 *the basis of its failure to meet these additional re-*
 6 *quirements before the first day of the first calendar*
 7 *quarter beginning after the close of the first regular*
 8 *session of the State legislature that begins after the*
 9 *date of the enactment of this Act. For purposes of the*
 10 *previous sentence, in the case of a State that has a*
 11 *2-year legislative session, each year of the session is*
 12 *considered to be a separate regular session of the*
 13 *State legislature.*

14 ***Subchapter B—Expanded Access to Certain***
 15 ***Benefits***

16 ***SEC. 6021. EXPANSION OF STATE LONG-TERM CARE PART-***
 17 ***nership Program.***

18 *(a) EXPANSION AUTHORITY.—*

19 *(1) IN GENERAL.—Section 1917(b) of the Social*
 20 *Security Act (42 U.S.C. 1396p(b)) is amended—*

21 *(A) in paragraph (1)(C)—*

22 *(i) in clause (ii), by inserting “and*
 23 *which satisfies clause (iv), or which has a*
 24 *State plan amendment that provides for a*
 25 *qualified State long-term care insurance*

1 *partnership (as defined in clause (iii))”*
2 *after “1993,”; and*

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

5 *“(iii) For purposes of this paragraph, the term*
6 *‘qualified State long-term care insurance partnership’*
7 *means an approved State plan amendment under this*
8 *title that provides for the disregard of any assets or*
9 *resources in an amount equal to the insurance benefit*
10 *payments that are made to or on behalf of an indi-*
11 *vidual who is a beneficiary under a long-term care*
12 *insurance policy if the following requirements are*
13 *met:*

14 *“(I) The policy covers an insured who was*
15 *a resident of such State when coverage first be-*
16 *came effective under the policy.*

17 *“(II) The policy is a qualified long-term*
18 *care insurance policy (as defined in section*
19 *7702B(b) of the Internal Revenue Code of 1986)*
20 *issued not earlier than the effective date of the*
21 *State plan amendment.*

22 *“(III) The policy meets the model regula-*
23 *tions and the requirements of the model Act spec-*
24 *ified in paragraph (5).*

1 “(IV) *If the policy is sold to an individual*
2 *who—*

3 “(aa) *has not attained age 61 as of the*
4 *date of purchase, the policy provides com-*
5 *pond annual inflation protection;*

6 “(bb) *has attained age 61 but has not*
7 *attained age 76 as of such date, the policy*
8 *provides some level of inflation protection;*
9 *and*

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

13 “(V) *The State Medicaid agency under sec-*
14 *tion 1902(a)(5) provides information and tech-*
15 *nical assistance to the State insurance depart-*
16 *ment on the insurance department’s role of as-*
17 *suming that any individual who sells a long-term*
18 *care insurance policy under the partnership re-*
19 *ceives training and demonstrates evidence of an*
20 *understanding of such policies and how they re-*
21 *late to other public and private coverage of long-*
22 *term care.*

23 “(VI) *The issuer of the policy provides reg-*
24 *ular reports to the Secretary, in accordance with*
25 *regulations of the Secretary, that include notifi-*

1 *cation regarding when benefits provided under*
2 *the policy have been paid and the amount of*
3 *such benefits paid, notification regarding when*
4 *the policy otherwise terminates, and such other*
5 *information as the Secretary determines may be*
6 *appropriate to the administration of such part-*
7 *nerships.*

8 *“(VII) The State does not impose any re-*
9 *quirement affecting the terms or benefits of such*
10 *a policy unless the State imposes such require-*
11 *ment on long-term care insurance policies with-*
12 *out regard to whether the policy is covered under*
13 *the partnership or is offered in connection with*
14 *such a partnership.*

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

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

1 *amendment provides for consumer protection stand-*
2 *ards which are no less stringent than the consumer*
3 *protection standards which applied under such State*
4 *plan amendment as of December 31, 2005.*

5 *“(v) The regulations of the Secretary required*
6 *under clause (iii)(VI) shall be promulgated after con-*
7 *sultation with the National Association of Insurance*
8 *Commissioners, issuers of long-term care insurance*
9 *policies, States with experience with long-term care*
10 *insurance partnership plans, other States, and rep-*
11 *resentatives of consumers of long-term care insurance*
12 *policies, and shall specify the type and format of the*
13 *data and information to be reported and the fre-*
14 *quency with which such reports are to be made. The*
15 *Secretary, as appropriate, shall provide copies of the*
16 *reports provided in accordance with that clause to the*
17 *State involved.*

18 *“(vi) The Secretary, in consultation with other*
19 *appropriate Federal agencies, issuers of long-term*
20 *care insurance, the National Association of Insurance*
21 *Commissioners, State insurance commissioners,*
22 *States with experience with long-term care insurance*
23 *partnership plans, other States, and representatives of*
24 *consumers of long-term care insurance policies, shall*
25 *develop recommendations for Congress to authorize*

1 *and fund a uniform minimum data set to be reported*
2 *electronically by all issuers of long-term care insur-*
3 *ance policies under qualified State long-term care in-*
4 *surance partnerships to a secure, centralized elec-*
5 *tronic query and report-generating mechanism that*
6 *the State, the Secretary, and other Federal agencies*
7 *can access.”; and*

8 *(B) by adding at the end the following:*

9 “(5)(A) *For purposes of clause (iii)(III), the model reg-*
10 *ulations and the requirements of the model Act specified in*
11 *this paragraph are:*

12 “(i) *In the case of the model regulation, the fol-*
13 *lowing requirements:*

14 “(I) *Section 6A (relating to guaranteed re-*
15 *newal or noncancellability), other than para-*
16 *graph (5) thereof, and the requirements of section*
17 *6B of the model Act relating to such section 6A.*

18 “(II) *Section 6B (relating to prohibitions*
19 *on limitations and exclusions) other than para-*
20 *graph (7) thereof.*

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

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

1 “(V) Section 6E (relating to discontinuance
2 and replacement of policies).

3 “(VI) Section 7 (relating to unintentional
4 lapse).

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

7 “(VIII) Section 9 (relating to required dis-
8 closure of rating practices to consumer).

9 “(IX) Section 11 (relating to prohibitions
10 against post-claims underwriting).

11 “(X) Section 12 (relating to minimum
12 standards).

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

15 “(XII) Section 15 (relating to reporting re-
16 quirements).

17 “(XIII) Section 22 (relating to filing re-
18 quirements for marketing).

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

23 “(XV) Section 24 (relating to suitability).

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

4 “(XVII) The provisions of section 26 relat-
5 ing to contingent nonforfeiture benefits, if the
6 policyholder declines the offer of a nonforfeiture
7 provision described in paragraph (4).

8 “(XVIII) Section 29 (relating to standard
9 format outline of coverage).

10 “(XIX) Section 30 (relating to requirement
11 to deliver shopper’s guide).

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

13 “(I) Section 6C (relating to preexisting con-
14 ditions).

15 “(II) Section 6D (relating to prior hos-
16 pitalization).

17 “(III) The provisions of section 8 relating
18 to contingent nonforfeiture benefits.

19 “(IV) Section 6F (relating to right to re-
20 turn).

21 “(V) Section 6G (relating to outline of cov-
22 erage).

23 “(VI) Section 6H (relating to requirements
24 for certificates under group plans).

1 “(VII) Section 6J (relating to policy sum-
2 mary).

3 “(VIII) Section 6K (relating to monthly re-
4 ports on accelerated death benefits).

5 “(IX) Section 7 (relating to incontestability
6 period).

7 “(B) For purposes of this paragraph and paragraph
8 (1)(C)—

9 “(i) the terms ‘model regulation’ and ‘model Act’
10 mean the long-term care insurance model regulation,
11 and the long-term care insurance model Act, respec-
12 tively, promulgated by the National Association of In-
13 surance Commissioners (as adopted as of October
14 2000);

15 “(ii) any provision of the model regulation or
16 model Act listed under subparagraph (A) shall be
17 treated as including any other provision of such regu-
18 lation or Act necessary to implement the provision;
19 and

20 “(iii) with respect to a long-term care insurance
21 policy issued in a State, the policy shall be deemed
22 to meet applicable requirements of the model regula-
23 tion or the model Act if the State plan amendment
24 under paragraph (1)(C)(iii) provides that the State
25 insurance commissioner for the State certifies (in a

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

3 *“(C) Not later than 12 months after the National Asso-*
4 *ciation of Insurance Commissioners issues a revision, up-*
5 *date, or other modification of a model regulation or model*
6 *Act provision specified in subparagraph (A), or of any pro-*
7 *vision of such regulation or Act that is substantively related*
8 *to a provision specified in such subparagraph, the Secretary*
9 *shall review the changes made to the provision, determine*
10 *whether incorporating such changes into the corresponding*
11 *provision specified in such subparagraph would improve*
12 *qualified State long-term care insurance partnerships, and*
13 *if so, shall incorporate the changes into such provision.”.*

14 (2) *STATE REPORTING REQUIREMENTS.—Noth-*
15 *ing in clauses (iii)(VI) and (v) of section*
16 *1917(b)(1)(C) of the Social Security Act (as added by*
17 *paragraph (1)) shall be construed as prohibiting a*
18 *State from requiring an issuer of a long-term care in-*
19 *surance policy sold in the State (regardless of whether*
20 *the policy is issued under a qualified State long-term*
21 *care insurance partnership under section*
22 *1917(b)(1)(C)(iii) of such Act) to require the issuer to*
23 *report information or data to the State that is in ad-*
24 *dition to the information or data required under such*
25 *clauses.*

1 (3) *EFFECTIVE DATE.*—A State plan amendment
2 that provides for a qualified State long-term care in-
3 surance partnership under the amendments made by
4 paragraph (1) may provide that such amendment is
5 effective for long-term care insurance policies issued
6 on or after a date, specified in the amendment, that
7 is not earlier than the first day of the first calendar
8 quarter in which the plan amendment was submitted
9 to the Secretary of Health and Human Services.

10 (b) *STANDARDS FOR RECIPROCAL RECOGNITION*
11 *AMONG PARTNERSHIP STATES.*—In order to permit port-
12 ability in long-term care insurance policies purchased
13 under State long-term care insurance partnerships, the Sec-
14 retary of Health and Human Services shall develop, not
15 later than January 1, 2007, and in consultation with the
16 National Association of Insurance Commissioners, issuers
17 of long-term care insurance policies, States with experience
18 with long-term care insurance partnership plans, other
19 States, and representatives of consumers of long-term care
20 insurance policies, standards for uniform reciprocal rec-
21 ognition of such policies among States with qualified State
22 long-term care insurance partnerships under which—

23 (1) *benefits paid under such policies will be*
24 *treated the same by all such States; and*

1 (2) *States with such partnerships shall be subject*
2 *to such standards unless the State notifies the Sec-*
3 *retary in writing of the State's election to be exempt*
4 *from such standards.*

5 (c) *ANNUAL REPORTS TO CONGRESS.*—

6 (1) *IN GENERAL.*—*The Secretary of Health and*
7 *Human Services shall annually report to Congress on*
8 *the long-term care insurance partnerships established*
9 *in accordance with section 1917(b)(1)(C)(ii) of the*
10 *Social Security Act (42 U.S.C. 1396p(b)(1)(C)(ii))*
11 *(as amended by subsection (a)(1)). Such reports shall*
12 *include analyses of the extent to which such partner-*
13 *ships expand or limit access of individuals to long-*
14 *term care and the impact of such partnerships on*
15 *Federal and State expenditures under the Medicare*
16 *and Medicaid programs. Nothing in this section shall*
17 *be construed as requiring the Secretary to conduct an*
18 *independent review of each long-term care insurance*
19 *policy offered under or in connection with such a*
20 *partnership.*

21 (2) *APPROPRIATION.*—*Out of any funds in the*
22 *Treasury not otherwise appropriated, there is appro-*
23 *propriated to the Secretary of Health and Human Serv-*
24 *ices, \$1,000,000 for the period of fiscal years 2006*
25 *through 2010 to carry out paragraph (1).*

1 (d) *NATIONAL CLEARINGHOUSE FOR LONG-TERM*
2 *CARE INFORMATION.*—

3 (1) *ESTABLISHMENT.*—*The Secretary of Health*
4 *and Human Services shall establish a National Clear-*
5 *inghouse for Long-Term Care Information. The Clear-*
6 *inghouse may be established through a contract or*
7 *interagency agreement.*

8 (2) *DUTIES.*—

9 (A) *IN GENERAL.*—*The National Clearing-*
10 *house for Long-Term Care Information shall—*

11 (i) *educate consumers with respect to*
12 *the availability and limitations of coverage*
13 *for long-term care under the Medicaid pro-*
14 *gram and provide contact information for*
15 *obtaining State-specific information on*
16 *long-term care coverage, including eligi-*
17 *bility and estate recovery requirements*
18 *under State Medicaid programs;*

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

1 *mation for additional objective resources on*
2 *planning for long-term care needs; and*

3 *(iii) maintain a list of States with*
4 *State long-term care insurance partnerships*
5 *under the Medicaid program that provide*
6 *reciprocal recognition of long-term care in-*
7 *surance policies issued under such partner-*
8 *ships.*

9 *(B) REQUIREMENT.—In providing informa-*
10 *tion to consumers on long-term care in accord-*
11 *ance with this subsection, the National Clearing-*
12 *house for Long-Term Care Information shall not*
13 *advocate in favor of a specific long-term care in-*
14 *surance provider or a specific long-term care in-*
15 *surance policy.*

16 *(3) APPROPRIATION.—Out of any funds in the*
17 *Treasury not otherwise appropriated, there is appro-*
18 *priated to carry out this subsection, \$3,000,000 for*
19 *each of fiscal years 2006 through 2010.*

1 **CHAPTER 3—ELIMINATING FRAUD, WASTE,**
 2 **AND ABUSE IN MEDICAID**

3 **SEC. 6031. ENCOURAGING THE ENACTMENT OF STATE**
 4 **FALSE CLAIMS ACTS.**

5 (a) *IN GENERAL.*—Title XIX of the Social Security
 6 Act (42 U.S.C. 1396 et seq.) is amended by inserting after
 7 section 1908A the following:

8 “STATE FALSE CLAIMS ACT REQUIREMENTS FOR
 9 INCREASED STATE SHARE OF RECOVERIES

10 “SEC. 1909. (a) *IN GENERAL.*—Notwithstanding sec-
 11 tion 1905(b), if a State has in effect a law relating to false
 12 or fraudulent claims that meets the requirements of sub-
 13 section (b), the Federal medical assistance percentage with
 14 respect to any amounts recovered under a State action
 15 brought under such law, shall be decreased by 10 percentage
 16 points.

17 “(b) *REQUIREMENTS.*—For purposes of subsection (a),
 18 the requirements of this subsection are that the Inspector
 19 General of the Department of Health and Human Services,
 20 in consultation with the Attorney General, determines that
 21 the State has in effect a law that meets the following re-
 22 quirements:

23 “(1) The law establishes liability to the State for
 24 false or fraudulent claims described in section 3729 of
 25 title 31, United States Code, with respect to any ex-
 26 penditure described in section 1903(a).

1 “(2) *The law contains provisions that are at*
2 *least as effective in rewarding and facilitating qui*
3 *tam actions for false or fraudulent claims as those de-*
4 *scribed in sections 3730 through 3732 of title 31,*
5 *United States Code.*

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

9 “(4) *The law contains a civil penalty that is not*
10 *less than the amount of the civil penalty authorized*
11 *under section 3729 of title 31, United States Code.*

12 “(c) *DEEMED COMPLIANCE.—A State that, as of Janu-*
13 *ary 1, 2007, has a law in effect that meets the requirements*
14 *of subsection (b) shall be deemed to be in compliance with*
15 *such requirements for so long as the law continues to meet*
16 *such requirements.*

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

1 *ance with the requirements of subsection (a) so long as the*
 2 *law meets such requirements.”.*

3 (b) *EFFECTIVE DATE.*—*Except as provided in section*
 4 *6035(e), the amendments made by this section take effect*
 5 *on January 1, 2007.*

6 **SEC. 6032. EMPLOYEE EDUCATION ABOUT FALSE CLAIMS**
 7 **RECOVERY.**

8 (a) *IN GENERAL.*—*Section 1902(a) of the Social Secu-*
 9 *rity Act (42 U.S.C. 1396a(a)) is amended—*

10 (1) *in paragraph (66), by striking “and” at the*
 11 *end;*

12 (2) *in paragraph (67) by striking the period at*
 13 *the end and inserting “; and”; and*

14 (3) *by inserting after paragraph (67) the fol-*
 15 *lowing:*

16 “(68) *provide that any entity that receives or*
 17 *makes annual payments under the State plan of at*
 18 *least \$5,000,000, as a condition of receiving such pay-*
 19 *ments, shall—*

20 “(A) *establish written policies for all em-*
 21 *ployees of the entity (including management),*
 22 *and of any contractor or agent of the entity, that*
 23 *provide detailed information about the False*
 24 *Claims Act established under sections 3729*
 25 *through 3733 of title 31, United States Code, ad-*

1 *ministrative remedies for false claims and state-*
2 *ments established under chapter 38 of title 31,*
3 *United States Code, any State laws pertaining*
4 *to civil or criminal penalties for false claims and*
5 *statements, and whistleblower protections under*
6 *such laws, with respect to the role of such laws*
7 *in preventing and detecting fraud, waste, and*
8 *abuse in Federal health care programs (as de-*
9 *defined in section 1128B(f));*

10 *“(B) include as part of such written poli-*
11 *cies, detailed provisions regarding the entity’s*
12 *policies and procedures for detecting and pre-*
13 *venting fraud, waste, and abuse; and*

14 *“(C) include in any employee handbook for*
15 *the entity, a specific discussion of the laws de-*
16 *scribed in subparagraph (A), the rights of em-*
17 *ployees to be protected as whistleblowers, and the*
18 *entity’s policies and procedures for detecting and*
19 *preventing fraud, waste, and abuse.”.*

20 *(b) EFFECTIVE DATE.—Except as provided in section*
21 *6035(e), the amendments made by subsection (a) take effect*
22 *on January 1, 2007.*

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

3 (a) *IN GENERAL.*—Section 1903(i)(10) of the Social
 4 Security Act (42 U.S.C. 1396b(i)), as amended by section
 5 6002(b), is amended—

6 (1) in subparagraph (B), by striking “and” at
 7 the end;

8 (2) in subparagraph (C), by striking “; or” at
 9 the end and inserting “, and”; and

10 (3) by adding at the end the following:

11 “(D) with respect to any amount expended for
 12 reimbursement to a pharmacy under this title for the
 13 ingredient cost of a covered outpatient drug for which
 14 the pharmacy has already received payment under
 15 this title (other than with respect to a reasonable re-
 16 stocking fee for such drug); or”.

17 (b) *EFFECTIVE DATE.*—The amendments made by sub-
 18 section (a) take effect on the first day of the first fiscal year
 19 quarter that begins after the date of enactment of this Act.

20 **SEC. 6034. MEDICAID INTEGRITY PROGRAM.**

21 (a) *ESTABLISHMENT OF MEDICAID INTEGRITY PRO-*
 22 *GRAM.*—Title XIX of the Social Security Act (42 U.S.C.
 23 1396 et seq.) is amended—

24 (1) by redesignating section 1936 as section
 25 1937; and

26 (2) by inserting after section 1935 the following:

1 “MEDICAID INTEGRITY PROGRAM

2 “SEC. 1936. (a) IN GENERAL.—*There is hereby estab-*
 3 *lished the Medicaid Integrity Program (in this section re-*
 4 *ferred to as the ‘Program’)* under which the Secretary shall
 5 *promote the integrity of the program under this title by*
 6 *entering into contracts in accordance with this section with*
 7 *eligible entities to carry out the activities described in sub-*
 8 *section (b).*

9 “(b) ACTIVITIES DESCRIBED—*Activities described in*
 10 *this subsection are as follows:*

11 “(1) *Review of the actions of individuals or enti-*
 12 *ties furnishing items or services (whether on a fee-for-*
 13 *service, risk, or other basis) for which payment may*
 14 *be made under a State plan approved under this title*
 15 *(or under any waiver of such plan approved under*
 16 *section 1115) to determine whether fraud, waste, or*
 17 *abuse has occurred, is likely to occur, or whether such*
 18 *actions have any potential for resulting in an expend-*
 19 *iture of funds under this title in a manner which is*
 20 *not intended under the provisions of this title.*

21 “(2) *Audit of claims for payment for items or*
 22 *services furnished, or administrative services ren-*
 23 *dered, under a State plan under this title,*
 24 *including—*

25 “(A) *cost reports;*

1 “(B) consulting contracts; and

2 “(C) risk contracts under section 1903(m).

3 “(3) Identification of overpayments to individ-
4 uals or entities receiving Federal funds under this
5 title.

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

9 “(c) *ELIGIBLE ENTITY AND CONTRACTING REQUIRE-*
10 *MENTS.—*

11 “(1) *IN GENERAL.—*An entity is eligible to enter
12 into a contract under the Program to carry out any
13 of the activities described in subsection (b) if the enti-
14 ty satisfies the requirements of paragraphs (2) and
15 (3).

16 “(2) *ELIGIBILITY REQUIREMENTS.—*The require-
17 ments of this paragraph are the following:

18 “(A) The entity has demonstrated capa-
19 bility to carry out the activities described in sub-
20 section (b).

21 “(B) In carrying out such activities, the en-
22 tity agrees to cooperate with the Inspector Gen-
23 eral of the Department of Health and Human
24 Services, the Attorney General, and other law en-
25 forcement agencies, as appropriate, in the inves-

1 *tigation and deterrence of fraud and abuse in re-*
2 *lation to this title and in other cases arising out*
3 *of such activities.*

4 “(C) *The entity complies with such conflict*
5 *of interest standards as are generally applicable*
6 *to Federal acquisition and procurement.*

7 “(D) *The entity meets such other require-*
8 *ments as the Secretary may impose.*

9 “(3) *CONTRACTING REQUIREMENTS.—The entity*
10 *has contracted with the Secretary in accordance with*
11 *such procedures as the Secretary shall by regulation*
12 *establish, except that such procedures shall include the*
13 *following:*

14 “(A) *Procedures for identifying, evaluating,*
15 *and resolving organizational conflicts of interest*
16 *that are generally applicable to Federal acquisi-*
17 *tion and procurement.*

18 “(B) *Competitive procedures to be used—*

19 “(i) *when entering into new contracts*
20 *under this section;*

21 “(ii) *when entering into contracts that*
22 *may result in the elimination of respon-*
23 *sibilities under section 202(b) of the Health*
24 *Insurance Portability and Accountability*
25 *Act of 1996; and*

1 “(iii) at any other time considered ap-
2 propriate by the Secretary.

3 “(C) Procedures under which a contract
4 under this section may be renewed without re-
5 gard to any provision of law requiring competi-
6 tion if the contractor has met or exceeded the
7 performance requirements established in the cur-
8 rent contract.

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

11 “(4) LIMITATION ON CONTRACTOR LIABILITY.—
12 The Secretary shall by regulation provide for the lim-
13 itation of a contractor’s liability for actions taken to
14 carry out a contract under the Program, and such
15 regulation shall, to the extent the Secretary finds ap-
16 propriate, employ the same or comparable standards
17 and other substantive and procedural provisions as
18 are contained in section 1157.

19 “(d) COMPREHENSIVE PLAN FOR PROGRAM INTEG-
20 RITY.—

21 “(1) 5-YEAR PLAN.—With respect to the 5-fiscal
22 year period beginning with fiscal year 2006, and each
23 such 5-fiscal year period that begins thereafter, the
24 Secretary shall establish a comprehensive plan for en-

1 *uring the integrity of the program established under*
2 *this title by combatting fraud, waste, and abuse.*

3 “(2) *CONSULTATION.*—*Each 5-fiscal year plan*
4 *established under paragraph (1) shall be developed by*
5 *the Secretary in consultation with the Attorney Gen-*
6 *eral, the Director of the Federal Bureau of Investiga-*
7 *tion, the Comptroller General of the United States,*
8 *the Inspector General of the Department of Health*
9 *and Human Services, and State officials with respon-*
10 *sibility for controlling provider fraud and abuse*
11 *under State plans under this title.*

12 “(e) *APPROPRIATION.*—

13 “(1) *IN GENERAL.*—*Out of any money in the*
14 *Treasury of the United States not otherwise appro-*
15 *priated, there are appropriated to carry out the Med-*
16 *icaid Integrity Program under this section, without*
17 *further appropriation—*

18 “(A) *for fiscal year 2006, \$5,000,000;*

19 “(B) *for each of fiscal years 2007 and 2008,*
20 *\$50,000,000; and*

21 “(C) *for each fiscal year thereafter,*
22 *\$75,000,000.*

23 “(2) *AVAILABILITY.*—*Amounts appropriated*
24 *pursuant to paragraph (1) shall remain available*
25 *until expended.*

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

10 “(4) *ANNUAL REPORT.*—Not later than 180 days
11 after the end of each fiscal year (beginning with fiscal
12 year 2006), the Secretary shall submit a report to
13 Congress which identifies—

14 “(A) the use of funds appropriated pursu-
15 ant to paragraph (1); and

16 “(B) the effectiveness of the use of such
17 funds.”.

18 (b) *STATE REQUIREMENT TO COOPERATE WITH IN-*
19 *TEGRITY PROGRAM EFFORTS.*—Section 1902(a) of such Act
20 (42 U.S.C. 1396a(a)), as amended by section 6033(a), is
21 amended—

22 (1) in paragraph (67), by striking “and” at the
23 end;

24 (2) in paragraph (68), by striking the period at
25 the end and inserting “; and”; and

1 (3) *by inserting after paragraph (68), the fol-*
 2 *lowing:*

3 “(69) *provide that the State must comply with*
 4 *any requirements determined by the Secretary to be*
 5 *necessary for carrying out the Medicaid Integrity*
 6 *Program established under section 1936.”.*

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

9 (1) *IN GENERAL.—Out of any money in the*
 10 *Treasury of the United States not otherwise appro-*
 11 *priated, there are appropriated to the Office of the In-*
 12 *spector General of the Department of Health and*
 13 *Human Services, without further appropriation,*
 14 *\$25,000,000 for each of fiscal years 2006 through*
 15 *2010, for activities of such Office with respect to the*
 16 *Medicaid program under title XIX of the Social Secu-*
 17 *rity Act (42 U.S.C. 1396 et seq.).*

18 (2) *AVAILABILITY; AMOUNTS IN ADDITION TO*
 19 *OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVI-*
 20 *TIES.—Amounts appropriated pursuant to paragraph*
 21 *(1) shall—*

22 (A) *remain available until expended; and*

23 (B) *be in addition to any other amounts*
 24 *appropriated or made available to the Office of*
 25 *the Inspector General of the Department of*

1 *Health and Human Services for activities of*
 2 *such Office with respect to the Medicaid pro-*
 3 *gram.*

4 (3) *ANNUAL REPORT.*—*Not later than 180 days*
 5 *after the end of each fiscal year (beginning with fiscal*
 6 *year 2006), the Inspector General of the Department*
 7 *of Health and Human Services shall submit a report*
 8 *to Congress which identifies—*

9 (A) *the use of funds appropriated pursuant*
 10 *to paragraph (1); and*

11 (B) *the effectiveness of the use of such funds.*

12 (d) *NATIONAL EXPANSION OF THE MEDICARE-MED-*
 13 *ICAID (MEDI-MEDI) DATA MATCH PILOT PROGRAM.*—

14 (1) *REQUIREMENT OF THE MEDICARE INTEGRITY*
 15 *PROGRAM.*—*Section 1893 of the Social Security Act*
 16 *(42 U.S.C. 1395ddd) is amended—*

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

19 “*(6) The Medicare-Medicaid Data Match Pro-*
 20 *gram in accordance with subsection (g).”;* and

21 (B) *by adding at the end the following:*

22 “*(g) MEDICARE-MEDICAID DATA MATCH PROGRAM.*—

23 “*(1) EXPANSION OF PROGRAM.*—

24 “*(A) IN GENERAL.*—*The Secretary shall*
 25 *enter into contracts with eligible entities for the*

1 *purpose of ensuring that, beginning with 2006,*
2 *the Medicare-Medicaid Data Match Program*
3 *(commonly referred to as the ‘Medi-Medi Pro-*
4 *gram’) is conducted with respect to the program*
5 *established under this title and State Medicaid*
6 *programs under title XIX for the purpose of—*

7 “(i) *identifying program*
8 *vulnerabilities in the program established*
9 *under this title and the Medicaid program*
10 *established under title XIX through the use*
11 *of computer algorithms to look for payment*
12 *anomalies (including billing or billing pat-*
13 *terns identified with respect to service, time,*
14 *or patient that appear to be suspect or oth-*
15 *erwise implausible);*

16 “(ii) *working with States, the Attorney*
17 *General, and the Inspector General of the*
18 *Department of Health and Human Services*
19 *to coordinate appropriate actions to protect*
20 *the Federal and State share of expenditures*
21 *under the Medicaid program under title*
22 *XIX, as well as the program established*
23 *under this title; and*

24 “(iii) *increasing the effectiveness and*
25 *efficiency of both such programs through*

1 *cost avoidance, savings, and recoupments of*
 2 *fraudulent, wasteful, or abusive expendi-*
 3 *tures.*

4 “(B) *REPORTING REQUIREMENTS.*—*The*
 5 *Secretary shall make available in a timely man-*
 6 *ner any data and statistical information col-*
 7 *lected by the Medi-Medi Program to the Attorney*
 8 *General, the Director of the Federal Bureau of*
 9 *Investigation, the Inspector General of the De-*
 10 *partment of Health and Human Services, and*
 11 *the States (including a Medicaid fraud and*
 12 *abuse control unit described in section 1903(q)).*
 13 *Such information shall be disseminated no less*
 14 *frequently than quarterly.*

15 “(2) *LIMITED WAIVER AUTHORITY.*—*The Sec-*
 16 *retary shall waive only such requirements of this sec-*
 17 *tion and of titles XI and XIX as are necessary to*
 18 *carry out paragraph (1).”.*

19 (2) *FUNDING.*—*Section 1817(k)(4) of such Act*
 20 *(42 U.S.C. 1395i(k)(4)), as amended by section 5204*
 21 *of this Act, is amended—*

22 (A) *in subparagraph (A), by striking “sub-*
 23 *paragraph (B)” and inserting “subparagraphs*
 24 *(B), (C), and (D)”;* and

25 (B) *by adding at the end the following:*

1 “(D) *EXPANSION OF THE MEDICARE-MED-*
 2 *ICAID DATA MATCH PROGRAM.*—*The amount ap-*
 3 *propriated under subparagraph (A) for a fiscal*
 4 *year is further increased as follows for purposes*
 5 *of carrying out section 1893(b)(6) for the respec-*
 6 *tive fiscal year:*

7 “(i) \$12,000,000 for fiscal year 2006.

8 “(ii) \$24,000,000 for fiscal year 2007.

9 “(iii) \$36,000,000 for fiscal year 2008.

10 “(iv) \$48,000,000 for fiscal year 2009.

11 “(v) \$60,000,000 for fiscal year 2010

12 *and each fiscal year thereafter.”.*

13 (e) *DELAYED EFFECTIVE DATE FOR CHAPTER.*—*Ex-*
 14 *cept as otherwise provided in this chapter, in the case of*
 15 *a State plan under title XIX of the Social Security Act*
 16 *which the Secretary determines requires State legislation in*
 17 *order for the plan to meet the additional requirements im-*
 18 *posed by the amendments made by a provision of this chap-*
 19 *ter, the State plan shall not be regarded as failing to comply*
 20 *with the requirements of such Act solely on the basis of its*
 21 *failure to meet these additional requirements before the first*
 22 *day of the first calendar quarter beginning after the close*
 23 *of the first regular session of the State legislature that be-*
 24 *gins after the date of enactment of this Act. For purposes*
 25 *of the previous sentence, in the case of a State that has a*

1 *2-year legislative session, each year of the session shall be*
 2 *considered to be a separate regular session of the State legis-*
 3 *lature.*

4 **SEC. 6035. ENHANCING THIRD PARTY IDENTIFICATION AND**
 5 **PAYMENT.**

6 *(a) CLARIFICATION OF THIRD PARTIES LEGALLY RE-*
 7 *SPONSIBLE FOR PAYMENT OF A CLAIM FOR A HEALTH*
 8 *CARE ITEM OR SERVICE.—Section 1902(a)(25) of the So-*
 9 *cial Security Act (42 U.S.C. 1396a(a)(25)) is amended—*

10 *(1) in subparagraph (A), in the matter preceding*
 11 *clause (i)—*

12 *(A) by inserting “, self-insured plans” after*
 13 *“health insurers”; and*

14 *(B) by striking “and health maintenance*
 15 *organizations” and inserting “managed care or-*
 16 *ganizations, pharmacy benefit managers, or*
 17 *other parties that are, by statute, contract, or*
 18 *agreement, legally responsible for payment of a*
 19 *claim for a health care item or service”; and*

20 *(2) in subparagraph (G)—*

21 *(A) by inserting “a self-insured plan,” after*
 22 *“1974,”; and*

23 *(B) by striking “and a health maintenance*
 24 *organization” and inserting “a managed care*
 25 *organization, a pharmacy benefit manager, or*

1 *other party that is, by statute, contract, or agree-*
 2 *ment, legally responsible for payment of a claim*
 3 *for a health care item or service”.*

4 *(b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE*
 5 *THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS*
 6 *DATA.—Section 1902(a)(25) of such Act (42 U.S.C.*
 7 *1396a(a)(25)) is amended—*

8 *(1) in subparagraph (G), by striking “and” at*
 9 *the end;*

10 *(2) in subparagraph (H), by adding “and” after*
 11 *the semicolon at the end; and*

12 *(3) by inserting after subparagraph (H), the fol-*
 13 *lowing:*

14 *“(I) that the State shall provide assurances*
 15 *satisfactory to the Secretary that the State has*
 16 *in effect laws requiring health insurers, includ-*
 17 *ing self-insured plans, group health plans (as de-*
 18 *finied in section 607(1) of the Employee Retire-*
 19 *ment Income Security Act of 1974), service ben-*
 20 *efit plans, managed care organizations, phar-*
 21 *macy benefit managers, or other parties that are,*
 22 *by statute, contract, or agreement, legally respon-*
 23 *sible for payment of a claim for a health care*
 24 *item or service, as a condition of doing business*
 25 *in the State, to—*

1 “(i) provide, with respect to individ-
2 uals who are eligible for, or are provided,
3 medical assistance under the State plan,
4 upon the request of the State, information
5 to determine during what period the indi-
6 vidual or their spouses or their dependents
7 may be (or may have been) covered by a
8 health insurer and the nature of the cov-
9 erage that is or was provided by the health
10 insurer (including the name, address, and
11 identifying number of the plan) in a man-
12 ner prescribed by the Secretary;

13 “(ii) accept the State’s right of recov-
14 ery and the assignment to the State of any
15 right of an individual or other entity to
16 payment from the party for an item or
17 service for which payment has been made
18 under the State plan;

19 “(iii) respond to any inquiry by the
20 State regarding a claim for payment for
21 any health care item or service that is sub-
22 mitted not later than 3 years after the date
23 of the provision of such health care item or
24 service; and

1 “(iv) agree not to deny a claim sub-
 2 mitted by the State solely on the basis of the
 3 date of submission of the claim, the type or
 4 format of the claim form, or a failure to
 5 present proper documentation at the point-
 6 of-sale that is the basis of the claim, if—

7 “(I) the claim is submitted by the
 8 State within the 3-year period begin-
 9 ning on the date on which the item or
 10 service was furnished; and

11 “(II) any action by the State to
 12 enforce its rights with respect to such
 13 claim is commenced within 6 years of
 14 the State’s submission of such claim;”.

15 (c) *EFFECTIVE DATE.*—Except as provided in section
 16 6035(e), the amendments made by this section take effect
 17 on January 1, 2006.

18 **SEC. 6036. IMPROVED ENFORCEMENT OF DOCUMENTATION**

19 **REQUIREMENTS.**

20 (a) *IN GENERAL.*—Section 1903 of the Social Security
 21 Act (42 U.S.C. 1396b) is amended—

22 (1) in subsection (i), as amended by section 104
 23 of Public Law 109–91—

24 (A) by striking “or” at the end of para-
 25 graph (20);

1 (B) by striking the period at the end of
2 paragraph (21) and inserting “; or”; and

3 (C) by inserting after paragraph (21) the
4 following new paragraph:

5 “(22) with respect to amounts expended for med-
6 ical assistance for an individual who declares under
7 section 1137(d)(1)(A) to be a citizen or national of
8 the United States for purposes of establishing eligi-
9 bility for benefits under this title, unless the require-
10 ment of subsection (x) is met.”; and

11 (2) by adding at the end the following new sub-
12 section:

13 “(x)(1) For purposes of subsection (i)(23), the require-
14 ment of this subsection is, with respect to an individual
15 declaring to be a citizen or national of the United States,
16 that, subject to paragraph (2), there is presented satisfac-
17 tory documentary evidence of citizenship or nationality (as
18 defined in paragraph (3)) of the individual.

19 “(2) The requirement of paragraph (1) shall not apply
20 to an alien who is eligible for medical assistance under this
21 title—

22 “(A) and is entitled to or enrolled for benefits
23 under any part of title XVIII;

24 “(B) on the basis of receiving supplemental secu-
25 rity income benefits under title XVI; or

1 “(C) on such other basis as the Secretary may
2 specify under which satisfactory documentary evi-
3 dence of citizenship or nationality had been pre-
4 viously presented.

5 “(3)(A) For purposes of this subsection, the term ‘satis-
6 factory documentary evidence of citizenship or nationality’
7 means—

8 “(i) any document described in subparagraph
9 (B); or

10 “(ii) a document described in subparagraph (C)
11 and a document described in subparagraph (D).

12 “(B) The following are documents described in this
13 subparagraph:

14 “(i) A United States passport.

15 “(ii) Form N-550 or N-570 (Certificate of Natu-
16 ralization).

17 “(iii) Form N-560 or N-561 (Certificate of
18 United States Citizenship).

19 “(iv) A valid State-issued driver’s license or
20 other identity document described in section
21 274A(b)(1)(D) of the Immigration and Nationality
22 Act, but only if the State issuing the license or such
23 document requires proof of United States citizenship
24 before issuance of such license or document or obtains
25 a social security number from the applicant and

1 *verifies before certification that such number is valid*
2 *and assigned to the applicant who is a citizen.*

3 *“(v) Such other document as the Secretary may*
4 *specify, by regulation, that provides proof of United*
5 *States citizenship or nationality and that provides a*
6 *reliable means of documentation of personal identity.*

7 *“(C) The following are documents described in this*
8 *subparagraph:*

9 *“(i) A certificate of birth in the United States.*

10 *“(ii) Form FS-545 or Form DS-1350 (Certifi-*
11 *cation of Birth Abroad).*

12 *“(iii) Form I-97 (United States Citizen Identi-*
13 *fication Card).*

14 *“(iv) Form FS-240 (Report of Birth Abroad of*
15 *a Citizen of the United States).*

16 *“(v) Such other document (not described in sub-*
17 *paragraph (B)(iv)) as the Secretary may specify that*
18 *provides proof of United States citizenship or nation-*
19 *ality.*

20 *“(D) The following are documents described in this*
21 *subparagraph:*

22 *“(i) Any identity document described in section*
23 *274A(b)(1)(D) of the Immigration and Nationality*
24 *Act.*

1 “(ii) Any other documentation of personal iden-
2 tity of such other type as the Secretary finds, by regu-
3 lation, provides a reliable means of identification.

4 “(E) A reference in this paragraph to a form includes
5 a reference to any successor form.”.

6 (b) *EFFECTIVE DATE.*—The amendments made by sub-
7 section (a) shall apply to determinations of initial eligi-
8 bility for medical assistance made on or after July 1, 2006,
9 and to redeterminations of eligibility made on or after such
10 date in the case of individuals for whom the requirement
11 of section 1903(z) of the Social Security Act, as added by
12 such amendments, was not previously met.

13 (c) *IMPLEMENTATION REQUIREMENT.*—As soon as
14 practicable after the date of enactment of this Act, the Sec-
15 retary of Health and Human Services shall establish an
16 outreach program that is designed to educate individuals
17 who are likely to be affected by the requirements of sub-
18 sections (i)(23) and (x) of section 1903 of the Social Secu-
19 rity Act (as added by subsection (a)) about such require-
20 ments and how they may be satisfied.

1 **CHAPTER 4—FLEXIBILITY IN COST**
 2 **SHARING AND BENEFITS**

3 **SEC. 6041. STATE OPTION FOR ALTERNATIVE MEDICAID**
 4 **PREMIUMS AND COST SHARING.**

5 (a) *IN GENERAL.*—*Title XIX of the Social Security*
 6 *Act is amended by inserting after section 1916 the following*
 7 *new section:*

8 “*STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST*
 9 *SHARING*

10 “*SEC. 1916A. (a) STATE FLEXIBILITY.*—

11 “(1) *IN GENERAL.*—*Notwithstanding sections*
 12 *1916 and 1902(a)(10)(B), a State, at its option and*
 13 *through a State plan amendment, may impose pre-*
 14 *miums and cost sharing for any group of individuals*
 15 *(as specified by the State) and for any type of services*
 16 *(other than drugs for which cost sharing may be im-*
 17 *posed under subsection (c)), and may vary such pre-*
 18 *miums and cost sharing among such groups or types,*
 19 *consistent with the limitations established under this*
 20 *section. Nothing in this section shall be construed as*
 21 *superseding (or preventing the application of) section*
 22 *1916(g).*

23 “(2) *DEFINITIONS.*—*In this section:*

24 “(A) *PREMIUM.*—*The term ‘premium’ in-*
 25 *cludes any enrollment fee or similar charge.*

1 “(B) *COST SHARING.*—*The term ‘cost shar-*
 2 *ing’ includes any deduction, copayment, or simi-*
 3 *lar charge.*

4 “(b) *LIMITATIONS ON EXERCISE OF AUTHORITY.*—

5 “(1) *INDIVIDUALS WITH FAMILY INCOME BE-*
 6 *TWEEN 100 AND 150 PERCENT OF THE POVERTY*
 7 *LINE.*—*In the case of an individual whose family in-*
 8 *come exceeds 100 percent, but does not exceed 150 per-*
 9 *cent, of the poverty line applicable to a family of the*
 10 *size involved, subject to subsections (c)(2) and*
 11 *(e)(2)(A)—*

12 “(A) *no premium may be imposed under*
 13 *the plan; and*

14 “(B) *with respect to cost sharing—*

15 “(i) *the cost sharing imposed under*
 16 *subsection (a) with respect to any item or*
 17 *service may not exceed 10 percent of the cost*
 18 *of such item or service; and*

19 “(ii) *the total aggregate amount of cost*
 20 *sharing imposed under this section (includ-*
 21 *ing any cost sharing imposed under sub-*
 22 *section (c) or (e)) for all individuals in the*
 23 *family may not exceed 5 percent of the fam-*
 24 *ily income of the family involved, as ap-*

1 *plied on a quarterly or monthly basis (as*
 2 *specified by the State).*

3 “(2) *INDIVIDUALS WITH FAMILY INCOME ABOVE*
 4 *150 PERCENT OF THE POVERTY LINE.—In the case of*
 5 *an individual whose family income exceeds 150 per-*
 6 *cent of the poverty line applicable to a family of the*
 7 *size involved, subject to subsections (c)(2) and*
 8 *(e)(2)(A)—*

9 “(A) *the total aggregate amount of pre-*
 10 *miums and cost sharing imposed under this sec-*
 11 *tion (including any cost sharing imposed under*
 12 *subsection (c) or (e)) for all individuals in the*
 13 *family may not exceed 5 percent of the family*
 14 *income of the family involved, as applied on a*
 15 *quarterly or monthly basis (as specified by the*
 16 *State); and*

17 “(B) *with respect to cost sharing, the cost*
 18 *sharing imposed with respect to any item or*
 19 *service under subsection (a) may not exceed 20*
 20 *percent of the cost of such item or service.*

21 “(3) *ADDITIONAL LIMITATIONS.—*

22 “(A) *PREMIUMS.—No premiums shall be*
 23 *imposed under this section with respect to the*
 24 *following:*

1 “(i) *Individuals under 18 years of age*
2 *that are required to be provided medical as-*
3 *stance under section 1902(a)(10)(A)(i),*
4 *and including individuals with respect to*
5 *whom aid or assistance is made available*
6 *under part B of title IV to children in foster*
7 *care and individuals with respect to whom*
8 *adoption or foster care assistance is made*
9 *available under part E of such title, without*
10 *regard to age.*

11 “(ii) *Pregnant women.*

12 “(iii) *Any terminally ill individual*
13 *who is receiving hospice care (as defined in*
14 *section 1905(o)).*

15 “(iv) *Any individual who is an inpa-*
16 *tient in a hospital, nursing facility, inter-*
17 *mediate care facility for the mentally re-*
18 *tarded, or other medical institution, if such*
19 *individual is required, as a condition of re-*
20 *ceiving services in such institution under*
21 *the State plan, to spend for costs of medical*
22 *care all but a minimal amount of the indi-*
23 *vidual’s income required for personal needs.*

24 “(v) *Women who are receiving medical*
25 *assistance by virtue of the application of*

1 sections 1902(a)(10)(A)(ii)(XVIII) and
2 1902(aa).

3 “(B) COST SHARING.—Subject to the suc-
4 ceeding provisions of this section, no cost sharing
5 shall be imposed under subsection (a) with re-
6 spect to the following:

7 “(i) Services furnished to individuals
8 under 18 years of age that are required to
9 be provided medical assistance under sec-
10 tion 1902(a)(10)(A)(i), and including serv-
11 ices furnished to individuals with respect to
12 whom aid or assistance is made available
13 under part B of title IV to children in foster
14 care and individuals with respect to whom
15 adoption or foster care assistance is made
16 available under part E of such title, without
17 regard to age.

18 “(ii) Preventive services (such as well
19 baby and well child care and immuniza-
20 tions) provided to children under 18 years
21 of age regardless of family income.

22 “(iii) Services furnished to pregnant
23 women, if such services relate to the preg-
24 nancy or to any other medical condition
25 which may complicate the pregnancy.

1 “(iv) *Services furnished to a termi-*
2 *nally ill individual who is receiving hospice*
3 *care (as defined in section 1905(o)).*

4 “(v) *Services furnished to any indi-*
5 *vidual who is an inpatient in a hospital,*
6 *nursing facility, intermediate care facility*
7 *for the mentally retarded, or other medical*
8 *institution, if such individual is required,*
9 *as a condition of receiving services in such*
10 *institution under the State plan, to spend*
11 *for costs of medical care all but a minimal*
12 *amount of the individual’s income required*
13 *for personal needs.*

14 “(vi) *Emergency services (as defined*
15 *by the Secretary for purposes of section*
16 *1916(a)(2)(D)).*

17 “(vii) *Family planning services and*
18 *supplies described in section 1905(a)(4)(C).*

19 “(viii) *Services furnished to women*
20 *who are receiving medical assistance by vir-*
21 *tue of the application of sections*
22 *1902(a)(10)(A)(i)(XVIII) and 1902(aa).*

23 “(C) *CONSTRUCTION.—Nothing in this*
24 *paragraph shall be construed as preventing a*
25 *State from exempting additional classes of indi-*

1 *viduals from premiums under this section or*
 2 *from exempting additional individuals or serv-*
 3 *ices from cost sharing under subsection (a).*

4 “(4) *DETERMINATIONS OF FAMILY INCOME.*—*In*
 5 *applying this subsection, family income shall be de-*
 6 *termined in a manner specified by the State for pur-*
 7 *poses of this subsection, including the use of such dis-*
 8 *regards as the State may provide. Family income*
 9 *shall be determined for such period and at such perio-*
 10 *dicity as the State may provide under this title.*

11 “(5) *POVERTY LINE DEFINED.*—*For purposes of*
 12 *this section, the term ‘poverty line’ has the meaning*
 13 *given such term in section 673(2) of the Community*
 14 *Services Block Grant Act (42 U.S.C. 9902(2)), includ-*
 15 *ing any revision required by such section.*

16 “(6) *CONSTRUCTION.*—*Nothing in this section*
 17 *shall be construed—*

18 “(A) *as preventing a State from further*
 19 *limiting the premiums and cost sharing imposed*
 20 *under this section beyond the limitations pro-*
 21 *vided under this section;*

22 “(B) *as affecting the authority of the Sec-*
 23 *retary through waiver to modify limitations on*
 24 *premiums and cost sharing under this section; or*

1 “(C) as affecting any such waiver of re-
2 quirements in effect under this title before the
3 date of the enactment of this section with regard
4 to the imposition of premiums and cost sharing.

5 “(d) *ENFORCEABILITY OF PREMIUMS AND OTHER*
6 *COST SHARING.*—

7 “(1) *PREMIUMS.*—Notwithstanding section
8 1916(c)(3) and section 1902(a)(10)(B), a State may,
9 at its option, condition the provision of medical as-
10 sistance for an individual upon prepayment of a pre-
11 mium authorized to be imposed under this section, or
12 may terminate eligibility for such medical assistance
13 on the basis of failure to pay such a premium but
14 shall not terminate eligibility of an individual for
15 medical assistance under this title on the basis of fail-
16 ure to pay any such premium until such failure con-
17 tinues for a period of not less than 60 days. A State
18 may apply the previous sentence for some or all
19 groups of beneficiaries as specified by the State and
20 may waive payment of any such premium in any
21 case where the State determines that requiring such
22 payment would create an undue hardship.

23 “(2) *COST SHARING.*—Notwithstanding section
24 1916(e) or any other provision of law, a State may
25 permit a provider participating under the State plan

1 to require, as a condition for the provision of care,
2 items, or services to an individual entitled to medical
3 assistance under this title for such care, items, or
4 services, the payment of any cost sharing authorized
5 to be imposed under this section with respect to such
6 care, items, or services. Nothing in this paragraph
7 shall be construed as preventing a provider from re-
8 ducing or waiving the application of such cost shar-
9 ing on a case-by-case basis.”.

10 (b) INDEXING NOMINAL COST SHARING AND CON-
11 FORMING AMENDMENT.—Section 1916 of such Act (42
12 U.S.C. 1396o) is amended—

13 (1) in subsection (f), by inserting “and section
14 1916A” after “(b)(3)”; and

15 (2) by adding at the end the following new sub-
16 section:

17 “(h) In applying this section and subsections (c) and
18 (e) of section 1916A, with respect to cost sharing that is
19 ‘nominal’ in amount, the Secretary shall increase such
20 ‘nominal’ amounts for each year (beginning with 2006) by
21 the annual percentage increase in the medical care compo-
22 nent of the consumer price index for all urban consumers
23 (U.S. city average) as rounded up in an appropriate man-
24 ner.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to cost sharing imposed for items and*
 3 *services furnished on or after March 31, 2006.*

4 **SEC. 6042. SPECIAL RULES FOR COST SHARING FOR PRE-**
 5 **SCRIPTION DRUGS.**

6 (a) *IN GENERAL.*—*Section 1916A of the Social Secu-*
 7 *rity Act, as inserted by section 6041(a), is amended by in-*
 8 *serting after subsection (b) the following new subsection:*

9 “(c) *SPECIAL RULES FOR COST SHARING FOR PRE-*
 10 *SCRIPTION DRUGS.*—

11 “(1) *IN GENERAL.*—*In order to encourage bene-*
 12 *ficiaries to use drugs (in this subsection referred to as*
 13 *‘preferred drugs’) identified by the State as the least*
 14 *(or less) costly effective prescription drugs within a*
 15 *class of drugs (as defined by the State), with respect*
 16 *to one or more groups of beneficiaries specified by the*
 17 *State, subject to paragraph (2), the State may—*

18 “(A) *provide cost sharing (instead of the*
 19 *level of cost sharing otherwise permitted under*
 20 *section 1916, but subject to paragraphs (2) and*
 21 *(3)) with respect to drugs that are not preferred*
 22 *drugs within a class; and*

23 “(B) *wave or reduce the cost sharing other-*
 24 *wise applicable for preferred drugs within such*
 25 *class and shall not apply any such cost sharing*

1 *for such preferred drugs for individuals for*
2 *whom cost sharing may not otherwise be imposed*
3 *under subsection (b)(3)(B).*

4 “(2) *LIMITATIONS.—*

5 “(A) *BY INCOME GROUP.—In no case may*
6 *the cost sharing under paragraph (1)(A) with re-*
7 *spect to a non-preferred drug exceed—*

8 “(i) *in the case of an individual whose*
9 *family income does not exceed 150 percent*
10 *of the poverty line applicable to a family of*
11 *the size involved, the amount of nominal*
12 *cost sharing (as otherwise determined under*
13 *section 1916); or*

14 “(ii) *in the case of an individual*
15 *whose family income exceeds 150 percent of*
16 *the poverty line applicable to a family of*
17 *the size involved, 20 percent of the cost of*
18 *the drug.*

19 “(B) *LIMITATION TO NOMINAL FOR EXEMPT*
20 *POPULATIONS.—In the case of an individual who*
21 *is otherwise not subject to cost sharing due to the*
22 *application of subsection (b)(3)(B), any cost*
23 *sharing under paragraph (1)(A) with respect to*
24 *a non-preferred drug may not exceed a nominal*

1 *amount (as otherwise determined under section*
2 *1916).*

3 “(C) *CONTINUED APPLICATION OF AGGREGATE*
4 *CAP.—In addition to the limitations im-*
5 *posed under subparagraphs (A) and (B), any*
6 *cost sharing under paragraph (1)(A) continues*
7 *to be subject to the aggregate cap on cost sharing*
8 *applied under paragraph (1) or (2) of subsection*
9 *(b), as the case may be.*

10 “(3) *WAIVER.—In carrying out paragraph (1), a*
11 *State shall provide for the application of cost sharing*
12 *levels applicable to a preferred drug in the case of a*
13 *drug that is not a preferred drug if the prescribing*
14 *physician determines that the preferred drug for*
15 *treatment of the same condition either would not be*
16 *as effective for the individual or would have adverse*
17 *effects for the individual or both.*

18 “(4) *EXCLUSION AUTHORITY.—Nothing in this*
19 *subsection shall be construed as preventing a State*
20 *from excluding specified drugs or classes of drugs*
21 *from the application of paragraph (1).”.*

22 “(b) *EFFECTIVE DATE.—The amendment made by sub-*
23 *section (a) shall apply to cost sharing imposed for items*
24 *and services furnished on or after March 31, 2006.*

1 **SEC. 6043. EMERGENCY ROOM COPAYMENTS FOR NON-**
 2 **EMERGENCY CARE.**

3 (a) *IN GENERAL.*—Section 1916A of the Social Secu-
 4 rity Act, as inserted by section 6041 and as amended by
 5 section 6042, is further amended by adding at the end the
 6 following new subsection:

7 “(e) *STATE OPTION FOR PERMITTING HOSPITALS TO*
 8 *IMPOSE COST SHARING FOR NON-EMERGENCY CARE FUR-*
 9 *NISHED IN AN EMERGENCY DEPARTMENT.*—

10 “(1) *IN GENERAL.*—Notwithstanding section
 11 1916 and section 1902(a)(1) or the previous provi-
 12 sions of this section, but subject to the limitations of
 13 paragraph (2), a State may, by amendment to its
 14 State plan under this title, permit a hospital to im-
 15 pose cost sharing for non-emergency services furnished
 16 to an individual (within one or more groups of indi-
 17 viduals specified by the State) in the hospital emer-
 18 gency department under this subsection if the fol-
 19 lowing conditions are met:

20 “(A) *ACCESS TO NON-EMERGENCY ROOM*
 21 *PROVIDER.*—The individual has actually avail-
 22 able and accessible (as such terms are applied by
 23 the Secretary under section 1916(b)(3)) an alter-
 24 nate non-emergency services provider with re-
 25 spect to such services.

1 “(B) NOTICE.—The hospital must inform
2 the beneficiary after receiving an appropriate
3 medical screening examination under section
4 1867 and after a determination has been made
5 that the individual does not have an emergency
6 medical condition, but before providing the non-
7 emergency services, of the following:

8 “(i) The hospital may require the pay-
9 ment of the State specified cost sharing be-
10 fore the service can be provided.

11 “(ii) The name and location of an al-
12 ternate non-emergency services provider (de-
13 scribed in subparagraph (A)) that is actu-
14 ally available and accessible (as described
15 in such subparagraph).

16 “(iii) The fact that such alternate pro-
17 vider can provide the services without the
18 imposition of cost sharing described in
19 clause (i).

20 “(iv) The hospital provides a referral
21 to coordinate scheduling of this treatment.

22 Nothing in this subsection shall be construed as
23 preventing a State from applying (or waiving)
24 cost sharing otherwise permissible under this sec-
25 tion to services described in clause (iii).

1 “(2) *LIMITATIONS.*—

2 “(A) *FOR POOREST BENEFICIARIES.*—*In the*
3 *case of an individual described in subsection*
4 *(b)(1), the cost sharing imposed under this sub-*
5 *section may not exceed twice the amount deter-*
6 *mined to be nominal under section 1916, subject*
7 *to the percent of income limitation otherwise ap-*
8 *plicable under subsection (b)(1).*

9 “(B) *APPLICATION TO EXEMPT POPU-*
10 *LATIONS.*—*In the case of an individual who is*
11 *otherwise not subject to cost sharing under sub-*
12 *section (b)(3), a State may impose cost sharing*
13 *under paragraph (1) for care in an amount that*
14 *does not exceed a nominal amount (as otherwise*
15 *determined under section 1916) so long as no*
16 *cost sharing is imposed to receive such care*
17 *through an outpatient department or other alter-*
18 *native health care provider in the geographic*
19 *area of the hospital emergency department in-*
20 *volved.*

21 “(C) *CONTINUED APPLICATION OF AGGRE-*
22 *GATE CAP; RELATION TO OTHER COST SHAR-*
23 *ING.*—*In addition to the limitations imposed*
24 *under subparagraphs (A) and (B), any cost*
25 *sharing under paragraph (1) is subject to the ag-*

1 gregate cap on cost sharing applied under para-
 2 graph (1) or (2) of subsection (b), as the case
 3 may be. Cost sharing imposed for services under
 4 this subsection shall be instead of any cost shar-
 5 ing that may be imposed for such services under
 6 subsection (a).

7 “(3) CONSTRUCTION.—Nothing in this section
 8 shall be construed—

9 “(A) to limit a hospital’s obligations with
 10 respect to screening and stabilizing treatment of
 11 an emergency medical condition under section
 12 1867; or

13 “(B) to modify any obligations under either
 14 State or Federal standards relating to the appli-
 15 cation of a prudent-layperson standard with re-
 16 spect to payment or coverage of emergency serv-
 17 ices by any managed care organization.

18 “(4) DEFINITIONS.—For purposes of this sub-
 19 section:

20 “(A) NON-EMERGENCY SERVICES.—The
 21 term ‘non-emergency services’ means any care or
 22 services furnished in an emergency department
 23 of a hospital that the physician determines do
 24 not constitute an appropriate medical screening
 25 examination or stabilizing examination and

1 *treatment required to be provided by the hospital*
 2 *under section 1867.*

3 “(B) *ALTERNATE NON-EMERGENCY SERV-*
 4 *ICES PROVIDER.*—*The term ‘alternative non-*
 5 *emergency services provider’ means, with respect*
 6 *to non-emergency services for the diagnosis or*
 7 *treatment of a condition, a health care provider,*
 8 *such as a physician’s office, health care clinic,*
 9 *community health center, hospital outpatient de-*
 10 *partment, or similar health care provider, that*
 11 *can provide clinically appropriate services for*
 12 *the diagnosis or treatment of a condition contem-*
 13 *poraneously with the provision of the non-emer-*
 14 *gency services that would be provided in an*
 15 *emergency department of a hospital for the diag-*
 16 *nosis or treatment of a condition, and that is*
 17 *participating in the program under this title.”.*

18 (b) *GRANT FUNDS FOR ESTABLISHMENT OF ALTER-*
 19 *NATE NON-EMERGENCY SERVICES PROVIDERS.*—*Section*
 20 *1903 of the Social Security Act (42 U.S.C. 1396b), as*
 21 *amended by section 6037(a)(2), is amended by adding at*
 22 *the end the following new subsection:*

23 “(y) *PAYMENTS FOR ESTABLISHMENT OF ALTERNATE*
 24 *NON-EMERGENCY SERVICES PROVIDERS.*—

1 “(1) *PAYMENTS.*—*In addition to the payments*
2 *otherwise provided under subsection (a), subject to*
3 *paragraph (2), the Secretary shall provide for pay-*
4 *ments to States under such subsection for the estab-*
5 *lishment of alternate non-emergency service providers*
6 *(as defined in section 1916A(e)(5)(B)), or networks of*
7 *such providers.*

8 “(2) *LIMITATION.*—*The total amount of pay-*
9 *ments under this subsection shall not exceed*
10 *\$50,000,000 during the 4-year period beginning with*
11 *2006. This subsection constitutes budget authority in*
12 *advance of appropriations Acts and represents the ob-*
13 *ligation of the Secretary to provide for the payment*
14 *of amounts provided under this subsection.*

15 “(3) *PREFERENCE.*—*In providing for payments*
16 *to States under this subsection, the Secretary shall*
17 *provide preference to States that establish, or provide*
18 *for, alternate non-emergency services providers or net-*
19 *works of such providers that—*

20 “(A) *serve rural or underserved areas where*
21 *beneficiaries under this title may not have reg-*
22 *ular access to providers of primary care services;*
23 *or*

24 “(B) *are in partnership with local commu-*
25 *nity hospitals.*

1 “(4) *FORM AND MANNER OF PAYMENT.*—*Pay-*
 2 *ment to a State under this subsection shall be made*
 3 *only upon the filing of such application in such form*
 4 *and in such manner as the Secretary shall specify.*
 5 *Payment to a State under this subsection shall be*
 6 *made in the same manner as other payments under*
 7 *section 1903(a).”.*

8 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 9 *section shall apply to non-emergency services furnished on*
 10 *or after January 1, 2007.*

11 **SEC. 6044. USE OF BENCHMARK BENEFIT PACKAGES.**

12 (a) *IN GENERAL.*—*Title XIX of the Social Security*
 13 *Act, as amended by section 6035, is amended by redesign-*
 14 *ating section 1937 as section 1938 and by inserting after*
 15 *section 1936 the following new section:*

16 “*STATE FLEXIBILITY IN BENEFIT PACKAGES*

17 “*SEC. 1937. (a) STATE OPTION OF PROVIDING BENCH-*
 18 *MARK BENEFITS.*—

19 “(1) *AUTHORITY.*—

20 “(A) *IN GENERAL.*—*Notwithstanding any*
 21 *other provision of this title, a State, at its option*
 22 *as a State plan amendment, may provide for*
 23 *medical assistance under this title to individuals*
 24 *within one or more groups of individuals speci-*
 25 *fied by the State through enrollment in coverage*
 26 *that provides—*

1 “(i) benchmark coverage described in
2 subsection (b)(1) or benchmark equivalent
3 coverage described in subsection (b)(2); and

4 “(ii) for any child under 19 years of
5 age who is covered under the State plan
6 under section 1902(a)(10)(A), wrap-around
7 benefits to the benchmark coverage or bench-
8 mark equivalent coverage consisting of early
9 and periodic screening, diagnostic, and
10 treatment services defined in section
11 1905(r).

12 “(B) *LIMITATION.*—The State may only ex-
13 ercise the option under subparagraph (A) for an
14 individual eligible under an eligibility category
15 that had been established under the State plan
16 on or before the date of the enactment of this sec-
17 tion.

18 “(C) *OPTION OF WRAP-AROUND BENE-*
19 *FITS.*—In the case of coverage described in sub-
20 paragraph (A), a State, at its option, may pro-
21 vide such wrap-around or additional benefits as
22 the State may specify.

23 “(D) *TREATMENT AS MEDICAL ASSIST-*
24 *ANCE.*—Payment of premiums for such coverage
25 under this subsection shall be treated as payment

1 *of other insurance premiums described in the*
 2 *third sentence of section 1905(a).*

3 “(2) *APPLICATION.*—

4 “(A) *IN GENERAL.*—*Except as provided in*
 5 *subparagraph (B), a State may require that a*
 6 *full-benefit eligible individual (as defined in sub-*
 7 *paragraph (C)) within a group obtain benefits*
 8 *under this title through enrollment in coverage*
 9 *described in paragraph (1)(A). A State may*
 10 *apply the previous sentence to individuals with-*
 11 *in 1 or more groups of such individuals.*

12 “(B) *LIMITATION ON APPLICATION.*—*A*
 13 *State may not require under subparagraph (A)*
 14 *an individual to obtain benefits through enroll-*
 15 *ment described in paragraph (1)(A) if the indi-*
 16 *vidual is within one of the following categories*
 17 *of individuals:*

18 “(i) *MANDATORY PREGNANT WOMEN.*—
 19 *The individual is a pregnant woman who is*
 20 *required to be covered under the State plan*
 21 *under section 1902(a)(10)(A)(i).*

22 “(ii) *BLIND OR DISABLED INDIVID-*
 23 *UALS.*—*The individual qualifies for medical*
 24 *assistance under the State plan on the basis*
 25 *of being blind or disabled (or being treated*

1 *as being blind or disabled) without regard*
2 *to whether the individual is eligible for sup-*
3 *plemental security income benefits under*
4 *title XVI on the basis of being blind or dis-*
5 *abled and including an individual who is*
6 *eligible for medical assistance on the basis*
7 *of section 1902(e)(3).*

8 “(iii) *DUAL ELIGIBLES.*—*The indi-*
9 *vidual is entitled to benefits under any part*
10 *of title XVIII.*

11 “(iv) *TERMINALLY ILL HOSPICE PA-*
12 *TIENTS.*—*The individual is terminally ill*
13 *and is receiving benefits for hospice care*
14 *under this title.*

15 “(v) *ELIGIBLE ON BASIS OF INSTITU-*
16 *TIONALIZATION.*—*The individual is an in-*
17 *patient in a hospital, nursing facility, in-*
18 *termediate care facility for the mentally re-*
19 *tarded, or other medical institution, and is*
20 *required, as a condition of receiving services*
21 *in such institution under the State plan, to*
22 *spend for costs of medical care all but a*
23 *minimal amount of the individual’s income*
24 *required for personal needs.*

1 “(vi) *MEDICALLY FRAIL AND SPECIAL*
2 *MEDICAL NEEDS INDIVIDUALS.*—*The indi-*
3 *vidual is medically frail or otherwise an in-*
4 *dividual with special medical needs (as*
5 *identified in accordance with regulations of*
6 *the Secretary).*

7 “(vii) *BENEFICIARIES QUALIFYING FOR*
8 *LONG-TERM CARE SERVICES.*—*The indi-*
9 *vidual qualifies based on medical condition*
10 *for medical assistance for long-term care*
11 *services described in section 1917(c)(1)(C).*

12 “(viii) *CHILDREN IN FOSTER CARE RE-*
13 *CEIVING CHILD WELFARE SERVICES AND*
14 *CHILDREN RECEIVING FOSTER CARE OR*
15 *ADOPTION ASSISTANCE.*—*The individual is*
16 *an individual with respect to whom aid or*
17 *assistance is made available under part B*
18 *of title IV to children in foster care and in-*
19 *dividuals with respect to whom adoption or*
20 *foster care assistance is made available*
21 *under part E of such title, without regard*
22 *to age.*

23 “(ix) *TANF AND SECTION 1931 PAR-*
24 *ENTS.*—*The individual qualifies for medical*
25 *assistance on the basis of eligibility to re-*

1 *ceive assistance under a State plan funded*
 2 *under part A of title IV (as in effect on or*
 3 *after the welfare reform effective date de-*
 4 *finied in section 1931(i)).*

5 “(x) *WOMEN IN THE BREAST OR CER-*
 6 *VICAL CANCER PROGRAM.—The individual*
 7 *is a woman who is receiving medical assist-*
 8 *ance by virtue of the application of sections*
 9 *1902(a)(10)(A)(i)(XVIII) and 1902(aa).*

10 “(xi) *LIMITED SERVICES BENE-*
 11 *FICIARIES.—The individual—*

12 *“(I) qualifies for medical assist-*
 13 *ance on the basis of section*
 14 *1902(a)(10)(A)(i)(XII); or*

15 *“(II) is not a qualified alien (as*
 16 *defined in section 431 of the Personal*
 17 *Responsibility and Work Opportunity*
 18 *Reconciliation Act of 1996) and re-*
 19 *ceives care and services necessary for*
 20 *the treatment of an emergency medical*
 21 *condition in accordance with section*
 22 *1903(v).*

23 “(C) *FULL-BENEFIT ELIGIBLE INDIVID-*
 24 *UALS.—*

1 “(i) *IN GENERAL.*—For purposes of
 2 this paragraph, subject to clause (ii), the
 3 term ‘full-benefit eligible individual’ means
 4 for a State for a month an individual who
 5 is determined eligible by the State for med-
 6 ical assistance for all services defined in sec-
 7 tion 1905(a) which are covered under the
 8 State plan under this title for such month
 9 under section 1902(a)(10)(A) or under any
 10 other category of eligibility for medical as-
 11 sistance for all such services under this title,
 12 as determined by the Secretary.

13 “(ii) *EXCLUSION OF MEDICALLY NEEDY*
 14 *AND SPEND-DOWN POPULATIONS.*—Such
 15 term shall not include an individual deter-
 16 mined to be eligible by the State for medical
 17 assistance under section 1902(a)(10)(C) or
 18 by reason of section 1902(f) or otherwise eli-
 19 gible based on a reduction of income based
 20 on costs incurred for medical or other reme-
 21 dial care.

22 “(b) *BENCHMARK BENEFIT PACKAGES.*—

23 “(1) *IN GENERAL.*—For purposes of subsection
 24 (a)(1), each of the following coverages shall be consid-
 25 ered to be benchmark coverage:

1 “(A) *FEHBP-EQUIVALENT HEALTH INSUR-*
 2 *ANCE COVERAGE.*—*The standard Blue Cross/Blue*
 3 *Shield preferred provider option service benefit*
 4 *plan, described in and offered under section*
 5 *8903(1) of title 5, United States Code.*

6 “(B) *STATE EMPLOYEE COVERAGE.*—*A*
 7 *health benefits coverage plan that is offered and*
 8 *generally available to State employees in the*
 9 *State involved.*

10 “(C) *COVERAGE OFFERED THROUGH*
 11 *HMO.*—*The health insurance coverage plan*
 12 *that—*

13 “(i) *is offered by a health maintenance*
 14 *organization (as defined in section*
 15 *2791(b)(3) of the Public Health Service*
 16 *Act), and*

17 “(ii) *has the largest insured commer-*
 18 *cial, non-medicaid enrollment of covered*
 19 *lives of such coverage plans offered by such*
 20 *a health maintenance organization in the*
 21 *State involved.*

22 “(D) *SECRETARY-APPROVED COVERAGE.*—
 23 *Any other health benefits coverage that the Sec-*
 24 *retary determines, upon application by a State,*

1 *provides appropriate coverage for the population*
 2 *proposed to be provided such coverage.*

3 “(2) *BENCHMARK-EQUIVALENT COVERAGE.*—*For*
 4 *purposes of subsection (a)(1), coverage that meets the*
 5 *following requirement shall be considered to be bench-*
 6 *mark-equivalent coverage:*

7 “(A) *INCLUSION OF BASIC SERVICES.*—*The*
 8 *coverage includes benefits for items and services*
 9 *within each of the following categories of basic*
 10 *services:*

11 “(i) *Inpatient and outpatient hospital*
 12 *services.*

13 “(ii) *Physicians’ surgical and medical*
 14 *services.*

15 “(iii) *Laboratory and x-ray services.*

16 “(iv) *Well-baby and well-child care, in-*
 17 *cluding age-appropriate immunizations.*

18 “(v) *Other appropriate preventive serv-*
 19 *ices, as designated by the Secretary.*

20 “(B) *AGGREGATE ACTUARIAL VALUE EQUIV-*
 21 *ALENT TO BENCHMARK PACKAGE.*—*The coverage*
 22 *has an aggregate actuarial value that is at least*
 23 *actuarially equivalent to one of the benchmark*
 24 *benefit packages described in paragraph (1).*

1 “(C) *SUBSTANTIAL ACTUARIAL VALUE FOR*
 2 *ADDITIONAL SERVICES INCLUDED IN BENCHMARK*
 3 *PACKAGE.*—*With respect to each of the following*
 4 *categories of additional services for which cov-*
 5 *erage is provided under the benchmark benefit*
 6 *package used under subparagraph (B), the cov-*
 7 *erage has an actuarial value that is equal to at*
 8 *least 75 percent of the actuarial value of the cov-*
 9 *erage of that category of services in such pack-*
 10 *age:*

11 “(i) *Coverage of prescription drugs.*

12 “(ii) *Mental health services.*

13 “(iii) *Vision services.*

14 “(iv) *Hearing services.*

15 “(3) *DETERMINATION OF ACTUARIAL VALUE.*—
 16 *The actuarial value of coverage of benchmark benefit*
 17 *packages shall be set forth in an actuarial opinion in*
 18 *an actuarial report that has been prepared—*

19 “(A) *by an individual who is a member of*
 20 *the American Academy of Actuaries;*

21 “(B) *using generally accepted actuarial*
 22 *principles and methodologies;*

23 “(C) *using a standardized set of utilization*
 24 *and price factors;*

1 “(D) using a standardized population that
2 is representative of the population involved;

3 “(E) applying the same principles and fac-
4 tors in comparing the value of different coverage
5 (or categories of services);

6 “(F) without taking into account any dif-
7 ferences in coverage based on the method of deliv-
8 ery or means of cost control or utilization used;
9 and

10 “(G) taking into account the ability of a
11 State to reduce benefits by taking into account
12 the increase in actuarial value of benefits cov-
13 erage offered under this title that results from the
14 limitations on cost sharing under such coverage.

15 The actuary preparing the opinion shall select and
16 specify in the memorandum the standardized set and
17 population to be used under subparagraphs (C) and
18 (D).

19 “(4) COVERAGE OF RURAL HEALTH CLINIC AND
20 FQHC SERVICES.—Notwithstanding the previous pro-
21 visions of this section, a State may not provide for
22 medical assistance through enrollment of an indi-
23 vidual with benchmark coverage or benchmark equiva-
24 lent coverage under this section unless—

1 “(A) the individual has access, through such
2 coverage or otherwise, to services described in
3 subparagraphs (B) and (C) of section
4 1905(a)(2); and

5 “(B) payment for such services is made in
6 accordance with the requirements of section
7 1902(bb).”.

8 (b) *EFFECTIVE DATE.*—The amendment made by sub-
9 section (a) takes effect on March 31, 2006.

10 **CHAPTER 5—STATE FINANCING UNDER**
11 **MEDICAID**

12 **SEC. 6051. MANAGED CARE ORGANIZATION PROVIDER TAX**
13 **REFORM.**

14 (a) *IN GENERAL.*—Section 1903(w)(7)(A)(viii) of the
15 Social Security Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is
16 amended to read as follows:

17 “(viii) Services of managed care organiza-
18 tions (including health maintenance organiza-
19 tions, preferred provider organizations, and such
20 other similar organizations as the Secretary may
21 specify by regulation).”.

22 (b) *EFFECTIVE DATE.*—

23 (1) *IN GENERAL.*—Subject to paragraph (2), the
24 amendment made by subsection (a) shall be effective
25 as of the date of the enactment of this Act.

1 (2) *DELAY IN EFFECTIVE DATE.*—

2 (A) *IN GENERAL.*—Subject to subparagraph
3 (B), in the case of a State specified in subpara-
4 graph (B), the amendment made by subsection
5 (a) shall be effective as of October 1, 2009.

6 (B) *SPECIFIED STATES.*—For purposes of
7 subparagraph (A), the States specified in this
8 subparagraph are States that have enacted a law
9 providing for a tax on the services of a Medicaid
10 managed care organization with a contract
11 under section 1903(m) of the Social Security Act
12 as of December 8, 2005.

13 (c) *CLARIFICATION REGARDING NON-REGULATION OF*
14 *TRANSFERS.*—

15 (1) *IN GENERAL.*—Nothing in section 1903(w) of
16 the Social Security Act (42 U.S.C. 1396b(w)) shall be
17 construed by the Secretary of Health and Human
18 Services as prohibiting a State's use of funds as the
19 non-Federal share of expenditures under title XIX of
20 such Act where such funds are transferred from or
21 certified by a publicly-owned regional medical center
22 located in another State and described in paragraph
23 (2), so long as the Secretary determines that such use
24 of funds is proper and in the interest of the program
25 under title XIX.

1 (2) *CENTER DESCRIBED.*—A center described in
 2 this paragraph is a publicly-owned regional medical
 3 center that—

4 (A) provides level 1 trauma and burn care
 5 services;

6 (B) provides level 3 neonatal care services;

7 (C) is obligated to serve all patients, regard-
 8 less of State of origin;

9 (D) is located within a Standard Metropoli-
 10 tan Statistical Area (SMSA) that includes at
 11 least 3 States, including the States described in
 12 paragraph (1);

13 (E) serves as a tertiary care provider for
 14 patients residing within a 125-mile radius; and

15 (F) meets the criteria for a disproportionate
 16 share hospital under section 1923 of such Act in
 17 at least one State other than the one in which
 18 the center is located.

19 (3) *EFFECTIVE PERIOD.*—This subsection shall
 20 apply through December 31, 2006.

21 **SEC. 6052. REFORMS OF CASE MANAGEMENT AND TAR-**
 22 **GETED CASE MANAGEMENT.**

23 (a) *IN GENERAL.*—Section 1915(g) of the Social Secu-
 24 rity Act (42 U.S.C. 1396n(g)(2)) is amended by striking
 25 paragraph (2) and inserting the following:

1 “(2) For purposes of this subsection:

2 “(A)(i) The term ‘case management services’
3 means services which will assist individuals eligible
4 under the plan in gaining access to needed medical,
5 social, educational, and other services.

6 “(ii) Such term includes the following:

7 “(I) Assessment of an eligible individual to
8 determine service needs, including activities that
9 focus on needs identification, to determine the
10 need for any medical, educational, social, or
11 other services. Such assessment activities include
12 the following:

13 “(aa) Taking client history.

14 “(bb) Identifying the needs of the indi-
15 vidual, and completing related documenta-
16 tion.

17 “(cc) Gathering information from other
18 sources such as family members, medical
19 providers, social workers, and educators, if
20 necessary, to form a complete assessment of
21 the eligible individual.

22 “(II) Development of a specific care plan
23 based on the information collected through an as-
24 sessment, that specifies the goals and actions to
25 address the medical, social, educational, and

1 *other services needed by the eligible individual,*
2 *including activities such as ensuring the active*
3 *participation of the eligible individual and*
4 *working with the individual (or the individual’s*
5 *authorized health care decision maker) and oth-*
6 *ers to develop such goals and identify a course*
7 *of action to respond to the assessed needs of the*
8 *eligible individual.*

9 *“(III) Referral and related activities to help*
10 *an individual obtain needed services, including*
11 *activities that help link eligible individuals with*
12 *medical, social, educational providers or other*
13 *programs and services that are capable of pro-*
14 *viding needed services, such as making referrals*
15 *to providers for needed services and scheduling*
16 *appointments for the individual.*

17 *“(IV) Monitoring and followup activities,*
18 *including activities and contacts that are nec-*
19 *essary to ensure the care plan is effectively im-*
20 *plemented and adequately addressing the needs*
21 *of the eligible individual, and which may be*
22 *with the individual, family members, providers,*
23 *or other entities and conducted as frequently as*
24 *necessary to help determine such matters as—*

1 “(aa) whether services are being fur-
2 nished in accordance with an individual’s
3 care plan;

4 “(bb) whether the services in the care
5 plan are adequate; and

6 “(cc) whether there are changes in the
7 needs or status of the eligible individual,
8 and if so, making necessary adjustments in
9 the care plan and service arrangements
10 with providers.

11 “(iii) Such term does not include the direct de-
12 livery of an underlying medical, educational, social,
13 or other service to which an eligible individual has
14 been referred, including, with respect to the direct de-
15 livery of foster care services, services such as (but not
16 limited to) the following:

17 “(I) Research gathering and completion of
18 documentation required by the foster care pro-
19 gram.

20 “(II) Assessing adoption placements.

21 “(III) Recruiting or interviewing potential
22 foster care parents.

23 “(IV) Serving legal papers.

24 “(V) Home investigations.

25 “(VI) Providing transportation.

1 “(VII) *Administering foster care subsidies.*

2 “(VIII) *Making placement arrangements.*

3 “(B) *The term ‘targeted case management serv-*
4 *ices’ are case management services that are furnished*
5 *without regard to the requirements of section*
6 *1902(a)(1) and section 1902(a)(10)(B) to specific*
7 *classes of individuals or to individuals who reside in*
8 *specified areas.*

9 “(3) *With respect to contacts with individuals who are*
10 *not eligible for medical assistance under the State plan or,*
11 *in the case of targeted case management services, individ-*
12 *uals who are eligible for such assistance but are not part*
13 *of the target population specified in the State plan, such*
14 *contacts—*

15 “(A) *are considered an allowable case manage-*
16 *ment activity, when the purpose of the contact is di-*
17 *rectly related to the management of the eligible indi-*
18 *vidual’s care; and*

19 “(B) *are not considered an allowable case man-*
20 *agement activity if such contacts relate directly to the*
21 *identification and management of the noneligible or*
22 *nontargeted individual’s needs and care.*

23 “(4)(A) *In accordance with section 1902(a)(25), Fed-*
24 *eral financial participation only is available under this*
25 *title for case management services or targeted case manage-*

1 *ment services if there are no other third parties liable to*
2 *pay for such services, including as reimbursement under a*
3 *medical, social, educational, or other program.*

4 “(B) *A State shall allocate the costs of any part of*
5 *such services which are reimbursable under another feder-*
6 *ally funded program in accordance with OMB Circular A-*
7 *87 (or any related or successor guidance or regulations re-*
8 *garding allocation of costs among federally funded pro-*
9 *grams) under an approved cost allocation program.*

10 “(5) *Nothing in this subsection shall be construed as*
11 *affecting the application of rules with respect to third party*
12 *liability under programs, or activities carried out under*
13 *title XXVI of the Public Health Service Act or by the Indian*
14 *Health Service.”.*

15 (b) *REGULATIONS.—The Secretary shall promulgate*
16 *regulations to carry out the amendment made by subsection*
17 *(a) which may be effective and final immediately on an*
18 *interim basis as of the date of publication of the interim*
19 *final regulation. If the Secretary provides for an interim*
20 *final regulation, the Secretary shall provide for a period*
21 *of public comments on such regulation after the date of pub-*
22 *lication. The Secretary may change or revise such regula-*
23 *tion after completion of the period of public comment.*

24 (c) *EFFECTIVE DATE.—The amendment made by sub-*
25 *section (a) shall take effect on January 1, 2006.*

1 **SEC. 6053. ADDITIONAL FMAP ADJUSTMENTS.**

2 (a) *HOLD HARMLESS FOR CERTAIN DECREASE.*—Not-
3 *withstanding the first sentence of section 1905(b) of the So-*
4 *cial Security Act (42 U.S.C. 1396d(b)), if, for purposes of*
5 *titles XIX and XXI of the Social Security Act (42 U.S.C.*
6 *1396 et seq., 1397aa et seq.), the Federal medical assistance*
7 *percentage determined for the State specified in section*
8 *4725(a) of Public Law 105–33 for fiscal year 2006 or fiscal*
9 *year 2007 is less than the Federal medical assistance per-*
10 *centage determined for such State for fiscal year 2005, the*
11 *Federal medical assistance percentage determined for such*
12 *State for fiscal year 2005 shall be substituted for the Federal*
13 *medical assistance percentage otherwise determined for such*
14 *State for fiscal year 2006 or fiscal year 2007, as the case*
15 *may be.*

16 (b) *HOLD HARMLESS FOR KATRINA IMPACT.*—Not-
17 *withstanding any other provision of law, for purposes of*
18 *titles XIX and XXI of the Social Security Act, the Secretary*
19 *of Health and Human Services, in computing the Federal*
20 *medical assistance percentage under section 1905(b) of such*
21 *Act (42 U.S.C. 1396d(b)) for any year after 2006 for a*
22 *State that the Secretary determines has a significant num-*
23 *ber of evacuees who were evacuated to, and live in, the State*
24 *as a result of Hurricane Katrina as of October 1, 2005,*
25 *shall disregard such evacuees (and income attributable to*
26 *such evacuees) from such computation.*

1 **SEC. 6054. DSH ALLOTMENT FOR THE DISTRICT OF COLUM-**
 2 **BIA.**

3 (a) *IN GENERAL.*—For purposes of determining the
 4 *DSH allotment for the District of Columbia under section*
 5 *1923 of the Social Security Act (42 U.S.C. 1396r–4) for*
 6 *fiscal year 2006 and each subsequent fiscal year, the table*
 7 *in subsection (f)(2) of such section is amended under each*
 8 *of the columns for fiscal year 2000, fiscal year 2001, and*
 9 *fiscal year 2002, in the entry for the District of Columbia*
 10 *by striking “32” and inserting “49”.*

11 (b) *EFFECTIVE DATE.*—The amendments made by sub-
 12 *section (a) shall take effect as if enacted on October 1, 2005,*
 13 *and shall only apply to disproportionate share hospital ad-*
 14 *justment expenditures applicable to fiscal year 2006 and*
 15 *subsequent fiscal years made on or after that date.*

16 **SEC. 6055. INCREASE IN MEDICAID PAYMENTS TO INSULAR**
 17 **AREAS.**

18 *Section 1108(g) of the Social Security Act (42 U.S.C.*
 19 *1308(g)) is amended—*

20 (1) *in paragraph (2), by inserting “and subject*
 21 *to paragraph (3)” after “subsection (f)”;* and

22 (2) *by adding at the end the following new para-*
 23 *graph:*

24 “(3) *FISCAL YEARS 2006 AND 2007 FOR CERTAIN*
 25 *INSULAR AREAS.*—The amounts otherwise determined
 26 *under this subsection for Puerto Rico, the Virgin Is-*

1 *lands, Guam, the Northern Mariana Islands, and*
 2 *American Samoa for fiscal year 2006 and fiscal year*
 3 *2007 shall be increased by the following amounts:*

4 *“(A) For Puerto Rico, \$12,000,000 for fiscal*
 5 *year 2006 and \$12,000,000 for fiscal year 2007.*

6 *“(B) For the Virgin Islands, \$2,500,000 for*
 7 *fiscal year 2006 and \$5,000,000 for fiscal year*
 8 *2007.*

9 *“(C) For Guam, \$2,500,000 for fiscal year*
 10 *2006 and \$5,000,000 for fiscal year 2007.*

11 *“(D) For the Northern Mariana Islands,*
 12 *\$1,000,000 for fiscal year 2006 and \$2,000,000*
 13 *for fiscal year 2007.*

14 *“(E) For American Samoa, \$2,000,000 for*
 15 *fiscal year 2006 and \$4,000,000 for fiscal year*
 16 *2007.*

17 *Such amounts shall not be taken into account in ap-*
 18 *plying paragraph (2) for fiscal year 2007 but shall be*
 19 *taken into account in applying such paragraph for*
 20 *fiscal year 2008 and subsequent fiscal years.”.*

21 **CHAPTER 6—OTHER PROVISIONS**

22 **Subchapter A—Family Opportunity Act**

23 **SEC. 6061. SHORT TITLE OF SUBCHAPTER.**

24 *This subchapter may be cited as the “Family Oppor-*
 25 *tunity Act of 2005” or the “Dylan Lee James Act”.*

1 **SEC. 6062. OPPORTUNITY FOR FAMILIES OF DISABLED**
 2 **CHILDREN TO PURCHASE MEDICAID COV-**
 3 **ERAGE FOR SUCH CHILDREN.**

4 *(a) STATE OPTION TO ALLOW FAMILIES OF DISABLED*
 5 *CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH*
 6 *CHILDREN.—*

7 *(1) IN GENERAL.—Section 1902 of the Social Se-*
 8 *curity Act (42 U.S.C. 1396a) is amended—*

9 *(A) in subsection (a)(10)(A)(ii)—*

10 *(i) by striking “or” at the end of sub-*
 11 *clause (XVII);*

12 *(ii) by adding “or” at the end of sub-*
 13 *clause (XVIII); and*

14 *(iii) by adding at the end the following*
 15 *new subclause:*

16 *“(XIX) who are disabled children*
 17 *described in subsection (cc)(1);”;* and

18 *(B) by adding at the end the following new*
 19 *subsection:*

20 *“(cc)(1) Individuals described in this paragraph are*
 21 *individuals—*

22 *“(A) who are children who have not attained 19*
 23 *years of age and are born—*

24 *“(i) on or after January 1, 2001 (or, at the*
 25 *option of a State, on or after an earlier date),*

1 *in the case of the second, third, and fourth quar-*
 2 *ters of fiscal year 2007;*

3 “(i) *on or after October 1, 1995 (or, at the*
 4 *option of a State, on or after an earlier date),*
 5 *in the case of each quarter of fiscal year 2008;*
 6 *and*

7 “(iii) *after October 1, 1989, in the case of*
 8 *each quarter of fiscal year 2009 and each quarter*
 9 *of any fiscal year thereafter;*

10 “(B) *who would be considered disabled under*
 11 *section 1614(a)(3)(C) (as determined under title XVI*
 12 *for children but without regard to any income or*
 13 *asset eligibility requirements that apply under such*
 14 *title with respect to children); and*

15 “(C) *whose family income does not exceed such*
 16 *income level as the State establishes and does not*
 17 *exceed—*

18 “(i) *300 percent of the poverty line (as de-*
 19 *finied in section 2110(c)(5)) applicable to a fam-*
 20 *ily of the size involved; or*

21 “(ii) *such higher percent of such poverty*
 22 *line as a State may establish, except that—*

23 “(I) *any medical assistance provided*
 24 *to an individual whose family income ex-*

1 ceeds 300 percent of such poverty line may
2 only be provided with State funds; and

3 “(II) no Federal financial participa-
4 tion shall be provided under section 1903(a)
5 for any medical assistance provided to such
6 an individual.”.

7 (2) *INTERACTION WITH EMPLOYER-SPONSORED*
8 *FAMILY COVERAGE.*—Section 1902(cc) of such Act (42
9 U.S.C. 1396a(cc)), as added by paragraph (1)(B), is
10 amended by adding at the end the following new
11 paragraph:

12 “(2)(A) If an employer of a parent of an individual
13 described in paragraph (1) offers family coverage under a
14 group health plan (as defined in section 2791(a) of the Pub-
15 lic Health Service Act), the State shall—

16 “(i) notwithstanding section 1906, require such
17 parent to apply for, enroll in, and pay premiums for
18 such coverage as a condition of such parent’s child
19 being or remaining eligible for medical assistance
20 under subsection (a)(10)(A)(ii)(XIX) if the parent is
21 determined eligible for such coverage and the em-
22 ployer contributes at least 50 percent of the total cost
23 of annual premiums for such coverage; and

24 “(ii) if such coverage is obtained—

1 “(I) subject to paragraph (2) of section
 2 1916(h), reduce the premium imposed by the
 3 State under that section in an amount that rea-
 4 sonably reflects the premium contribution made
 5 by the parent for private coverage on behalf of a
 6 child with a disability; and

7 “(II) treat such coverage as a third party
 8 liability under subsection (a)(25).

9 “(B) In the case of a parent to which subparagraph
 10 (A) applies, a State, notwithstanding section 1906 but sub-
 11 ject to paragraph (1)(C)(ii), may provide for payment of
 12 any portion of the annual premium for such family cov-
 13 erage that the parent is required to pay. Any payments
 14 made by the State under this subparagraph shall be consid-
 15 ered, for purposes of section 1903(a), to be payments for
 16 medical assistance.”.

17 (b) STATE OPTION TO IMPOSE INCOME-RELATED PRE-
 18 MIUMS.—Section 1916 of such Act (42 U.S.C. 1396o) is
 19 amended—

20 (1) in subsection (a), by striking “subsection (g)”
 21 and inserting “subsections (g) and (i)”; and

22 (2) by adding at the end, as amended by section
 23 6041(b)(2), the following new subsection:

24 “(i)(1) With respect to disabled children provided med-
 25 ical assistance under section 1902(a)(10)(A)(i)(XIX), sub-

1 ject to paragraph (2), a State may (in a uniform manner
2 for such children) require the families of such children to
3 pay monthly premiums set on a sliding scale based on fam-
4 ily income.

5 “(2) A premium requirement imposed under para-
6 graph (1) may only apply to the extent that—

7 “(A) in the case of a disabled child described in
8 that paragraph whose family income—

9 “(i) does not exceed 200 percent of the pov-
10 erty line, the aggregate amount of such premium
11 and any premium that the parent is required to
12 pay for family coverage under section
13 1902(cc)(2)(A)(i) and other cost-sharing charges
14 do not exceed 5 percent of the family’s income;
15 and

16 “(ii) exceeds 200, but does not exceed 300,
17 percent of the poverty line, the aggregate amount
18 of such premium and any premium that the par-
19 ent is required to pay for family coverage under
20 section 1902(cc)(2)(A)(i) and other cost-sharing
21 charges do not exceed 7.5 percent of the family’s
22 income; and

23 “(B) the requirement is imposed consistent with
24 section 1902(cc)(2)(A)(ii)(I).

1 “(3) *A State shall not require prepayment of a pre-*
 2 *mium imposed pursuant to paragraph (1) and shall not*
 3 *terminate eligibility of a child under section*
 4 *1902(a)(10)(A)(ii)(XIX) for medical assistance under this*
 5 *title on the basis of failure to pay any such premium until*
 6 *such failure continues for a period of at least 60 days from*
 7 *the date on which the premium became past due. The State*
 8 *may waive payment of any such premium in any case*
 9 *where the State determines that requiring such payment*
 10 *would create an undue hardship.”.*

11 (c) *CONFORMING AMENDMENTS.—(1) Section*
 12 *1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended*
 13 *in the matter preceding subparagraph (A), by inserting*
 14 *“1902(a)(10)(A)(ii)(XIX),”* *after*
 15 *“1902(a)(10)(A)(ii)(XVIII),”.*

16 (2) *Section 1905(u)(2)(B) of such Act (42 U.S.C.*
 17 *1396d(u)(2)(B)) is amended by adding at the end the fol-*
 18 *lowing sentence: “Such term excludes any child eligible for*
 19 *medical assistance only by reason of section*
 20 *1902(a)(10)(A)(ii)(XIX).”.*

21 (d) *EFFECTIVE DATE.—The amendments made by this*
 22 *section shall apply to medical assistance for items and serv-*
 23 *ices furnished on or after January 1, 2007.*

1 **SEC. 6063. DEMONSTRATION PROJECTS REGARDING HOME**
2 **AND COMMUNITY-BASED ALTERNATIVES TO**
3 **PSYCHIATRIC RESIDENTIAL TREATMENT FA-**
4 **CILITIES FOR CHILDREN.**

5 (a) *IN GENERAL.*—*The Secretary is authorized to con-*
6 *duct, during each of fiscal years 2007 through 2011, dem-*
7 *onstration projects (each in the section referred to as a*
8 *“demonstration project”)* *in accordance with this section*
9 *under which up to 10 States (as defined for purposes of*
10 *title XIX of the Social Security Act) are awarded grants,*
11 *on a competitive basis, to test the effectiveness in improving*
12 *or maintaining a child’s functional level and cost-effective-*
13 *ness of providing coverage of home and community-based*
14 *alternatives to psychiatric residential treatment for chil-*
15 *dren enrolled in the Medicaid program under title XIX of*
16 *such Act.*

17 (b) *APPLICATION OF TERMS AND CONDITIONS.*—

18 (1) *IN GENERAL.*—*Subject to the provisions of*
19 *this section, for the purposes of the demonstration*
20 *projects, and only with respect to children enrolled*
21 *under such demonstration projects, a psychiatric resi-*
22 *dential treatment facility (as defined in section*
23 *483.352 of title 42 of the Code of Federal Regulations)*
24 *shall be deemed to be a facility specified in section*
25 *1915(c) of the Social Security Act (42 U.S.C.*
26 *1396n(c)), and to be included in each reference in*

1 *such section 1915(c) to hospitals, nursing facilities,*
 2 *and intermediate care facilities for the mentally re-*
 3 *tarded.*

4 (2) *STATE OPTION TO ASSURE CONTINUITY OF*
 5 *MEDICAID COVERAGE.*—*Upon the termination of a*
 6 *demonstration project under this section, the State*
 7 *that conducted the project may elect, only with respect*
 8 *to a child who is enrolled in such project on the ter-*
 9 *mination date, to continue to provide medical assist-*
 10 *ance for coverage of home and community-based alter-*
 11 *natives to psychiatric residential treatment for the*
 12 *child in accordance with section 1915(c) of the Social*
 13 *Security Act (42 U.S.C. 1396n(c)), as modified*
 14 *through the application of paragraph (1). Expendi-*
 15 *tures incurred for providing such medical assistance*
 16 *shall be treated as a home and community-based*
 17 *waiver program under section 1915(c) of the Social*
 18 *Security Act (42 U.S.C. 1396n(c)) for purposes of*
 19 *payment under section 1903 of such Act (42 U.S.C.*
 20 *1396b).*

21 (c) *TERMS OF DEMONSTRATION PROJECTS.*—

22 (1) *IN GENERAL.*—*Except as otherwise provided*
 23 *in this section, a demonstration project shall be sub-*
 24 *ject to the same terms and conditions as apply to a*
 25 *waiver under section 1915(c) of the Social Security*

1 *Act (42 U.S.C. 1396n(c)), including the waiver of cer-*
2 *tain requirements under the first sentence of para-*
3 *graph (3) of such section but not applying the second*
4 *sentence of such paragraph.*

5 (2) *BUDGET NEUTRALITY.*—*In conducting the*
6 *demonstration projects under this section, the Sec-*
7 *retary shall ensure that the aggregate payments made*
8 *by the Secretary under title XIX of the Social Secu-*
9 *urity Act (42 U.S.C. 1396 et seq.) do not exceed the*
10 *amount which the Secretary estimates would have*
11 *been paid under that title if the demonstration*
12 *projects under this section had not been implemented.*

13 (3) *EVALUATION.*—*The application for a dem-*
14 *onstration project shall include an assurance to pro-*
15 *vide for such interim and final evaluations of the*
16 *demonstration project by independent third parties,*
17 *and for such interim and final reports to the Sec-*
18 *retary, as the Secretary may require.*

19 (d) *PAYMENTS TO STATES; LIMITATIONS TO SCOPE*
20 *AND FUNDING.*—

21 (1) *IN GENERAL.*—*Subject to paragraph (2), a*
22 *demonstration project approved by the Secretary*
23 *under this section shall be treated as a home and*
24 *community-based waiver program under section*
25 *1915(c) of the Social Security Act (42 U.S.C.*

1 1396n(c)) for purposes of payment under section 1903
2 of such Act (42 U.S.C. 1396b).

3 (2) *LIMITATION.*—In no case may the amount of
4 payments made by the Secretary under this section
5 for State demonstration projects for a fiscal year ex-
6 ceed the amount available under subsection (f)(2)(A)
7 for such fiscal year.

8 (e) *SECRETARY'S EVALUATION AND REPORT.*—The
9 Secretary shall conduct an interim and final evaluation of
10 State demonstration projects under this section and shall
11 report to the President and Congress the conclusions of such
12 evaluations within 12 months of completing such evalua-
13 tions.

14 (f) *FUNDING.*—

15 (1) *IN GENERAL.*—For the purpose of carrying
16 out this section, there are appropriated, from amounts
17 in the Treasury not otherwise appropriated, for fiscal
18 years 2007 through 2011, a total of \$218,000,000, of
19 which—

20 (A) the amount specified in paragraph (2)
21 shall be available for each of fiscal years 2007
22 through 2011; and

23 (B) a total of \$1,000,000 shall be available
24 to the Secretary for the evaluations and report
25 under subsection (e).

1 (2) *FISCAL YEAR LIMIT.*—

2 (A) *IN GENERAL.*—*For purposes of para-*
 3 *graph (1), the amount specified in this para-*
 4 *graph for a fiscal year is the amount specified*
 5 *in subparagraph (B) for the fiscal year plus the*
 6 *difference, if any, between the total amount*
 7 *available under this paragraph for prior fiscal*
 8 *years and the total amount previously expended*
 9 *under paragraph (1)(A) for such prior fiscal*
 10 *years.*

11 (B) *FISCAL YEAR AMOUNTS.*—*The amount*
 12 *specified in this subparagraph for—*

13 (i) *fiscal year 2007 is \$21,000,000;*

14 (ii) *fiscal year 2008 is \$37,000,000;*

15 (iii) *fiscal year 2009 is \$49,000,000;*

16 (iv) *fiscal year 2010 is \$53,000,000;*

17 *and*

18 (v) *fiscal year 2011 is \$57,000,000.*

19 **SEC. 6064. DEVELOPMENT AND SUPPORT OF FAMILY-TO-**
 20 **FAMILY HEALTH INFORMATION CENTERS.**

21 *Section 501 of the Social Security Act (42 U.S.C. 701)*
 22 *is amended by adding at the end the following new sub-*
 23 *section:*

24 “(c)(1)(A) *For the purpose of enabling the Secretary*
 25 *(through grants, contracts, or otherwise) to provide for spe-*

1 *cial projects of regional and national significance for the*
2 *development and support of family-to-family health infor-*
3 *mation centers described in paragraph (2), there is appro-*
4 *riated to the Secretary, out of any money in the Treasury*
5 *not otherwise appropriated—*

6 “(i) \$3,000,000 for fiscal year 2007;

7 “(ii) \$4,000,000 for fiscal year 2008; and

8 “(iii) \$5,000,000 for fiscal year 2009.

9 “(B) Funds appropriated or authorized to be appro-
10 *riated under subparagraph (A) shall—*

11 “(i) *be in addition to amounts appropriated*
12 *under subsection (a) and retained under section*
13 *502(a)(1) for the purpose of carrying out activities*
14 *described in subsection (a)(2); and*

15 “(ii) *remain available until expended.*

16 “(2) *The family-to-family health information centers*
17 *described in this paragraph are centers that—*

18 “(A) *assist families of children with disabilities*
19 *or special health care needs to make informed choices*
20 *about health care in order to promote good treatment*
21 *decisions, cost-effectiveness, and improved health out-*
22 *comes for such children;*

23 “(B) *provide information regarding the health*
24 *care needs of, and resources available for, such chil-*
25 *dren;*

1 “(C) *identify successful health delivery models*
2 *for such children;*

3 “(D) *develop with representatives of health care*
4 *providers, managed care organizations, health care*
5 *purchasers, and appropriate State agencies, a model*
6 *for collaboration between families of such children*
7 *and health professionals;*

8 “(E) *provide training and guidance regarding*
9 *caring for such children;*

10 “(F) *conduct outreach activities to the families of*
11 *such children, health professionals, schools, and other*
12 *appropriate entities and individuals; and*

13 “(G) *are staffed—*

14 “(i) *by such families who have expertise in*
15 *Federal and State public and private health care*
16 *systems; and*

17 “(ii) *by health professionals.*

18 “(3) *The Secretary shall develop family-to-family*
19 *health information centers described in paragraph (2) in*
20 *accordance with the following:*

21 “(A) *With respect to fiscal year 2007, such cen-*
22 *ters shall be developed in not less than 25 States.*

23 “(B) *With respect to fiscal year 2008, such cen-*
24 *ters shall be developed in not less than 40 States.*

1 “(C) *With respect to fiscal year 2009 and each*
 2 *fiscal year thereafter, such centers shall be developed*
 3 *in all States.*

4 “(4) *The provisions of this title that are applicable to*
 5 *the funds made available to the Secretary under section*
 6 *502(a)(1) apply in the same manner to funds made avail-*
 7 *able to the Secretary under paragraph (1)(A).*

8 “(5) *For purposes of this subsection, the term ‘State’*
 9 *means each of the 50 States and the District of Columbia.’.*

10 **SEC. 6065. RESTORATION OF MEDICAID ELIGIBILITY FOR**
 11 **CERTAIN SSI BENEFICIARIES.**

12 (a) *IN GENERAL.*—*Section 1902(a)(10)(A)(i)(II) of the*
 13 *Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is*
 14 *amended—*

15 (1) *by inserting “(aa)” after “(II)”;*

16 (2) *by striking “) and” and inserting “and”;*

17 (3) *by striking “section or who are” and insert-*
 18 *ing “section), (bb) who are”;* and

19 (4) *by inserting before the comma at the end the*
 20 *following: “, or (cc) who are under 21 years of age*
 21 *and with respect to whom supplemental security in-*
 22 *come benefits would be paid under title XVI if sub-*
 23 *paragraphs (A) and (B) of section 1611(c)(7) were*
 24 *applied without regard to the phrase ‘the first day of*
 25 *the month following’.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
 2 *section (a) shall apply to medical assistance for items and*
 3 *services furnished on or after the date that is 1 year after*
 4 *the date of enactment of this Act.*

5 ***Subchapter B—Money Follows the Person***
 6 ***Rebalancing Demonstration***

7 ***SEC. 6071. MONEY FOLLOWS THE PERSON REBALANCING***
 8 ***DEMONSTRATION.***

9 (a) *PROGRAM PURPOSE AND AUTHORITY.*—*The Sec-*
 10 *retary is authorized to award, on a competitive basis,*
 11 *grants to States in accordance with this section for dem-*
 12 *onstration projects (each in this section referred to as an*
 13 *“MFP demonstration project”) designed to achieve the fol-*
 14 *lowing objectives with respect to institutional and home and*
 15 *community-based long-term care services under State Med-*
 16 *icaid programs:*

17 (1) *REBALANCING.*—*Increase the use of home*
 18 *and community-based, rather than institutional,*
 19 *long-term care services.*

20 (2) *MONEY FOLLOWS THE PERSON.*—*Eliminate*
 21 *barriers or mechanisms, whether in the State law, the*
 22 *State Medicaid plan, the State budget, or otherwise,*
 23 *that prevent or restrict the flexible use of Medicaid*
 24 *funds to enable Medicaid-eligible individuals to re-*

1 *ceive support for appropriate and necessary long-term*
2 *services in the settings of their choice.*

3 (3) *CONTINUITY OF SERVICE.*—*Increase the abil-*
4 *ity of the State Medicaid program to assure continued*
5 *provision of home and community-based long-term*
6 *care services to eligible individuals who choose to*
7 *transition from an institutional to a community set-*
8 *ting.*

9 (4) *QUALITY ASSURANCE AND QUALITY IMPROVE-*
10 *MENT.*—*Ensure that procedures are in place (at least*
11 *comparable to those required under the qualified HCB*
12 *program) to provide quality assurance for eligible in-*
13 *dividuals receiving Medicaid home and community-*
14 *based long-term care services and to provide for con-*
15 *tinuous quality improvement in such services.*

16 (b) *DEFINITIONS.*—*For purposes of this section:*

17 (1) *HOME AND COMMUNITY-BASED LONG-TERM*
18 *CARE SERVICES.*—*The term “home and community-*
19 *based long-term care services” means, with respect to*
20 *a State Medicaid program, home and community-*
21 *based services (including home health and personal*
22 *care services) that are provided under the State’s*
23 *qualified HCB program or that could be provided*
24 *under such a program but are otherwise provided*
25 *under the Medicaid program.*

1 (2) *ELIGIBLE INDIVIDUAL.*—*The term “eligible*
2 *individual” means, with respect to an MFP dem-*
3 *onstration project of a State, an individual in the*
4 *State—*

5 (A) *who, immediately before beginning par-*
6 *ticipation in the MFP demonstration project—*

7 (i) *resides (and has resided, for a pe-*
8 *riod of not less than 6 months or for such*
9 *longer minimum period, not to exceed 2*
10 *years, as may be specified by the State) in*
11 *an inpatient facility;*

12 (ii) *is receiving Medicaid benefits for*
13 *inpatient services furnished by such inpa-*
14 *tient facility; and*

15 (iii) *with respect to whom a deter-*
16 *mination has been made that, but for the*
17 *provision of home and community-based*
18 *long-term care services, the individual*
19 *would continue to require the level of care*
20 *provided in an inpatient facility and, in*
21 *any case in which the State applies a more*
22 *stringent level of care standard as a result*
23 *of implementing the State plan option per-*
24 *mitted under section 1915(i) of the Social*
25 *Security Act, the individual must continue*

1 to require at least the level of care which
2 had resulted in admission to the institution;
3 and

4 (B) who resides in a qualified residence be-
5 ginning on the initial date of participation in
6 the demonstration project.

7 (3) *INPATIENT FACILITY*.—The term “inpatient
8 facility” means a hospital, nursing facility, or inter-
9 mediate care facility for the mentally retarded. Such
10 term includes an institution for mental diseases, but
11 only, with respect to a State, to the extent medical as-
12 sistance is available under the State Medicaid plan
13 for services provided by such institution.

14 (4) *MEDICAID*.—The term “Medicaid” means,
15 with respect to a State, the State program under title
16 XIX of the Social Security Act (including any waiver
17 or demonstration under such title or under section
18 1115 of such Act relating to such title).

19 (5) *QUALIFIED HCB PROGRAM*.—The term
20 “qualified HCB program” means a program pro-
21 viding home and community-based long-term care
22 services operating under Medicaid, whether or not op-
23 erating under waiver authority.

1 (6) *QUALIFIED RESIDENCE.*—The term “quali-
2 fied residence” means, with respect to an eligible
3 individual—

4 (A) a home owned or leased by the indi-
5 vidual or the individual’s family member;

6 (B) an apartment with an individual lease,
7 with lockable access and egress, and which in-
8 cludes living, sleeping, bathing, and cooking
9 areas over which the individual or the individ-
10 ual’s family has domain and control; and

11 (C) a residence, in a community-based resi-
12 dential setting, in which no more than 4 unre-
13 lated individuals reside.

14 (7) *QUALIFIED EXPENDITURES.*—The term
15 “qualified expenditures” means expenditures by the
16 State under its MFP demonstration project for home
17 and community-based long-term care services for an
18 eligible individual participating in the MFP dem-
19 onstration project, but only with respect to services
20 furnished during the 12-month period beginning on
21 the date the individual is discharged from an inpa-
22 tient facility referred to in paragraph (2)(A)(i).

23 (8) *SELF-DIRECTED SERVICES.*—The term “self-
24 directed” means, with respect to home and commu-
25 nity-based long-term care services for an eligible indi-

1 *vidual, such services for the individual which are*
2 *planned and purchased under the direction and con-*
3 *trol of such individual or the individual's authorized*
4 *representative (as defined by the Secretary), including*
5 *the amount, duration, scope, provider, and location of*
6 *such services, under the State Medicaid program con-*
7 *sistent with the following requirements:*

8 (A) *ASSESSMENT.*—*There is an assessment*
9 *of the needs, capabilities, and preferences of the*
10 *individual with respect to such services.*

11 (B) *SERVICE PLAN.*—*Based on such assess-*
12 *ment, there is developed jointly with such indi-*
13 *vidual or the individual's authorized representa-*
14 *tive a plan for such services for such individual*
15 *that is approved by the State and that—*

16 (i) *specifies those services, if any,*
17 *which the individual or the individual's au-*
18 *thorized representative would be responsible*
19 *for directing;*

20 (ii) *identifies the methods by which the*
21 *individual or the individual's authorized*
22 *representative or an agency designated by*
23 *an individual or representative will select,*
24 *manage, and dismiss providers of such serv-*
25 *ices;*

1 (iii) specifies the role of family mem-
2 bers and others whose participation is
3 sought by the individual or the individual's
4 authorized representative with respect to
5 such services;

6 (iv) is developed through a person-cen-
7 tered process that—

8 (I) is directed by the individual
9 or the individual's authorized rep-
10 resentative;

11 (II) builds upon the individual's
12 capacity to engage in activities that
13 promote community life and that re-
14 spects the individual's preferences,
15 choices, and abilities; and

16 (III) involves families, friends,
17 and professionals as desired or re-
18 quired by the individual or the indi-
19 vidual's authorized representative;

20 (v) includes appropriate risk manage-
21 ment techniques that recognize the roles and
22 sharing of responsibilities in obtaining serv-
23 ices in a self-directed manner and assure
24 the appropriateness of such plan based upon
25 the resources and capabilities of the indi-

1 *vidual or the individual's authorized rep-*
 2 *resentative; and*

3 *(vi) may include an individualized*
 4 *budget which identifies the dollar value of*
 5 *the services and supports under the control*
 6 *and direction of the individual or the indi-*
 7 *vidual's authorized representative.*

8 *(C) BUDGET PROCESS.—With respect to in-*
 9 *dividualized budgets described in subparagraph*
 10 *(B)(vi), the State application under subsection*
 11 *(c)—*

12 *(i) describes the method for calculating*
 13 *the dollar values in such budgets based on*
 14 *reliable costs and service utilization;*

15 *(ii) defines a process for making ad-*
 16 *justments in such dollar values to reflect*
 17 *changes in individual assessments and serv-*
 18 *ice plans; and*

19 *(iii) provides a procedure to evaluate*
 20 *expenditures under such budgets.*

21 *(9) STATE.—The term “State” has the meaning*
 22 *given such term for purposes of title XIX of the Social*
 23 *Security Act.*

24 *(c) STATE APPLICATION.—A State seeking approval of*
 25 *an MFP demonstration project shall submit to the Sec-*

1 *retary, at such time and in such format as the Secretary*
2 *requires, an application meeting the following requirements*
3 *and containing such additional information, provisions,*
4 *and assurances, as the Secretary may require:*

5 (1) *ASSURANCE OF A PUBLIC DEVELOPMENT*
6 *PROCESS.—The application contains an assurance*
7 *that the State has engaged, and will continue to en-*
8 *gage, in a public process for the design, development,*
9 *and evaluation of the MFP demonstration project that*
10 *allows for input from eligible individuals, the families*
11 *of such individuals, authorized representatives of such*
12 *individuals, providers, and other interested parties.*

13 (2) *OPERATION IN CONNECTION WITH QUALIFIED*
14 *HCB PROGRAM TO ASSURE CONTINUITY OF SERV-*
15 *ICES.—The State will conduct the MFP demonstra-*
16 *tion project for eligible individuals in conjunction*
17 *with the operation of a qualified HCB program that*
18 *is in operation (or approved) in the State for such in-*
19 *dividuals in a manner that assures continuity of*
20 *Medicaid coverage for such individuals so long as*
21 *such individuals continue to be eligible for medical*
22 *assistance.*

23 (3) *DEMONSTRATION PROJECT PERIOD.—The ap-*
24 *plication shall specify the period of the MFP dem-*
25 *onstration project, which shall include at least 2 con-*

1 *secutive fiscal years in the 5-fiscal-year period begin-*
2 *ning with fiscal year 2007.*

3 (4) *SERVICE AREA.*—*The application shall speci-*
4 *fy the service area or areas of the MFP demonstration*
5 *project, which may be a statewide area or 1 or more*
6 *geographic areas of the State.*

7 (5) *TARGETED GROUPS AND NUMBERS OF INDI-*
8 *VIDUALS SERVED.*—*The application shall specify—*

9 (A) *the target groups of eligible individuals*
10 *to be assisted to transition from an inpatient fa-*
11 *cility to a qualified residence during each fiscal*
12 *year of the MFP demonstration project;*

13 (B) *the projected numbers of eligible indi-*
14 *viduals in each targeted group of eligible indi-*
15 *viduals to be so assisted during each such year;*
16 *and*

17 (C) *the estimated total annual qualified ex-*
18 *penditures for each fiscal year of the MFP dem-*
19 *onstration project.*

20 (6) *INDIVIDUAL CHOICE, CONTINUITY OF CARE.*—
21 *The application shall contain assurances that—*

22 (A) *each eligible individual or the individ-*
23 *ual's authorized representative will be provided*
24 *the opportunity to make an informed choice re-*

1 *garding whether to participate in the MFP dem-*
2 *onstration project;*

3 *(B) each eligible individual or the individ-*
4 *ual's authorized representative will choose the*
5 *qualified residence in which the individual will*
6 *reside and the setting in which the individual*
7 *will receive home and community-based long-*
8 *term care services;*

9 *(C) the State will continue to make avail-*
10 *able, so long as the State operates its qualified*
11 *HCB program consistent with applicable re-*
12 *quirements, home and community-based long-*
13 *term care services to each individual who com-*
14 *pletes participation in the MFP demonstration*
15 *project for as long as the individual remains eli-*
16 *gible for medical assistance for such services*
17 *under such qualified HCB program (including*
18 *meeting a requirement relating to requiring a*
19 *level of care provided in an inpatient facility*
20 *and continuing to require such services, and, if*
21 *the State applies a more stringent level of care*
22 *standard as a result of implementing the State*
23 *plan option permitted under section 1915(i) of*
24 *the Social Security Act, meeting the requirement*

1 *for at least the level of care which had resulted*
2 *in the individual's admission to the institution).*

3 (7) *REBALANCING.*—*The application shall—*

4 (A) *provide such information as the Sec-*
5 *retary may require concerning the dollar*
6 *amounts of State Medicaid expenditures for the*
7 *fiscal year, immediately preceding the first fiscal*
8 *year of the State's MFP demonstration project,*
9 *for long-term care services and the percentage of*
10 *such expenditures that were for institutional*
11 *long-term care services or were for home and*
12 *community-based long-term care services;*

13 (B)(i) *specify the methods to be used by the*
14 *State to increase, for each fiscal year during the*
15 *MFP demonstration project, the dollar amount of*
16 *such total expenditures for home and commu-*
17 *nity-based long-term care services and the per-*
18 *centage of such total expenditures for long-term*
19 *care services that are for home and community-*
20 *based long-term care services; and*

21 (ii) *describe the extent to which the MFP*
22 *demonstration project will contribute to accom-*
23 *plishment of objectives described in subsection*
24 (i).
(a).

1 (8) *MONEY FOLLOWS THE PERSON.*—*The appli-*
2 *cation shall describe the methods to be used by the*
3 *State to eliminate any legal, budgetary, or other bar-*
4 *riers to flexibility in the availability of Medicaid*
5 *funds to pay for long-term care services for eligible*
6 *individuals participating in the project in the appro-*
7 *priate settings of their choice, including costs to tran-*
8 *sition from an institutional setting to a qualified res-*
9 *idence.*

10 (9) *MAINTENANCE OF EFFORT AND COST-EFFEC-*
11 *TIVENESS.*—*The application shall contain or be ac-*
12 *companied by such information and assurances as*
13 *may be required to satisfy the Secretary that—*

14 (A) *total expenditures under the State Med-*
15 *icaid program for home and community-based*
16 *long-term care services will not be less for any*
17 *fiscal year during the MFP demonstration*
18 *project than for the greater of such expenditures*
19 *for—*

20 (i) *fiscal year 2005; or*

21 (ii) *any succeeding fiscal year before*
22 *the first year of the MFP demonstration*
23 *project; and*

24 (B) *in the case of a qualified HCB program*
25 *operating under a waiver under subsection (c) or*

1 (d) of section 1915 of the Social Security Act (42
2 U.S.C. 1396n), but for the amount awarded
3 under a grant under this section, the State pro-
4 gram would continue to meet the cost-effective-
5 ness requirements of subsection (c)(2)(D) of such
6 section or comparable requirements under sub-
7 section (d)(5) of such section, respectively.

8 (10) *WAIVER REQUESTS.*—The application shall
9 contain or be accompanied by requests for any modi-
10 fication or adjustment of waivers of Medicaid require-
11 ments described in subsection (d)(3), including ad-
12 justments to the maximum numbers of individuals in-
13 cluded and package of benefits, including one-time
14 transitional services, provided.

15 (11) *QUALITY ASSURANCE AND QUALITY IM-*
16 *PROVEMENT.*—The application shall include—

17 (A) a plan satisfactory to the Secretary for
18 quality assurance and quality improvement for
19 home and community-based long-term care serv-
20 ices under the State Medicaid program, includ-
21 ing a plan to assure the health and welfare of in-
22 dividuals participating in the MFP demonstra-
23 tion project; and

24 (B) an assurance that the State will cooper-
25 ate in carrying out activities under subsection

1 (f) to develop and implement continuous quality
2 assurance and quality improvement systems for
3 home and community-based long-term care serv-
4 ices.

5 (12) *OPTIONAL PROGRAM FOR SELF-DIRECTED*
6 *SERVICES.*—If the State elects to provide for any
7 home and community-based long-term care services as
8 self-directed services (as defined in subsection (b)(8))
9 under the MFP demonstration project, the application
10 shall provide the following:

11 (A) *MEETING REQUIREMENTS.*—A descrip-
12 tion of how the project will meet the applicable
13 requirements of such subsection for the provision
14 of self-directed services.

15 (B) *VOLUNTARY ELECTION.*—A description
16 of how eligible individuals will be provided with
17 the opportunity to make an informed election to
18 receive self-directed services under the project
19 and after the end of the project.

20 (C) *STATE SUPPORT IN SERVICE PLAN DE-*
21 *VELOPMENT.*—Satisfactory assurances that the
22 State will provide support to eligible individuals
23 who self-direct in developing and implementing
24 their service plans.

1 (D) *OVERSIGHT OF RECEIPT OF SERV-*
2 *ICES.—Satisfactory assurances that the State*
3 *will provide oversight of eligible individual's re-*
4 *ceipt of such self-directed services, including*
5 *steps to assure the quality of services provided*
6 *and that the provision of such services are con-*
7 *sistent with the service plan under such sub-*
8 *section.*

9 *Nothing in this section shall be construed as requiring*
10 *a State to make an election under the project to pro-*
11 *vide for home and community-based long-term care*
12 *services as self-directed services, or as requiring an*
13 *individual to elect to receive self-directed services*
14 *under the project.*

15 (13) *REPORTS AND EVALUATION.—The applica-*
16 *tion shall provide that—*

17 (A) *the State will furnish to the Secretary*
18 *such reports concerning the MFP demonstration*
19 *project, on such timetable, in such uniform for-*
20 *mat, and containing such information as the*
21 *Secretary may require, as will allow for reliable*
22 *comparisons of MFP demonstration projects*
23 *across States; and*

1 (B) *the State will participate in and co-*
2 *operate with the evaluation of the MFP dem-*
3 *onstration project.*

4 (d) *SECRETARY'S AWARD OF COMPETITIVE GRANTS.—*

5 (1) *IN GENERAL.—The Secretary shall award*
6 *grants under this section on a competitive basis to*
7 *States selected from among those with applications*
8 *meeting the requirements of subsection (c), in accord-*
9 *ance with the provisions of this subsection.*

10 (2) *SELECTION AND MODIFICATION OF STATE AP-*
11 *PLICATIONS.—In selecting State applications for the*
12 *awarding of such a grant, the Secretary—*

13 (A) *shall take into consideration the man-*
14 *ner in which, and extent to which, the State pro-*
15 *poses to achieve the objectives specified in sub-*
16 *section (a);*

17 (B) *shall seek to achieve an appropriate na-*
18 *tional balance in the numbers of eligible individ-*
19 *uals, within different target groups of eligible in-*
20 *dividuals, who are assisted to transition to*
21 *qualified residences under MFP demonstration*
22 *projects, and in the geographic distribution of*
23 *States operating MFP demonstration projects;*

24 (C) *shall give preference to State applica-*
25 *tions proposing—*

1 (i) to provide transition assistance to
2 eligible individuals within multiple target
3 groups; and

4 (ii) to provide eligible individuals with
5 the opportunity to receive home and com-
6 munity-based long-term care services as self-
7 directed services, as defined in subsection
8 (b)(8); and

9 (D) shall take such objectives into consider-
10 ation in setting the annual amounts of State
11 grant awards under this section.

12 (3) *WAIVER AUTHORITY.*—*The Secretary is au-*
13 *thorized to waive the following provisions of title XIX*
14 *of the Social Security Act, to the extent necessary to*
15 *enable a State initiative to meet the requirements and*
16 *accomplish the purposes of this section:*

17 (A) *STATEWIDENESS.*—*Section 1902(a)(1),*
18 *in order to permit implementation of a State*
19 *initiative in a selected area or areas of the State.*

20 (B) *COMPARABILITY.*—*Section*
21 *1902(a)(10)(B), in order to permit a State ini-*
22 *tiative to assist a selected category or categories*
23 *of individuals described in subsection (b)(2)(A).*

24 (C) *INCOME AND RESOURCES ELIGI-*
25 *BILITY.*—*Section 1902(a)(10)(C)(i)(III), in order*

1 to permit a State to apply institutional eligi-
 2 bility rules to individuals transitioning to com-
 3 munity-based care.

4 (D) *PROVIDER AGREEMENTS.*—Section
 5 1902(a)(27), in order to permit a State to imple-
 6 ment self-directed services in a cost-effective
 7 manner.

8 (4) *CONDITIONAL APPROVAL OF OUTYEAR*
 9 *GRANT.*—In awarding grants under this section, the
 10 Secretary shall condition the grant for the second and
 11 any subsequent fiscal years of the grant period on the
 12 following:

13 (A) *NUMERICAL BENCHMARKS.*—The State
 14 must demonstrate to the satisfaction of the Sec-
 15 retary that it is meeting numerical benchmarks
 16 specified in the grant agreement for—

17 (i) increasing State Medicaid support
 18 for home and community-based long-term
 19 care services under subsection (c)(5); and

20 (ii) numbers of eligible individuals as-
 21 sisted to transition to qualified residences.

22 (B) *QUALITY OF CARE.*—The State must
 23 demonstrate to the satisfaction of the Secretary
 24 that it is meeting the requirements under sub-

1 *section (c)(11) to assure the health and welfare*
 2 *of MFP demonstration project participants.*

3 *(e) PAYMENTS TO STATES; CARRYOVER OF UNUSED*
 4 *GRANT AMOUNTS.—*

5 *(1) PAYMENTS.—For each calendar quarter in a*
 6 *fiscal year during the period a State is awarded a*
 7 *grant under subsection (d), the Secretary shall pay to*
 8 *the State from its grant award for such fiscal year an*
 9 *amount equal to the lesser of—*

10 *(A) the MFP-enhanced FMAP (as defined*
 11 *in paragraph (5)) of the amount of qualified ex-*
 12 *penditures made during such quarter; or*

13 *(B) the total amount remaining in such*
 14 *grant award for such fiscal year (taking into ac-*
 15 *count the application of paragraph (2)).*

16 *(2) CARRYOVER OF UNUSED AMOUNTS.—Any*
 17 *portion of a State grant award for a fiscal year*
 18 *under this section remaining at the end of such fiscal*
 19 *year shall remain available to the State for the next*
 20 *4 fiscal years, subject to paragraph (3).*

21 *(3) REAWARDING OF CERTAIN UNUSED*
 22 *AMOUNTS.—In the case of a State that the Secretary*
 23 *determines pursuant to subsection (d)(4) has failed to*
 24 *meet the conditions for continuation of a MFP dem-*
 25 *onstration project under this section in a succeeding*

1 *year or years, the Secretary shall rescind the grant*
2 *awards for such succeeding year or years, together*
3 *with any unspent portion of an award for prior*
4 *years, and shall add such amounts to the appropria-*
5 *tion for the immediately succeeding fiscal year for*
6 *grants under this section.*

7 (4) *PREVENTING DUPLICATION OF PAYMENT.—*

8 *The payment under a MFP demonstration project*
9 *with respect to qualified expenditures shall be in lieu*
10 *of any payment with respect to such expenditures*
11 *that could otherwise be paid under Medicaid, includ-*
12 *ing under section 1903(a) of the Social Security Act.*
13 *Nothing in the previous sentence shall be construed as*
14 *preventing the payment under Medicaid for such ex-*
15 *penditures in a grant year after amounts available to*
16 *pay for such expenditures under the MFP demonstra-*
17 *tion project have been exhausted.*

18 (5) *MFP-ENHANCED FMAP.—For purposes of*

19 *paragraph (1)(A), the “MFP-enhanced FMAP”, for a*
20 *State for a fiscal year, is equal to the Federal medical*
21 *assistance percentage (as defined in the first sentence*
22 *of section 1905(b)) for the State increased by a num-*
23 *ber of percentage points equal to 50 percent of the*
24 *number of percentage points by which (A) such Fed-*
25 *eral medical assistance percentage for the State, is*

1 less than (B) 100 percent; but in no case shall the
2 MFP-enhanced FMAP for a State exceed 90 percent.

3 (f) *QUALITY ASSURANCE AND IMPROVEMENT; TECH-*
4 *NICAL ASSISTANCE; OVERSIGHT.*—

5 (1) *IN GENERAL.*—*The Secretary, either directly*
6 *or by grant or contract, shall provide for technical as-*
7 *sistance to, and oversight of, States for purposes of*
8 *upgrading quality assurance and quality improve-*
9 *ment systems under Medicaid home and community-*
10 *based waivers, including—*

11 (A) *dissemination of information on prom-*
12 *ising practices;*

13 (B) *guidance on system design elements ad-*
14 *ressing the unique needs of participating bene-*
15 *ficiaries;*

16 (C) *ongoing consultation on quality, includ-*
17 *ing assistance in developing necessary tools, re-*
18 *sources, and monitoring systems; and*

19 (D) *guidance on remedying programmatic*
20 *and systemic problems.*

21 (2) *FUNDING.*—*From the amounts appropriated*
22 *under subsection (h)(1) for the portion of fiscal year*
23 *2007 that begins on January 1, 2007, and ends on*
24 *September 30, 2007, and for fiscal year 2008, not*
25 *more than \$2,400,000 shall be available to the Sec-*

1 *retary to carry out this subsection during the period*
2 *that begins on January 1, 2007, and ends on Sep-*
3 *tember 30, 2011.*

4 *(g) RESEARCH AND EVALUATION.—*

5 *(1) IN GENERAL.—The Secretary, directly or*
6 *through grant or contract, shall provide for research*
7 *on, and a national evaluation of, the program under*
8 *this section, including assistance to the Secretary in*
9 *preparing the final report required under paragraph*
10 *(2). The evaluation shall include an analysis of pro-*
11 *jected and actual savings related to the transition of*
12 *individuals to qualified residences in each State con-*
13 *ducting an MFP demonstration project.*

14 *(2) FINAL REPORT.—The Secretary shall make a*
15 *final report to the President and Congress, not later*
16 *than September 30, 2011, reflecting the evaluation de-*
17 *scribed in paragraph (1) and providing findings and*
18 *conclusions on the conduct and effectiveness of MFP*
19 *demonstration projects.*

20 *(3) FUNDING.—From the amounts appropriated*
21 *under subsection (h)(1) for each of fiscal years 2008*
22 *through 2011, not more than \$1,100,000 per year*
23 *shall be available to the Secretary to carry out this*
24 *subsection.*

25 *(h) APPROPRIATIONS.—*

1 (1) *IN GENERAL.*—*There are appropriated, from*
 2 *any funds in the Treasury not otherwise appro-*
 3 *priated, for grants to carry out this section—*

4 (A) *\$250,000,000 for the portion of fiscal*
 5 *year 2007 beginning on January 1, 2007, and*
 6 *ending on September 30, 2007;*

7 (B) *\$300,000,000 for fiscal year 2008;*

8 (C) *\$350,000,000 for fiscal year 2009;*

9 (D) *\$400,000,000 for fiscal year 2010; and*

10 (E) *\$450,000,000 for fiscal year 2011.*

11 (2) *AVAILABILITY.*—*Amounts made available*
 12 *under paragraph (1) for a fiscal year shall remain*
 13 *available for the awarding of grants to States by not*
 14 *later than September 30, 2011.*

15 ***Subchapter C—Miscellaneous***

16 ***SEC. 6081. MEDICAID TRANSFORMATION GRANTS.***

17 (a) *IN GENERAL.*—*Section 1903 of the Social Security*
 18 *Act (42 U.S.C. 1396b), as amended by sections 6037(a)(2)*
 19 *and 6043(b), is amended by adding at the end the following*
 20 *new subsection:*

21 “(z) *MEDICAID TRANSFORMATION PAYMENTS.*—

22 “(1) *IN GENERAL.*—*In addition to the payments*
 23 *provided under subsection (a), subject to paragraph*
 24 *(4), the Secretary shall provide for payments to*
 25 *States for the adoption of innovative methods to im-*

1 *prove the effectiveness and efficiency in providing*
2 *medical assistance under this title.*

3 “(2) *PERMISSIBLE USES OF FUNDS.*—*The fol-*
4 *lowing are examples of innovative methods for which*
5 *funds provided under this subsection may be used:*

6 “(A) *Methods for reducing patient error*
7 *rates through the implementation and use of elec-*
8 *tronic health records, electronic clinical decision*
9 *support tools, or e-prescribing programs.*

10 “(B) *Methods for improving rates of collec-*
11 *tion from estates of amounts owed under this*
12 *title.*

13 “(C) *Methods for reducing waste, fraud, and*
14 *abuse under the program under this title, such as*
15 *reducing improper payment rates as measured*
16 *by annual payment error rate measurement*
17 *(PERM) project rates.*

18 “(D) *Implementation of a medication risk*
19 *management program as part of a drug use re-*
20 *view program under section 1927(g).*

21 “(E) *Methods in reducing, in clinically ap-*
22 *propriate ways, expenditures under this title for*
23 *covered outpatient drugs, particularly in the cat-*
24 *egories of greatest drug utilization, by increasing*
25 *the utilization of generic drugs through the use*

1 *of education programs and other incentives to*
2 *promote greater use of generic drugs.*

3 “(F) *Methods for improving access to pri-*
4 *mary and specialty physician care for the unin-*
5 *insured using integrated university-based hospital*
6 *and clinic systems.*

7 “(3) *APPLICATION; TERMS AND CONDITIONS.—*

8 “(A) *IN GENERAL.—No payments shall be*
9 *made to a State under this subsection unless the*
10 *State applies to the Secretary for such payments*
11 *in a form, manner, and time specified by the*
12 *Secretary.*

13 “(B) *TERMS AND CONDITIONS.—Such pay-*
14 *ments are made under such terms and conditions*
15 *consistent with this subsection as the Secretary*
16 *prescribes.*

17 “(C) *ANNUAL REPORT.—Payment to a*
18 *State under this subsection is conditioned on the*
19 *State submitting to the Secretary an annual re-*
20 *port on the programs supported by such pay-*
21 *ment. Such report shall include information*
22 *on—*

23 “(i) *the specific uses of such payment;*

1 “(ii) an assessment of quality improve-
2 ments and clinical outcomes under such
3 programs; and

4 “(iii) estimates of cost savings result-
5 ing from such programs.

6 “(4) FUNDING.—

7 “(A) LIMITATION ON FUNDS.—The total
8 amount of payments under this subsection shall
9 be equal to, and shall not exceed—

10 “(i) \$75,000,000 for fiscal year 2007;

11 and

12 “(ii) \$75,000,000 for fiscal year 2008.

13 This subsection constitutes budget authority in
14 advance of appropriations Acts and represents
15 the obligation of the Secretary to provide for the
16 payment of amounts provided under this sub-
17 section.

18 “(B) ALLOCATION OF FUNDS.—The Sec-
19 retary shall specify a method for allocating the
20 funds made available under this subsection
21 among States. Such method shall provide pref-
22 erence for States that design programs that tar-
23 get health providers that treat significant num-
24 bers of Medicaid beneficiaries. Such method shall
25 provide that not less than 25 percent of such

1 *funds shall be allocated among States the popu-*
2 *lation of which (as determined according to data*
3 *collected by the United States Census Bureau) as*
4 *of July 1, 2004, was more than 105 percent of*
5 *the population of the respective State (as so de-*
6 *termined) as of April 1, 2000.*

7 “(C) *FORM AND MANNER OF PAYMENT.—*
8 *Payment to a State under this subsection shall*
9 *be made in the same manner as other payments*
10 *under section 1903(a). There is no requirement*
11 *for State matching funds to receive payments*
12 *under this subsection.*

13 “(5) *MEDICATION RISK MANAGEMENT PRO-*
14 *GRAM.—*

15 “(A) *IN GENERAL.—For purposes of this*
16 *subsection, the term ‘medication risk manage-*
17 *ment program’ means a program for targeted*
18 *beneficiaries that ensures that covered outpatient*
19 *drugs are appropriately used to optimize thera-*
20 *peutic outcomes through improved medication*
21 *use and to reduce the risk of adverse events.*

22 “(B) *ELEMENTS.—Such program may in-*
23 *clude the following elements:*

24 “(i) *The use of established principles*
25 *and standards for drug utilization review*

1 *and best practices to analyze prescription*
2 *drug claims of targeted beneficiaries and*
3 *identify outlier physicians.*

4 “(ii) *On an ongoing basis provide*
5 *outlier physicians—*

6 “(I) *a comprehensive pharmacy*
7 *claims history for each targeted bene-*
8 *ficiary under their care;*

9 “(II) *information regarding the*
10 *frequency and cost of relapses and hos-*
11 *pitalizations of targeted beneficiaries*
12 *under the physician’s care; and*

13 “(III) *applicable best practice*
14 *guidelines and empirical references.*

15 “(iii) *Monitor outlier physician’s pre-*
16 *scribing, such as failure to refill, dosage*
17 *strengths, and provide incentives and infor-*
18 *mation to encourage the adoption of best*
19 *clinical practices.*

20 “(C) *TARGETED BENEFICIARIES.—For pur-*
21 *poses of this paragraph, the term ‘targeted bene-*
22 *ficiaries’ means Medicaid eligible beneficiaries*
23 *who are identified as having high prescription*
24 *drug costs and medical costs, such as individuals*

1 *with behavioral disorders or multiple chronic*
 2 *diseases who are taking multiple medications.”.*

3 **SEC. 6082. HEALTH OPPORTUNITY ACCOUNTS.**

4 *Title XIX of the Social Security Act, as amended by*
 5 *sections 6035 and 6044, is amended—*

6 (1) *by redesignating section 1938 as section*
 7 *1939; and*

8 (2) *by inserting after section 1937 the following*
 9 *new section:*

10 “HEALTH OPPORTUNITY ACCOUNTS

11 “SEC. 1938. (a) AUTHORITY.—

12 “(1) IN GENERAL.—Notwithstanding any other
 13 *provision of this title, the Secretary shall establish a*
 14 *demonstration program under which States may pro-*
 15 *vide under their State plans under this title (includ-*
 16 *ing such a plan operating under a statewide waiver*
 17 *under section 1115) in accordance with this section*
 18 *for the provision of alternative benefits consistent*
 19 *with subsection (c) for eligible population groups in*
 20 *one or more geographic areas of the State specified by*
 21 *the State. An amendment under the previous sentence*
 22 *is referred to in this section as a ‘State demonstration*
 23 *program’.*

24 “(2) INITIAL DEMONSTRATION.—

25 “(A) IN GENERAL.—The demonstration pro-
 26 *gram under this section shall begin on January*

1 1, 2007. During the first 5 years of such pro-
2 gram, the Secretary shall not approve more than
3 10 States to conduct demonstration programs
4 under this section, with each State demonstra-
5 tion program covering 1 or more geographic
6 areas specified by the State. After such 5-year
7 period—

8 “(i) unless the Secretary finds, taking
9 into account cost-effectiveness, quality of
10 care, and other criteria that the Secretary
11 specifies, that a State demonstration pro-
12 gram previously implemented has been un-
13 successful, such a demonstration program
14 may be extended or made permanent in the
15 State; and

16 “(ii) unless the Secretary finds, taking
17 into account cost-effectiveness, quality of
18 care, and other criteria that the Secretary
19 specifies, that all State demonstration pro-
20 grams previously implemented were unsuc-
21 cessful, other States may implement State
22 demonstration programs.

23 “(B) GAO REPORT.—

24 “(i) IN GENERAL.—Not later than 3
25 months after the end of the 5-year period

1 *described in subparagraph (A), the Com-*
2 *troller General of the United States shall*
3 *submit a report to Congress evaluating the*
4 *demonstration programs conducted under*
5 *this section during such period.*

6 “(ii) *APPROPRIATION.—Out of any*
7 *funds in the Treasury not otherwise appro-*
8 *priated, there is appropriated to the Comp-*
9 *troller General of the United States,*
10 *\$550,000 for the period of fiscal years 2007*
11 *through 2010 to carry out clause (i).*

12 “(3) *APPROVAL.—The Secretary shall not ap-*
13 *prove a State demonstration program under para-*
14 *graph (1) unless the program includes the following:*

15 “(A) *Creating patient awareness of the high*
16 *cost of medical care.*

17 “(B) *Providing incentives to patients to*
18 *seek preventive care services.*

19 “(C) *Reducing inappropriate use of health*
20 *care services.*

21 “(D) *Enabling patients to take responsi-*
22 *bility for health outcomes.*

23 “(E) *Providing enrollment counselors and*
24 *ongoing education activities.*

1 “(F) *Providing transactions involving*
 2 *health opportunity accounts to be conducted elec-*
 3 *tronically and without cash.*

4 “(G) *Providing access to negotiated pro-*
 5 *vider payment rates consistent with this section.*

6 *Nothing in this section shall be construed as pre-*
 7 *venting a State demonstration program from pro-*
 8 *viding incentives for patients obtaining appropriate*
 9 *preventive care (as defined for purposes of section*
 10 *223(c)(2)(C) of the Internal Revenue Code of 1986),*
 11 *such as additional account contributions for an indi-*
 12 *vidual demonstrating healthy prevention practices.*

13 “(4) *NO REQUIREMENT FOR STATEWIDENESS.—*
 14 *Nothing in this section or any other provision of law*
 15 *shall be construed to require that a State must pro-*
 16 *vide for the implementation of a State demonstration*
 17 *program on a Statewide basis.*

18 “(b) *ELIGIBLE POPULATION GROUPS.—*

19 “(1) *IN GENERAL.—A State demonstration pro-*
 20 *gram under this section shall specify the eligible pop-*
 21 *ulation groups consistent with paragraphs (2) and*
 22 *(3).*

23 “(2) *ELIGIBILITY LIMITATIONS DURING INITIAL*
 24 *DEMONSTRATION PERIOD.—During the initial 5 years*
 25 *of the demonstration program under this section, a*

1 *State demonstration program shall not apply to any*
2 *of the following individuals:*

3 “(A) *Individuals who are 65 years of age or*
4 *older.*

5 “(B) *Individuals who are disabled, regard-*
6 *less of whether or not their eligibility for medical*
7 *assistance under this title is based on such dis-*
8 *ability.*

9 “(C) *Individuals who are eligible for med-*
10 *ical assistance under this title only because they*
11 *are (or were within the previous 60 days) preg-*
12 *nant.*

13 “(D) *Individuals who have been eligible for*
14 *medical assistance for a continuous period of less*
15 *than 3 months.*

16 “(3) *ADDITIONAL LIMITATIONS.—A State dem-*
17 *onstration program shall not apply to any individual*
18 *within a category of individuals described in section*
19 *1937(a)(2)(B).*

20 “(4) *LIMITATIONS.—*

21 “(A) *STATE OPTION.—This subsection shall*
22 *not be construed as preventing a State from fur-*
23 *ther limiting eligibility.*

24 “(B) *ON ENROLLEES IN MEDICAID MAN-*
25 *AGED CARE ORGANIZATIONS.—Insofar as the*

1 *State provides for eligibility of individuals who*
2 *are enrolled in Medicaid managed care organiza-*
3 *tions, such individuals may participate in the*
4 *State demonstration program only if the State*
5 *provides assurances satisfactory to the Secretary*
6 *that the following conditions are met with re-*
7 *spect to any such organization:*

8 “(i) *In no case may the number of*
9 *such individuals enrolled in the organiza-*
10 *tion who participate in the program exceed*
11 *5 percent of the total number of individuals*
12 *enrolled in such organization.*

13 “(ii) *The proportion of enrollees in the*
14 *organization who so participate is not sig-*
15 *nificantly disproportionate to the propor-*
16 *tion of such enrollees in other such organi-*
17 *zations who participate.*

18 “(iii) *The State has provided for an*
19 *appropriate adjustment in the per capita*
20 *payments to the organization to account for*
21 *such participation, taking into account dif-*
22 *ferences in the likely use of health services*
23 *between enrollees who so participate and en-*
24 *rollees who do not so participate.*

1 “(5) *VOLUNTARY PARTICIPATION.*—*An eligible*
2 *individual shall be enrolled in a State demonstration*
3 *program only if the individual voluntarily enrolls.*
4 *Except in such hardship cases as the Secretary shall*
5 *specify, such an enrollment shall be effective for a pe-*
6 *riod of 12 months, but may be extended for additional*
7 *periods of 12 months each with the consent of the in-*
8 *dividual.*

9 “(6) *1-YEAR MORATORIUM FOR REENROLL-*
10 *MENT.*—*An eligible individual who, for any reason, is*
11 *disenrolled from a State demonstration program con-*
12 *ducted under this section shall not be permitted to re-*
13 *enroll in such program before the end of the 1-year*
14 *period that begins on the effective date of such*
15 *disenrollment.*

16 “(c) *ALTERNATIVE BENEFITS.*—

17 “(1) *IN GENERAL.*—*The alternative benefits pro-*
18 *vided under this section shall consist, consistent with*
19 *this subsection, of at least—*

20 “(A) *coverage for medical expenses in a*
21 *year for items and services for which benefits are*
22 *otherwise provided under this title after an an-*
23 *nuual deductible described in paragraph (2) has*
24 *been met; and*

1 “(B) contribution into a health opportunity
2 account.

3 Nothing in subparagraph (A) shall be construed as
4 preventing a State from providing for coverage of pre-
5 ventive care (referred to in subsection (a)(3)) within
6 the alternative benefits without regard to the annual
7 deductible.

8 “(2) ANNUAL DEDUCTIBLE.—The amount of the
9 annual deductible described in paragraph (1)(A) shall
10 be at least 100 percent, but no more than 110 percent,
11 of the annualized amount of contributions to the
12 health opportunity account under subsection
13 (d)(2)(A)(i), determined without regard to any limi-
14 tation described in subsection (d)(2)(C)(i)(II).

15 “(3) ACCESS TO NEGOTIATED PROVIDER PAY-
16 MENT RATES.—

17 “(A) FEE-FOR-SERVICE ENROLLEES.—In
18 the case of an individual who is participating in
19 a State demonstration program and who is not
20 enrolled with a Medicaid managed care organi-
21 zation, the State shall provide that the indi-
22 vidual may obtain demonstration program Med-
23 icaid services from—

24 “(i) any participating provider under
25 this title at the same payment rates that

1 *would be applicable to such services if the*
2 *deductible described in paragraph (1)(A)*
3 *was not applicable; or*

4 “(ii) *any other provider at payment*
5 *rates that do not exceed 125 percent of the*
6 *payment rate that would be applicable to*
7 *such services furnished by a participating*
8 *provider under this title if the deductible*
9 *described in paragraph (1)(A) was not ap-*
10 *plicable.*

11 “(B) *TREATMENT UNDER MEDICAID MAN-*
12 *AGED CARE PLANS.—In the case of an individual*
13 *who is participating in a State demonstration*
14 *program and is enrolled with a Medicaid man-*
15 *aged care organization, the State shall enter into*
16 *an arrangement with the organization under*
17 *which the individual may obtain demonstration*
18 *program Medicaid services from any provider*
19 *described in clause (ii) of subparagraph (A) at*
20 *payment rates that do not exceed the payment*
21 *rates that may be imposed under that clause.*

22 “(C) *COMPUTATION.—The payment rates*
23 *described in subparagraphs (A) and (B) shall be*
24 *computed without regard to any cost sharing*

1 *that would be otherwise applicable under sections*
2 *1916 and 1916A.*

3 “(D) *DEFINITIONS.*—*For purposes of this*
4 *paragraph:*

5 “(i) *The term ‘demonstration program*
6 *Medicaid services’ means, with respect to an*
7 *individual participating in a State dem-*
8 *onstration program, services for which the*
9 *individual would be provided medical as-*
10 *sistance under this title but for the applica-*
11 *tion of the deductible described in para-*
12 *graph (1)(A).*

13 “(ii) *The term ‘participating provider’*
14 *means—*

15 “(I) *with respect to an individual*
16 *described in subparagraph (A), a*
17 *health care provider that has entered*
18 *into a participation agreement with*
19 *the State for the provision of services*
20 *to individuals entitled to benefits*
21 *under the State plan; or*

22 “(II) *with respect to an indi-*
23 *vidual described in subparagraph (B)*
24 *who is enrolled in a Medicaid managed*
25 *care organization, a health care pro-*

1 *vider that has entered into an arrange-*
2 *ment for the provision of services to en-*
3 *rollees of the organization under this*
4 *title.*

5 “(4) *NO EFFECT ON SUBSEQUENT BENEFITS.—*
6 *Except as provided under paragraphs (1) and (2), al-*
7 *ternative benefits for an eligible individual shall con-*
8 *sist of the benefits otherwise provided to the indi-*
9 *vidual, including cost sharing relating to such bene-*
10 *fits.*

11 “(5) *OVERRIDING COST SHARING AND COM-*
12 *PARABILITY REQUIREMENTS FOR ALTERNATIVE BENE-*
13 *FITS.—The provisions of this title relating to cost*
14 *sharing for benefits (including sections 1916 and*
15 *1916A) shall not apply with respect to benefits to*
16 *which the annual deductible under paragraph (1)(A)*
17 *applies. The provisions of section 1902(a)(10)(B) (re-*
18 *lating to comparability) shall not apply with respect*
19 *to the provision of alternative benefits (as described in*
20 *this subsection).*

21 “(6) *TREATMENT AS MEDICAL ASSISTANCE.—*
22 *Subject to subparagraphs (D) and (E) of subsection*
23 *(d)(2), payments for alternative benefits under this*
24 *section (including contributions into a health oppor-*

1 *tunity account) shall be treated as medical assistance*
 2 *for purposes of section 1903(a).*

3 “(7) *USE OF TIERED DEDUCTIBLE AND COST*
 4 *SHARING.—*

5 “(A) *IN GENERAL.—A State—*

6 “(i) *may vary the amount of the an-*
 7 *annual deductible applied under paragraph*
 8 *(1)(A) based on the income of the family in-*
 9 *involved so long as it does not favor families*
 10 *with higher income over those with lower*
 11 *income; and*

12 “(ii) *may vary the amount of the max-*
 13 *imum out-of-pocket cost sharing (as defined*
 14 *in subparagraph (B)) based on the income*
 15 *of the family involved so long as it does not*
 16 *favor families with higher income over those*
 17 *with lower income.*

18 “(B) *MAXIMUM OUT-OF-POCKET COST SHAR-*
 19 *ING.—For purposes of subparagraph (A)(ii), the*
 20 *term ‘maximum out-of-pocket cost sharing’*
 21 *means, for an individual or family, the amount*
 22 *by which the annual deductible level applied*
 23 *under paragraph (1)(A) to the individual or*
 24 *family exceeds the balance in the health oppor-*
 25 *tunity account for the individual or family.*

1 “(8) *CONTRIBUTIONS BY EMPLOYERS.*—*Nothing*
 2 *in this section shall be construed as preventing an*
 3 *employer from providing health benefits coverage con-*
 4 *sisting of the coverage described in paragraph (1)(A)*
 5 *to individuals who are provided alternative benefits*
 6 *under this section.*

7 “(d) *HEALTH OPPORTUNITY ACCOUNT.*—

8 “(1) *IN GENERAL.*—*For purposes of this section,*
 9 *the term ‘health opportunity account’ means an ac-*
 10 *count that meets the requirements of this subsection.*

11 “(2) *CONTRIBUTIONS.*—

12 “(A) *IN GENERAL.*—*No contribution may be*
 13 *made into a health opportunity account except—*

14 “(i) *contributions by the State under*
 15 *this title; and*

16 “(ii) *contributions by other persons*
 17 *and entities, such as charitable organiza-*
 18 *tions, as permitted under section 1903(w).*

19 “(B) *STATE CONTRIBUTION.*—*A State shall*
 20 *specify the contribution amount that shall be de-*
 21 *posited under subparagraph (A)(i) into a health*
 22 *opportunity account.*

23 “(C) *LIMITATION ON ANNUAL STATE CON-*
 24 *TRIBUTION PROVIDED AND PERMITTING IMPOSI-*
 25 *TION OF MAXIMUM ACCOUNT BALANCE.*—

1 “(i) *IN GENERAL.—A State—*

2 “(I) *may impose limitations on*
3 *the maximum contributions that may*
4 *be deposited under subparagraph*
5 *(A)(i) into a health opportunity ac-*
6 *count in a year;*

7 “(II) *may limit contributions into*
8 *such an account once the balance in*
9 *the account reaches a level specified by*
10 *the State; and*

11 “(III) *subject to clauses (ii) and*
12 *(iii) and subparagraph (D)(i), may*
13 *not provide contributions described in*
14 *subparagraph (A)(i) to a health oppor-*
15 *tunity account on behalf of an indi-*
16 *vidual or family to the extent the*
17 *amount of such contributions (includ-*
18 *ing both State and Federal shares) ex-*
19 *ceeds, on an annual basis, \$2,500 for*
20 *each individual (or family member)*
21 *who is an adult and \$1,000 for each*
22 *individual (or family member) who is*
23 *a child.*

24 “(ii) *INDEXING OF DOLLAR LIMITA-*
25 *TIONS.—For each year after 2006, the dol-*

1 *lar amounts specified in clause (i)(III) shall*
 2 *be annually increased by the Secretary by a*
 3 *percentage that reflects the annual percent-*
 4 *age increase in the medical care component*
 5 *of the consumer price index for all urban*
 6 *consumers.*

7 “(iii) *BUDGET NEUTRAL ADJUST-*
 8 *MENT.—A State may provide for dollar*
 9 *limitations in excess of those specified in*
 10 *clause (i)(III) (as increased under clause*
 11 *(ii)) for specified individuals if the State*
 12 *provides assurances satisfactory to the Sec-*
 13 *retary that contributions otherwise made to*
 14 *other individuals will be reduced in a man-*
 15 *ner so as to provide for aggregate contribu-*
 16 *tions that do not exceed the aggregate con-*
 17 *tributions that would otherwise be permitted*
 18 *under this subparagraph.*

19 “(D) *LIMITATIONS ON FEDERAL MATCH-*
 20 *ING.—*

21 “(i) *STATE CONTRIBUTION.—A State*
 22 *may contribute under subparagraph (A)(i)*
 23 *amounts to a health opportunity account in*
 24 *excess of the limitations provided under sub-*
 25 *paragraph (C)(i)(III), but no Federal fi-*

1 *financial participation shall be provided*
 2 *under section 1903(a) with respect to con-*
 3 *tributions in excess of such limitations.*

4 “(i) *NO FFP FOR PRIVATE CONTRIBU-*
 5 *TIONS.—No Federal financial participation*
 6 *shall be provided under section 1903(a)*
 7 *with respect to any contributions described*
 8 *in subparagraph (A)(i) to a health oppor-*
 9 *tunity account.*

10 “(E) *APPLICATION OF DIFFERENT MATCH-*
 11 *ING RATES.—The Secretary shall provide a*
 12 *method under which, for expenditures made from*
 13 *a health opportunity account for medical care*
 14 *for which the Federal matching rate under sec-*
 15 *tion 1903(a) exceeds the Federal medical assist-*
 16 *ance percentage, a State may obtain payment*
 17 *under such section at such higher matching rate*
 18 *for such expenditures.*

19 “(3) *USE.—*

20 “(A) *GENERAL USES.—*

21 “(i) *IN GENERAL.—Subject to the suc-*
 22 *ceeding provisions of this paragraph,*
 23 *amounts in a health opportunity account*
 24 *may be used for payment of such health*
 25 *care expenditures as the State specifies.*

1 “(ii) *GENERAL LIMITATION.*—Subject
2 to subparagraph (B)(ii), in no case shall
3 such account be used for payment for health
4 care expenditures that are not payment of
5 medical care (as defined by section 213(d)
6 of the Internal Revenue Code of 1986).

7 “(iii) *STATE RESTRICTIONS.*—In ap-
8 plying clause (i), a State may restrict pay-
9 ment for—

10 “(I) providers of items and serv-
11 ices to providers that are licensed or
12 otherwise authorized under State law
13 to provide the item or service and may
14 deny payment for such a provider on
15 the basis that the provider has been
16 found, whether with respect to this title
17 or any other health benefit program, to
18 have failed to meet quality standards
19 or to have committed 1 or more acts of
20 fraud or abuse; and

21 “(II) items and services insofar as
22 the State finds they are not medically
23 appropriate or necessary.

24 “(iv) *ELECTRONIC WITHDRAWALS.*—
25 The State demonstration program shall pro-

1 *vide for a method whereby withdrawals may*
2 *be made from the account for such purposes*
3 *using an electronic system and shall not*
4 *permit withdrawals from the account in*
5 *cash.*

6 “(B) *MAINTENANCE OF HEALTH OPPOR-*
7 *TUNITY ACCOUNT AFTER BECOMING INELIGIBLE*
8 *FOR PUBLIC BENEFIT.—*

9 “(i) *IN GENERAL.—Notwithstanding*
10 *any other provision of law, if an account*
11 *holder of a health opportunity account be-*
12 *comes ineligible for benefits under this title*
13 *because of an increase in income or assets—*

14 “(I) *no additional contribution*
15 *shall be made into the account under*
16 *paragraph (2)(A)(i);*

17 “(II) *subject to clause (iii), the*
18 *balance in the account shall be reduced*
19 *by 25 percent; and*

20 “(III) *subject to the succeeding*
21 *provisions of this subparagraph, the*
22 *account shall remain available to the*
23 *account holder for 3 years after the*
24 *date on which the individual becomes*
25 *ineligible for such benefits for with-*

1 *drawals under the same terms and*
2 *conditions as if the account holder re-*
3 *mained eligible for such benefits, and*
4 *such withdrawals shall be treated as*
5 *medical assistance in accordance with*
6 *subsection (c)(6).*

7 “(i) *SPECIAL RULES.—Withdrawals*
8 *under this subparagraph from an account—*

9 “(I) *shall be available for the pur-*
10 *chase of health insurance coverage; and*

11 “(II) *may, subject to clause (iv),*
12 *be made available (at the option of the*
13 *State) for such additional expenditures*
14 *(such as job training and tuition ex-*
15 *penditures) specified by the State (and ap-*
16 *proved by the Secretary) as the State*
17 *may specify.*

18 “(iii) *EXCEPTION FROM 25 PERCENT*
19 *SAVINGS TO GOVERNMENT FOR PRIVATE*
20 *CONTRIBUTIONS.—Clause (i)(II) shall not*
21 *apply to the portion of the account that is*
22 *attributable to contributions described in*
23 *paragraph (2)(A)(i). For purposes of ac-*
24 *counting for such contributions, with-*
25 *drawals from a health opportunity account*

1 *shall first be attributed to contributions de-*
2 *scribed in paragraph (2)(A)(i).*

3 “(iv) *CONDITION FOR NON-HEALTH*
4 *WITHDRAWALS.—No withdrawal may be*
5 *made from an account under clause (ii)(II)*
6 *unless the account holder has participated*
7 *in the program under this section for at*
8 *least 1 year.*

9 “(v) *NO REQUIREMENT FOR CONTINU-*
10 *ATION OF COVERAGE.—An account holder of*
11 *a health opportunity account, after becom-*
12 *ing ineligible for medical assistance under*
13 *this title, is not required to purchase high-*
14 *deductible or other insurance as a condition*
15 *of maintaining or using the account.*

16 “(4) *ADMINISTRATION.—A State may coordinate*
17 *administration of health opportunity accounts*
18 *through the use of a third party administrator and*
19 *reasonable expenditures for the use of such adminis-*
20 *trator shall be reimbursable to the State in the same*
21 *manner as other administrative expenditures under*
22 *section 1903(a)(7).*

23 “(5) *TREATMENT.—Amounts in, or contributed*
24 *to, a health opportunity account shall not be counted*

1 *as income or assets for purposes of determining eligi-*
 2 *bility for benefits under this title.*

3 “(6) *UNAUTHORIZED WITHDRAWALS.*—*A State*
 4 *may establish procedures—*

5 “(A) *to penalize or remove an individual*
 6 *from the health opportunity account based on*
 7 *nonqualified withdrawals by the individual from*
 8 *such an account; and*

9 “(B) *to recoup costs that derive from such*
 10 *nonqualified withdrawals.”.*

11 **SEC. 6083. STATE OPTION TO ESTABLISH NON-EMERGENCY**
 12 **MEDICAL TRANSPORTATION PROGRAM.**

13 (a) *IN GENERAL.*—*Section 1902(a) of the Social Secu-*
 14 *rity Act (42 U.S.C. 1396a(a)), as amended by sections*
 15 *6033(a) and 6035(b), is amended—*

16 (1) *in paragraph (68), by striking “and” at the*
 17 *end;*

18 (2) *in paragraph (69) by striking the period at*
 19 *the end and inserting “; and”; and*

20 (3) *by inserting after paragraph (69) the fol-*
 21 *lowing:*

22 “(70) *at the option of the State and notwith-*
 23 *standing paragraphs (1), (10)(B), and (23), provide*
 24 *for the establishment of a non-emergency medical*
 25 *transportation brokerage program in order to more*

1 *cost-effectively provide transportation for individuals*
2 *eligible for medical assistance under the State plan*
3 *who need access to medical care or services and have*
4 *no other means of transportation which—*

5 *“(A) may include a wheelchair van, taxi,*
6 *stretcher car, bus passes and tickets, secured*
7 *transportation, and such other transportation as*
8 *the Secretary determines appropriate; and*

9 *“(B) may be conducted under contract with*
10 *a broker who—*

11 *“(i) is selected through a competitive*
12 *bidding process based on the State’s evalua-*
13 *tion of the broker’s experience, performance,*
14 *references, resources, qualifications, and*
15 *costs;*

16 *“(ii) has oversight procedures to mon-*
17 *itor beneficiary access and complaints and*
18 *ensure that transport personnel are licensed,*
19 *qualified, competent, and courteous;*

20 *“(iii) is subject to regular auditing*
21 *and oversight by the State in order to en-*
22 *sure the quality of the transportation serv-*
23 *ices provided and the adequacy of bene-*
24 *ficiary access to medical care and services;*
25 *and*

1 “(iv) *complies with such requirements*
2 *related to prohibitions on referrals and con-*
3 *flict of interest as the Secretary shall estab-*
4 *lish (based on the prohibitions on physician*
5 *referrals under section 1877 and such other*
6 *prohibitions and requirements as the Sec-*
7 *retary determines to be appropriate).”.*

8 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
9 *section (a) take effect on the date of the enactment of this*
10 *Act.*

11 **SEC. 6084. EXTENSION OF TRANSITIONAL MEDICAL ASSIST-**
12 **ANCE (TMA) AND ABSTINENCE EDUCATION**
13 **PROGRAM.**

14 *Effective as if enacted on December 31, 2005, activities*
15 *authorized by sections 510 and 1925 of the Social Security*
16 *Act shall continue through December 31, 2006, in the man-*
17 *ner authorized for fiscal year 2005, notwithstanding section*
18 *1902(e)(1)(A) of such Act, and out of any money in the*
19 *Treasury of the United States not otherwise appropriated,*
20 *there are hereby appropriated such sums as may be nec-*
21 *essary for such purpose. Grants and payments may be made*
22 *pursuant to this authority through the first quarter of fiscal*
23 *year 2007 at the level provided for such activities through*
24 *the first quarter of fiscal year 2006.*

1 **SEC. 6085. EMERGENCY SERVICES FURNISHED BY NON-CON-**
 2 **TRACT PROVIDERS FOR MEDICAID MANAGED**
 3 **CARE ENROLLEES.**

4 (a) *IN GENERAL.*—Section 1932(b)(2) of the Social Se-
 5 curity Act (42 U.S.C. 1396u–2(b)(2)) is amended by adding
 6 at the end the following new subparagraph:

7 “(D) *EMERGENCY SERVICES FURNISHED BY*
 8 *NON-CONTRACT PROVIDERS.*—Any provider of
 9 emergency services that does not have in effect a
 10 contract with a Medicaid managed care entity
 11 that establishes payment amounts for services
 12 furnished to a beneficiary enrolled in the entity’s
 13 Medicaid managed care plan must accept as
 14 payment in full no more than the amounts (less
 15 any payments for indirect costs of medical edu-
 16 cation and direct costs of graduate medical edu-
 17 cation) that it could collect if the beneficiary re-
 18 ceived medical assistance under this title other
 19 than through enrollment in such an entity. In a
 20 State where rates paid to hospitals under the
 21 State plan are negotiated by contract and not
 22 publicly released, the payment amount applica-
 23 ble under this subparagraph shall be the average
 24 contract rate that would apply under the State
 25 plan for general acute care hospitals or the aver-

1 *age contract rate that would apply under such*
 2 *plan for tertiary hospitals.”.*

3 **(b) EFFECTIVE DATE.**—*The amendment made by sub-*
 4 *section (a) shall take effect on January 1, 2007.*

5 **SEC. 6086. EXPANDED ACCESS TO HOME AND COMMUNITY-**
 6 **BASED SERVICES FOR THE ELDERLY AND DIS-**
 7 **ABLED.**

8 **(a) HOME AND COMMUNITY-BASED SERVICES AS AN**
 9 **OPTIONAL BENEFIT FOR ELDERLY AND DISABLED INDIVID-**
 10 **UALS.**—*Section 1915 of the Social Security Act (42 U.S.C.*
 11 *1396n) is amended by adding at the end the following new*
 12 *subsection:*

13 **“(i) STATE PLAN AMENDMENT OPTION TO PROVIDE**
 14 **HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY**
 15 **AND DISABLED INDIVIDUALS.—**

16 **“(1) IN GENERAL.**—*Subject to the succeeding*
 17 *provisions of this subsection, a State may provide*
 18 *through a State plan amendment for the provision of*
 19 *medical assistance for home and community-based*
 20 *services (within the scope of services described in*
 21 *paragraph (4)(B) of subsection (c) for which the Sec-*
 22 *retary has the authority to approve a waiver and not*
 23 *including room and board or such other services re-*
 24 *quested by the State as the Secretary may approve)*
 25 *for individuals eligible for medical assistance under*

1 *the State plan whose income does not exceed 150 per-*
 2 *cent of the poverty line (as defined in section*
 3 *2110(c)(5)), without determining that but for the pro-*
 4 *vision of such services the individuals would require*
 5 *the level of care provided in a hospital or a nursing*
 6 *facility or intermediate care facility for the mentally*
 7 *retarded, but only if the State meets the following re-*
 8 *quirements:*

9 “(A) *NEEDS-BASED CRITERIA FOR ELIGI-*
 10 *BILITY FOR, AND RECEIPT OF, HOME AND COM-*
 11 *MUNITY-BASED SERVICES.—The State establishes*
 12 *needs-based criteria for determining an individ-*
 13 *ual’s eligibility under the State plan for medical*
 14 *assistance for such home and community-based*
 15 *services, and if the individual is eligible for such*
 16 *services, the specific home and community-based*
 17 *services that the individual will receive.*

18 “(B) *ESTABLISHMENT OF MORE STRINGENT*
 19 *NEEDS-BASED ELIGIBILITY CRITERIA FOR INSTI-*
 20 *TUTIONALIZED CARE.—The State establishes*
 21 *needs-based criteria for determining whether an*
 22 *individual requires the level of care provided in*
 23 *a hospital, a nursing facility, or an intermediate*
 24 *care facility for the mentally retarded under the*
 25 *State plan or under any waiver of such plan*

1 *that are more stringent than the needs-based cri-*
2 *teria established under subparagraph (A) for de-*
3 *termining eligibility for home and community-*
4 *based services.*

5 “(C) *PROJECTION OF NUMBER OF INDIVID-*
6 *UALS TO BE PROVIDED HOME AND COMMUNITY-*
7 *BASED SERVICES.—*

8 “(i) *IN GENERAL.—The State submits*
9 *to the Secretary, in such form and manner,*
10 *and upon such frequency as the Secretary*
11 *shall specify, the projected number of indi-*
12 *viduals to be provided home and commu-*
13 *nity-based services.*

14 “(ii) *AUTHORITY TO LIMIT NUMBER OF*
15 *ELIGIBLE INDIVIDUALS.—A State may limit*
16 *the number of individuals who are eligible*
17 *for such services and may establish waiting*
18 *lists for the receipt of such services.*

19 “(D) *CRITERIA BASED ON INDIVIDUAL AS-*
20 *SESSMENT.—*

21 “(i) *IN GENERAL.—The criteria estab-*
22 *lished by the State for purposes of subpara-*
23 *graphs (A) and (B) requires an assessment*
24 *of an individual’s support needs and capa-*
25 *bilities, and may take into account the in-*

1 *ability of the individual to perform 2 or*
2 *more activities of daily living (as defined in*
3 *section 7702B(c)(2)(B) of the Internal Rev-*
4 *enue Code of 1986) or the need for signifi-*
5 *cant assistance to perform such activities,*
6 *and such other risk factors as the State de-*
7 *termines to be appropriate.*

8 “(ii) *ADJUSTMENT AUTHORITY.—The*
9 *State plan amendment provides the State*
10 *with the option to modify the criteria estab-*
11 *lished under subparagraph (A) (without*
12 *having to obtain prior approval from the*
13 *Secretary) in the event that the enrollment*
14 *of individuals eligible for home and commu-*
15 *nity-based services exceeds the projected en-*
16 *rollment submitted for purposes of subpara-*
17 *graph (C), but only if—*

18 “(I) *the State provides at least 60*
19 *days notice to the Secretary and the*
20 *public of the proposed modification;*

21 “(II) *the State deems an indi-*
22 *vidual receiving home and community-*
23 *based services on the basis of the most*
24 *recent version of the criteria in effect*
25 *prior to the effective date of the modi-*

1 *fication to be eligible for such services*
 2 *for a period of at least 12 months be-*
 3 *ginning on the date the individual first*
 4 *received medical assistance for such*
 5 *services; and*

6 “(III) *after the effective date of*
 7 *such modification, the State, at a min-*
 8 *imum, applies the criteria for deter-*
 9 *mining whether an individual requires*
 10 *the level of care provided in a hospital,*
 11 *a nursing facility, or an intermediate*
 12 *care facility for the mentally retarded*
 13 *under the State plan or under any*
 14 *waiver of such plan which applied*
 15 *prior to the application of the more*
 16 *stringent criteria developed under sub-*
 17 *paragraph (B).*

18 “(E) *INDEPENDENT EVALUATION AND AS-*
 19 *SESSMENT.—*

20 “(i) *ELIGIBILITY DETERMINATION.—*
 21 *The State uses an independent evaluation*
 22 *for making the determinations described in*
 23 *subparagraphs (A) and (B).*

24 “(ii) *ASSESSMENT.—In the case of an*
 25 *individual who is determined to be eligible*

1 for home and community-based services, the
2 State uses an independent assessment, based
3 on the needs of the individual to—

4 “(I) determine a necessary level of
5 services and supports to be provided,
6 consistent with an individual’s phys-
7 ical and mental capacity;

8 “(II) prevent the provision of un-
9 necessary or inappropriate care; and

10 “(III) establish an individualized
11 care plan for the individual in accord-
12 ance with subparagraph (G).

13 “(F) ASSESSMENT.—The independent as-
14 sessment required under subparagraph (E)(ii)
15 shall include the following:

16 “(i) An objective evaluation of an indi-
17 vidual’s inability to perform 2 or more ac-
18 tivities of daily living (as defined in section
19 7702B(c)(2)(B) of the Internal Revenue
20 Code of 1986) or the need for significant as-
21 sistance to perform such activities.

22 “(ii) A face-to-face evaluation of the
23 individual by an individual trained in the
24 assessment and evaluation of individuals
25 whose physical or mental conditions trigger

1 *a potential need for home and community-*
2 *based services.*

3 “(iii) *Where appropriate, consultation*
4 *with the individual’s family, spouse, guard-*
5 *ian, or other responsible individual.*

6 “(iv) *Consultation with appropriate*
7 *treating and consulting health and support*
8 *professionals caring for the individual.*

9 “(v) *An examination of the individ-*
10 *ual’s relevant history, medical records, and*
11 *care and support needs, guided by best*
12 *practices and research on effective strategies*
13 *that result in improved health and quality*
14 *of life outcomes.*

15 “(vi) *If the State offers individuals the*
16 *option to self-direct the purchase of, or con-*
17 *trol the receipt of, home and community-*
18 *based service, an evaluation of the ability of*
19 *the individual or the individual’s represent-*
20 *ative to self-direct the purchase of, or con-*
21 *trol the receipt of, such services if the indi-*
22 *vidual so elects.*

23 “(G) *INDIVIDUALIZED CARE PLAN.—*

24 “(i) *IN GENERAL.—In the case of an*
25 *individual who is determined to be eligible*

1 *for home and community-based services, the*
 2 *State uses the independent assessment re-*
 3 *quired under subparagraph (E)(i) to estab-*
 4 *lish a written individualized care plan for*
 5 *the individual.*

6 “(ii) *PLAN REQUIREMENTS.—The*
 7 *State ensures that the individualized care*
 8 *plan for an individual—*

9 “(I) *is developed—*

10 “(aa) *in consultation with*
 11 *the individual, the individual’s*
 12 *treating physician, health care or*
 13 *support professional, or other ap-*
 14 *propriate individuals, as defined*
 15 *by the State, and, where appro-*
 16 *priate the individual’s family,*
 17 *caregiver, or representative; and*

18 “(bb) *taking into account the*
 19 *extent of, and need for, any fam-*
 20 *ily or other supports for the indi-*
 21 *vidual;*

22 “(II) *identifies the necessary home*
 23 *and community-based services to be*
 24 *furnished to the individual (or, if the*
 25 *individual elects to self-direct the pur-*

1 *chase of, or control the receipt of, such*
 2 *services, funded for the individual);*
 3 *and*

4 “(III) *is reviewed at least annu-*
 5 *ally and as needed when there is a sig-*
 6 *nificant change in the individual’s cir-*
 7 *cumstances.*

8 “(iii) *STATE OPTION TO OFFER ELEC-*
 9 *TION FOR SELF-DIRECTED SERVICES.—*

10 “(I) *INDIVIDUAL CHOICE.—At the*
 11 *option of the State, the State may*
 12 *allow an individual or the individual’s*
 13 *representative to elect to receive self-di-*
 14 *rected home and community-based*
 15 *services in a manner which gives them*
 16 *the most control over such services con-*
 17 *sistent with the individual’s abilities*
 18 *and the requirements of subclauses (II)*
 19 *and (III).*

20 “(II) *SELF-DIRECTED SERV-*
 21 *ICES.—The term ‘self-directed’ means,*
 22 *with respect to the home and commu-*
 23 *nity-based services offered under the*
 24 *State plan amendment, such services*
 25 *for the individual which are planned*

1 *and purchased under the direction and*
2 *control of such individual or the indi-*
3 *vidual's authorized representative, in-*
4 *cluding the amount, duration, scope,*
5 *provider, and location of such services,*
6 *under the State plan consistent with*
7 *the following requirements:*

8 “(aa) *ASSESSMENT.*—*There*
9 *is an assessment of the needs, ca-*
10 *pabilities, and preferences of the*
11 *individual with respect to such*
12 *services.*

13 “(bb) *SERVICE PLAN.*—*Based*
14 *on such assessment, there is devel-*
15 *oped jointly with such individual*
16 *or the individual's authorized rep-*
17 *resentative a plan for such serv-*
18 *ices for such individual that is*
19 *approved by the State and that*
20 *satisfies the requirements of sub-*
21 *clause (III).*

22 “(III) *PLAN REQUIREMENTS.*—
23 *For purposes of subclause (II)(bb), the*
24 *requirements of this subclause are that*
25 *the plan—*

1 “(aa) specifies those services
2 which the individual or the indi-
3 vidual’s authorized representative
4 would be responsible for directing;

5 “(bb) identifies the methods
6 by which the individual or the in-
7 dividual’s authorized representa-
8 tive will select, manage, and dis-
9 miss providers of such services;

10 “(cc) specifies the role of
11 family members and others whose
12 participation is sought by the in-
13 dividual or the individual’s au-
14 thorized representative with re-
15 spect to such services;

16 “(dd) is developed through a
17 person-centered process that is di-
18 rected by the individual or the in-
19 dividual’s authorized representa-
20 tive, builds upon the individual’s
21 capacity to engage in activities
22 that promote community life and
23 that respects the individual’s pref-
24 erences, choices, and abilities, and
25 involves families, friends, and

1 professionals as desired or re-
2 quired by the individual or the
3 individual's authorized represent-
4 ative;

5 “(ee) includes appropriate
6 risk management techniques that
7 recognize the roles and sharing of
8 responsibilities in obtaining serv-
9 ices in a self-directed manner and
10 assure the appropriateness of such
11 plan based upon the resources and
12 capabilities of the individual or
13 the individual's authorized rep-
14 resentative; and

15 “(ff) may include an individ-
16 ualized budget which identifies the
17 dollar value of the services and
18 supports under the control and di-
19 rection of the individual or the in-
20 dividual's authorized representa-
21 tive.

22 “(IV) BUDGET PROCESS.—With
23 respect to individualized budgets de-
24 scribed in subclause (III)(ff), the State
25 plan amendment—

1 “(aa) describes the method
2 for calculating the dollar values
3 in such budgets based on reliable
4 costs and service utilization;

5 “(bb) defines a process for
6 making adjustments in such dol-
7 lar values to reflect changes in in-
8 dividual assessments and service
9 plans; and

10 “(cc) provides a procedure to
11 evaluate expenditures under such
12 budgets.

13 “(H) *QUALITY ASSURANCE; CONFLICT OF*
14 *INTEREST STANDARDS.—*

15 “(i) *QUALITY ASSURANCE.—The State*
16 *ensures that the provision of home and com-*
17 *munity-based services meets Federal and*
18 *State guidelines for quality assurance.*

19 “(ii) *CONFLICT OF INTEREST STAND-*
20 *ARDS.—The State establishes standards for*
21 *the conduct of the independent evaluation*
22 *and the independent assessment to safe-*
23 *guard against conflicts of interest.*

24 “(I) *REDETERMINATIONS AND APPEALS.—*
25 *The State allows for at least annual redeter-*

1 *minations of eligibility, and appeals in accord-*
2 *ance with the frequency of, and manner in*
3 *which, redeterminations and appeals of eligi-*
4 *bility are made under the State plan.*

5 “(J) *PRESUMPTIVE ELIGIBILITY FOR AS-*
6 *SESSMENT.—The State, at its option, elects to*
7 *provide for a period of presumptive eligibility*
8 *(not to exceed a period of 60 days) only for those*
9 *individuals that the State has reason to believe*
10 *may be eligible for home and community-based*
11 *services. Such presumptive eligibility shall be*
12 *limited to medical assistance for carrying out the*
13 *independent evaluation and assessment under*
14 *subparagraph (E) to determine an individual’s*
15 *eligibility for such services and if the individual*
16 *is so eligible, the specific home and community-*
17 *based services that the individual will receive.*

18 “(2) *DEFINITION OF INDIVIDUAL’S REPRESENTA-*
19 *TIVE.—In this section, the term ‘individual’s rep-*
20 *resentative’ means, with respect to an individual, a*
21 *parent, a family member, or a guardian of the indi-*
22 *vidual, an advocate for the individual, or any other*
23 *individual who is authorized to represent the indi-*
24 *vidual.*

1 “(3) *NONAPPLICATION.*—A State may elect in
2 the State plan amendment approved under this sec-
3 tion to not comply with the requirements of section
4 1902(a)(1) (relating to statewideness) and section
5 1902(a)(10)(C)(i)(III) (relating to income and re-
6 source rules applicable in the community), but only
7 for purposes of provided home and community-based
8 services in accordance with such amendment. Any
9 such election shall not be construed to apply to the
10 provision of services to an individual receiving med-
11 ical assistance in an institutionalized setting as a re-
12 sult of a determination that the individual requires
13 the level of care provided in a hospital or a nursing
14 facility or intermediate care facility for the mentally
15 retarded.

16 “(4) *NO EFFECT ON OTHER WAIVER AUTHOR-*
17 *ITY.*—Nothing in this subsection shall be construed as
18 affecting the option of a State to offer home and com-
19 munity-based services under a waiver under sub-
20 sections (c) or (d) of this section or under section
21 1115.

22 “(5) *CONTINUATION OF FEDERAL FINANCIAL*
23 *PARTICIPATION FOR MEDICAL ASSISTANCE PROVIDED*
24 *TO INDIVIDUALS AS OF EFFECTIVE DATE OF STATE*
25 *PLAN AMENDMENT.*—Notwithstanding paragraph

1 (1)(B), *Federal financial participation shall continue*
 2 *to be available for an individual who is receiving*
 3 *medical assistance in an institutionalized setting, or*
 4 *home and community-based services provided under a*
 5 *waiver under this section or section 1115 that is in*
 6 *effect as of the effective date of the State plan amend-*
 7 *ment submitted under this subsection, as a result of*
 8 *a determination that the individual requires the level*
 9 *of care provided in a hospital or a nursing facility*
 10 *or intermediate care facility for the mentally re-*
 11 *tarded, without regard to whether such individuals*
 12 *satisfy the more stringent eligibility criteria estab-*
 13 *lished under that paragraph, until such time as the*
 14 *individual is discharged from the institution or wai-*
 15 *ver program or no longer requires such level of care.”.*

16 (b) *QUALITY OF CARE MEASURES.—*

17 (1) *IN GENERAL.—The Secretary, acting through*
 18 *the Director of the Agency for Healthcare Research*
 19 *and Quality, shall consult with consumers, health and*
 20 *social service providers and other professionals knowl-*
 21 *edgeable about long-term care services and supports to*
 22 *develop program performance indicators, client func-*
 23 *tion indicators, and measures of client satisfaction*
 24 *with respect to home and community-based services*
 25 *offered under State Medicaid programs.*

1 (2) *BEST PRACTICES.*—*The Secretary shall—*

2 (A) *use the indicators and measures devel-*
3 *oped under paragraph (1) to assess such home*
4 *and community-based services, the outcomes as-*
5 *sociated with the receipt of such services (par-*
6 *ticularly with respect to the health and welfare*
7 *of the recipient of the services), and the overall*
8 *system for providing home and community-based*
9 *services under the Medicaid program under title*
10 *XIX of the Social Security Act; and*

11 (B) *make publicly available the best prac-*
12 *tices identified through such assessment and a*
13 *comparative analyses of the system features of*
14 *each State.*

15 (3) *APPROPRIATION.*—*Out of any funds in the*
16 *Treasury not otherwise appropriated, there is appro-*
17 *priated to the Secretary of Health and Human Serv-*
18 *ices, \$1,000,000 for the period of fiscal years 2006*
19 *through 2010 to carry out this subsection.*

20 (c) *EFFECTIVE DATE.*—*The amendments made by sub-*
21 *sections (a) and (b) take effect on January 1, 2007, and*
22 *apply to expenditures for medical assistance for home and*
23 *community-based services provided in accordance with sec-*
24 *tion 1915(i) of the Social Security Act (as added by sub-*
25 *sections (a) and (b)) on or after that date.*

1 **SEC. 6087. OPTIONAL CHOICE OF SELF-DIRECTED PER-**
2 **SONAL ASSISTANCE SERVICES (CASH AND**
3 **COUNSELING).**

4 (a) *EXEMPTION FROM CERTAIN REQUIREMENTS.—*
5 *Section 1915 of the Social Security Act (42 U.S.C. 1396n),*
6 *as amended by section 6086(a), is amended by adding at*
7 *the end the following new subsection:*

8 “(j)(1) *A State may provide, as ‘medical assistance’,*
9 *payment for part or all of the cost of self-directed personal*
10 *assistance services (other than room and board) under the*
11 *plan which are provided pursuant to a written plan of care*
12 *to individuals with respect to whom there has been a deter-*
13 *mination that, but for the provision of such services, the*
14 *individuals would require and receive personal care services*
15 *under the plan, or home and community-based services pro-*
16 *vided pursuant to a waiver under subsection (c). Self-di-*
17 *rected personal assistance services may not be provided*
18 *under this subsection to individuals who reside in a home*
19 *or property that is owned, operated, or controlled by a pro-*
20 *vider of services, not related by blood or marriage.*

21 “(2) *The Secretary shall not grant approval for a State*
22 *self-directed personal assistance services program under this*
23 *section unless the State provides assurances satisfactory to*
24 *the Secretary of the following:*

25 “(A) *Necessary safeguards have been taken to*
26 *protect the health and welfare of individuals provided*

1 *services under the program, and to assure financial*
2 *accountability for funds expended with respect to such*
3 *services.*

4 *“(B) The State will provide, with respect to in-*
5 *dividuals who—*

6 *“(i) are entitled to medical assistance for*
7 *personal care services under the plan, or receive*
8 *home and community-based services under a*
9 *waiver granted under subsection (c);*

10 *“(ii) may require self-directed personal as-*
11 *sistance services; and*

12 *“(iii) may be eligible for self-directed per-*
13 *sonal assistance services,*

14 *an evaluation of the need for personal care under the*
15 *plan, or personal services under a waiver granted*
16 *under subsection (c).*

17 *“(C) Such individuals who are determined to be*
18 *likely to require personal care under the plan, or*
19 *home and community-based services under a waiver*
20 *granted under subsection (c) are informed of the fea-*
21 *sible alternatives, if available under the State’s self-*
22 *directed personal assistance services program, at the*
23 *choice of such individuals, to the provision of personal*
24 *care services under the plan, or personal assistance*
25 *services under a waiver granted under subsection (c).*

1 “(D) *The State will provide for a support system*
2 *that ensures participants in the self-directed personal*
3 *assistance services program are appropriately assessed*
4 *and counseled prior to enrollment and are able to*
5 *manage their budgets. Additional counseling and*
6 *management support may be provided at the request*
7 *of the participant.*

8 “(E) *The State will provide to the Secretary an*
9 *annual report on the number of individuals served*
10 *and total expenditures on their behalf in the aggre-*
11 *gate. The State shall also provide an evaluation of*
12 *overall impact on the health and welfare of partici-*
13 *parting individuals compared to non-participants*
14 *every three years.*

15 “(3) *A State may provide self-directed personal assist-*
16 *ance services under the State plan without regard to the*
17 *requirements of section 1902(a)(1) and may limit the popu-*
18 *lation eligible to receive these services and limit the number*
19 *of persons served without regard to section 1902(a)(10)(B).*

20 “(4)(A) *For purposes of this subsection, the term ‘self-*
21 *directed personal assistance services’ means personal care*
22 *and related services, or home and community-based services*
23 *otherwise available under the plan under this title or sub-*
24 *section (c), that are provided to an eligible participant*
25 *under a self-directed personal assistance services program*

1 *under this section, under which individuals, within an ap-*
 2 *proved self-directed services plan and budget, purchase per-*
 3 *sonal assistance and related services, and permits partici-*
 4 *pants to hire, fire, supervise, and manage the individuals*
 5 *providing such services.*

6 “(B) *At the election of the State—*

7 “(i) *a participant may choose to use any indi-*
 8 *vidual capable of providing the assigned tasks includ-*
 9 *ing legally liable relatives as paid providers of the*
 10 *services; and*

11 “(ii) *the individual may use the individual’s*
 12 *budget to acquire items that increase independence or*
 13 *substitute (such as a microwave oven or an accessi-*
 14 *bility ramp) for human assistance, to the extent that*
 15 *expenditures would otherwise be made for the human*
 16 *assistance.*

17 “(5) *For purpose of this section, the term ‘approved*
 18 *self-directed services plan and budget’ means, with respect*
 19 *to a participant, the establishment of a plan and budget*
 20 *for the provision of self-directed personal assistance services,*
 21 *consistent with the following requirements:*

22 “(A) *SELF-DIRECTION.—The participant (or in*
 23 *the case of a participant who is a minor child, the*
 24 *participant’s parent or guardian, or in the case of an*
 25 *incapacitated adult, another individual recognized by*

1 *State law to act on behalf of the participant) exercises*
2 *choice and control over the budget, planning, and*
3 *purchase of self-directed personal assistance services,*
4 *including the amount, duration, scope, provider, and*
5 *location of service provision.*

6 “(B) *ASSESSMENT OF NEEDS.*—*There is an as-*
7 *essment of the needs, strengths, and preferences of the*
8 *participants for such services.*

9 “(C) *SERVICE PLAN.*—*A plan for such services*
10 *(and supports for such services) for the participant*
11 *has been developed and approved by the State based*
12 *on such assessment through a person-centered process*
13 *that—*

14 “(i) *builds upon the participant’s capacity*
15 *to engage in activities that promote community*
16 *life and that respects the participant’s pref-*
17 *erences, choices, and abilities; and*

18 “(ii) *involves families, friends, and profes-*
19 *sionals in the planning or delivery of services or*
20 *supports as desired or required by the partici-*
21 *pant.*

22 “(D) *SERVICE BUDGET.*—*A budget for such serv-*
23 *ices and supports for the participant has been devel-*
24 *oped and approved by the State based on such assess-*
25 *ment and plan and on a methodology that uses valid,*

1 *reliable cost data, is open to public inspection, and*
2 *includes a calculation of the expected cost of such*
3 *services if those services were not self-directed. The*
4 *budget may not restrict access to other medically nec-*
5 *essary care and services furnished under the plan and*
6 *approved by the State but not included in the budget.*

7 *“(E) APPLICATION OF QUALITY ASSURANCE AND*
8 *RISK MANAGEMENT.—There are appropriate quality*
9 *assurance and risk management techniques used in*
10 *establishing and implementing such plan and budget*
11 *that recognize the roles and responsibilities in obtain-*
12 *ing services in a self-directed manner and assure the*
13 *appropriateness of such plan and budget based upon*
14 *the participant’s resources and capabilities.*

15 *“(6) A State may employ a financial management en-*
16 *tity to make payments to providers, track costs, and make*
17 *reports under the program. Payment for the activities of*
18 *the financial management entity shall be at the administra-*
19 *tive rate established in section 1903(a).”.*

20 *(b) EFFECTIVE DATE.—The amendment made by sub-*
21 *section (a) shall apply to services furnished on or after Jan-*
22 *uary 1, 2007.*

Subtitle B—SCHIP

1
2 ***SEC. 6101. ADDITIONAL ALLOTMENTS TO ELIMINATE FIS-***
3 ***CAL YEAR 2006 FUNDING SHORTFALLS.***

4 *(a) IN GENERAL.—Section 2104 of the Social Security*
5 *Act (42 U.S.C. 1397dd) is amended by inserting after sub-*
6 *section (c) the following:*

7 “*(d) ADDITIONAL ALLOTMENTS TO ELIMINATE FUND-*
8 *ING SHORTFALLS.—*

9 “*(1) APPROPRIATION; ALLOTMENT AUTHORITY.—*
10 *For the purpose of providing additional allotments to*
11 *shortfall States described in paragraph (2), there is*
12 *appropriated, out of any money in the Treasury not*
13 *otherwise appropriated, \$283,000,000 for fiscal year*
14 *2006.*

15 “*(2) SHORTFALL STATES DESCRIBED.—For pur-*
16 *poses of paragraph (1), a shortfall State described in*
17 *this paragraph is a State with a State child health*
18 *plan approved under this title for which the Secretary*
19 *estimates, on the basis of the most recent data avail-*
20 *able to the Secretary as of December 16, 2005, that*
21 *the projected expenditures under such plan for such*
22 *State for fiscal year 2006 will exceed the sum of—*

23 “*(A) the amount of the State’s allotments*
24 *for each of fiscal years 2004 and 2005 that will*
25 *not be expended by the end of fiscal year 2005;*

1 “(B) the amount, if any, that is to be redis-
2 tributed to the State during fiscal year 2006 in
3 accordance with subsection (f); and

4 “(C) the amount of the State’s allotment for
5 fiscal year 2006.

6 “(3) ALLOTMENTS.—In addition to the allot-
7 ments provided under subsections (b) and (c), subject
8 to paragraph (4), of the amount available for the ad-
9 ditional allotments under paragraph (1) for fiscal
10 year 2006, the Secretary shall allot—

11 “(A) to each shortfall State described in
12 paragraph (2) such amount as the Secretary de-
13 termines will eliminate the estimated shortfall
14 described in such paragraph for the State; and

15 “(B) to each commonwealth or territory de-
16 scribed in subsection (c)(3), the same proportion
17 as the proportion of the commonwealth’s or terri-
18 tory’s allotment under subsection (c) (determined
19 without regard to subsection (f)) to 1.05 percent
20 of the amount appropriated under paragraph
21 (1).

22 “(4) USE OF ADDITIONAL ALLOTMENT.—Addi-
23 tional allotments provided under this subsection are
24 only available for amounts expended under a State

1 *plan approved under this title for child health assist-*
 2 *ance for targeted low-income children.*

3 “(5) *1-YEAR AVAILABILITY; NO REDISTRIBUTION*
 4 *OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Not-*
 5 *withstanding subsections (e) and (f), amounts allotted*
 6 *to a State pursuant to this subsection for fiscal year*
 7 *2006 shall only remain available for expenditure by*
 8 *the State through September 30, 2006. Any amounts*
 9 *of such allotments that remain unexpended as of such*
 10 *date shall not be subject to redistribution under sub-*
 11 *section (f) and shall revert to the Treasury on October*
 12 *1, 2006.”.*

13 (b) *CONFORMING AMENDMENTS.—Section 2104 of the*
 14 *Social Security Act (42 U.S.C. 1397dd) is amended—*

15 (1) *in subsection (a), by inserting “subject to*
 16 *subsection (d),” after “under this section,”;*

17 (2) *in subsection (b)(1), by inserting “and sub-*
 18 *section (d)” after “Subject to paragraph (4)”;* and

19 (3) *in subsection (c)(1), by inserting “subject to*
 20 *subsection (d),” after “for a fiscal year,”.*

21 (c) *EFFECTIVE DATE.—The amendments made by this*
 22 *section apply to items and services furnished on or after*
 23 *October 1, 2005, without regard to whether or not regula-*
 24 *tions implementing such amendments have been issued.*

1 **SEC. 6102. PROHIBITION AGAINST COVERING NONPREG-**
2 **NANT CHILDLess ADULTS WITH SCHIP**
3 **FUNDS.**

4 (a) *PROHIBITION ON USE OF SCHIP FUNDS.*—Sec-
5 *tion 2107 of the Social Security Act (42 U.S.C. 1397gg)*
6 *is amended by adding at the end the following:*

7 “(f) *LIMITATION OF WAIVER AUTHORITY.*—Notwith-
8 *standing subsection (e)(2)(A) and section 1115(a), the Sec-*
9 *retary may not approve a waiver, experimental, pilot, or*
10 *demonstration project that would allow funds made avail-*
11 *able under this title to be used to provide child health assist-*
12 *ance or other health benefits coverage to a nonpregnant*
13 *childless adult. For purposes of the preceding sentence, a*
14 *caretaker relative (as such term is defined for purposes of*
15 *carrying out section 1931) shall not be considered a child-*
16 *less adult.”.*

17 (b) *CONFORMING AMENDMENTS.*—Section 2105(c)(1)
18 *of such Act (42 U.S.C. 1397ee(c)(1)) is amended—*

19 (1) *by inserting “and may not include coverage*
20 *of a nonpregnant childless adult” after “section*
21 *2101)”;* and

22 (2) *by adding at the end the following: “For pur-*
23 *poses of the preceding sentence, a caretaker relative*
24 *(as such term is defined for purposes of carrying out*
25 *section 1931) shall not be considered a childless*
26 *adult.”.*

1 (c) *RULE OF CONSTRUCTION.*—*Nothing in this section*
2 *or the amendments made by this section shall be construed*
3 *to—*

4 (1) *authorize the waiver of any provision of title*
5 *XIX or XXI of the Social Security Act (42 U.S.C.*
6 *1396 et seq., 1397aa et seq.) that is not otherwise au-*
7 *thorized to be waived under such titles or under title*
8 *XI of such Act (42 U.S.C. 1301 et seq.) as of the date*
9 *of enactment of this Act;*

10 (2) *imply congressional approval of any waiver,*
11 *experimental, pilot, or demonstration project affecting*
12 *funds made available under the State children’s*
13 *health insurance program under title XXI of the So-*
14 *cial Security Act (42 U.S.C. 1397aa et. seq.) or any*
15 *amendment to such a waiver or project that has been*
16 *approved as of such date of enactment; or*

17 (3) *apply to any waiver, experimental, pilot, or*
18 *demonstration project that would allow funds made*
19 *available under title XXI of the Social Security Act*
20 *(42 U.S.C. 1397aa et seq.) to be used to provide child*
21 *health assistance or other health benefits coverage to*
22 *a nonpregnant childless adult that is approved before*
23 *the date of enactment of this Act or to any extension,*
24 *renewal, or amendment of such a waiver or project*
25 *that is approved on or after such date of enactment.*

1 (d) *EFFECTIVE DATE.*—*This section and the amend-*
 2 *ments made by this section shall take effect as if enacted*
 3 *on October 1, 2005, and shall apply to any waiver, experi-*
 4 *mental, pilot, or demonstration project that is approved on*
 5 *or after that date.*

6 **SEC. 6103. CONTINUED AUTHORITY FOR QUALIFYING**
 7 **STATES TO USE CERTAIN FUNDS FOR MED-**
 8 **ICAID EXPENDITURES.**

9 (a) *IN GENERAL.*—*Section 2105(g)(1)(A) of the Social*
 10 *Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by*
 11 *striking “or 2001” and inserting “2001, 2004, or 2005”.*

12 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 13 *section (a) shall apply to expenditures made under title*
 14 *XIX of the Social Security Act (42 U.S.C. 1396 et seq.)*
 15 *on or after October 1, 2005.*

16 ***Subtitle C—Katrina Relief***

17 **SEC. 6201. ADDITIONAL FEDERAL PAYMENTS UNDER HUR-**
 18 **RICANE-RELATED MULTI-STATE SECTION 1115**
 19 **DEMONSTRATIONS.**

20 (a) *IN GENERAL.*—*The Secretary of Health and*
 21 *Human Services shall pay to each eligible State, from*
 22 *amounts appropriated pursuant to subsection (e), amounts*
 23 *for the following purposes:*

1 (1) *Under the authority of an approved Multi-*
2 *State Section 1115 Demonstration Project (in this*
3 *section referred to as an “section 1115 project”)—*

4 (A) *with respect to evacuees receiving health*
5 *care under such project, for the non-Federal*
6 *share of expenditures:*

7 (i) *for medical assistance furnished*
8 *under title XIX of the Social Security Act,*
9 *and*

10 (ii) *for child health assistance fur-*
11 *nished under title XXI of such Act;*

12 (B) *with respect to evacuees who do not*
13 *have other coverage for such assistance through*
14 *insurance, including (but not limited to) private*
15 *insurance, under title XIX or title XXI of the*
16 *Social Security Act, or under State-funded*
17 *health insurance programs, for the total uncom-*
18 *pensated care costs incurred for medically nec-*
19 *essary services and supplies or premium assist-*
20 *ance for such persons, and for those evacuees re-*
21 *ceiving medical assistance under the project for*
22 *the total uncompensated care costs incurred for*
23 *medically necessary services and supplies beyond*
24 *those included as medical assistance or child*
25 *health assistance under the State’s approved*

1 *plan under title XIX or title XXI of the Social*
2 *Security Act;*

3 *(C) with respect to affected individuals re-*
4 *ceiving health care under such project for the*
5 *non-Federal share of the following expenditures:*

6 *(i) for medical assistance furnished*
7 *under title XIX of the Social Security Act,*
8 *and*

9 *(ii) for child health assistance fur-*
10 *nished under title XXI of such Act; and*

11 *(D) with respect to affected individuals who*
12 *do not have other coverage for such assistance*
13 *through insurance, including (but not limited to)*
14 *private insurance, under title XIX or title XXI*
15 *of the Social Security Act, or under State-funded*
16 *health insurance programs, for the total uncom-*
17 *pensated care costs incurred for medically nec-*
18 *essary services and supplies or premium assist-*
19 *ance for such persons, and for those affected indi-*
20 *viduals receiving medical assistance under the*
21 *project for the total uncompensated care costs in-*
22 *curring for medically necessary services and sup-*
23 *plies beyond those included as medical assistance*
24 *or child health assistance under the State's ap-*

1 *proved plan under title XIX or title XXI of the*
2 *Social Security Act.*

3 (2) *For reimbursement of the reasonable admin-*
4 *istrative costs related to subparagraphs (A) through*
5 *(D) of paragraph (1) as determined by the Secretary.*

6 (3) *Only with respect to affected counties or par-*
7 *ishes, for reimbursement with respect to individuals*
8 *receiving medical assistance under existing State*
9 *plans approved by the Secretary of Health and*
10 *Human Services for the following non-Federal share*
11 *of expenditures:*

12 (A) *For medical assistance furnished under*
13 *title XIX of the Social Security Act.*

14 (B) *For child health assistance furnished*
15 *under title XXI of such Act.*

16 (4) *For other purposes, if approved by the Sec-*
17 *retary under the Secretary's authority, to restore ac-*
18 *cess to health care in impacted communities.*

19 (b) *DEFINITIONS.—For purposes of this section:*

20 (1) *The term “affected individual” means an in-*
21 *dividual who resided in an individual assistance des-*
22 *ignation county or parish pursuant to section 408 of*
23 *the Robert T. Stafford Disaster Relief and Emergency*
24 *Assistance Act, as declared by the President as a re-*
25 *sult of Hurricane Katrina and continues to reside in*

1 *the same State that such county or parish is located*
2 *in.*

3 (2) *The term “affected counties or parishes”*
4 *means a county or parish described in paragraph (1).*

5 (3) *The term “evacuee” means an affected indi-*
6 *vidual who has been displaced to another State.*

7 (4) *The term “eligible State” means a State that*
8 *has provided care to affected individuals or evacuees*
9 *under a section 1115 project.*

10 (c) *APPLICATION TO MATCHING REQUIREMENTS.—The*
11 *non-Federal share paid under this section shall not be re-*
12 *garded as Federal funds for purposes of Medicaid matching*
13 *requirements, the effect of which is to provide fiscal relief*
14 *to the State in which the Medicaid eligible individual origi-*
15 *nally resided.*

16 (d) *TIME LIMITS ON PAYMENTS.—*

17 (1) *No payments shall be made by the Secretary*
18 *under subsection (a)(1)(A) or (a)(1)(C), for costs of*
19 *health care provided to an eligible evacuee or affected*
20 *individual for services for such individual incurred*
21 *after June 30, 2006.*

22 (2) *No payments shall be made by the Secretary*
23 *under subsection (a)(1)(B) or (a)(1)(D) for costs of*
24 *health care incurred after January 31, 2006.*

1 (3) *No payments may be made under subsection*
 2 *(a)(1)(B) or (a)(1)(D) for an item or service that an*
 3 *evacuee or an affected individual has received from*
 4 *an individual or organization as part of a public or*
 5 *private hurricane relief effort.*

6 (e) *APPROPRIATIONS.—For the purpose of providing*
 7 *funds for payments under this section, in addition to any*
 8 *funds made available for the National Disaster Medical*
 9 *System under the Department of Homeland Security for*
 10 *health care costs related to Hurricane Katrina, including*
 11 *under a section 1115 project, there is appropriated out of*
 12 *any money in the Treasury not otherwise appropriated,*
 13 *\$2,000,000,000, to remain available to the Secretary until*
 14 *expended. The total amount of payments made under sub-*
 15 *section (a) may not exceed the total amount appropriated*
 16 *under this subsection.*

17 **SEC. 6202. STATE HIGH RISK HEALTH INSURANCE POOL**
 18 **FUNDING.**

19 (a) *IN GENERAL.—There are hereby authorized and*
 20 *appropriated for fiscal year 2006—*

21 (1) *\$75,000,000 for grants under subsection*
 22 *(b)(1) of section 2745 of the Public Health Service Act*
 23 *(42 U.S.C. 300gg-45); and*

24 (2) *\$15,000,000 for grants under subsection (a)*
 25 *of such section.*

1 (b) *TREATMENT.*—*The amount appropriated under—*

2 (1) *paragraph (1) shall be treated as if it had*
3 *been appropriated under subsection (c)(2) of such sec-*
4 *tion; and*

5 (2) *paragraph (2) shall be treated as if it had*
6 *been appropriated under subsection (c)(1) of such sec-*
7 *tion.*

8 (c) *REFERENCES.*—*Effective upon the enactment of the*
9 *State High Risk Pool Funding Extension Act of 2005—*

10 (1) *subsection (a)(1) shall be applied by sub-*
11 *stituting “subsections (b)(2) and (c)(3)” for “sub-*
12 *section “(b)(1)”;*

13 (2) *subsection (b)(1) shall be applied by sub-*
14 *stituting “(d)(1)(B)” for “(c)(2)”;* *and*

15 (3) *subsection (b)(2) shall be applied by sub-*
16 *stituting “(d)(1)(A)” for “(c)(1)”.*

17 **SEC. 6203. IMPLEMENTATION FUNDING.**

18 *For purposes of implementing the provisions of, and*
19 *amendments made by, title V of this Act and this title—*

20 (1) *the Secretary of Health and Human Services*
21 *shall provide for the transfer, in appropriate part*
22 *from the Federal Hospital Insurance Trust Fund es-*
23 *tablished under section 1817 of the Social Security*
24 *Act (42 U.S.C. 1395i) and the Federal Supple-*
25 *mentary Medical Insurance Trust Fund established*

1 *under section 1841 of such Act (42 U.S.C. 1395t), of*
 2 *\$30,000,000 to the Centers for Medicare & Medicaid*
 3 *Services Program Management Account for fiscal*
 4 *year 2006; and*

5 *(2) out of any funds in the Treasury not other-*
 6 *wise appropriated, there are appropriated to such*
 7 *Secretary for the Centers for Medicare & Medicaid*
 8 *Services Program Management Account, \$30,000,000*
 9 *for fiscal year 2006.*

10 **TITLE VII—HUMAN RESOURCES**
 11 **AND OTHER PROVISIONS**

12 **SEC. 7001. REFERENCES.**

13 *Except as otherwise expressly provided, wherever in*
 14 *this title an amendment or repeal is expressed in terms of*
 15 *an amendment to, or repeal of, a section or other provision,*
 16 *the amendment or repeal shall be considered to be made*
 17 *to a section or other provision of the Social Security Act.*

18 **Subtitle A—TANF**

19 **SEC. 7101. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**
 20 **AND RELATED PROGRAMS FUNDING**
 21 **THROUGH SEPTEMBER 30, 2010.**

22 *(a) IN GENERAL.—Activities authorized by part A of*
 23 *title IV and section 1108(b) of the Social Security Act (ad-*
 24 *justed, as applicable, by or under this subtitle, the amend-*
 25 *ments made by this subtitle, and the TANF Emergency Re-*

1 sponse and Recovery Act of 2005) shall continue through
2 September 30, 2010, in the manner authorized for fiscal
3 year 2004, and out of any money in the Treasury of the
4 United States not otherwise appropriated, there are hereby
5 appropriated such sums as may be necessary for such pur-
6 pose. Grants and payments may be made pursuant to this
7 authority on a quarterly basis through fiscal year 2010 at
8 the level provided for such activities for the corresponding
9 quarter of fiscal year 2004 (or, as applicable, at such great-
10 er level as may result from the application of this subtitle,
11 the amendments made by this subtitle, and the TANF
12 Emergency Response and Recovery Act of 2005), except that
13 in the case of section 403(a)(3) of the Social Security Act,
14 grants and payments may be made pursuant to this author-
15 ity only through fiscal year 2008 and in the case of section
16 403(a)(4) of the Social Security Act, no grants shall be
17 made for any fiscal year occurring after fiscal year 2005.

18 (b) CONFORMING AMENDMENTS.—Part A of title IV
19 (42 U.S.C. 601 et seq.) is amended—

20 (1) in section 403(a)(3)(H)(ii), by striking “De-
21 cember, 31, 2005” and inserting “fiscal year 2008”;

22 (2) in section 403(b)(3)(C)(ii), by striking
23 “2006” and inserting “2010”; and

24 (3) in section 409(a)(7)—

1 (A) in subparagraph (A), by striking “or
2 2007” and inserting “2007, 2008, 2009, 2010, or
3 2011”; and

4 (B) in subparagraph (B)(ii), by striking
5 “2006” and inserting “2010”.

6 (c) *EXTENSION OF THE NATIONAL RANDOM SAMPLE*
7 *STUDY OF CHILD WELFARE THROUGH SEPTEMBER 30,*
8 *2010.—Activities authorized by section 429A of the Social*
9 *Security Act shall continue through September 30, 2010,*
10 *in the manner authorized for fiscal year 2004, and out of*
11 *any money in the Treasury of the United States not other-*
12 *wise appropriated, there are hereby appropriated such sums*
13 *as may be necessary for such purpose. Grants and payments*
14 *may be made pursuant to this authority on a quarterly*
15 *basis through fiscal year 2010 at the level provided for such*
16 *activities for the corresponding quarter of fiscal year 2004.*

17 **SEC. 7102. IMPROVED CALCULATION OF WORK PARTICIPA-**
18 **TION RATES AND PROGRAM INTEGRITY.**

19 (a) *RECALIBRATION OF CASELOAD REDUCTION CRED-*
20 *IT.—*

21 (1) *IN GENERAL.—Section 407(b)(3)(A) (42*
22 *U.S.C. 607(b)(3)(A)) is amended—*

23 (A) in clause (i), by inserting “or any other
24 State program funded with qualified State ex-

1 *penditures (as defined in section*
 2 *409(a)(7)(B)(i))” after “this part”; and*
 3 *(B) by striking clause (ii) and inserting the*
 4 *following:*

5 *“(ii) the average monthly number of*
 6 *families that received assistance under any*
 7 *State program referred to in clause (i) dur-*
 8 *ing fiscal year 2005.”.*

9 (2) *CONFORMING AMENDMENT.—Section*
 10 *407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by*
 11 *striking “and eligibility criteria” and all that follows*
 12 *through the close parenthesis and inserting “and the*
 13 *eligibility criteria in effect during fiscal year 2005”.*

14 **(b) INCLUSION OF FAMILIES RECEIVING ASSISTANCE**
 15 **UNDER SEPARATE STATE PROGRAMS IN CALCULATION OF**
 16 **PARTICIPATION RATES.—**

17 (1) *Section 407 (42 U.S.C. 607) is amended in*
 18 *each of subsections (a)(1), (a)(2), (b)(1)(B)(i),*
 19 *(c)(2)(A)(i), (e)(1), and (e)(2), by inserting “or any*
 20 *other State program funded with qualified State ex-*
 21 *penditures (as defined in section 409(a)(7)(B)(i))”*
 22 *after “this part”.*

23 (2) *Section 411(a)(1) (42 U.S.C. 611(a)(1)) is*
 24 *amended—*

1 (A) in subparagraph (A), by inserting “or
2 any other State program funded with qualified
3 State expenditures (as defined in section
4 409(a)(7)(B)(i))” before the colon; and

5 (B) in subparagraph (B)(i), by inserting
6 “and any other State programs funded with
7 qualified State expenditures (as defined in sec-
8 tion 409(a)(7)(B)(i))” after “this part”.

9 (c) *IMPROVED VERIFICATION AND OVERSIGHT OF*
10 *WORK PARTICIPATION.*—

11 (1) *IN GENERAL.*—Section 407(i) (42 U.S.C.
12 607(i)) is amended to read as follows:

13 “(i) *VERIFICATION OF WORK AND WORK-ELIGIBLE IN-*
14 *DIVIDUALS IN ORDER TO IMPLEMENT REFORMS.*—

15 “(1) *SECRETARIAL DIRECTION AND OVER-*
16 *SIGHT.*—

17 “(A) *REGULATIONS FOR DETERMINING*
18 *WHETHER ACTIVITIES MAY BE COUNTED AS*
19 *‘WORK ACTIVITIES’, HOW TO COUNT AND VERIFY*
20 *REPORTED HOURS OF WORK, AND DETERMINING*
21 *WHO IS A WORK-ELIGIBLE INDIVIDUAL.*—

22 “(i) *IN GENERAL.*—Not later than
23 June 30, 2006, the Secretary shall promul-
24 gate regulations to ensure consistent meas-
25 urement of work participation rates under

1 *State programs funded under this part and*
2 *State programs funded with qualified State*
3 *expenditures (as defined in section*
4 *409(a)(7)(B)(i)), which shall include infor-*
5 *mation with respect to—*

6 *“(I) determining whether an ac-*
7 *tivity of a recipient of assistance may*
8 *be treated as a work activity under*
9 *subsection (d);*

10 *“(II) uniform methods for report-*
11 *ing hours of work by a recipient of as-*
12 *sistance;*

13 *“(III) the type of documentation*
14 *needed to verify reported hours of work*
15 *by a recipient of assistance; and*

16 *“(IV) the circumstances under*
17 *which a parent who resides with a*
18 *child who is a recipient of assistance*
19 *should be included in the work partici-*
20 *pation rates.*

21 *“(ii) ISSUANCE OF REGULATIONS ON*
22 *AN INTERIM FINAL BASIS.—The regulations*
23 *referred to in clause (i) may be effective and*
24 *final immediately on an interim basis as of*
25 *the date of publication of the regulations. If*

1 *the Secretary provides for an interim final*
2 *regulation, the Secretary shall provide for a*
3 *period of public comment on the regulation*
4 *after the date of publication. The Secretary*
5 *may change or revise the regulation after*
6 *the public comment period.*

7 “(B) *OVERSIGHT OF STATE PROCEDURES.—*
8 *The Secretary shall review the State procedures*
9 *established in accordance with paragraph (2) to*
10 *ensure that such procedures are consistent with*
11 *the regulations promulgated under subparagraph*
12 *(A) and are adequate to ensure an accurate*
13 *measurement of work participation under the*
14 *State programs funded under this part and any*
15 *other State programs funded with qualified State*
16 *expenditures (as so defined).*

17 “(2) *REQUIREMENT FOR STATES TO ESTABLISH*
18 *AND MAINTAIN WORK PARTICIPATION VERIFICATION*
19 *PROCEDURES.—Not later than September 30, 2006, a*
20 *State to which a grant is made under section 403*
21 *shall establish procedures for determining, with re-*
22 *spect to recipients of assistance under the State pro-*
23 *gram funded under this part or under any State pro-*
24 *grams funded with qualified State expenditures (as so*
25 *defined), whether activities may be counted as work*

1 *activities, how to count and verify reported hours of*
 2 *work, and who is a work-eligible individual, in ac-*
 3 *cordance with the regulations promulgated pursuant*
 4 *to paragraph (1)(A)(i) and shall establish internal*
 5 *controls to ensure compliance with the procedures.”.*

6 (2) *STATE PENALTY FOR FAILURE TO ESTABLISH*
 7 *OR COMPLY WITH WORK PARTICIPATION VERIFICATION*
 8 *PROCEDURES.—Section 409(a) (42 U.S.C. 609(a)) is*
 9 *amended by adding at the end the following:*

10 “(15) *PENALTY FOR FAILURE TO ESTABLISH OR*
 11 *COMPLY WITH WORK PARTICIPATION VERIFICATION*
 12 *PROCEDURES.—*

13 “(A) *IN GENERAL.—If the Secretary deter-*
 14 *mines that a State to which a grant is made*
 15 *under section 403 in a fiscal year has violated*
 16 *section 407(i)(2) during the fiscal year, the Sec-*
 17 *retary shall reduce the grant payable to the State*
 18 *under section 403(a)(1) for the immediately suc-*
 19 *ceeding fiscal year by an amount equal to not*
 20 *less than 1 percent and not more than 5 percent*
 21 *of the State family assistance grant.*

22 “(B) *PENALTY BASED ON SEVERITY OF*
 23 *FAILURE.—The Secretary shall impose reduc-*
 24 *tions under subparagraph (A) with respect to a*

1 *fiscal year based on the degree of noncompli-*
 2 *ance.”.*

3 (d) *EFFECTIVE DATE.*—*The amendments made by*
 4 *subsections (a) and (b) shall take effect on October 1, 2006.*

5 **SEC. 7103. GRANTS FOR HEALTHY MARRIAGE PROMOTION**
 6 **AND RESPONSIBLE FATHERHOOD.**

7 (a) *HEALTHY MARRIAGE AND FAMILY FUNDS.*—*Sec-*
 8 *tion 403(a)(2) (42 U.S.C. 603(a)(2)) is amended to read*
 9 *as follows:*

10 “(2) *HEALTHY MARRIAGE PROMOTION AND RE-*
 11 *SPONSIBLE FATHERHOOD GRANTS.*—

12 “(A) *IN GENERAL.*—

13 “(i) *USE OF FUNDS.*—*Subject to sub-*
 14 *paragraphs (B) and (C), the Secretary may*
 15 *use the funds made available under sub-*
 16 *paragraph (D) for the purpose of con-*
 17 *ducting and supporting research and dem-*
 18 *onstration projects by public or private en-*
 19 *tities, and providing technical assistance to*
 20 *States, Indian tribes and tribal organiza-*
 21 *tions, and such other entities as the Sec-*
 22 *retary may specify that are receiving a*
 23 *grant under another provision of this part.*

24 “(ii) *LIMITATIONS.*—*The Secretary*
 25 *may not award funds made available under*

1 *this paragraph on a noncompetitive basis,*
2 *and may not provide any such funds to an*
3 *entity for the purpose of carrying out*
4 *healthy marriage promotion activities or for*
5 *the purpose of carrying out activities pro-*
6 *moting responsible fatherhood unless the en-*
7 *tity has submitted to the Secretary an ap-*
8 *plication which—*

9 *“(I) describes—*

10 *“(aa) how the programs or*
11 *activities proposed in the applica-*
12 *tion will address, as appropriate,*
13 *issues of domestic violence; and*

14 *“(bb) what the applicant will*
15 *do, to the extent relevant, to en-*
16 *sure that participation in the pro-*
17 *grams or activities is voluntary,*
18 *and to inform potential partici-*
19 *pants that their participation is*
20 *voluntary; and*

21 *“(II) contains a commitment by*
22 *the entity—*

23 *“(aa) to not use the funds for*
24 *any other purpose; and*

1 “(bb) to consult with experts
2 in domestic violence or relevant
3 community domestic violence coa-
4 litions in developing the programs
5 and activities.

6 “(iii) *HEALTHY MARRIAGE PROMOTION*
7 *ACTIVITIES.*—In clause (ii), the term
8 ‘healthy marriage promotion activities’
9 means the following:

10 “(I) Public advertising campaigns
11 on the value of marriage and the skills
12 needed to increase marital stability
13 and health.

14 “(II) Education in high schools
15 on the value of marriage, relationship
16 skills, and budgeting.

17 “(III) Marriage education, mar-
18 riage skills, and relationship skills pro-
19 grams, that may include parenting
20 skills, financial management, conflict
21 resolution, and job and career advance-
22 ment, for non-married pregnant
23 women and non-married expectant fa-
24 thers.

1 “(IV) *Pre-marital education and*
2 *marriage skills training for engaged*
3 *couples and for couples or individuals*
4 *interested in marriage.*

5 “(V) *Marriage enhancement and*
6 *marriage skills training programs for*
7 *married couples.*

8 “(VI) *Divorce reduction programs*
9 *that teach relationship skills.*

10 “(VII) *Marriage mentoring pro-*
11 *grams which use married couples as*
12 *role models and mentors in at-risk*
13 *communities.*

14 “(VIII) *Programs to reduce the*
15 *disincentives to marriage in means-*
16 *tested aid programs, if offered in con-*
17 *junction with any activity described in*
18 *this subparagraph.*

19 “(B) *LIMITATION ON USE OF FUNDS FOR*
20 *DEMONSTRATION PROJECTS FOR COORDINATION*
21 *OF PROVISION OF CHILD WELFARE AND TANF*
22 *SERVICES TO TRIBAL FAMILIES AT RISK OF*
23 *CHILD ABUSE OR NEGLECT.—*

24 “(i) *IN GENERAL.—Of the amounts*
25 *made available under subparagraph (D) for*

1 *a fiscal year, the Secretary may not award*
2 *more than \$2,000,000 on a competitive*
3 *basis to fund demonstration projects de-*
4 *signed to test the effectiveness of tribal gov-*
5 *ernments or tribal consortia in coordinating*
6 *the provision to tribal families at risk of*
7 *child abuse or neglect of child welfare serv-*
8 *ices and services under tribal programs*
9 *funded under this part.*

10 “(i) *LIMITATION ON USE OF FUNDS.—*
11 *A grant made pursuant to clause (i) to such*
12 *a project shall not be used for any purpose*
13 *other than—*

14 “(I) *to improve case management*
15 *for families eligible for assistance from*
16 *such a tribal program;*

17 “(II) *for supportive services and*
18 *assistance to tribal children in out-of-*
19 *home placements and the tribal fami-*
20 *lies caring for such children, including*
21 *families who adopt such children; and*

22 “(III) *for prevention services and*
23 *assistance to tribal families at risk of*
24 *child abuse and neglect.*

1 “(iii) *REPORTS.*—*The Secretary may*
2 *require a recipient of funds awarded under*
3 *this subparagraph to provide the Secretary*
4 *with such information as the Secretary*
5 *deems relevant to enable the Secretary to fa-*
6 *cilitate and oversee the administration of*
7 *any project for which funds are provided*
8 *under this subparagraph.*

9 “(C) *LIMITATION ON USE OF FUNDS FOR*
10 *ACTIVITIES PROMOTING RESPONSIBLE FATHER-*
11 *HOOD.*—

12 “(i) *IN GENERAL.*—*Of the amounts*
13 *made available under subparagraph (D) for*
14 *a fiscal year, the Secretary may not award*
15 *more than \$50,000,000 on a competitive*
16 *basis to States, territories, Indian tribes*
17 *and tribal organizations, and public and*
18 *nonprofit community entities, including re-*
19 *ligious organizations, for activities pro-*
20 *moting responsible fatherhood.*

21 “(ii) *ACTIVITIES PROMOTING RESPON-*
22 *SIBLE FATHERHOOD.*—*In this paragraph,*
23 *the term ‘activities promoting responsible*
24 *fatherhood’ means the following:*

1 “(I) *Activities to promote mar-*
2 *riage or sustain marriage through ac-*
3 *tivities such as counseling, mentoring,*
4 *disseminating information about the*
5 *benefits of marriage and 2-parent in-*
6 *volvement for children, enhancing rela-*
7 *tionship skills, education regarding*
8 *how to control aggressive behavior, dis-*
9 *seminating information on the causes*
10 *of domestic violence and child abuse,*
11 *marriage preparation programs, pre-*
12 *marital counseling, marital inven-*
13 *tories, skills-based marriage education,*
14 *financial planning seminars, including*
15 *improving a family’s ability to effec-*
16 *tively manage family business affairs*
17 *by means such as education, coun-*
18 *seling, or mentoring on matters related*
19 *to family finances, including household*
20 *management, budgeting, banking, and*
21 *handling of financial transactions and*
22 *home maintenance, and divorce edu-*
23 *cation and reduction programs, includ-*
24 *ing mediation and counseling.*

1 “(II) Activities to promote respon-
2 sible parenting through activities such
3 as counseling, mentoring, and medi-
4 ation, disseminating information about
5 good parenting practices, skills-based
6 parenting education, encouraging child
7 support payments, and other methods.

8 “(III) Activities to foster economic
9 stability by helping fathers improve
10 their economic status by providing ac-
11 tivities such as work first services, job
12 search, job training, subsidized employ-
13 ment, job retention, job enhancement,
14 and encouraging education, including
15 career-advancing education, dissemina-
16 tion of employment materials, coordi-
17 nation with existing employment serv-
18 ices such as welfare-to-work programs,
19 referrals to local employment training
20 initiatives, and other methods.

21 “(IV) Activities to promote re-
22 sponsible fatherhood that are conducted
23 through a contract with a nationally
24 recognized, nonprofit fatherhood pro-
25 motion organization, such as the devel-

1 *opment, promotion, and distribution of*
 2 *a media campaign to encourage the*
 3 *appropriate involvement of parents in*
 4 *the life of any child and specifically*
 5 *the issue of responsible fatherhood, and*
 6 *the development of a national clearing-*
 7 *house to assist States and communities*
 8 *in efforts to promote and support mar-*
 9 *riage and responsible fatherhood.*

10 “(D) *APPROPRIATION.*—*Out of any money*
 11 *in the Treasury of the United States not other-*
 12 *wise appropriated, there are appropriated*
 13 *\$150,000,000 for each of fiscal years 2006*
 14 *through 2010, for expenditure in accordance with*
 15 *this paragraph.”.*

16 (b) *COUNTING OF SPENDING ON CERTAIN PRO-FAMILY*
 17 *ACTIVITIES.*—*Section 409(a)(7)(B)(i) (42 U.S.C.*
 18 *609(a)(7)(B)(i)) is amended by adding at the end the fol-*
 19 *lowing:*

20 “(V) *COUNTING OF SPENDING ON*
 21 *CERTAIN PRO-FAMILY ACTIVITIES.*—
 22 *The term ‘qualified State expenditures’*
 23 *includes the total expenditures by the*
 24 *State during the fiscal year under all*
 25 *State programs for a purpose described*

1 in paragraph (3) or (4) of section
2 401(a).”.

3 **Subtitle B—Child Care**

4 **SEC. 7201. ENTITLEMENT FUNDING.**

5 Section 418(a)(3) (42 U.S.C. 618(a)(3)) is amended—

6 (1) by striking “and” at the end of subpara-
7 graph (E);

8 (2) by striking the period at the end of subpara-
9 graph (F) and inserting a semicolon; and

10 (3) by adding at the end the following:

11 “(G) \$2,917,000,000 for each of fiscal years
12 2006 through 2010.”.

13 **Subtitle C—Child Support**

14 **SEC. 7301. ASSIGNMENT AND DISTRIBUTION OF CHILD SUP- 15 PORT.**

16 (a) *MODIFICATION OF RULE REQUIRING ASSIGNMENT*
17 *OF SUPPORT RIGHTS AS A CONDITION OF RECEIVING*
18 *TANF.*—Section 408(a)(3) (42 U.S.C. 608(a)(3)) is amend-
19 *ed to read as follows:*

20 “(3) *NO ASSISTANCE FOR FAMILIES NOT ASSIGN-*
21 *ING CERTAIN SUPPORT RIGHTS TO THE STATE.*—A
22 *State to which a grant is made under section 403*
23 *shall require, as a condition of paying assistance to*
24 *a family under the State program funded under this*
25 *part, that a member of the family assign to the State*

1 *any right the family member may have (on behalf of*
 2 *the family member or of any other person for whom*
 3 *the family member has applied for or is receiving*
 4 *such assistance) to support from any other person,*
 5 *not exceeding the total amount of assistance so paid*
 6 *to the family, which accrues during the period that*
 7 *the family receives assistance under the program.”.*

8 **(b) INCREASING CHILD SUPPORT PAYMENTS TO FAMI-**
 9 **LIES AND SIMPLIFYING CHILD SUPPORT DISTRIBUTION**
 10 **RULES.—**

11 **(1) DISTRIBUTION RULES.—**

12 **(A) IN GENERAL.—***Section 457(a) (42*
 13 *U.S.C. 657(a)) is amended to read as follows:*

14 **“(a) IN GENERAL.—***Subject to subsections (d) and (e),*
 15 *the amounts collected on behalf of a family as support by*
 16 *a State pursuant to a plan approved under this part shall*
 17 *be distributed as follows:*

18 **“(1) FAMILIES RECEIVING ASSISTANCE.—***In the*
 19 *case of a family receiving assistance from the State,*
 20 *the State shall—*

21 **“(A) pay to the Federal Government the**
 22 *Federal share of the amount collected, subject to*
 23 *paragraph (3)(A);*

1 “(B) retain, or pay to the family, the State
2 share of the amount collected, subject to para-
3 graph (3)(B); and

4 “(C) pay to the family any remaining
5 amount.

6 “(2) *FAMILIES THAT FORMERLY RECEIVED AS-*
7 *SISTANCE.*—*In the case of a family that formerly re-*
8 *ceived assistance from the State:*

9 “(A) *CURRENT SUPPORT.*—*To the extent*
10 *that the amount collected does not exceed the cur-*
11 *rent support amount, the State shall pay the*
12 *amount to the family.*

13 “(B) *ARREARAGES.*—*Except as otherwise*
14 *provided in an election made under section*
15 *454(34), to the extent that the amount collected*
16 *exceeds the current support amount, the State—*

17 “(i) *shall first pay to the family the*
18 *excess amount, to the extent necessary to*
19 *satisfy support arrearages not assigned pur-*
20 *suant to section 408(a)(3);*

21 “(ii) *if the amount collected exceeds the*
22 *amount required to be paid to the family*
23 *under clause (i), shall—*

24 “(I) *pay to the Federal Govern-*
25 *ment the Federal share of the excess*

1 *amount described in this clause, subject*
2 *to paragraph (3)(A); and*

3 “*(II) retain, or pay to the family,*
4 *the State share of the excess amount*
5 *described in this clause, subject to*
6 *paragraph (3)(B); and*

7 “*(iii) shall pay to the family any re-*
8 *maining amount.*

9 “*(3) LIMITATIONS.—*

10 “*(A) FEDERAL REIMBURSEMENTS.—The*
11 *total of the amounts paid by the State to the*
12 *Federal Government under paragraphs (1) and*
13 *(2) of this subsection with respect to a family*
14 *shall not exceed the Federal share of the amount*
15 *assigned with respect to the family pursuant to*
16 *section 408(a)(3).*

17 “*(B) STATE REIMBURSEMENTS.—The total*
18 *of the amounts retained by the State under para-*
19 *graphs (1) and (2) of this subsection with respect*
20 *to a family shall not exceed the State share of the*
21 *amount assigned with respect to the family pur-*
22 *suant to section 408(a)(3).*

23 “*(4) FAMILIES THAT NEVER RECEIVED ASSIST-*
24 *ANCE.—In the case of any other family, the State*
25 *shall distribute to the family the portion of the*

1 *amount so collected that remains after withholding*
 2 *any fee pursuant to section 454(6)(B)(ii).*

3 “(5) *FAMILIES UNDER CERTAIN AGREEMENTS.—*
 4 *Notwithstanding paragraphs (1) through (3), in the*
 5 *case of an amount collected for a family in accord-*
 6 *ance with a cooperative agreement under section*
 7 *454(33), the State shall distribute the amount col-*
 8 *lected pursuant to the terms of the agreement.”.*

9 (B) *STATE OPTION TO PASS THROUGH AD-*
 10 *DITIONAL SUPPORT WITH FEDERAL FINANCIAL*
 11 *PARTICIPATION BEGINNING WITH FISCAL YEAR*
 12 *2009.—*

13 (i) *IN GENERAL.—Section 457(a) (42*
 14 *U.S.C. 657(a)) is amended by adding at the*
 15 *end the following:*

16 “(7) *STATE OPTION TO PASS THROUGH ADDI-*
 17 *TIONAL SUPPORT WITH FEDERAL FINANCIAL PARTICI-*
 18 *PATION.—*

19 “(A) *FAMILIES THAT FORMERLY RECEIVED*
 20 *ASSISTANCE.—Notwithstanding paragraph (2), a*
 21 *State shall not be required to pay to the Federal*
 22 *Government the Federal share of an amount col-*
 23 *lected on behalf of a family that formerly re-*
 24 *ceived assistance from the State to the extent that*
 25 *the State pays the amount to the family.*

1 “(B) *FAMILIES THAT CURRENTLY RECEIVE*
2 *ASSISTANCE.—*

3 “(i) *IN GENERAL.—Notwithstanding*
4 *paragraph (1), in the case of a family that*
5 *receives assistance from the State, a State*
6 *shall not be required to pay to the Federal*
7 *Government the Federal share of the ex-*
8 *cepted portion (as defined in clause (ii)) of*
9 *any amount collected on behalf of such fam-*
10 *ily during a month to the extent that—*

11 “(I) *the State pays the excepted*
12 *portion to the family; and*

13 “(II) *the excepted portion is dis-*
14 *regarded in determining the amount*
15 *and type of assistance provided to the*
16 *family under such program.*

17 “(ii) *EXCEPTED PORTION DEFINED.—*
18 *For purposes of this subparagraph, the term*
19 *“excepted portion” means that portion of*
20 *the amount collected on behalf of a family*
21 *during a month that does not exceed \$100*
22 *per month, or in the case of a family that*
23 *includes 2 or more children, that does not*
24 *exceed an amount established by the State*
25 *that is not more than \$200 per month.”.*

1 (ii) *EFFECTIVE DATE.*—*The amend-*
 2 *ment made by clause (i) shall take effect on*
 3 *October 1, 2008.*

4 (iii) *REDESIGNATION.*—*Effective Octo-*
 5 *ber 1, 2009, paragraph (7) of section 457(a)*
 6 *of the Social Security Act (as added by*
 7 *clause (i)) is redesignated as paragraph (6).*

8 (C) *STATE PLAN TO INCLUDE ELECTION AS*
 9 *TO WHICH RULES TO APPLY IN DISTRIBUTING*
 10 *CHILD SUPPORT ARREARAGES COLLECTED ON*
 11 *BEHALF OF FAMILIES FORMERLY RECEIVING AS-*
 12 *SISTANCE.*—*Section 454 (42 U.S.C. 654) is*
 13 *amended—*

14 (i) *by striking “and” at the end of*
 15 *paragraph (32);*

16 (ii) *by striking the period at the end of*
 17 *paragraph (33) and inserting “; and”; and*

18 (iii) *by inserting after paragraph (33)*
 19 *the following:*

20 “(34) *include an election by the State to apply*
 21 *section 457(a)(2)(B) of this Act or former section*
 22 *457(a)(2)(B) of this Act (as in effect for the State im-*
 23 *mediately before the date this paragraph first applies*
 24 *to the State) to the distribution of the amounts which*
 25 *are the subject of such sections and, for so long as the*

1 *State elects to so apply such former section, the*
 2 *amendments made by subsection (b)(1) of section*
 3 *7301 of the Deficit Reduction Act of 2005 shall not*
 4 *apply with respect to the State, notwithstanding sub-*
 5 *section (e) of such section 7301.”.*

6 (2) *CURRENT SUPPORT AMOUNT DEFINED.—Sec-*
 7 *tion 457(c) (42 U.S.C. 657(c)) is amended by adding*
 8 *at the end the following:*

9 “(5) *CURRENT SUPPORT AMOUNT.—The term*
 10 *‘current support amount’ means, with respect to*
 11 *amounts collected as support on behalf of a family,*
 12 *the amount designated as the monthly support obliga-*
 13 *tion of the noncustodial parent in the order requiring*
 14 *the support or calculated by the State based on the*
 15 *order.”.*

16 (c) *STATE OPTION TO DISCONTINUE OLDER SUPPORT*
 17 *ASSIGNMENTS.—Section 457(b) (42 U.S.C. 657(b)) is*
 18 *amended to read as follows:*

19 “(b) *CONTINUATION OF ASSIGNMENTS.—*

20 “(1) *STATE OPTION TO DISCONTINUE PRE-1997*
 21 *SUPPORT ASSIGNMENTS.—*

22 “(A) *IN GENERAL.—Any rights to support*
 23 *obligations assigned to a State as a condition of*
 24 *receiving assistance from the State under part A*
 25 *and in effect on September 30, 1997 (or such*

1 *earlier date on or after August 22, 1996, as the*
 2 *State may choose), may remain assigned after*
 3 *such date.*

4 “(B) *DISTRIBUTION OF AMOUNTS AFTER AS-*
 5 *SIGNMENT DISCONTINUATION.—If a State chooses*
 6 *to discontinue the assignment of a support obli-*
 7 *gation described in subparagraph (A), the State*
 8 *may treat amounts collected pursuant to the as-*
 9 *signed and may distribute the amounts to the*
 10 *family in accordance with subsection (a)(4).*

12 “(2) *STATE OPTION TO DISCONTINUE POST-1997*
 13 *ASSIGNMENTS.—*

14 “(A) *IN GENERAL.—Any rights to support*
 15 *obligations accruing before the date on which a*
 16 *family first receives assistance under part A that*
 17 *are assigned to a State under that part and in*
 18 *effect before the implementation date of this sec-*
 19 *tion may remain assigned after such date.*

20 “(B) *DISTRIBUTION OF AMOUNTS AFTER AS-*
 21 *SIGNMENT DISCONTINUATION.—If a State chooses*
 22 *to discontinue the assignment of a support obli-*
 23 *gation described in subparagraph (A), the State*
 24 *may treat amounts collected pursuant to the as-*
 25 *signed and may distribute the amounts to the*

1 *signed and may distribute the amounts to the*
2 *family in accordance with subsection (a)(4).”.*

3 (d) *CONFORMING AMENDMENTS.*—Section 6402(c) of
4 *the Internal Revenue Code of 1986 (relating to offset of past-*
5 *due support against overpayments) is amended—*

6 (1) *in the first sentence, by striking “the Social*
7 *Security Act.” and inserting “of such Act.”; and*

8 (2) *by striking the third sentence and inserting*
9 *the following: “The Secretary shall apply a reduction*
10 *under this subsection first to an amount certified by*
11 *the State as past due support under section 464 of the*
12 *Social Security Act before any other reductions al-*
13 *lowed by law.”.*

14 (e) *EFFECTIVE DATE.*—

15 (1) *IN GENERAL.*—*Except as otherwise provided*
16 *in this section, the amendments made by the pre-*
17 *ceding provisions of this section shall take effect on*
18 *October 1, 2009, and shall apply to payments under*
19 *parts A and D of title IV of the Social Security Act*
20 *for calendar quarters beginning on or after such date,*
21 *and without regard to whether regulations to imple-*
22 *ment the amendments (in the case of State programs*
23 *operated under such part D) are promulgated by such*
24 *date.*

1 (2) *STATE OPTION TO ACCELERATE EFFECTIVE*
 2 *DATE.*—*Notwithstanding paragraph (1), a State may*
 3 *elect to have the amendments made by the preceding*
 4 *provisions of this section apply to the State and to*
 5 *amounts collected by the State (and the payments*
 6 *under parts A and D), on and after such date as the*
 7 *State may select that is not earlier than October 1,*
 8 *2008, and not later than September 30, 2009.*

9 (f) *USE OF TAX REFUND INTERCEPT PROGRAM TO*
 10 *COLLECT PAST-DUE CHILD SUPPORT ON BEHALF OF*
 11 *CHILDREN WHO ARE NOT MINORS.*—

12 (1) *IN GENERAL.*—*Section 464 (42 U.S.C. 664)*
 13 *is amended—*

14 (A) *in subsection (a)(2)(A), by striking “(as*
 15 *that term is defined for purposes of this para-*
 16 *graph under subsection (c))”;* and

17 (B) *in subsection (c)—*

18 (i) *in paragraph (1)—*

19 (I) *by striking “(1) Except as*
 20 *provided in paragraph (2), as used in”*
 21 *and inserting “In”;* and

22 (II) *by inserting “(whether or not*
 23 *a minor)” after “a child” each place it*
 24 *appears; and*

1 (ii) by striking paragraphs (2) and
2 (3).

3 (2) *EFFECTIVE DATE.*—*The amendments made*
4 *by paragraph (1) shall take effect on October 1, 2007.*

5 (g) *STATE OPTION TO USE STATEWIDE AUTOMATED*
6 *DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM*
7 *FOR INTERSTATE CASES.*—*Section 466(a)(14)(A)(iii) (42*
8 *U.S.C. 666(a)(14)(A)(iii)) is amended by inserting before*
9 *the semicolon the following: “(but the assisting State may*
10 *establish a corresponding case based on such other State’s*
11 *request for assistance)”.*

12 **SEC. 7302. MANDATORY REVIEW AND ADJUSTMENT OF**
13 **CHILD SUPPORT ORDERS FOR FAMILIES RE-**
14 **CEIVING TANF.**

15 (a) *IN GENERAL.*—*Section 466(a)(10)(A)(i) (42*
16 *U.S.C. 666(a)(10)(A)(i)) is amended—*

17 (1) *by striking “parent, or,” and inserting “par-*
18 *ent or”;* *and*

19 (2) *by striking “upon the request of the State*
20 *agency under the State plan or of either parent,”.*

21 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
22 *section (a) shall take effect on October 1, 2007.*

1 **SEC. 7303. DECREASE IN AMOUNT OF CHILD SUPPORT AR-**
 2 **REARAGE TRIGGERING PASSPORT DENIAL.**

3 (a) *IN GENERAL.*—Section 452(k)(1) (42 U.S.C.
 4 652(k)(1)) is amended by striking “\$5,000” and inserting
 5 “\$2,500”.

6 (b) *CONFORMING AMENDMENT.*—Section 454(31) (42
 7 U.S.C. 654(31)) is amended by striking “\$5,000” and in-
 8 serting “\$2,500”.

9 (c) *EFFECTIVE DATE.*—The amendments made by this
 10 section shall take effect on October 1, 2006.

11 **SEC. 7304. MAINTENANCE OF TECHNICAL ASSISTANCE**
 12 **FUNDING.**

13 Section 452(j) (42 U.S.C. 652(j)) is amended by insert-
 14 ing “or the amount appropriated under this paragraph for
 15 fiscal year 2002, whichever is greater” before “, which shall
 16 be available”.

17 **SEC. 7305. MAINTENANCE OF FEDERAL PARENT LOCATOR**
 18 **SERVICE FUNDING.**

19 Section 453(o) (42 U.S.C. 653(o)) is amended—

20 (1) in the first sentence, by inserting “or the
 21 amount appropriated under this paragraph for fiscal
 22 year 2002, whichever is greater” before “, which shall
 23 be available”; and

24 (2) in the second sentence, by striking “for each
 25 of fiscal years 1997 through 2001”.

1 **SEC. 7306. INFORMATION COMPARISONS WITH INSURANCE**

2 **DATA.**

3 (a) *DUTIES OF THE SECRETARY.*—Section 452 (42
4 U.S.C. 652) is amended by adding at the end the following:

5 “(l) *COMPARISONS WITH INSURANCE INFORMATION.*—

6 “(1) *IN GENERAL.*—The Secretary, through the
7 *Federal Parent Locator Service, may—*

8 “(A) *compare information concerning indi-*
9 *viduals owing past-due support with informa-*
10 *tion maintained by insurers (or their agents)*
11 *concerning insurance claims, settlements,*
12 *awards, and payments; and*

13 “(B) *furnish information resulting from the*
14 *data matches to the State agencies responsible for*
15 *collecting child support from the individuals.*

16 “(2) *LIABILITY.*—An insurer (including any
17 *agent of an insurer) shall not be liable under any*
18 *Federal or State law to any person for any disclosure*
19 *provided for under this subsection, or for any other*
20 *action taken in good faith in accordance with this*
21 *subsection.”.*

22 (b) *STATE REIMBURSEMENT OF FEDERAL COSTS.*—
23 *Section 453(k)(3) (42 U.S.C. 653(k)(3)) is amended by in-*
24 *serting “or section 452(l)” after “pursuant to this section”.*

1 **SEC. 7307. REQUIREMENT THAT STATE CHILD SUPPORT EN-**
2 **FORCEMENT AGENCIES SEEK MEDICAL SUP-**
3 **PORT FOR CHILDREN FROM EITHER PARENT.**

4 (a) *STATE AGENCIES REQUIRED TO SEEK MEDICAL*
5 *SUPPORT FROM EITHER PARENT.*—

6 (1) *IN GENERAL.*—Section 466(a)(19)(A) (42
7 U.S.C. 666(a)(19)(A)) is amended by striking “which
8 include a provision for the health care coverage of the
9 child are enforced” and inserting “shall include a
10 provision for medical support for the child to be pro-
11 vided by either or both parents, and shall be en-
12 forced”.

13 (2) *CONFORMING AMENDMENTS.*—

14 (A) *TITLE IV—D.*—

15 (i) Section 452(f) (42 U.S.C. 652(f)) is
16 amended by striking “include medical sup-
17 port as part of any child support order and
18 enforce medical support” and inserting “en-
19 force medical support included as part of a
20 child support order”.

21 (ii) Section 466(a)(19) (42 U.S.C.
22 666(a)(19)), as amended by paragraph (1)
23 of this subsection, is amended—

24 (I) in subparagraph (A)—

1 (aa) by striking “section
2 401(e)(3)(C)” and inserting “sec-
3 tion 401(e)”;

4 (bb) by striking “section
5 401(f)(5)(C)” and inserting “sec-
6 tion 401(f)”;

7 (II) in subparagraph (B)—

8 (aa) by striking “noncusto-
9 dial” each place it appears; and

10 (bb) in clause (iii), by strik-
11 ing “section 466(b)” and inserting
12 “subsection (b)”;

13 (III) in subparagraph (C), by
14 striking “noncustodial” each place it
15 appears and inserting “obligated”.

16 (B) STATE OR LOCAL GOVERNMENTAL
17 GROUP HEALTH PLANS.—Section 401(e)(2) of the
18 Child Support Performance and Incentive Act of
19 1998 (29 U.S.C. 1169 note) is amended, in the
20 matter preceding subparagraph (A), by striking
21 “who is a noncustodial parent of the child”.

22 (C) CHURCH PLANS.—Section 401(f)(5)(C)
23 of the Child Support Performance and Incentive
24 Act of 1998 (29 U.S.C. 1169 note) is amended by
25 striking “noncustodial” each place it appears.

1 (b) *ENFORCEMENT OF MEDICAL SUPPORT REQUIRE-*
 2 *MENTS.*—Section 452(f) (42 U.S.C. 652(f)), as amended by
 3 subsection (a)(2)(A)(i), is amended by inserting after the
 4 first sentence the following: “A State agency administering
 5 the program under this part may enforce medical support
 6 against a custodial parent if health care coverage is avail-
 7 able to the custodial parent at a reasonable cost, notwith-
 8 standing any other provision of this part.”.

9 (c) *DEFINITION OF MEDICAL SUPPORT.*—Section
 10 452(f) (42 U.S.C. 652(f)), as amended by subsections
 11 (a)(2)(A)(i) and (b) of this section, is amended by adding
 12 at the end the following: “For purposes of this part, the
 13 term ‘medical support’ may include health care coverage,
 14 such as coverage under a health insurance plan (including
 15 payment of costs of premiums, co-payments, and
 16 deductibles) and payment for medical expenses incurred on
 17 behalf of a child.”.

18 **SEC. 7308. REDUCTION OF FEDERAL MATCHING RATE FOR**
 19 **LABORATORY COSTS INCURRED IN DETER-**
 20 **MINING PATERNITY.**

21 (a) *IN GENERAL.*—Section 455(a)(1)(C) (42 U.S.C.
 22 655(a)(1)(C)) is amended by striking “90 percent (rather
 23 than the percentage specified in subparagraph (A))” and
 24 inserting “66 percent”.

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 2 *section (a) shall take effect on October 1, 2006, and shall*
 3 *apply to costs incurred on or after that date.*

4 **SEC. 7309. ENDING FEDERAL MATCHING OF STATE SPEND-**
 5 **ING OF FEDERAL INCENTIVE PAYMENTS.**

6 (a) *IN GENERAL.*—*Section 455(a)(1) (42 U.S.C.*
 7 *655(a)(1)) is amended by inserting “from amounts paid to*
 8 *the State under section 458 or” before “to carry out an*
 9 *agreement”.*

10 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 11 *section (a) shall take effect on October 1, 2007.*

12 **SEC. 7310. MANDATORY FEE FOR SUCCESSFUL CHILD SUP-**
 13 **PORT COLLECTION FOR FAMILY THAT HAS**
 14 **NEVER RECEIVED TANF.**

15 (a) *IN GENERAL.*—*Section 454(6)(B) (42 U.S.C.*
 16 *654(6)(B)) is amended—*

17 (1) *by inserting “(i)” after “(B)”;*

18 (2) *by redesignating clauses (i) and (ii) as sub-*
 19 *clauses (I) and (II), respectively;*

20 (3) *by adding “and” after the semicolon; and*

21 (4) *by adding after and below the end the fol-*
 22 *lowing new clause:*

23 *“(i) in the case of an individual who has*
 24 *never received assistance under a State program*
 25 *funded under part A and for whom the State has*

1 *collected at least \$500 of support, the State shall*
2 *impose an annual fee of \$25 for each case in*
3 *which services are furnished, which shall be re-*
4 *tained by the State from support collected on be-*
5 *half of the individual (but not from the 1st \$500*
6 *so collected), paid by the individual applying for*
7 *the services, recovered from the absent parent, or*
8 *paid by the State out of its own funds (the pay-*
9 *ment of which from State funds shall not be con-*
10 *sidered as an administrative cost of the State for*
11 *the operation of the plan, and the fees shall be*
12 *considered income to the program);”.*

13 **(b) CONFORMING AMENDMENTS.**—*Section 457(a)(3)*
14 *(42 U.S.C. 657(a)(3)) is amended to read as follows:*

15 **“(3) FAMILIES THAT NEVER RECEIVED ASSIST-**
16 **ANCE.**—*In the case of any other family, the State*
17 *shall distribute to the family the portion of the*
18 *amount so collected that remains after withholding*
19 *any fee pursuant to section 454(6)(B)(ii).”.*

20 **(c) EFFECTIVE DATE.**—*The amendments made by this*
21 *section shall take effect on October 1, 2006.*

1 **SEC. 7311. EXCEPTION TO GENERAL EFFECTIVE DATE FOR**
 2 **STATE PLANS REQUIRING STATE LAW AMEND-**
 3 **MENTS.**

4 *In the case of a State plan under part D of title IV*
 5 *of the Social Security Act which the Secretary determines*
 6 *requires State legislation in order for the plan to meet the*
 7 *additional requirements imposed by the amendments made*
 8 *by this subtitle, the effective date of the amendments impos-*
 9 *ing the additional requirements shall be 3 months after the*
 10 *first day of the first calendar quarter beginning after the*
 11 *close of the first regular session of the State legislature that*
 12 *begins after the date of the enactment of this Act. For pur-*
 13 *poses of the preceding sentence, in the case of a State that*
 14 *has a 2-year legislative session, each year of the session shall*
 15 *be considered to be a separate regular session of the State*
 16 *legislature.*

17 ***Subtitle D—Child Welfare***

18 **SEC. 7401. STRENGTHENING COURTS.**

19 *(a) COURT IMPROVEMENT GRANTS.—*

20 *(1) IN GENERAL.—Section 438(a) (42 U.S.C.*
 21 *629h(a)) is amended—*

22 *(A) by striking “and” at the end of para-*
 23 *graph (1);*

24 *(B) by striking the period at the end of*
 25 *paragraph (2) and inserting a semicolon; and*

26 *(C) by adding at the end the following:*

1 “(3) to ensure that the safety, permanence, and
2 well-being needs of children are met in a timely and
3 complete manner; and

4 “(4) to provide for the training of judges, attor-
5 neys and other legal personnel in child welfare
6 cases.”.

7 (2) *APPLICATIONS.*—Section 438(b) (42 U.S.C.
8 629h(b)) is amended to read as follows:

9 “(b) *APPLICATIONS.*—

10 “(1) *IN GENERAL.*—In order to be eligible to re-
11 ceive a grant under this section, a highest State court
12 shall submit to the Secretary an application at such
13 time, in such form, and including such information
14 and assurances as the Secretary may require,
15 including—

16 “(A) in the case of a grant for the purpose
17 described in subsection (a)(3), a description of
18 how courts and child welfare agencies on the
19 local and State levels will collaborate and jointly
20 plan for the collection and sharing of all relevant
21 data and information to demonstrate how im-
22 proved case tracking and analysis of child abuse
23 and neglect cases will produce safe and timely
24 permanency decisions;

1 “(B) in the case of a grant for the purpose
2 described in subsection (a)(4), a demonstration
3 that a portion of the grant will be used for cross-
4 training initiatives that are jointly planned and
5 executed with the State agency or any other
6 agency under contract with the State to admin-
7 ister the State program under the State plan
8 under subpart 1, the State plan approved under
9 section 434, or the State plan approved under
10 part E; and

11 “(C) in the case of a grant for any purpose
12 described in subsection (a), a demonstration of
13 meaningful and ongoing collaboration among the
14 courts in the State, the State agency or any
15 other agency under contract with the State who
16 is responsible for administering the State pro-
17 gram under part B or E, and, where applicable,
18 Indian tribes.

19 “(2) SEPARATE APPLICATIONS.—A highest State
20 court desiring grants under this section for 2 or more
21 purposes shall submit separate applications for the
22 following grants:

23 “(A) A grant for the purposes described in
24 paragraphs (1) and (2) of subsection (a).

1 “(B) A grant for the purpose described in
2 subsection (a)(3).

3 “(C) A grant for the purpose described in
4 subsection (a)(4).”.

5 (3) ALLOTMENTS.—Section 438(c) (42 U.S.C.
6 429h(c)) is amended—

7 (A) in paragraph (1)—

8 (i) by inserting “of this section for a
9 grant described in subsection (b)(2)(A) of
10 this section” after “subsection (b)”; and

11 (ii) by striking “paragraph (2) of this
12 subsection” and inserting “subparagraph
13 (B) of this paragraph”;

14 (B) in paragraph (2)—

15 (i) by striking “this paragraph” and
16 inserting “this subparagraph”;

17 (ii) by striking “paragraph (1) of this
18 subsection” and inserting “subparagraph
19 (A) of this paragraph”; and

20 (iii) by inserting “for such a grant”
21 after “subsection (b)”;

22 (C) by redesignating and indenting para-
23 graphs (1) and (2) as subparagraphs (A) and
24 (B), respectively;

1 (D) by inserting before and above such sub-
2 paragraph (A) the following:

3 “(1) GRANTS TO ASSESS AND IMPROVE HAN-
4 DLING OF COURT PROCEEDINGS RELATING TO FOSTER
5 CARE AND ADOPTION.—”; and

6 (E) by adding at the end the following:

7 “(2) GRANTS FOR IMPROVED DATA COLLECTION
8 AND TRAINING.—

9 “(A) IN GENERAL.—Each highest State
10 court which has an application approved under
11 subsection (b) of this section for a grant referred
12 to in subparagraph (B) or (C) of subsection
13 (b)(2) shall be entitled to payment, for each of
14 fiscal years 2006 through 2010, from the amount
15 made available under whichever of paragraph
16 (1) or (2) of subsection (e) applies with respect
17 to the grant, of an amount equal to the sum of
18 \$85,000 plus the amount described in subpara-
19 graph (B) of this paragraph for the fiscal year
20 with respect to the grant.

21 “(B) FORMULA.—The amount described in
22 this subparagraph for any fiscal year with re-
23 spect to a grant referred to in subparagraph (B)
24 or (C) of subsection (b)(2) is the amount that
25 bears the same ratio to the amount made avail-

1 able under subsection (e) for such a grant (re-
 2 duced by the dollar amount specified in subpara-
 3 graph (A) of this paragraph) as the number of
 4 individuals in the State who have not attained
 5 21 years of age bears to the total number of such
 6 individuals in all States the highest State courts
 7 of which have approved applications under sub-
 8 section (b) for such a grant.”.

9 (4) *FUNDING*.—Section 438 (42 U.S.C. 629h) is
 10 amended by adding at the end the following:

11 “(e) *FUNDING FOR GRANTS FOR IMPROVED DATA COL-*
 12 *LECTION AND TRAINING*.—Out of any money in the Treas-
 13 ury of the United States not otherwise appropriated, there
 14 are appropriated to the Secretary, for each of fiscal years
 15 2006 through 2010—

16 “(1) \$10,000,000 for grants referred to in sub-
 17 section (b)(2)(B); and

18 “(2) \$10,000,000 for grants referred to in sub-
 19 section (b)(2)(C).”.

20 (b) *REQUIREMENT TO DEMONSTRATE MEANINGFUL*
 21 *COLLABORATION BETWEEN COURTS AND AGENCIES IN*
 22 *CHILD WELFARE SERVICES PROGRAMS*.—Section 422(b)
 23 (42 U.S.C. 622(b)) is amended—

24 (1) by striking “and” at the end of paragraph
 25 (13);

1 (2) *by striking the period at the end of para-*
 2 *graph (14) and inserting “; and”; and*

3 (3) *by adding at the end the following:*

4 “(15) *demonstrate substantial, ongoing, and*
 5 *meaningful collaboration with State courts in the de-*
 6 *velopment and implementation of the State plan*
 7 *under subpart 1, the State plan approved under sub-*
 8 *part 2, and the State plan approved under part E,*
 9 *and in the development and implementation of any*
 10 *program improvement plan required under section*
 11 *1123A.”.*

12 (c) *USE OF CHILD WELFARE RECORDS IN STATE*
 13 *COURT PROCEEDINGS.—Section 471 (42 U.S.C. 671) is*
 14 *amended—*

15 (1) *in subsection (a)(8), by inserting “subject to*
 16 *subsection (c),” after “(8)”;* and

17 (2) *by adding at the end the following:*

18 “(c) *USE OF CHILD WELFARE RECORDS IN STATE*
 19 *COURT PROCEEDINGS.—Subsection (a)(8) shall not be con-*
 20 *strued to limit the flexibility of a State in determining*
 21 *State policies relating to public access to court proceedings*
 22 *to determine child abuse and neglect or other court hearings*
 23 *held pursuant to part B or this part, except that such poli-*
 24 *cies shall, at a minimum, ensure the safety and well-being*
 25 *of the child, parents, and family.”.*

1 **SEC. 7402. FUNDING OF SAFE AND STABLE FAMILIES PRO-**
 2 **GRAMS.**

3 *Section 436(a) (42 U.S.C. 629f(a)) is amended to read*
 4 *as follows:*

5 “(a) *AUTHORIZATION.—In addition to any amount*
 6 *otherwise made available to carry out this subpart, there*
 7 *are authorized to be appropriated to carry out this subpart*
 8 *\$345,000,000 for fiscal year 2006. Notwithstanding the pre-*
 9 *ceding sentence, the total amount authorized to be so appro-*
 10 *priated for fiscal year 2006 under this subsection and under*
 11 *this subsection (as in effect before the date of the enactment*
 12 *of the Deficit Reduction Act of 2005) is \$345,000,000.”.*

13 **SEC. 7403. CLARIFICATION REGARDING FEDERAL MATCH-**
 14 **ING OF CERTAIN ADMINISTRATIVE COSTS**
 15 **UNDER THE FOSTER CARE MAINTENANCE**
 16 **PAYMENTS PROGRAM.**

17 (a) *ADMINISTRATIVE COSTS RELATING TO UNLI-*
 18 *CENSED CARE.—Section 472 (42 U.S.C. 672) is amended*
 19 *by inserting after subsection (h) the following:*

20 “(i) *ADMINISTRATIVE COSTS ASSOCIATED WITH OTH-*
 21 *ERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER*
 22 *CARE SETTINGS.—Expenditures by a State that would be*
 23 *considered administrative expenditures for purposes of sec-*
 24 *tion 474(a)(3) if made with respect to a child who was re-*
 25 *siding in a foster family home or child-care institution shall*

1 *be so considered with respect to a child not residing in such*
 2 *a home or institution—*

3 “(1) *in the case of a child who has been removed*
 4 *in accordance with subsection (a) of this section from*
 5 *the home of a relative specified in section 406(a) (as*
 6 *in effect on July 16, 1996), only for expenditures—*

7 “(A) *with respect to a period of not more*
 8 *than the lesser of 12 months or the average*
 9 *length of time it takes for the State to license or*
 10 *approve a home as a foster home, in which the*
 11 *child is in the home of a relative and an appli-*
 12 *cation is pending for licensing or approval of the*
 13 *home as a foster family home; or*

14 “(B) *with respect to a period of not more*
 15 *than 1 calendar month when a child moves from*
 16 *a facility not eligible for payments under this*
 17 *part into a foster family home or child care in-*
 18 *stitution licensed or approved by the State; and*

19 “(2) *in the case of any other child who is poten-*
 20 *tially eligible for benefits under a State plan ap-*
 21 *proved under this part and at imminent risk of re-*
 22 *moval from the home, only if—*

23 “(A) *reasonable efforts are being made in*
 24 *accordance with section 471(a)(15) to prevent the*

1 *need for, or if necessary to pursue, removal of the*
 2 *child from the home; and*

3 “(B) *the State agency has made, not less*
 4 *often than every 6 months, a determination (or*
 5 *redetermination) as to whether the child remains*
 6 *at imminent risk of removal from the home.”.*

7 **(b) CONFORMING AMENDMENT.**—*Section 474(a)(3) (42*
 8 *U.S.C. 674(a)(3)) is amended by inserting “subject to sec-*
 9 *tion 472(i)” before “an amount equal to”.*

10 **SEC. 7404. CLARIFICATION OF ELIGIBILITY FOR FOSTER**
 11 **CARE MAINTENANCE PAYMENTS AND ADOPTI-**
 12 **ON ASSISTANCE.**

13 **(a) FOSTER CARE MAINTENANCE PAYMENTS.**—*Section*
 14 *472(a) (42 U.S.C. 672(a)) is amended to read as follows:*

15 “(a) **IN GENERAL.**—

16 “(1) **ELIGIBILITY.**—*Each State with a plan ap-*
 17 *proved under this part shall make foster care mainte-*
 18 *nance payments on behalf of each child who has been*
 19 *removed from the home of a relative specified in sec-*
 20 *tion 406(a) (as in effect on July 16, 1996) into foster*
 21 *care if—*

22 “(A) *the removal and foster care placement*
 23 *met, and the placement continues to meet, the re-*
 24 *quirements of paragraph (2); and*

1 “(B) the child, while in the home, would
2 have met the AFDC eligibility requirement of
3 paragraph (3).

4 “(2) *REMOVAL AND FOSTER CARE PLACEMENT*
5 *REQUIREMENTS.*—*The removal and foster care place-*
6 *ment of a child meet the requirements of this para-*
7 *graph if—*

8 “(A) the removal and foster care placement
9 are in accordance with—

10 “(i) a voluntary placement agreement
11 entered into by a parent or legal guardian
12 of the child who is the relative referred to in
13 paragraph (1); or

14 “(ii) a judicial determination to the ef-
15 fect that continuation in the home from
16 which removed would be contrary to the
17 welfare of the child and that reasonable ef-
18 forts of the type described in section
19 471(a)(15) for a child have been made;

20 “(B) the child’s placement and care are the
21 responsibility of—

22 “(i) the State agency administering the
23 State plan approved under section 471; or

24 “(ii) any other public agency with
25 which the State agency administering or su-

1 *pervising the administration of the State*
 2 *plan has made an agreement which is in ef-*
 3 *fect; and*

4 *“(C) the child has been placed in a foster*
 5 *family home or child-care institution.*

6 *“(3) AFDC ELIGIBILITY REQUIREMENT.—*

7 *“(A) IN GENERAL.—A child in the home re-*
 8 *ferred to in paragraph (1) would have met the*
 9 *AFDC eligibility requirement of this paragraph*
 10 *if the child—*

11 *“(i) would have received aid under the*
 12 *State plan approved under section 402 (as*
 13 *in effect on July 16, 1996) in the home, in*
 14 *or for the month in which the agreement*
 15 *was entered into or court proceedings lead-*
 16 *ing to the determination referred to in*
 17 *paragraph (2)(A)(ii) of this subsection were*
 18 *initiated; or*

19 *“(ii)(I) would have received the aid in*
 20 *the home, in or for the month referred to in*
 21 *clause (i), if application had been made*
 22 *therefor; or*

23 *“(II) had been living in the home with-*
 24 *in 6 months before the month in which the*
 25 *agreement was entered into or the pro-*

1 *ceedings were initiated, and would have re-*
 2 *ceived the aid in or for such month, if, in*
 3 *such month, the child had been living in the*
 4 *home with the relative referred to in para-*
 5 *graph (1) and application for the aid had*
 6 *been made.*

7 *“(B) RESOURCES DETERMINATION.—For*
 8 *purposes of subparagraph (A), in determining*
 9 *whether a child would have received aid under a*
 10 *State plan approved under section 402 (as in ef-*
 11 *fect on July 16, 1996), a child whose resources*
 12 *(determined pursuant to section 402(a)(7)(B), as*
 13 *so in effect) have a combined value of not more*
 14 *than \$10,000 shall be considered a child whose*
 15 *resources have a combined value of not more*
 16 *than \$1,000 (or such lower amount as the State*
 17 *may determine for purposes of section*
 18 *402(a)(7)(B)).*

19 *“(4) ELIGIBILITY OF CERTAIN ALIEN CHIL-*
 20 *DREN.—Subject to title IV of the Personal Responsi-*
 21 *bility and Work Opportunity Reconciliation Act of*
 22 *1996, if the child is an alien disqualified under sec-*
 23 *tion 245A(h) or 210(f) of the Immigration and Na-*
 24 *tionality Act from receiving aid under the State plan*
 25 *approved under section 402 in or for the month in*

1 *which the agreement described in paragraph (2)(A)(i)*
2 *was entered into or court proceedings leading to the*
3 *determination described in paragraph (2)(A)(ii) were*
4 *initiated, the child shall be considered to satisfy the*
5 *requirements of paragraph (3), with respect to the*
6 *month, if the child would have satisfied the require-*
7 *ments but for the disqualification.”.*

8 **(b) ADOPTION ASSISTANCE.**—Section 473(a)(2) (42
9 U.S.C. 673(a)(2)) is amended to read as follows:

10 “(2)(A) For purposes of paragraph (1)(B)(ii), a child
11 meets the requirements of this paragraph if the child—

12 “(i)(I)(aa) was removed from the home of a rel-
13 ative specified in section 406(a) (as in effect on July
14 16, 1996) and placed in foster care in accordance
15 with a voluntary placement agreement with respect to
16 which Federal payments are provided under section
17 474 (or section 403, as such section was in effect on
18 July 16, 1996), or in accordance with a judicial de-
19 termination to the effect that continuation in the
20 home would be contrary to the welfare of the child;
21 and

22 “(bb) met the requirements of section 472(a)(3)
23 with respect to the home referred to in item (aa) of
24 this subclause;

1 “(II) meets all of the requirements of title XVI
2 with respect to eligibility for supplemental security
3 income benefits; or

4 “(III) is a child whose costs in a foster family
5 home or child-care institution are covered by the fos-
6 ter care maintenance payments being made with re-
7 spect to the minor parent of the child as provided in
8 section 475(4)(B); and

9 “(ii) has been determined by the State, pursuant
10 to subsection (c) of this section, to be a child with spe-
11 cial needs.

12 “(B) Section 472(a)(4) shall apply for purposes of sub-
13 paragraph (A) of this paragraph, in any case in which the
14 child is an alien described in such section.

15 “(C) A child shall be treated as meeting the require-
16 ments of this paragraph for the purpose of paragraph
17 (1)(B)(ii) if the child—

18 “(i) meets the requirements of subparagraph
19 (A)(ii);

20 “(ii) was determined eligible for adoption assist-
21 ance payments under this part with respect to a prior
22 adoption;

23 “(iii) is available for adoption because—

1 *or disabled as of a specified onset date. The Commissioner*
 2 *of Social Security shall review such a determination before*
 3 *any action is taken to implement the determination.*

4 “(2)(A) *In carrying out paragraph (1), the Commis-*
 5 *sioner of Social Security shall review—*

6 “(i) *at least 20 percent of all determinations re-*
 7 *ferred to in paragraph (1) that are made in fiscal*
 8 *year 2006;*

9 “(ii) *at least 40 percent of all such determina-*
 10 *tions that are made in fiscal year 2007; and*

11 “(iii) *at least 50 percent of all such determina-*
 12 *tions that are made in fiscal year 2008 or thereafter.*

13 “(B) *In carrying out subparagraph (A), the Commis-*
 14 *sioner of Social Security shall, to the extent feasible, select*
 15 *for review the determinations which the Commissioner of*
 16 *Social Security identifies as being the most likely to be in-*
 17 *correct.”.*

18 **SEC. 7502. PAYMENT OF CERTAIN LUMP SUM BENEFITS IN**
 19 **INSTALLMENTS UNDER THE SUPPLEMENTAL**
 20 **SECURITY INCOME PROGRAM.**

21 (a) *IN GENERAL.—Section 1631(a)(10)(A)(i) (42*
 22 *U.S.C. 1383(a)(10)(A)(i)) is amended by striking “12” and*
 23 *inserting “3”.*

1 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 2 section (a) shall take effect 3 months after the date of the
 3 enactment of this Act.

4 ***Subtitle F—Repeal of Continued***
 5 ***Dumping and Subsidy Offset***

6 ***SEC. 7601. REPEAL OF CONTINUED DUMPING AND SUBSIDY***
 7 ***OFFSET.***

8 (a) *REPEAL.*—Effective upon the date of enactment of
 9 this Act, section 754 of the Tariff Act of 1930 (19 U.S.C.
 10 1675c), and the item relating to section 754 in the table
 11 of contents of title VII of that Act, are repealed.

12 (b) *DISTRIBUTIONS ON CERTAIN ENTRIES.*—All duties
 13 on entries of goods made and filed before October 1, 2007,
 14 that would, but for subsection (a) of this section, be distrib-
 15 uted under section 754 of the Tariff Act of 1930, shall be
 16 distributed as if section 754 of the Tariff Act of 1930 had
 17 not been repealed by subsection (a).

18 ***Subtitle G—Effective Date***

19 ***SEC. 7701. EFFECTIVE DATE.***

20 *Except as otherwise provided in this title, this title and*
 21 *the amendments made by this title shall take effect as if*
 22 *enacted on October 1, 2005.*

1 **TITLE VIII—EDUCATION AND**
 2 **PENSION BENEFIT PROVISIONS**
 3 **Subtitle A—Higher Education**
 4 **Provisions**

5 **SEC. 8001. SHORT TITLE; REFERENCE; EFFECTIVE DATE.**

6 (a) *SHORT TITLE.*—This subtitle may be cited as the
 7 “Higher Education Reconciliation Act of 2005”.

8 (b) *REFERENCES.*—Except as otherwise expressly pro-
 9 vided, whenever in this subtitle an amendment or repeal
 10 is expressed in terms of an amendment to, or repeal of, a
 11 section or other provision, the reference shall be considered
 12 to be made to a section or other provision of the Higher
 13 Education Act of 1965 (20 U.S.C. 1001 et seq.).

14 (c) *EFFECTIVE DATE.*—Except as otherwise provided
 15 in this subtitle or the amendments made by this subtitle,
 16 the amendments made by this subtitle shall be effective July
 17 1, 2006.

18 **SEC. 8002. MODIFICATION OF 50/50 RULE.**

19 Section 102(a)(3) (20 U.S.C. 1002(a)(3)) is
 20 amended—

21 (1) in subparagraph (A), by inserting “(exclud-
 22 ing courses offered by telecommunications as defined
 23 in section 484(l)(4))” after “courses by correspond-
 24 ence”; and

1 (2) in subparagraph (B), by inserting “(exclud-
2 ing courses offered by telecommunications as defined
3 in section 484(l)(4))” after “correspondence courses”.

4 **SEC. 8003. ACADEMIC COMPETITIVENESS GRANTS.**

5 Subpart 1 of part A of title IV (20 U.S.C. 1070a) is
6 amended by adding after section 401 the following new sec-
7 tion:

8 **“SEC. 401A. ACADEMIC COMPETITIVENESS GRANTS.**

9 “(a) *ACADEMIC COMPETITIVENESS GRANT PRO-*
10 *GRAM.—*

11 “(1) *ACADEMIC COMPETITIVENESS GRANTS AU-*
12 *THORIZED.—The Secretary shall award grants, in the*
13 *amounts specified in subsection (d)(1), to eligible stu-*
14 *dents to assist the eligible students in paying their*
15 *college education expenses.*

16 “(2) *ACADEMIC COMPETITIVENESS COUNCIL.—*

17 “(A) *ESTABLISHMENT.—There is estab-*
18 *lished an Academic Competitiveness Council (re-*
19 *ferred to in this paragraph as the ‘Council’).*
20 *From the funds made available under subsection*
21 *(e) for fiscal year 2006, \$50,000 shall be avail-*
22 *able to the Council to carry out the duties de-*
23 *scribed in subparagraph (B). The Council shall*
24 *be chaired by the Secretary of Education, and*
25 *the membership of the Council shall consist of of-*

1 *officials from Federal agencies with responsibilities*
2 *for managing existing Federal programs that*
3 *promote mathematics and science (or designees of*
4 *such officials with significant decision-making*
5 *authority).*

6 *“(B) DUTIES.—The Council shall—*

7 *“(i) identify all Federal programs with*
8 *a mathematics or science focus;*

9 *“(ii) identify the target populations*
10 *being served by such programs;*

11 *“(iii) determine the effectiveness of*
12 *such programs;*

13 *“(iv) identify areas of overlap or du-*
14 *plication in such programs; and*

15 *“(v) recommend ways to efficiently in-*
16 *tegrate and coordinate such programs.*

17 *“(C) REPORT.—Not later than one year*
18 *after the date of enactment of the Higher Edu-*
19 *cation Reconciliation Act of 2005, the Council*
20 *shall transmit a report to each committee of*
21 *Congress with jurisdiction over a Federal pro-*
22 *gram identified under subparagraph (B)(i), de-*
23 *tailing the findings and recommendations under*
24 *subparagraph (B), including recommendations*
25 *for legislative or administrative action.*

1 “(b) *DESIGNATION.*—*A grant under this section—*

2 “(1) *for the first or second academic year of a*
3 *program of undergraduate education shall be known*
4 *as an ‘Academic Competitiveness Grant’; and*

5 “(2) *for the third or fourth academic year of a*
6 *program of undergraduate education shall be known*
7 *as a ‘National Science and Mathematics Access to Re-*
8 *tain Talent Grant’ or a ‘National SMART Grant’.*

9 “(c) *DEFINITION OF ELIGIBLE STUDENT.*—*In this sec-*
10 *tion the term ‘eligible student’ means a full-time student*
11 *who, for the academic year for which the determination of*
12 *eligibility is made—*

13 “(1) *is a citizen of the United States;*

14 “(2) *is eligible for a Federal Pell Grant; and*

15 “(3) *in the case of a student enrolled or accepted*
16 *for enrollment in—*

17 “(A) *the first academic year of a program*
18 *of undergraduate education at a two- or four-*
19 *year degree-granting institution of higher*
20 *education—*

21 “(i) *has successfully completed, after*
22 *January 1, 2006, a rigorous secondary*
23 *school program of study established by a*
24 *State or local educational agency and recog-*
25 *nized as such by the Secretary; and*

1 “(ii) has not been previously enrolled
2 in a program of undergraduate education;

3 “(B) the second academic year of a program
4 of undergraduate education at a two- or four-
5 year degree-granting institution of higher
6 education—

7 “(i) has successfully completed, after
8 January 1, 2005, a rigorous secondary
9 school program of study established by a
10 State or local educational agency and recog-
11 nized as such by the Secretary; and

12 “(ii) has obtained a cumulative grade
13 point average of at least 3.0 (or the equiva-
14 lent as determined under regulations pre-
15 scribed by the Secretary) at the end of the
16 first academic year of such program of un-
17 dergraduate education; or

18 “(C) the third or fourth academic year of a
19 program of undergraduate education at a four-
20 year degree-granting institution of higher
21 education—

22 “(i) is pursuing a major in—

23 “(I) the physical, life, or computer
24 sciences, mathematics, technology, or

1 *engineering (as determined by the Sec-*
 2 *retary pursuant to regulations); or*

3 *“(II) a foreign language that the*
 4 *Secretary, in consultation with the Di-*
 5 *rector of National Intelligence, deter-*
 6 *mines is critical to the national secu-*
 7 *rity of the United States; and*

8 *“(ii) has obtained a cumulative grade*
 9 *point average of at least 3.0 (or the equiva-*
 10 *lent as determined under regulations pre-*
 11 *scribed by the Secretary) in the coursework*
 12 *required for the major described in clause*
 13 *(i).*

14 *“(d) GRANT AWARD.—*

15 *“(1) AMOUNTS.—*

16 *“(A) The Secretary shall award a grant*
 17 *under this section in the amount of—*

18 *“(i) \$750 for an eligible student under*
 19 *subsection (c)(3)(A);*

20 *“(ii) \$1,300 for an eligible student*
 21 *under subsection (c)(3)(B); or*

22 *“(iii) \$4,000 for an eligible student*
 23 *under subsection (c)(3)(C).*

24 *“(B) Notwithstanding subparagraph (A)—*

1 “(i) the amount of such grant, in com-
2 bination with the Federal Pell Grant assist-
3 ance and other student financial assistance
4 available to such student, shall not exceed
5 the student’s cost of attendance;

6 “(ii) if the amount made available
7 under subsection (e) for any fiscal year is
8 less than the amount required to be pro-
9 vided grants to all eligible students in the
10 amounts determined under subparagraph
11 (A) and clause (i) of this subparagraph,
12 then the amount of the grant to each eligible
13 student shall be ratably reduced; and

14 “(iii) if additional amounts are appro-
15 priated for any such fiscal year, such re-
16 duced amounts shall be increased on the
17 same basis as they were reduced.

18 “(2) LIMITATIONS.—The Secretary shall not
19 award a grant under this section—

20 “(A) to any student for an academic year
21 of a program of undergraduate education de-
22 scribed in subparagraph (A), (B), or (C) of sub-
23 section (c)(3) for which the student received cred-
24 it before the date of enactment of the Higher
25 Education Reconciliation Act of 2005; or

1 “(B) to any student for more than—

2 “(i) one academic year under sub-
3 section (c)(3)(A);

4 “(ii) one academic year under sub-
5 section (c)(3)(B); or

6 “(iii) two academic years under sub-
7 section (c)(3)(C).

8 “(e) FUNDING.—

9 “(1) AUTHORIZATION AND APPROPRIATION OF
10 FUNDS.—There are authorized to be appropriated,
11 and there are appropriated, out of any money in the
12 Treasury not otherwise appropriated, for the Depart-
13 ment of Education to carry out this section—

14 “(A) \$790,000,000 for fiscal year 2006;

15 “(B) \$850,000,000 for fiscal year 2007;

16 “(C) \$920,000,000 for fiscal year 2008;

17 “(D) \$960,000,000 for fiscal year 2009; and

18 “(E) \$1,010,000,000 for fiscal year 2010.

19 “(2) USE OF EXCESS FUNDS.—If, at the end of
20 a fiscal year, the funds available for awarding grants
21 under this section exceed the amount necessary to
22 make such grants in the amounts authorized by sub-
23 section (d), then all of the excess funds shall remain
24 available for awarding grants under this section dur-
25 ing the subsequent fiscal year.

1 “(f) *RECOGNITION OF PROGRAMS OF STUDY.*—The
 2 *Secretary shall recognize at least one rigorous secondary*
 3 *school program of study in each State under subsection*
 4 *(c)(3)(A) and (B) for the purpose of determining student*
 5 *eligibility under such subsection.*

6 “(g) *SUNSET PROVISION.*—The authority to make
 7 *grants under this section shall expire at the end of academic*
 8 *year 2010–2011.”.*

9 **SEC. 8004. REAUTHORIZATION OF FEDERAL FAMILY EDU-**
 10 **CATION LOAN PROGRAM.**

11 (a) *AUTHORIZATION OF APPROPRIATIONS.*—Section
 12 *421(b)(5) (20 U.S.C. 1071(b)(5)) is amended by striking*
 13 *“an administrative cost allowance” and inserting “a loan*
 14 *processing and issuance fee”.*

15 (b) *EXTENSION OF AUTHORITY.*—

16 (1) *FEDERAL INSURANCE LIMITATIONS.*—Section
 17 *424(a) (20 U.S.C. 1074(a)) is amended—*

18 (A) *by striking “2004” and inserting*
 19 *“2012”; and*

20 (B) *by striking “2008” and inserting*
 21 *“2016”.*

22 (2) *GUARANTEED LOANS.*—Section *428(a)(5) (20*
 23 *U.S.C. 1078(a)(5)) is amended—*

24 (A) *by striking “2004” and inserting*
 25 *“2012”; and*

1 (B) by striking “2008” and inserting
2 “2016”.

3 (3) *CONSOLIDATION LOANS*.—Section 428C(e)
4 (20 U.S.C. 1078–3(e)) is amended by striking “2004”
5 and inserting “2012”.

6 **SEC. 8005. LOAN LIMITS.**

7 (a) *FEDERAL INSURANCE LIMITS*.—Section
8 425(a)(1)(A) (20 U.S.C. 1075(a)(1)(A)) is amended—
9 (1) in clause (i)(I), by striking “\$2,625” and in-
10 serting “\$3,500”; and

11 (2) in clause (ii)(I), by striking “\$3,500” and
12 inserting “\$4,500”.

13 (b) *GUARANTEE LIMITS*.—Section 428(b)(1)(A) (20
14 U.S.C. 1078(b)(1)(A)) is amended—

15 (1) in clause (i)(I), by striking “\$2,625” and in-
16 serting “\$3,500”; and

17 (2) in clause (ii)(I), by striking “\$3,500” and
18 inserting “\$4,500”.

19 (c) *FEDERAL PLUS LOANS*.—Section 428B (20
20 U.S.C. 1078–2) is amended—

21 (1) in subsection (a)(1)—

22 (A) in the matter preceding subparagraph
23 (A), by striking “Parents” and inserting “A
24 graduate or professional student or the parents”;

1 (B) in subparagraph (A), by striking “the
2 parents” and inserting “the graduate or profes-
3 sional student or the parents”; and

4 (C) in subparagraph (B), by striking “the
5 parents” and inserting “the graduate or profes-
6 sional student or the parents”;

7 (2) in subsection (b), by striking “any parent”
8 and inserting “any graduate or professional student
9 or any parent”;

10 (3) in subsection (c)(2), by striking “parent”
11 and inserting “graduate or professional student or
12 parent”; and

13 (4) in subsection (d)(1), by striking “the parent”
14 and inserting “the graduate or professional student or
15 the parent”.

16 (d) *UNSUBSIDIZED STAFFORD LOANS FOR GRADUATE*
17 *OR PROFESSIONAL STUDENTS.—Section 428H(d)(2) (20*
18 *U.S.C. 1078–8(d)(2)) is amended—*

19 (1) in subparagraph (C), by striking “\$10,000”
20 and inserting “\$12,000”; and

21 (2) in subparagraph (D)—

22 (A) in clause (i), by striking “\$5,000” and
23 inserting “\$7,000”; and

24 (B) in clause (ii), by striking “\$5,000” and
25 inserting “\$7,000”.

1 (e) *EFFECTIVE DATE OF INCREASES.*—*The amend-*
 2 *ments made by subsections (a), (b), and (d) shall be effective*
 3 *July 1, 2007.*

4 **SEC. 8006. PLUS LOAN INTEREST RATES AND ZERO SPECIAL**
 5 **ALLOWANCE PAYMENT.**

6 (a) *PLUS LOANS.*—*Section 427A(l)(2) (20 U.S.C.*
 7 *1077a(l)(2)) is amended by striking “7.9 percent” and in-*
 8 *serting “8.5 percent”.*

9 (b) *CONFORMING AMENDMENTS FOR SPECIAL ALLOW-*
 10 *ANCES.*—

11 (1) *AMENDMENTS.*—*Subparagraph (I) of section*
 12 *438(b)(2) (20 U.S.C. 1087–1(b)(2)) is amended—*

13 (A) *in clause (iii), by striking “, subject to*
 14 *clause (v) of this subparagraph”;*

15 (B) *in clause (iv), by striking “, subject to*
 16 *clause (vi) of this subparagraph”; and*

17 (C) *by striking clauses (v), (vi), and (vii)*
 18 *and inserting the following:*

19 “(v) *RECAPTURE OF EXCESS INTER-*
 20 *EST.*—

21 “(I) *EXCESS CREDITED.*—*With*
 22 *respect to a loan on which the applica-*
 23 *ble interest rate is determined under*
 24 *subsection (k) or (l) of section 427A*
 25 *and for which the first disbursement of*

1 *principal is made on or after April 1,*
2 *2006, if the applicable interest rate for*
3 *any 3-month period exceeds the special*
4 *allowance support level applicable to*
5 *such loan under this subparagraph for*
6 *such period, then an adjustment shall*
7 *be made by calculating the excess inter-*
8 *est in the amount computed under sub-*
9 *clause (II) of this clause, and by cred-*
10 *iting the excess interest to the Govern-*
11 *ment not less often than annually.*

12 “(II) *CALCULATION OF EXCESS.—*
13 *The amount of any adjustment of in-*
14 *terest on a loan to be made under this*
15 *subsection for any quarter shall be*
16 *equal to—*

17 “(aa) *the applicable interest*
18 *rate minus the special allowance*
19 *support level determined under*
20 *this subparagraph; multiplied by*

21 “(bb) *the average daily prin-*
22 *cipal balance of the loan (not in-*
23 *cluding unearned interest added*
24 *to principal) during such cal-*
25 *endar quarter; divided by*

1 “(cc) four.

2 “(III) *SPECIAL ALLOWANCE SUP-*
 3 *PORT LEVEL.*—*For purposes of this*
 4 *clause, the term ‘special allowance sup-*
 5 *port level’ means, for any loan, a num-*
 6 *ber expressed as a percentage equal to*
 7 *the sum of the rates determined under*
 8 *subclauses (I) and (III) of clause (i),*
 9 *and applying any substitution rules*
 10 *applicable to such loan under clauses*
 11 *(ii), (iii), and (iv) in determining such*
 12 *sum.”.*

13 (2) *EFFECTIVE DATE.*—*The amendments made*
 14 *by this subsection shall not apply with respect to any*
 15 *special allowance payment made under section 438 of*
 16 *the Higher Education Act of 1965 (20 U.S.C. 1087–*
 17 *1) before April 1, 2006.*

18 **SEC. 8007. DEFERMENT OF STUDENT LOANS FOR MILITARY**
 19 **SERVICE.**

20 (a) *FEDERAL FAMILY EDUCATION LOANS.*—*Section*
 21 *428(b)(1)(M) (20 U.S.C. 1078(b)(1)(M)) is amended—*

22 (1) *by striking “or” at the end of clause (ii);*

23 (2) *by redesignating clause (iii) as clause (iv);*

24 *and*

1 (3) *by inserting after clause (ii) the following*
 2 *new clause:*

3 “(iii) *not in excess of 3 years during*
 4 *which the borrower—*

5 “(I) *is serving on active duty dur-*
 6 *ing a war or other military operation*
 7 *or national emergency; or*

8 “(II) *is performing qualifying*
 9 *National Guard duty during a war or*
 10 *other military operation or national*
 11 *emergency; or”.*

12 (b) *DIRECT LOANS.—Section 455(f)(2) (20 U.S.C.*
 13 *1087e(f)(2)) is amended—*

14 (1) *by redesignating subparagraph (C) as sub-*
 15 *paragraph (D); and*

16 (2) *by inserting after subparagraph (B) the fol-*
 17 *lowing new subparagraph:*

18 “(C) *not in excess of 3 years during which*
 19 *the borrower—*

20 “(i) *is serving on active duty during a*
 21 *war or other military operation or national*
 22 *emergency; or*

23 “(ii) *is performing qualifying National*
 24 *Guard duty during a war or other military*
 25 *operation or national emergency; or”.*

1 (c) *PERKINS LOANS*.—Section 464(c)(2)(A) (20 U.S.C.
2 1087dd(c)(2)(A)) is amended—

3 (1) by redesignating clauses (iii) and (iv) as
4 clauses (iv) and (v), respectively; and

5 (2) by inserting after clause (ii) the following
6 new clause:

7 “(iii) not in excess of 3 years during
8 which the borrower—

9 “(I) is serving on active duty dur-
10 ing a war or other military operation
11 or national emergency; or

12 “(II) is performing qualifying
13 National Guard duty during a war or
14 other military operation or national
15 emergency;”.

16 (d) *DEFINITIONS*.—Section 481 (20 U.S.C. 1088) is
17 amended by adding at the end the following new subsection:

18 “(d) *DEFINITIONS FOR MILITARY DEFERMENTS*.—For
19 purposes of parts B, D, and E of this title:

20 “(1) *ACTIVE DUTY*.—The term ‘active duty’ has
21 the meaning given such term in section 101(d)(1) of
22 title 10, United States Code, except that such term
23 does not include active duty for training or attend-
24 ance at a service school.

1 “(2) *MILITARY OPERATION.*—*The term ‘military*
2 *operation’ means a contingency operation as such*
3 *term is defined in section 101(a)(13) of title 10,*
4 *United States Code.*

5 “(3) *NATIONAL EMERGENCY.*—*The term ‘na-*
6 *tional emergency’ means the national emergency by*
7 *reason of certain terrorist attacks declared by the*
8 *President on September 14, 2001, or subsequent na-*
9 *tional emergencies declared by the President by rea-*
10 *son of terrorist attacks.*

11 “(4) *SERVING ON ACTIVE DUTY.*—*The term ‘serv-*
12 *ing on active duty during a war or other military op-*
13 *eration or national emergency’ means service by an*
14 *individual who is—*

15 “(A) *a Reserve of an Armed Force ordered*
16 *to active duty under section 12301(a), 12301(g),*
17 *12302, 12304, or 12306 of title 10, United States*
18 *Code, or any retired member of an Armed Force*
19 *ordered to active duty under section 688 of such*
20 *title, for service in connection with a war or*
21 *other military operation or national emergency,*
22 *regardless of the location at which such active*
23 *duty service is performed; and*

24 “(B) *any other member of an Armed Force*
25 *on active duty in connection with such emer-*

1 *gency or subsequent actions or conditions who*
 2 *has been assigned to a duty station at a location*
 3 *other than the location at which such member is*
 4 *normally assigned.*

5 “(5) *QUALIFYING NATIONAL GUARD DUTY.*—*The*
 6 *term ‘qualifying National Guard duty during a war*
 7 *or other military operation or national emergency’*
 8 *means service as a member of the National Guard on*
 9 *full-time National Guard duty (as defined in section*
 10 *101(d)(5) of title 10, United States Code) under a call*
 11 *to active service authorized by the President or the*
 12 *Secretary of Defense for a period of more than 30*
 13 *consecutive days under section 502(f) of title 32,*
 14 *United States Code, in connection with a war, other*
 15 *military operation, or a national emergency declared*
 16 *by the President and supported by Federal funds.”.*

17 *(e) RULE OF CONSTRUCTION.*—*Nothing in the amend-*
 18 *ments made by this section shall be construed to authorize*
 19 *any refunding of any repayment of a loan.*

20 *(f) EFFECTIVE DATE.*—*The amendments made by this*
 21 *section shall apply with respect to loans for which the first*
 22 *disbursement is made on or after July 1, 2001.*

23 **SEC. 8008. ADDITIONAL LOAN TERMS AND CONDITIONS.**

24 *(a) DISBURSEMENT.*—*Section 428(b)(1)(N) (20 U.S.C.*
 25 *1078(b)(1)(N)) is amended—*

- 1 (1) by striking “or” at the end of clause (i); and
2 (2) by striking clause (ii) and inserting the fol-
3 lowing:

4 “(ii) in the case of a student who is
5 studying outside the United States in a pro-
6 gram of study abroad that is approved for
7 credit by the home institution at which such
8 student is enrolled, and only after
9 verification of the student’s enrollment by
10 the lender or guaranty agency, are, at the
11 request of the student, disbursed directly to
12 the student by the means described in clause
13 (i), unless such student requests that the
14 check be endorsed, or the funds transfer be
15 authorized, pursuant to an authorized
16 power-of-attorney; or

17 “(iii) in the case of a student who is
18 studying outside the United States in a pro-
19 gram of study at an eligible foreign institu-
20 tion, are, at the request of the foreign insti-
21 tution, disbursed directly to the student,
22 only after verification of the student’s en-
23 rollment by the lender or guaranty agency
24 by the means described in clause (i).”.

1 (b) *REPAYMENT PLANS: DIRECT LOANS.*—Section
 2 455(d)(1) (20 U.S.C. 1087e(d)(1)) is amended by striking
 3 subparagraphs (A), (B), and (C) and inserting the fol-
 4 lowing:

5 “(A) a standard repayment plan, consistent
 6 with subsection (a)(1) of this section and with
 7 section 428(b)(9)(A)(i);

8 “(B) a graduated repayment plan, con-
 9 sistent with section 428(b)(9)(A)(ii);

10 “(C) an extended repayment plan, con-
 11 sistent with section 428(b)(9)(A)(v), except that
 12 the borrower shall annually repay a minimum
 13 amount determined by the Secretary in accord-
 14 ance with section 428(b)(1)(L); and”.

15 (c) *ORIGINATION FEES.*—

16 (1) *FFEL PROGRAM.*—Paragraph (2) of section
 17 438(c) (20 U.S.C. 1087–1(c)) is amended—

18 (A) by striking the designation and heading
 19 of such paragraph and inserting the following:

20 “(2) *AMOUNT OF ORIGINATION FEES.*—

21 “(A) *IN GENERAL.*—”; and

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

24 “(B) *SUBSEQUENT REDUCTIONS.*—Subpara-
 25 graph (A) shall be applied to loans made under

1 *this part (other than loans made under sections*
2 *428C and 439(o))—*

3 “(i) by substituting ‘2.0 percent’ for
4 ‘3.0 percent’ with respect to loans for which
5 the first disbursement of principal is made
6 on or after July 1, 2006, and before July 1,
7 2007;

8 “(ii) by substituting ‘1.5 percent’ for
9 ‘3.0 percent’ with respect to loans for which
10 the first disbursement of principal is made
11 on or after July 1, 2007, and before July 1,
12 2008;

13 “(iii) by substituting ‘1.0 percent’ for
14 ‘3.0 percent’ with respect to loans for which
15 the first disbursement of principal is made
16 on or after July 1, 2008, and before July 1,
17 2009;

18 “(iv) by substituting ‘0.5 percent’ for
19 ‘3.0 percent’ with respect to loans for which
20 the first disbursement of principal is made
21 on or after July 1, 2009, and before July 1,
22 2010; and

23 “(v) by substituting ‘0.0 percent’ for
24 ‘3.0 percent’ with respect to loans for which

1 *the first disbursement of principal is made*
2 *on or after July 1, 2010.”.*

3 (2) *DIRECT LOAN PROGRAM.*—*Subsection (c) of*
4 *section 455 (20 U.S.C. 1087e(c)) is amended—*

5 (A) *by striking “(c) LOAN FEE.—” and in-*
6 *serting the following:*

7 “*(c) LOAN FEE.—*

8 “*(1) IN GENERAL.—*”; *and*

9 (B) *by adding at the end the following:*

10 “*(2) SUBSEQUENT REDUCTION.—Paragraph (1)*
11 *shall be applied to loans made under this part, other*
12 *than Federal Direct Consolidation loans and Federal*
13 *Direct PLUS loans—*

14 “*(A) by substituting ‘3.0 percent’ for ‘4.0*
15 *percent’ with respect to loans for which the first*
16 *disbursement of principal is made on or after the*
17 *date of enactment of the Higher Education Rec-*
18 *onciliation Act of 2005, and before July 1, 2007;*

19 “*(B) by substituting ‘2.5 percent’ for ‘4.0*
20 *percent’ with respect to loans for which the first*
21 *disbursement of principal is made on or after*
22 *July 1, 2007, and before July 1, 2008;*

23 “*(C) by substituting ‘2.0 percent’ for ‘4.0*
24 *percent’ with respect to loans for which the first*

1 *disbursement of principal is made on or after*
 2 *July 1, 2008, and before July 1, 2009;*

3 “(D) by substituting ‘1.5 percent’ for ‘4.0
 4 percent’ with respect to loans for which the first
 5 disbursement of principal is made on or after
 6 July 1, 2009, and before July 1, 2010; and

7 “(E) by substituting ‘1.0 percent’ for ‘4.0
 8 percent’ with respect to loans for which the first
 9 disbursement of principal is made on or after
 10 July 1, 2010.”.

11 (3) *CONFORMING AMENDMENT.*—Section
 12 455(b)(8)(A) (20 U.S.C. 1087e(b)(8)(A)) is amended
 13 by inserting “or origination fee” after “reductions in
 14 the interest rate”.

15 **SEC. 8009. CONSOLIDATION LOAN CHANGES.**

16 (a) *CONSOLIDATION BETWEEN PROGRAMS.*—Section
 17 428C (20 U.S.C. 1078–3) is amended—

18 (1) *in subsection (a)(3)(B)(i)—*

19 (A) *by inserting “or under section 455(g)”*
 20 *after “under this section” both places it appears;*

21 (B) *by inserting “under both sections” after*
 22 *“terminates”*

23 (C) *by striking “and” at the end of sub-*
 24 *clause (III);*

1 (D) by striking the period at the end of sub-
2 clause (IV) and inserting “; and”; and

3 (E) by adding at the end the following new
4 subclause:

5 “(V) an individual may obtain a subse-
6 quent consolidation loan under section 455(g)
7 only for the purposes of obtaining an income
8 contingent repayment plan, and only if the loan
9 has been submitted to the guaranty agency for
10 default aversion.”; and

11 (2) in subsection (b)(5), by striking the first sen-
12 tence and inserting the following: “In the event that
13 a lender with an agreement under subsection (a)(1) of
14 this section denies a consolidation loan application
15 submitted to the lender by an eligible borrower under
16 this section, or denies an application submitted to the
17 lender by such a borrower for a consolidation loan
18 with income-sensitive repayment terms, the Secretary
19 shall offer any such borrower who applies for it, a
20 Federal Direct Consolidation loan. The Secretary
21 shall offer such a loan to a borrower who has de-
22 faulted, for the purpose of resolving the default.”.

23 (b) REPEAL OF IN-SCHOOL CONSOLIDATION.—

24 (1) DEFINITION OF REPAYMENT PERIOD.—Sec-
25 tion 428(b)(7)(A) (20 U.S.C. 1078(b)(7)(A)) is

1 amended by striking “shall begin—” and all that fol-
 2 lows through “earlier date.” and inserting the fol-
 3 lowing: “shall begin the day after 6 months after the
 4 date the student ceases to carry at least one-half the
 5 normal full-time academic workload (as determined
 6 by the institution).”.

7 (2) *CONFORMING CHANGE TO ELIGIBLE BOR-*
 8 *ROWER DEFINITION.*—Section 428C(a)(3)(A)(i)(I)
 9 (20 U.S.C. 1078–3(a)(3)(A)(i)(I)) is amended by in-
 10 serting “as determined under section 428(b)(7)(A)”
 11 after “repayment status”.

12 (c) *ADDITIONAL AMENDMENTS.*—Section 428C (20
 13 U.S.C. 1078–3) is amended in subsection (a)(3), by striking
 14 subparagraph (C).

15 (d) *CONFORMING AMENDMENTS TO DIRECT LOAN*
 16 *PROGRAM.*—Section 455 (20 U.S.C. 1087e) is amended

17 (1) in subsection (a)(1) by inserting “428C,”
 18 after “428B,”;

19 (2) in subsection (a)(2)—

20 (A) by striking “and” at the end of sub-
 21 paragraph (B);

22 (B) by redesignating subparagraph (C) as
 23 subparagraph (D); and

24 (C) by inserting after subparagraph (B) the
 25 following:

1 “(C) section 428C shall be known as ‘Fed-
2 eral Direct Consolidation Loans’; and ”; and

3 (3) in subsection (g)—

4 (A) by striking the second sentence; and

5 (B) by adding at the end the following new
6 sentences: “To be eligible for a consolidation loan
7 under this part, a borrower shall meet the eligi-
8 bility criteria set forth in section 428C(a)(3).
9 The Secretary, upon application for such a loan,
10 shall comply with the requirements applicable to
11 a lender under section 428C(b)(1)(F).”.

12 **SEC. 8010. REQUIREMENTS FOR DISBURSEMENTS OF STU-**
13 **DENT LOANS.**

14 Section 428G (20 U.S.C. 1078–7) is amended—

15 (1) in subsection (a)(3), by adding at the end the
16 following: “Notwithstanding section 422(d) of the
17 Higher Education Amendments of 1998, this para-
18 graph shall be effective beginning on the date of enact-
19 ment of the Higher Education Reconciliation Act of
20 2005.”;

21 (2) in subsection (b)(1), by adding at the end the
22 following: “Notwithstanding section 422(d) of the
23 Higher Education Amendments of 1998, the second
24 sentence of this paragraph shall be effective beginning

1 *on the date of enactment of the Higher Education*
 2 *Reconciliation Act of 2005.”; and*

3 *(3) in subsection (e), by striking “, made to a*
 4 *student to cover the cost of attendance at an eligible*
 5 *institution outside the United States”.*

6 **SEC. 8011. SCHOOL AS LENDER.**

7 *Paragraph (2) of section 435(d) (20 U.S.C.*
 8 *1085(d)(2)) is amended to read as follows:*

9 *“(2) REQUIREMENTS FOR ELIGIBLE INSTITU-*
 10 *TIONS.—*

11 *“(A) IN GENERAL.—To be an eligible lender*
 12 *under this part, an eligible institution—*

13 *“(i) shall employ at least one person*
 14 *whose full-time responsibilities are limited*
 15 *to the administration of programs of finan-*
 16 *cial aid for students attending such institu-*
 17 *tion;*

18 *“(ii) shall not be a home study school;*

19 *“(iii) shall not—*

20 *“(I) make a loan to any under-*
 21 *graduate student;*

22 *“(II) make a loan other than a*
 23 *loan under section 428 or 428H to a*
 24 *graduate or professional student; or*

1 “(III) make a loan to a borrower
2 who is not enrolled at that institution;

3 “(iv) shall award any contract for fi-
4 nancing, servicing, or administration of
5 loans under this title on a competitive basis;

6 “(v) shall offer loans that carry an
7 origination fee or an interest rate, or both,
8 that are less than such fee or rate author-
9 ized under the provisions of this title;

10 “(vi) shall not have a cohort default
11 rate (as defined in section 435(m)) greater
12 than 10 percent;

13 “(vii) shall, for any year for which the
14 institution engages in activities as an eligi-
15 ble lender, provide for a compliance audit
16 conducted in accordance with section
17 428(b)(1)(U)(iii)(I), and the regulations
18 thereunder, and submit the results of such
19 audit to the Secretary;

20 “(viii) shall use any proceeds from spe-
21 cial allowance payments and interest pay-
22 ments from borrowers, interest subsidies re-
23 ceived from the Department of Education,
24 and any proceeds from the sale or other dis-

1 *position of loans, for need-based grant pro-*
2 *grams; and*

3 *“(ix) shall have met the requirements*
4 *of subparagraphs (A) through (F) of this*
5 *paragraph as in effect on the day before the*
6 *date of enactment of the Higher Education*
7 *Reconciliation Act of 2005, and made loans*
8 *under this part, on or before April 1, 2006.*

9 *“(B) ADMINISTRATIVE EXPENSES.—An eli-*
10 *gible lender under subparagraph (A) shall be*
11 *permitted to use a portion of the proceeds de-*
12 *scribed in subparagraph (A)(viii) for reasonable*
13 *and direct administrative expenses.*

14 *“(C) SUPPLEMENT, NOT SUPPLANT.—An el-*
15 *igible lender under subparagraph (A) shall en-*
16 *sure that the proceeds described in subparagraph*
17 *(A)(viii) are used to supplement, and not to sup-*
18 *plant, non-Federal funds that would otherwise be*
19 *used for need-based grant programs.”.*

1 **SEC. 8012. REPAYMENT BY THE SECRETARY OF LOANS OF**
 2 **BANKRUPT, DECEASED, OR DISABLED BOR-**
 3 **ROWERS; TREATMENT OF BORROWERS AT-**
 4 **TENDING SCHOOLS THAT FAIL TO PROVIDE A**
 5 **REFUND, ATTENDING CLOSED SCHOOLS, OR**
 6 **FALSELY CERTIFIED AS ELIGIBLE TO BOR-**
 7 **ROW.**

8 *Section 437 (20 U.S.C. 1087) is amended—*

9 *(1) in the section heading, by striking “CLOSED*
 10 *SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE*
 11 *TO BORROW” and inserting “SCHOOLS THAT*
 12 *FAIL TO PROVIDE A REFUND, ATTENDING*
 13 *CLOSED SCHOOLS, OR FALSELY CERTIFIED AS*
 14 *ELIGIBLE TO BORROW”; and*

15 *(2) in the first sentence of subsection (c)(1), by*
 16 *inserting “or was falsely certified as a result of a*
 17 *crime of identity theft” after “falsely certified by the*
 18 *eligible institution”.*

19 **SEC. 8013. ELIMINATION OF TERMINATION DATES FROM**
 20 **TAXPAYER-TEACHER PROTECTION ACT OF**
 21 **2004.**

22 *(a) EXTENSION OF LIMITATIONS ON SPECIAL ALLOW-*
 23 *ANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT*
 24 *ISSUES.—Section 438(b)(2)(B) (20 U.S.C. 1087–*
 25 *1(b)(2)(B)) is amended—*

1 (1) *in clause (iv), by striking “and before January*
2 *1, 2006,”; and*

3 (2) *in clause (v)(II)—*

4 (A) *by striking “and before January 1,*
5 *2006,” each place it appears in divisions (aa)*
6 *and (bb); and*

7 (B) *by striking “, and before January 1,*
8 *2006” in division (cc).*

9 (b) *ADDITIONAL LIMITATION ON SPECIAL ALLOWANCE*
10 *FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT*
11 *ISSUES.—Section 438(b)(2)(B) (20 U.S.C 1087–1(b)(2)(B))*
12 *is further amended by adding at the end thereof the fol-*
13 *lowing new clauses:*

14 “(vi) *Notwithstanding clauses (i), (ii), and (v),*
15 *but subject to clause (vii), the quarterly rate of the*
16 *special allowance shall be the rate determined under*
17 *subparagraph (A), (E), (F), (G), (H), or (I) of this*
18 *paragraph, as the case may be, for a holder of*
19 *loans—*

20 “(I) *that were made or purchased on or*
21 *after the date of enactment of the Higher Edu-*
22 *cation Reconciliation Act of 2005; or*

23 “(II) *that were not earning a quarterly rate*
24 *of special allowance determined under clauses (i)*
25 *or (ii) of subparagraph (B) of this paragraph*

1 (20 U.S.C. 1087–1(b)(2)(b)) as of the date of en-
 2 actment of the Higher Education Reconciliation
 3 Act of 2005.

4 “(vii) Clause (vi) shall be applied by sub-
 5 stituting ‘December 31, 2010’ for ‘the date of enact-
 6 ment of the Higher Education Reconciliation Act of
 7 2005’ in the case of a holder of loans that—

8 “(I) was, as of the date of enactment of the
 9 Higher Education Reconciliation Act of 2005,
 10 and during the quarter for which the special al-
 11 lowance is paid, a unit of State or local govern-
 12 ment or a nonprofit private entity;

13 “(II) was, as of such date of enactment, and
 14 during such quarter, not owned or controlled by,
 15 or under common ownership or control with, a
 16 for-profit entity; and

17 “(III) held, directly or through any sub-
 18 sidiary, affiliate, or trustee, a total unpaid bal-
 19 ance of principal equal to or less than
 20 \$100,000,000 on loans for which special allow-
 21 ances were paid under this subparagraph in the
 22 most recent quarterly payment prior to Sep-
 23 tember 30, 2005.”.

24 (c) *ELIMINATION OF EFFECTIVE DATE LIMITATION ON*
 25 *HIGHER TEACHER LOAN FORGIVENESS BENEFITS.—*

1 (1) *TECHNICAL CLARIFICATION.*—*The matter*
 2 *preceding paragraph (1) of section 2 of the Taxpayer-*
 3 *Teacher Protection Act of 2004 (Pub. L. 108–409; 118*
 4 *Stat. 2299) is amended by inserting “of the Higher*
 5 *Education Act of 1965” after “Section 438(b)(2)(B)”.*

6 (2) *AMENDMENT.*—*Paragraph (3) of section 3(b)*
 7 *of the Taxpayer-Teacher Protection Act of 2004 (20*
 8 *U.S.C. 1078–10 note) is amended by striking “, and*
 9 *before October 1, 2005”.*

10 (3) *EFFECTIVE DATES.*—*The amendment made*
 11 *by paragraph (1) shall be effective as if enacted on*
 12 *October 30, 2004, and the amendment made by para-*
 13 *graph (2) shall be effective as if enacted on October*
 14 *1, 2005.*

15 (d) *COORDINATION WITH SECOND HIGHER EDU-*
 16 *CATION EXTENSION ACT OF 2005.*—

17 (1) *REPEAL.*—*Section 2 of the Second Higher*
 18 *Education Extension Act of 2005 is amended by*
 19 *striking subsections (b) and (c).*

20 (2) *EFFECT ON AMENDMENTS.*—*The amendments*
 21 *made by subsections (a) and (c) of this section shall*
 22 *be effective as if the amendments made in subsections*
 23 *(b) and (c) of section 2 of the Second Higher Edu-*
 24 *cation Extension Act of 2005 had not been enacted.*

1 (e) *ADDITIONAL CHANGES TO TEACHER LOAN FOR-*
 2 *GIVENESS PROVISIONS.*—

3 (1) *FFEL PROVISIONS.*—Section 428J (20
 4 *U.S.C. 1078–10) is amended—*

5 (A) *in subsection (b)(1)(B), by inserting*
 6 *after “1965” the following: “, or meets the re-*
 7 *quirements of subsection (g)(3)”;* and

8 (B) *in subsection (g), by adding at the end*
 9 *the following new paragraph:*

10 “(3) *PRIVATE SCHOOL TEACHERS.*—An indi-
 11 *vidual who is employed as a teacher in a private*
 12 *school and is exempt from State certification require-*
 13 *ments (unless otherwise applicable under State law),*
 14 *may, in lieu of the requirement of subsection*
 15 *(b)(1)(B), have such employment treated as quali-*
 16 *fying employment under this section if such indi-*
 17 *vidual is permitted to and does satisfy rigorous sub-*
 18 *ject knowledge and skills tests by taking competency*
 19 *tests in the applicable grade levels and subject areas.*
 20 *For such purposes, the competency tests taken by such*
 21 *a private school teacher shall be recognized by 5 or*
 22 *more States for the purpose of fulfilling the highly*
 23 *qualified teacher requirements under section 9101 of*
 24 *the Elementary and Secondary Education Act of*
 25 *1965, and the score achieved by such teacher on each*

1 *test shall equal or exceed the average passing score of*
 2 *those 5 States.”.*

3 (2) *DIRECT LOAN PROVISIONS.*—Section 460 (20
 4 *U.S.C. 1087j) is amended—*

5 (A) *in subsection (b)(1)(A)(ii), by inserting*
 6 *after “1965” the following: “, or meets the re-*
 7 *quirements of subsection (g)(3)”;* and

8 (B) *in subsection (g), by adding at the end*
 9 *the following new paragraph:*

10 “(3) *PRIVATE SCHOOL TEACHERS.*—*An indi-*
 11 *vidual who is employed as a teacher in a private*
 12 *school and is exempt from State certification require-*
 13 *ments (unless otherwise applicable under State law),*
 14 *may, in lieu of the requirement of subsection*
 15 *(b)(1)(A)(ii), have such employment treated as quali-*
 16 *fying employment under this section if such indi-*
 17 *vidual is permitted to and does satisfy rigorous sub-*
 18 *ject knowledge and skills tests by taking competency*
 19 *tests in the applicable grade levels and subject areas.*
 20 *For such purposes, the competency tests taken by such*
 21 *a private school teacher shall be recognized by 5 or*
 22 *more States for the purpose of fulfilling the highly*
 23 *qualified teacher requirements under section 9101 of*
 24 *the Elementary and Secondary Education Act of*
 25 *1965, and the score achieved by such teacher on each*

1 *test shall equal or exceed the average passing score of*
 2 *those 5 States.”.*

3 **SEC. 8014. ADDITIONAL ADMINISTRATIVE PROVISIONS.**

4 *(a) INSURANCE PERCENTAGE.—*

5 *(1) AMENDMENT.—Subparagraph (G) of section*
 6 *428(b)(1) (20 U.S.C. 1078(b)(1)(G)) is amended to*
 7 *read as follows:*

8 *“(G) insures 98 percent of the unpaid prin-*
 9 *cipal of loans insured under the program, except*
 10 *that—*

11 *“(i) such program shall insure 100*
 12 *percent of the unpaid principal of loans*
 13 *made with funds advanced pursuant to sec-*
 14 *tion 428(j) or 439(q);*

15 *“(ii) for any loan for which the first*
 16 *disbursement of principal is made on or*
 17 *after July 1, 2006, the preceding provisions*
 18 *of this subparagraph shall be applied by*
 19 *substituting ‘97 percent’ for ‘98 percent’;*
 20 *and*

21 *“(iii) notwithstanding the preceding*
 22 *provisions of this subparagraph, such pro-*
 23 *gram shall insure 100 percent of the unpaid*
 24 *principal amount of exempt claims as de-*
 25 *finied in subsection (c)(1)(G);”.*

1 (2) *EFFECTIVE DATE OF AMENDMENT.*—*The*
2 *amendment made by this subsection shall apply with*
3 *respect to loans for which the first disbursement of*
4 *principal is made on or after July 1, 2006.*

5 (b) *FEDERAL DEFAULT FEES.*—

6 (1) *IN GENERAL.*—*Subparagraph (H) of section*
7 *428(b)(1) (20 U.S.C. 1078(b)(1)(H)) is amended to*
8 *read as follows:*

9 “(H) provides—

10 “(i) *for loans for which the date of*
11 *guarantee of principal is before July 1,*
12 *2006, for the collection of a single insurance*
13 *premium equal to not more than 1.0 per-*
14 *cent of the principal amount of the loan, by*
15 *deduction proportionately from each install-*
16 *ment payment of the proceeds of the loan to*
17 *the borrower, and ensures that the proceeds*
18 *of the premium will not be used for incen-*
19 *tive payments to lenders; or*

20 “(ii) *for loans for which the date of*
21 *guarantee of principal is on or after July*
22 *1, 2006, for the collection, and the deposit*
23 *into the Federal Student Loan Reserve*
24 *Fund under section 422A of a Federal de-*
25 *fault fee of an amount equal to 1.0 percent*

1 *of the principal amount of the loan, which*
2 *fee shall be collected either by deduction*
3 *from the proceeds of the loan or by payment*
4 *from other non-Federal sources, and ensures*
5 *that the proceeds of the Federal default fee*
6 *will not be used for incentive payments to*
7 *lenders;”.*

8 (2) *UNSUBSIDIZED LOANS.—Section 428H(h)*
9 *(20 U.S.C. 1078–8(h)) is amended by adding at the*
10 *end the following new sentences: “Effective for loans*
11 *for which the date of guarantee of principal is on or*
12 *after July 1, 2006, in lieu of the insurance premium*
13 *authorized under the preceding sentence, each State or*
14 *nonprofit private institution or organization having*
15 *an agreement with the Secretary under section*
16 *428(b)(1) shall collect and deposit into the Federal*
17 *Student Loan Reserve Fund under section 422A, a*
18 *Federal default fee of an amount equal to 1.0 percent*
19 *of the principal amount of the loan, which fee shall*
20 *be collected either by deduction from the proceeds of*
21 *the loan or by payment from other non-Federal*
22 *sources. The Federal default fee shall not be used for*
23 *incentive payments to lenders.”.*

1 (3) *VOLUNTARY FLEXIBLE AGREEMENTS.*—*Sec-*
 2 *tion 428A(a)(1) (20 U.S.C. 1078–1(a)(1)) is*
 3 *amended—*

4 (A) *by striking “or” at the end of subpara-*
 5 *graph (A);*

6 (B) *by striking the period at the end of sub-*
 7 *paragraph (B) and inserting “; or”; and*

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

10 “*(C) the Federal default fee required by sec-*
 11 *tion 428(b)(1)(H) and the second sentence of sec-*
 12 *tion 428H(h).”.*

13 (c) *TREATMENT OF EXEMPT CLAIMS.*—

14 (1) *AMENDMENT.*—*Section 428(c)(1) (20 U.S.C.*
 15 *1078(c)(1)) is amended—*

16 (A) *by redesignating subparagraph (G) as*
 17 *subparagraph (H), and moving such subpara-*
 18 *graph 2 em spaces to the left; and*

19 (B) *by inserting after subparagraph (F) the*
 20 *following new subparagraph:*

21 “*(G)(i) Notwithstanding any other provisions of*
 22 *this section, in the case of exempt claims, the Sec-*
 23 *retary shall apply the provisions of—*

24 “*(I) the fourth sentence of subparagraph (A)*
 25 *by substituting ‘100 percent’ for ‘95 percent’;*

1 “(II) subparagraph (B)(i) by substituting
2 ‘100 percent’ for ‘85 percent’; and

3 “(III) subparagraph (B)(ii) by substituting
4 ‘100 percent’ for ‘75 percent’.

5 “(ii) For purposes of clause (i) of this subpara-
6 graph, the term ‘exempt claims’ means claims with
7 respect to loans for which it is determined that the
8 borrower (or the student on whose behalf a parent has
9 borrowed), without the lender’s or the institution’s
10 knowledge at the time the loan was made, provided
11 false or erroneous information or took actions that
12 caused the borrower or the student to be ineligible for
13 all or a portion of the loan or for interest benefits
14 thereon.”.

15 (2) *EFFECTIVE DATE OF AMENDMENTS.*—The
16 amendments made by this subsection shall apply with
17 respect to loans for which the first disbursement of
18 principal is made on or after July 1, 2006.

19 (d) *CONSOLIDATION OF DEFAULTED LOANS.*—Section
20 428(c) (20 U.S.C. 1078(c)) is further amended—

21 (1) in paragraph (2)(A)—

22 (A) by inserting “(i)” after “including”;

23 and

24 (B) by inserting before the semicolon at the
25 end the following: “and (ii) requirements estab-

1 *lishing procedures to preclude consolidation lend-*
2 *ing from being an excessive proportion of guar-*
3 *anty agency recoveries on defaulted loans under*
4 *this part”;*

5 *(2) in paragraph (2)(D), by striking “paragraph*
6 *(6)” and inserting “paragraph (6)(A)”;* and

7 *(3) in paragraph (6)—*

8 *(A) by redesignating subparagraphs (A)*
9 *and (B) as clauses (i) and (ii), respectively;*

10 *(B) by inserting “(A)” before “For the pur-*
11 *pose of paragraph (2)(D),”;* and

12 *(C) by adding at the end the following new*
13 *subparagraphs:*

14 *“(B) A guaranty agency shall—*

15 *“(i) on or after October 1, 2006—*

16 *“(I) not charge the borrower collection*
17 *costs in an amount in excess of 18.5 percent*
18 *of the outstanding principal and interest of*
19 *a defaulted loan that is paid off through*
20 *consolidation by the borrower under this*
21 *title; and*

22 *“(II) remit to the Secretary a portion*
23 *of the collection charge under subclause (I)*
24 *equal to 8.5 percent of the outstanding prin-*

1 *cipal and interest of such defaulted loan;*
 2 *and*

3 *“(i) on and after October 1, 2009, remit to*
 4 *the Secretary the entire amount charged under*
 5 *clause (i)(I) with respect to each defaulted loan*
 6 *that is paid off with excess consolidation pro-*
 7 *ceeds.*

8 *“(C) For purposes of subparagraph (B), the term*
 9 *‘excess consolidation proceeds’ means, with respect to*
 10 *any guaranty agency for any Federal fiscal year be-*
 11 *ginning on or after October 1, 2009, the proceeds of*
 12 *consolidation of defaulted loans under this title that*
 13 *exceed 45 percent of the agency’s total collections on*
 14 *defaulted loans in such Federal fiscal year.”.*

15 *(e) DOCUMENTATION OF FORBEARANCE AGREE-*
 16 *MENTS.—Section 428(c) (20 U.S.C. 1078(c)) is further*
 17 *amended—*

18 *(1) in paragraph (3)(A)(i)—*

19 *(A) by striking “in writing”; and*

20 *(B) by inserting “and documented in ac-*
 21 *cordance with paragraph (10)” after “approval*
 22 *of the insurer”; and*

23 *(2) by adding at the end the following new para-*
 24 *graph:*

1 “(10) *DOCUMENTATION OF FORBEARANCE*
 2 *AGREEMENTS.—For the purposes of paragraph (3),*
 3 *the terms of forbearance agreed to by the parties shall*
 4 *be documented by confirming the agreement of the*
 5 *borrower by notice to the borrower from the lender,*
 6 *and by recording the terms in the borrower’s file.”.*

7 *(f) VOLUNTARY FLEXIBLE AGREEMENTS.—Section*
 8 *428A(a) (20 U.S.C. 1078–1(a)) is further amended—*

9 (1) *in paragraph (1)(B), by striking “unless the*
 10 *Secretary” and all that follows through “designated*
 11 *guarantor”;*

12 (2) *by striking paragraph (2);*

13 (3) *by redesignating paragraph (3) as para-*
 14 *graph (2); and*

15 (4) *by striking paragraph (4).*

16 *(g) FRAUD; REPAYMENT REQUIRED.—Section*
 17 *428B(a)(1) (20 U.S.C. 1078–2(a)(1)) is further amended—*

18 (1) *by striking “and” at the end of subpara-*
 19 *graph (A);*

20 (2) *by redesignating subparagraph (B) as sub-*
 21 *paragraph (C); and*

22 (3) *by inserting after subparagraph (A) the fol-*
 23 *lowing new subparagraph:*

24 *“(B) in the case of a graduate or profes-*
 25 *sional student or parent who has been convicted*

1 of, or has pled *nolo contendere* or guilty to, a
 2 crime involving fraud in obtaining funds under
 3 this title, such graduate or professional student
 4 or parent has completed the repayment of such
 5 funds to the Secretary, or to the holder in the
 6 case of a loan under this title obtained by fraud;
 7 and”.

8 (h) *DEFAULT REDUCTION PROGRAM.*—Section
 9 428F(a)(1) (20 U.S.C. 1078–6(a)(1)) is amended—

10 (1) in subparagraph (A), by striking “consecu-
 11 tive payments for 12 months” and inserting “9 pay-
 12 ments made within 20 days of the due date during
 13 10 consecutive months”;

14 (2) by redesignating subparagraph (C) as sub-
 15 paragraph (D); and

16 (3) by inserting after subparagraph (B) the fol-
 17 lowing new subparagraph:

18 “(C) A guaranty agency may charge the
 19 borrower and retain collection costs in an
 20 amount not to exceed 18.5 percent of the out-
 21 standing principal and interest at the time of
 22 sale of a loan rehabilitated under subparagraph
 23 (A).”.

24 (i) *EXCEPTIONAL PERFORMANCE INSURANCE RATE.*—
 25 Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1)) is amended—

1 (1) *in the heading, by striking “100 PERCENT”*
2 *and inserting “99 PERCENT”; and*

3 (2) *by striking “100 percent of the unpaid” and*
4 *inserting “99 percent of the unpaid”.*

5 (j) *UNIFORM ADMINISTRATIVE AND CLAIMS PROCE-*
6 *DURE.—Section 432(l)(1)(H) (20 U.S.C. 1082(l)(1)(H)) is*
7 *amended by inserting “and anticipated graduation date”*
8 *after “status change”.*

9 (1) *Section 428(a)(3)(A)(v) (20 U.S.C.*
10 *1078(a)(3)(A)(v)) is amended—*

11 (A) *by striking “or” at the end of subclause*
12 (I);

13 (B) *by striking the period at the end of sub-*
14 *clause (II) and inserting “; or”; and*

15 (C) *by adding after subclause (II) the fol-*
16 *lowing new subclause:*

17 *“(III) in the case of a loan disbursed*
18 *through an escrow agent, 3 days before the first*
19 *disbursement of the loan.”.*

20 (2) *Section 428(c)(1)(A) (20 U.S.C.*
21 *1078(c)(1)(A)) is amended by striking “45 days” in*
22 *the last sentence and inserting “30 days”.*

23 (3) *Section 428(i)(1) (20 U.S.C. 1078(i)(1)) is*
24 *amended by striking “21 days” in the third sentence*
25 *and inserting “10 days”.*

1 **SEC. 8015. FUNDS FOR ADMINISTRATIVE EXPENSES.**

2 *Section 458 is amended to read as follows:*

3 **“SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.**

4 *“(a) ADMINISTRATIVE EXPENSES.—*

5 *“(1) MANDATORY FUNDS FOR FISCAL YEAR*
6 *2006.—For fiscal year 2006, there shall be available to*
7 *the Secretary, from funds not otherwise appropriated,*
8 *funds to be obligated for—*

9 *“(A) administrative costs under this part*
10 *and part B, including the costs of the direct stu-*
11 *dent loan programs under this part; and*

12 *“(B) account maintenance fees payable to*
13 *guaranty agencies under part B and calculated*
14 *in accordance with subsections (b) and (c),*
15 *not to exceed (from such funds not otherwise appro-*
16 *priated) \$820,000,000 in fiscal year 2006.*

17 *“(2) AUTHORIZATION FOR ADMINISTRATIVE*
18 *COSTS BEGINNING IN FISCAL YEARS 2007 THROUGH*
19 *2011.—For each of the fiscal years 2007 through 2011,*
20 *there are authorized to be appropriated such sums as*
21 *may be necessary for administrative costs under this*
22 *part and part B, including the costs of the direct stu-*
23 *dent loan programs under this part.*

24 *“(3) CONTINUING MANDATORY FUNDS FOR AC-*
25 *COUNT MAINTENANCE FEES.—For each of the fiscal*
26 *years 2007 through 2011, there shall be available to*

1 *the Secretary, from funds not otherwise appropriated,*
2 *funds to be obligated for account maintenance fees*
3 *payable to guaranty agencies under part B and cal-*
4 *culated in accordance with subsection (b).*

5 “(4) *ACCOUNT MAINTENANCE FEES.*—*Account*
6 *maintenance fees under paragraph (3) shall be paid*
7 *quarterly and deposited in the Agency Operating*
8 *Fund established under section 422B.*

9 “(5) *CARRYOVER.*—*The Secretary may carry*
10 *over funds made available under this section to a sub-*
11 *sequent fiscal year.*

12 “(b) *CALCULATION BASIS.*—*Account maintenance fees*
13 *payable to guaranty agencies under subsection (a)(3) shall*
14 *not exceed the basis of 0.10 percent of the original principal*
15 *amount of outstanding loans on which insurance was issued*
16 *under part B.*

17 “(c) *BUDGET JUSTIFICATION.*—*No funds may be ex-*
18 *pended under this section unless the Secretary includes in*
19 *the Department of Education’s annual budget justification*
20 *to Congress a detailed description of the specific activities*
21 *for which the funds made available by this section have been*
22 *used in the prior and current years (if applicable), the ac-*
23 *tivities and costs planned for the budget year, and the pro-*
24 *jection of activities and costs for each remaining year for*

1 *which administrative expenses under this section are made*
 2 *available.”.*

3 **SEC. 8016. COST OF ATTENDANCE.**

4 *Section 472 (20 U.S.C. 1087ll) is amended—*

5 *(1) by striking paragraph (4) and inserting the*
 6 *following:*

7 *“(4) for less than half-time students (as deter-*
 8 *mined by the institution), tuition and fees and an al-*
 9 *lowance for only—*

10 *“(A) books, supplies, and transportation (as*
 11 *determined by the institution);*

12 *“(B) dependent care expenses (determined*
 13 *in accordance with paragraph (8)); and*

14 *“(C) room and board costs (determined in*
 15 *accordance with paragraph (3)), except that a*
 16 *student may receive an allowance for such costs*
 17 *under this subparagraph for not more than 3 se-*
 18 *mesters or the equivalent, of which not more than*
 19 *2 semesters or the equivalent may be consec-*
 20 *utive;”;*

21 *(2) in paragraph (11), by striking “and” after*
 22 *the semicolon;*

23 *(3) in paragraph (12), by striking the period*
 24 *and inserting “; and”; and*

25 *(4) by adding at the end the following:*

1 “(13) at the option of the institution, for a stu-
 2 dent in a program requiring professional licensure or
 3 certification, the one-time cost of obtaining the first
 4 professional credentials (as determined by the institu-
 5 tion).”.

6 **SEC. 8017. FAMILY CONTRIBUTION.**

7 (a) *FAMILY CONTRIBUTION FOR DEPENDENT STU-*
 8 *DENTS.—*

9 (1) *AMENDMENTS.—Section 475 (20 U.S.C.*
 10 *1087oo) is amended—*

11 (A) *in subsection (g)(2)(D), by striking*
 12 *“\$2,200” and inserting “\$3,000”; and*

13 (B) *in subsection (h), by striking “35” and*
 14 *inserting “20”.*

15 (2) *EFFECTIVE DATE.—The amendments made*
 16 *by paragraph (1) shall apply with respect to deter-*
 17 *minations of need for periods of enrollment beginning*
 18 *on or after July 1, 2007.*

19 (b) *FAMILY CONTRIBUTION FOR INDEPENDENT STU-*
 20 *DENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—*

21 (1) *AMENDMENTS.—Section 476 (20 U.S.C.*
 22 *1087pp) is amended—*

23 (A) *in subsection (b)(1)(A)(iv)—*

24 (i) *in subclause (I), by striking*
 25 *“\$5,000” and inserting “\$6,050”;*

1 (ii) in subclause (II), by striking
2 “\$5,000” and inserting “\$6,050”; and
3 (iii) in subclause (III), by striking
4 “\$8,000” and inserting “\$9,700”; and
5 (B) in subsection (c)(4), by striking “35”
6 and inserting “20”.

7 (2) *EFFECTIVE DATE.*—The amendments made
8 by paragraph (1) shall apply with respect to deter-
9 minations of need for periods of enrollment beginning
10 on or after July 1, 2007.

11 (c) *FAMILY CONTRIBUTION FOR INDEPENDENT STU-*
12 *DENTS WITH DEPENDENTS OTHER THAN A SPOUSE.*—

13 (1) *AMENDMENT.*—Section 477(c)(4) (20 U.S.C.
14 1087qq(c)(4)) is amended by striking “12” and in-
15 serting “7”.

16 (2) *EFFECTIVE DATE.*—The amendment made by
17 paragraph (1) shall apply with respect to determina-
18 tions of need for periods of enrollment beginning on
19 or after July 1, 2007.

20 (d) *REGULATIONS; UPDATED TABLES.*—Section
21 478(b) (20 U.S.C. 1087rr(b)) is amended—

22 (1) in paragraph (1), by adding at the end the
23 following: “For the 2007–2008 academic year, the
24 Secretary shall revise the tables in accordance with
25 this paragraph, except that the Secretary shall in-

1 crease the amounts contained in the table in section
 2 477(b)(4) by a percentage equal to the greater of the
 3 estimated percentage increase in the Consumer Price
 4 Index (as determined under the preceding sentence) or
 5 5 percent.”; and

6 (2) in paragraph (2)—

7 (A) by striking “2000–2001” and inserting
 8 “2007–2008”; and

9 (B) by striking “1999” and inserting
 10 “2006”.

11 (e) *EMPLOYMENT EXPENSE ALLOWANCE*.—Section
 12 478(h) (20 U.S.C. 1087rr(h)) is amended—

13 (1) by striking “476(b)(4)(B),”; and

14 (2) by striking “meals away from home, apparel
 15 and upkeep, transportation, and housekeeping serv-
 16 ices” and inserting “food away from home, apparel,
 17 transportation, and household furnishings and oper-
 18 ations”.

19 **SEC. 8018. SIMPLIFIED NEED TEST AND AUTOMATIC ZERO**
 20 **IMPROVEMENTS.**

21 (a) *AMENDMENTS*.—Section 479 (20 U.S.C. 1087ss) is
 22 amended—

23 (1) in subsection (b)—

24 (A) in paragraph (1)—

1 *(i) in subparagraph (A), by striking*
2 *clause (i) and inserting the following:*

3 *“(i) the student’s parents—*

4 *“(I) file, or are eligible to file, a*
5 *form described in paragraph (3);*

6 *“(II) certify that the parents are*
7 *not required to file a Federal income*
8 *tax return; or*

9 *“(III) received, or the student re-*
10 *ceived, benefits at some time during the*
11 *previous 12-month period under a*
12 *means-tested Federal benefit program*
13 *as defined under subsection (d); and”;*
14 *and*

15 *(ii) in subparagraph (B), by striking*
16 *clause (i) and inserting the following:*

17 *“(i) the student (and the student’s*
18 *spouse, if any)—*

19 *“(I) files, or is eligible to file, a*
20 *form described in paragraph (3);*

21 *“(II) certifies that the student*
22 *(and the student’s spouse, if any) is*
23 *not required to file a Federal income*
24 *tax return; or*

1 “(III) received benefits at some
2 time during the previous 12-month pe-
3 riod under a means-tested Federal ben-
4 efit program as defined under sub-
5 section (d); and”; and

6 (B) in the matter preceding subparagraph
7 (A) of paragraph (3), by striking “A student or
8 family files a form described in this subsection,
9 or subsection (c), as the case maybe, if the stu-
10 dent or family, respectively, files” and inserting
11 “In the case of an independent student, the stu-
12 dent, or in the case of a dependent student, the
13 family, files a form described in this subsection,
14 or subsection (c), as the case may be, if the stu-
15 dent or family, as appropriate, files”;

16 (2) in subsection (c)—

17 (A) in paragraph (1)—

18 (i) by striking subparagraph (A) and
19 inserting the following:

20 “(A) the student’s parents—

21 “(i) file, or are eligible to file, a form
22 described in subsection (b)(3);

23 “(ii) certify that the parents are not
24 required to file a Federal income tax return;

25 or

1 “(iii) received, or the student received,
2 benefits at some time during the previous
3 12-month period under a means-tested Fed-
4 eral benefit program as defined under sub-
5 section (d); and”;

6 (ii) by striking subparagraph (B) and
7 inserting the following:

8 “(B) the sum of the adjusted gross income
9 of the parents is less than or equal to \$20,000;
10 or”;

11 (B) in paragraph (2)—

12 (i) by striking subparagraph (A) and
13 inserting the following:

14 “(A) the student (and the student’s spouse,
15 if any)—

16 “(i) files, or is eligible to file, a form
17 described in subsection (b)(3);

18 “(ii) certifies that the student (and the
19 student’s spouse, if any) is not required to
20 file a Federal income tax return; or

21 “(iii) received benefits at some time
22 during the previous 12-month period under
23 a means-tested Federal benefit program as
24 defined under subsection (d); and”;

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

3 “(B) the sum of the adjusted gross income
4 of the student and spouse (if appropriate) is less
5 than or equal to \$20,000.”; and

6 (3) by adding at the end the following:

7 “(d) *DEFINITION OF MEANS-TESTED FEDERAL BEN-*
8 *EFIT PROGRAM.—In this section, the term ‘means-tested*
9 *Federal benefit program’ means a mandatory spending pro-*
10 *gram of the Federal Government, other than a program*
11 *under this title, in which eligibility for the program’s bene-*
12 *fits, or the amount of such benefits, are determined on the*
13 *basis of income or resources of the individual or family seek-*
14 *ing the benefit, and may include such programs as—*

15 “(1) the supplemental security income program
16 under title XVI of the Social Security Act (42 U.S.C.
17 1381 *et seq.*);

18 “(2) the food stamp program under the Food
19 Stamp Act of 1977 (7 U.S.C. 2011 *et seq.*);

20 “(3) the free and reduced price school lunch pro-
21 gram established under the Richard B. Russell Na-
22 tional School Lunch Act (42 U.S.C. 1751 *et seq.*);

23 “(4) the program of block grants for States for
24 temporary assistance for needy families established

1 *under part A of title IV of the Social Security Act (42*
 2 *U.S.C. 601 et seq.);*

3 *“(5) the special supplemental nutrition program*
 4 *for women, infants, and children established by sec-*
 5 *tion 17 of the Child Nutrition Act of 1966 (42 U.S.C.*
 6 *1786); and*

7 *“(6) other programs identified by the Sec-*
 8 *retary.”.*

9 *(b) EVALUATION OF SIMPLIFIED NEEDS TEST.—*

10 *(1) ELIGIBILITY GUIDELINES.—The Secretary of*
 11 *Education shall regularly evaluate the impact of the*
 12 *eligibility guidelines in subsections (b)(1)(A)(i),*
 13 *(b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of*
 14 *the Higher Education Act of 1965 (20 U.S.C.*
 15 *1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and*
 16 *(c)(2)(A)).*

17 *(2) MEANS-TESTED FEDERAL BENEFIT PRO-*
 18 *GRAM.—For each 3-year period, the Secretary of Edu-*
 19 *cation shall evaluate the impact of including the re-*
 20 *ceipt of benefits by a student or parent under a*
 21 *means-tested Federal benefit program (as defined in*
 22 *section 479(d) of the Higher Education Act of 1965*
 23 *(20 U.S.C. 1087ss(d)) as a factor in determining eli-*
 24 *gibility under subsections (b) and (c) of section 479*

1 *of the Higher Education Act of 1965 (20 U.S.C.*
 2 *1087ss(b) and (c)).*

3 **SEC. 8019. ADDITIONAL NEED ANALYSIS AMENDMENTS.**

4 *(a) TREATING ACTIVE DUTY MEMBERS OF THE*
 5 *ARMED FORCES AS INDEPENDENT STUDENTS.—Section*
 6 *480(d)(3) (20 U.S.C. 1087vv(d)(3)) is amended by inserting*
 7 *before the semicolon at the end the following: “or is cur-*
 8 *rently serving on active duty in the Armed Forces for other*
 9 *than training purposes”.*

10 *(b) DEFINITION OF ASSETS.—Section 480(f)(1) (20*
 11 *U.S.C. 1087vv(f)(1)) is amended by inserting “qualified*
 12 *education benefits (except as provided in paragraph (3)),”*
 13 *after “tax shelters,”.*

14 *(c) TREATMENT OF FAMILY OWNERSHIP OF SMALL*
 15 *BUSINESSES.—Section 480(f)(2) (20 U.S.C. 1087vv(f)(2))*
 16 *is amended—*

17 *(1) in subparagraph (A), by striking “or”;*

18 *(2) in subparagraph (B), by striking the period*
 19 *at the end and inserting “; or”; and*

20 *(3) by adding at the end the following new sub-*
 21 *paragraph:*

22 *“(C) a small business with not more than 100*
 23 *full-time or full-time equivalent employees (or any*
 24 *part of such a small business) that is owned and con-*
 25 *trolled by the family.”.*

1 (d) *ADDITIONAL DEFINITIONS.*—Section 480(f) is fur-
2 *ther amended by adding at the end the following new para-*
3 *graphs:*

4 “(3) *A qualified education benefit shall not be consid-*
5 *ered an asset of a student for purposes of section 475.*

6 “(4) *In determining the value of assets in a determina-*
7 *tion of need under this title (other than for subpart 4 of*
8 *part A), the value of a qualified education benefit shall be—*

9 “(A) *the refund value of any tuition credits or*
10 *certificates purchased under a qualified education*
11 *benefit; and*

12 “(B) *in the case of a program in which contribu-*
13 *tions are made to an account that is established for*
14 *the purpose of meeting the qualified higher education*
15 *expenses of the designated beneficiary of the account,*
16 *the current balance of such account.*

17 “(5) *In this subsection:*

18 “(A) *The term ‘qualified education benefit’*
19 *means—*

20 “(i) *a qualified tuition program (as defined*
21 *in section 529(b)(1)(A) of the Internal Revenue*
22 *Code of 1986) or other prepaid tuition plan of-*
23 *fered by a State; and*

1 “(ii) a Coverdell education savings account
2 (as defined in section 530(b)(1) of the Internal
3 Revenue Code of 1986).

4 “(B) The term ‘qualified higher education ex-
5 penses’ has the meaning given the term in section
6 529(e) of the Internal Revenue Code of 1986.”.

7 (e) *DESIGNATED ASSISTANCE*.—Section 480(j) (20
8 U.S.C. 1087vv(j)) is amended—

9 (1) in the subsection heading, by striking “; TUI-
10 TION PREPAYMENT PLANS”;

11 (2) by striking paragraph (2);

12 (3) by redesignating paragraph (3) as para-
13 graph (2); and

14 (4) by adding at the end the following new para-
15 graph:

16 “(3) Notwithstanding paragraph (1) and section 472,
17 assistance not received under this title may be excluded
18 from both estimated financial assistance and cost of attend-
19 ance, if that assistance is provided by a State and is des-
20 ignated by such State to offset a specific component of the
21 cost of attendance. If that assistance is excluded from either
22 estimated financial assistance or cost of attendance, it shall
23 be excluded from both.”.

1 **SEC. 8020. GENERAL PROVISIONS.**

2 (a) *ACADEMIC YEAR.*—Paragraph (2) of section 481(a)
3 (20 U.S.C. 1088(a)) is amended to read as follows:

4 “(2)(A) For the purpose of any program under this
5 title, the term ‘academic year’ shall—

6 “(i) require a minimum of 30 weeks of instruc-
7 tional time for a course of study that measures its
8 program length in credit hours; or

9 “(ii) require a minimum of 26 weeks of instruc-
10 tional time for a course of study that measures its
11 program length in clock hours; and

12 “(iii) require an undergraduate course of study
13 to contain an amount of instructional time whereby
14 a full-time student is expected to complete at least—

15 “(I) 24 semester or trimester hours or 36
16 quarter credit hours in a course of study that
17 measures its program length in credit hours; or

18 “(II) 900 clock hours in a course of study
19 that measures its program length in clock hours.

20 “(B) The Secretary may reduce such minimum of 30
21 weeks to not less than 26 weeks for good cause, as deter-
22 mined by the Secretary on a case-by-case basis, in the case
23 of an institution of higher education that provides a 2-year
24 or 4-year program of instruction for which the institution
25 awards an associate or baccalaureate degree.”.

1 (b) *DISTANCE EDUCATION: ELIGIBLE PROGRAM.*—Sec-
2 tion 481(b) (20 U.S.C. 1088(b)) is amended by adding at
3 the end the following new paragraphs:

4 “(3) *An otherwise eligible program that is offered in*
5 *whole or in part through telecommunications is eligible for*
6 *the purposes of this title if the program is offered by an*
7 *institution, other than a foreign institution, that has been*
8 *evaluated and determined (before or after the date of enact-*
9 *ment of the Higher Education Reconciliation Act of 2005)*
10 *to have the capability to effectively deliver distance edu-*
11 *cation programs by an accrediting agency or association*
12 *that—*

13 “(A) *is recognized by the Secretary under sub-*
14 *part 2 of part H; and*

15 “(B) *has evaluation of distance education pro-*
16 *grams within the scope of its recognition, as described*
17 *in section 496(n)(3).*

18 “(4) *For purposes of this title, the term ‘eligible pro-*
19 *gram’ includes an instructional program that, in lieu of*
20 *credit hours or clock hours as the measure of student learn-*
21 *ing, utilizes direct assessment of student learning, or recog-*
22 *nizes the direct assessment of student learning by others,*
23 *if such assessment is consistent with the accreditation of*
24 *the institution or program utilizing the results of the assess-*
25 *ment. In the case of a program being determined eligible*

1 *for the first time under this paragraph, such determination*
 2 *shall be made by the Secretary before such program is con-*
 3 *sidered to be an eligible program.”.*

4 *(c) CORRESPONDENCE COURSES.—Section 484(l)(1)*
 5 *(20 U.S.C. 1091(l)(1)) is amended—*

6 *(1) in subparagraph (A)—*

7 *(A) by striking “for a program of study of*
 8 *1 year or longer”; and*

9 *(B) by striking “unless the total” and all*
 10 *that follows through “courses at the institution”;*
 11 *and*

12 *(2) by amending subparagraph (B) to read as*
 13 *follows:*

14 *“(B) EXCEPTION.—Subparagraph (A) shall*
 15 *not apply to an institution or school described in*
 16 *section 3(3)(C) of the Carl D. Perkins Vocational*
 17 *and Technical Education Act of 1998.”.*

18 **SEC. 8021. STUDENT ELIGIBILITY.**

19 *(a) FRAUD: REPAYMENT REQUIRED.—Section 484(a)*
 20 *(20 U.S.C. 1091(a)) is amended—*

21 *(1) by striking the period at the end of para-*
 22 *graph (5) and inserting “; and”; and*

23 *(2) by adding at the end the following new para-*
 24 *graph:*

1 “(6) if the student has been convicted of, or has
2 pled *nolo contendere* or guilty to, a crime involving
3 fraud in obtaining funds under this title, have com-
4 pleted the repayment of such funds to the Secretary,
5 or to the holder in the case of a loan under this title
6 obtained by fraud.”.

7 (b) *VERIFICATION OF INCOME DATE.*—Paragraph (1)
8 of section 484(q) (20 U.S.C. 1091(q)) is amended to read
9 as follows:

10 “(1) *CONFIRMATION WITH IRS.*—The Secretary
11 of Education, in cooperation with the Secretary of the
12 Treasury, is authorized to confirm with the Internal
13 Revenue Service the information specified in section
14 6103(l)(13) of the Internal Revenue Code of 1986 re-
15 ported by applicants (including parents) under this
16 title on their Federal income tax returns for the pur-
17 pose of verifying the information reported by appli-
18 cants on student financial aid applications.”.

19 (c) *SUSPENSION OF ELIGIBILITY FOR DRUG OF-*
20 *FENSES.*—Section 484(r)(1) (20 U.S.C. 1091(r)(1)) is
21 amended by striking everything preceding the table and in-
22 serting the following:

23 “(1) *IN GENERAL.*—A student who is convicted
24 of any offense under any Federal or State law involv-
25 ing the possession or sale of a controlled substance for

1 *conduct that occurred during a period of enrollment*
 2 *for which the student was receiving any grant, loan,*
 3 *or work assistance under this title shall not be eligible*
 4 *to receive any grant, loan, or work assistance under*
 5 *this title from the date of that conviction for the pe-*
 6 *riod of time specified in the following table.”.*

7 **SEC. 8022. INSTITUTIONAL REFUNDS.**

8 *Section 484B (20 U.S.C. 1091b) is amended—*

9 *(1) in the matter preceding clause (i) of sub-*
 10 *section (a)(2)(A), by striking “a leave of” and insert-*
 11 *ing “1 or more leaves of”;*

12 *(2) in subsection (a)(3)(B)(ii), by inserting “(as*
 13 *determined in accordance with subsection (d))” after*
 14 *“student has completed”;*

15 *(3) in subsection (a)(3)(C)(i), by striking “grant*
 16 *or loan assistance under this title” and inserting*
 17 *“grant assistance under subparts 1 and 3 of part A,*
 18 *or loan assistance under parts B, D, and E,”;*

19 *(4) in subsection (a)(4), by amending subpara-*
 20 *graph (A) to read as follows:*

21 *“(A) IN GENERAL.—After determining the*
 22 *eligibility of the student for a late disbursement*
 23 *or post-withdrawal disbursement (as required in*
 24 *regulations prescribed by the Secretary), the in-*
 25 *stitution of higher education shall contact the*

1 *borrower and obtain confirmation that the loan*
 2 *funds are still required by the borrower. In mak-*
 3 *ing such contact, the institution shall explain to*
 4 *the borrower the borrower's obligation to repay*
 5 *the funds following any such disbursement. The*
 6 *institution shall document in the borrower's file*
 7 *the result of such contact and the final deter-*
 8 *mination made concerning such disbursement.”;*

9 *(5) in subsection (b)(1), by inserting “not later*
 10 *than 45 days from the determination of withdrawal”*
 11 *after “return”;*

12 *(6) in subsection (b)(2), by amending subpara-*
 13 *graph (C) to read as follows:*

14 *“(C) GRANT OVERPAYMENT REQUIRE-*
 15 *MENTS.—*

16 *“(i) IN GENERAL.—Notwithstanding*
 17 *subparagraphs (A) and (B), a student shall*
 18 *only be required to return grant assistance*
 19 *in the amount (if any) by which—*

20 *“(I) the amount to be returned by*
 21 *the student (as determined under sub-*
 22 *paragraphs (A) and (B)), exceeds*

23 *“(II) 50 percent of the total grant*
 24 *assistance received by the student*

1 *under this title for the payment period*
 2 *or period of enrollment.*

3 “(ii) *MINIMUM.—A student shall not*
 4 *be required to return amounts of \$50 or*
 5 *less.”;*

6 (7) *in subsection (d), by striking “(a)(3)(B)(i)”*
 7 *and inserting “(a)(3)(B)”;* and

8 (8) *in subsection (d)(2), by striking “clock*
 9 *hours—” and all that follows through the period and*
 10 *inserting “clock hours scheduled to be completed by*
 11 *the student in that period as of the day the student*
 12 *withdrew.”.*

13 **SEC. 8023. COLLEGE ACCESS INITIATIVE.**

14 *Part G is further amended by inserting after section*
 15 *485C (20 U.S.C. 1092c) the following new section:*

16 **“SEC. 485D. COLLEGE ACCESS INITIATIVE.**

17 “(a) *STATE-BY-STATE INFORMATION.—The Secretary*
 18 *shall direct each guaranty agency with which the Secretary*
 19 *has an agreement under section 428(c) to provide to the*
 20 *Secretary the information necessary for the development of*
 21 *Internet web links and access for students and families to*
 22 *a comprehensive listing of the postsecondary education op-*
 23 *portunities, programs, publications, Internet web sites, and*
 24 *other services available in the States for which such agency*
 25 *serves as the designated guarantor.*

1 “(b) *GUARANTY AGENCY ACTIVITIES.*—

2 “(1) *PLAN AND ACTIVITY REQUIRED.*—*Each*
3 *guaranty agency with which the Secretary has an*
4 *agreement under section 428(c) shall develop a plan,*
5 *and undertake the activity necessary, to gather the in-*
6 *formation required under subsection (a) and to make*
7 *such information available to the public and to the*
8 *Secretary in a form and manner as prescribed by the*
9 *Secretary.*

10 “(2) *ACTIVITIES.*—*Each guaranty agency shall*
11 *undertake such activities as are necessary to promote*
12 *access to postsecondary education for students through*
13 *providing information on college planning, career*
14 *preparation, and paying for college. The guaranty*
15 *agency shall publicize such information and coordi-*
16 *nate such activities with other entities that either pro-*
17 *vide or distribute such information in the States for*
18 *which such guaranty agency serves as the designated*
19 *guarantor.*

20 “(3) *FUNDING.*—*The activities required by this*
21 *section may be funded from the guaranty agency’s*
22 *Operating Fund established pursuant to section 422B*
23 *and, to the extent funds remain, from earnings on the*
24 *restricted account established pursuant to section*
25 *422(h)(4).*

1 “(4) *RULE OF CONSTRUCTION.*—*Nothing in this*
2 *subsection shall be construed to require a guaranty*
3 *agency to duplicate any efforts under way on the date*
4 *of enactment of the Higher Education Reconciliation*
5 *Act of 2005 that meet the requirements of this section.*

6 “(c) *ACCESS TO INFORMATION.*—

7 “(1) *SECRETARY’S RESPONSIBILITY.*—*The Sec-*
8 *retary shall ensure the availability of the information*
9 *provided, by the guaranty agencies in accordance*
10 *with this section, to students, parents, and other in-*
11 *terested individuals, through Internet web links or*
12 *other methods prescribed by the Secretary.*

13 “(2) *GUARANTY AGENCY RESPONSIBILITY.*—*The*
14 *guaranty agencies shall ensure that the information*
15 *required by this section is available without charge in*
16 *printed format for students and parents requesting*
17 *such information.*

18 “(3) *PUBLICITY.*—*Not later than 270 days after*
19 *the date of enactment of the Higher Education Rec-*
20 *onciliation Act of 2005, the Secretary and guaranty*
21 *agencies shall publicize the availability of the infor-*
22 *mation required by this section, with special empha-*
23 *sis on ensuring that populations that are tradition-*
24 *ally underrepresented in postsecondary education are*
25 *made aware of the availability of such information.”.*

1 **SEC. 8024. WAGE GARNISHMENT REQUIREMENT.**

2 *Section 488A(a)(1) (20 U.S.C. 1095a(a)(1)) is amend-*
 3 *ed by striking “10 percent” and inserting “15 percent”.*

4 ***Subtitle B—Pensions***

5 **SEC. 8201. INCREASES IN PBGC PREMIUMS.**

6 *(a) FLAT-RATE PREMIUMS.—*

7 *(1) SINGLE-EMPLOYER PLANS.—*

8 *(A) IN GENERAL.—Clause (i) of section*
 9 *4006(a)(3)(A) of the Employee Retirement In-*
 10 *come Security Act of 1974 (29 U.S.C.*
 11 *1306(a)(3)(A)) is amended by striking “\$19”*
 12 *and inserting “\$30”.*

13 *(B) ADJUSTMENT FOR INFLATION.—Section*
 14 *4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)) is*
 15 *amended by adding at the end the following new*
 16 *subparagraph:*

17 *“(F) For each plan year beginning in a calendar year*
 18 *after 2006, there shall be substituted for the premium rate*
 19 *specified in clause (i) of subparagraph (A) an amount equal*
 20 *to the greater of—*

21 *“(i) the product derived by multiplying the pre-*
 22 *mium rate specified in clause (i) of subparagraph (A)*
 23 *by the ratio of—*

24 *“(I) the national average wage index (as de-*
 25 *fined in section 209(k)(1) of the Social Security*
 26 *Act) for the first of the 2 calendar years pre-*

1 ceding the calendar year in which such plan
2 year begins, to

3 “(II) the national average wage index (as so
4 defined) for 2004; and

5 “(ii) the premium rate in effect under clause (i)
6 of subparagraph (A) for plan years beginning in the
7 preceding calendar year.

8 *If the amount determined under this subparagraph is not*
9 *a multiple of \$1, such product shall be rounded to the near-*
10 *est multiple of \$1.”.*

11 (2) *MULTIEMPLOYER PLANS.—*

12 (A) *IN GENERAL.—Section 4006(a)(3)(A) of*
13 *such Act (29 U.S.C. 1306(a)(3)(A)) is*
14 *amended—*

15 (i) *in clause (iii)—*

16 (I) *by inserting “and before Janu-*
17 *ary 1, 2006,” after “Act of 1980,”; and*

18 (II) *by striking the period at the*
19 *end and inserting “, or”; and*

20 (ii) *by adding at the end the following:*

21 “(iv) *in the case of a multiemployer plan, for*
22 *plan years beginning after December 31, 2005, \$8.00*
23 *for each individual who is a participant in such plan*
24 *during the applicable plan year.”.*

1 (B) *ADJUSTMENT FOR INFLATION.*—Section
 2 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)),
 3 as amended by this subsection, is amended by
 4 adding at the end the following new subpara-
 5 graph:

6 “(G) For each plan year beginning in a calendar year
 7 after 2006, there shall be substituted for the premium rate
 8 specified in clause (iv) of subparagraph (A) an amount
 9 equal to the greater of—

10 “(i) the product derived by multiplying the pre-
 11 mium rate specified in clause (iv) of subparagraph
 12 (A) by the ratio of—

13 “(I) the national average wage index (as de-
 14 fined in section 209(k)(1) of the Social Security
 15 Act) for the first of the 2 calendar years pre-
 16 ceding the calendar year in which such plan
 17 year begins, to

18 “(II) the national average wage index (as so
 19 defined) for 2004; and

20 “(ii) the premium rate in effect under clause (iv)
 21 of subparagraph (A) for plan years beginning in the
 22 preceding calendar year.

23 If the amount determined under this subparagraph is not
 24 a multiple of \$1, such product shall be rounded to the near-
 25 est multiple of \$1.”.

1 **(b) PREMIUM RATE FOR CERTAIN TERMINATED SIN-**
 2 **GLE-EMPLOYER PLANS.**—*Subsection (a) of section 4006 of*
 3 *such Act (29 U.S.C. 1306) is amended by adding at the*
 4 *end the following:*

5 **“(7) PREMIUM RATE FOR CERTAIN TERMINATED SIN-**
 6 **GLE-EMPLOYER PLANS.**—

7 **“(A) IN GENERAL.**—*If there is a termination of*
 8 *a single-employer plan under clause (ii) or (iii) of*
 9 *section 4041(c)(2)(B) or section 4042, there shall be*
 10 *payable to the corporation, with respect to each appli-*
 11 *cable 12-month period, a premium at a rate equal to*
 12 *\$1,250 multiplied by the number of individuals who*
 13 *were participants in the plan immediately before the*
 14 *termination date. Such premium shall be in addition*
 15 *to any other premium under this section.*

16 **“(B) SPECIAL RULE FOR PLANS TERMINATED IN**
 17 **BANKRUPTCY REORGANIZATION.**—*In the case of a sin-*
 18 *gle-employer plan terminated under section*
 19 *4041(c)(2)(B)(ii) or under section 4042 during pend-*
 20 *ency of any bankruptcy reorganization proceeding*
 21 *under chapter 11 of title 11, United States Code, or*
 22 *under any similar law of a State or a political sub-*
 23 *division of a State (or a case described in section*
 24 *4041(c)(2)(B)(i) filed by or against such person has*
 25 *been converted, as of such date, to such a case in*

1 *which reorganization is sought), subparagraph (A)*
2 *shall not apply to such plan until the date of the dis-*
3 *charge or dismissal of such person in such case.*

4 “(C) *APPLICABLE 12-MONTH PERIOD.*—*For pur-*
5 *poses of subparagraph (A)—*

6 “(i) *IN GENERAL.*—*The term ‘applicable 12-*
7 *month period’ means—*

8 “(I) *the 12-month period beginning*
9 *with the first month following the month in*
10 *which the termination date occurs, and*

11 “(II) *each of the first two 12-month pe-*
12 *riods immediately following the period de-*
13 *scribed in subclause (I).*

14 “(i) *PLANS TERMINATED IN BANKRUPTCY*
15 *REORGANIZATION.*—*In any case in which the re-*
16 *quirements of subparagraph (B)(i)(I) are met in*
17 *connection with the termination of the plan with*
18 *respect to 1 or more persons described in such*
19 *subparagraph, the 12-month period described in*
20 *clause (i)(I) shall be the 12-month period begin-*
21 *ning with the first month following the month*
22 *which includes the earliest date as of which each*
23 *such person is discharged or dismissed in the*
24 *case described in such clause in connection with*
25 *such person.*

1 “(D) *COORDINATION WITH SECTION 4007.*—

2 “(i) *Notwithstanding section 4007—*

3 “(I) *premiums under this paragraph*
4 *shall be due within 30 days after the begin-*
5 *ning of any applicable 12-month period,*
6 *and*

7 “(II) *the designated payor shall be the*
8 *person who is the contributing sponsor as of*
9 *immediately before the termination date.*

10 “(ii) *The fifth sentence of section 4007(a)*
11 *shall not apply in connection with premiums de-*
12 *termined under this paragraph.*

13 “(E) *TERMINATION.*—*Subparagraph (A) shall*
14 *not apply with respect to any plan terminated after*
15 *December 31, 2010.”.*

16 (c) *CONFORMING AMENDMENT.*—*Section*
17 *4006(a)(3)(B) of such Act (29 U.S.C. 1306(a)(3)(B)) is*
18 *amended by striking “subparagraph (A)(iii)” and inserting*
19 *“clause (iii) or (iv) of subparagraph (A)”.*

20 (d) *EFFECTIVE DATES.*—

21 (1) *IN GENERAL.*—*Except as otherwise provided*
22 *in this subsection, the amendments made by this sec-*
23 *tion shall apply to plan years beginning after Decem-*
24 *ber 31, 2005.*

1 (2) *PREMIUM RATE FOR CERTAIN TERMINATED*
 2 *SINGLE-EMPLOYER PLANS.*—

3 (A) *IN GENERAL.*—*Except as provided in*
 4 *subparagraph (B), the amendment made by sub-*
 5 *section (b) shall apply to plans terminated after*
 6 *December 31, 2005.*

7 (B) *SPECIAL RULE FOR PLANS TERMINATED*
 8 *IN BANKRUPTCY.*—*The amendment made by sub-*
 9 *section (b) shall not apply to a termination of*
 10 *a single-employer plan that is terminated during*
 11 *the pendency of any bankruptcy reorganization*
 12 *proceeding under chapter 11 of title 11, United*
 13 *States Code (or under any similar law of a State*
 14 *or political subdivision of a State), if the pro-*
 15 *ceeding is pursuant to a bankruptcy filing occur-*
 16 *ring before October 18, 2005.*

17 ***TITLE IX—LIHEAP PROVISIONS***

18 ***SEC. 9001. FUNDING AVAILABILITY.***

19 (a) *IN GENERAL.*—*In addition to amounts otherwise*
 20 *made available, there are appropriated, out of any money*
 21 *in the Treasury not otherwise appropriated, to the Sec-*
 22 *retary of Health and Human Services for a 1-time only*
 23 *obligation and expenditure—*

24 (1) *\$250,000,000 for fiscal year 2007 for alloca-*
 25 *tion under section 2604(a) through (d) of the Low-In-*

1 *come Home Energy Assistance Act of 1981 (42 U.S.C.*
 2 *8623(a) through (d)); and*

3 *(2) \$750,000,000 for fiscal year 2007 for alloca-*
 4 *tion under section 2604(e) of the Low-Income Home*
 5 *Energy Assistance Act of 1981 (42 U.S.C. 8623(e)).*

6 *(b) SUNSET.—The provisions of this section shall ter-*
 7 *minate, be null and void, and have no force and effect what-*
 8 *soever after September 30, 2007. No monies provided for*
 9 *under this section shall be available after such date.*

10 ***TITLE X—JUDICIARY RELATED***
 11 ***PROVISIONS***

12 ***Subtitle A—Civil Filing***
 13 ***Adjustments***

14 ***SEC. 10001. CIVIL CASE FILING FEE INCREASES.***

15 *(a) CIVIL ACTIONS FILED IN DISTRICT COURTS.—Sec-*
 16 *tion 1914(a) of title 28, United States Code, is amended*
 17 *by striking “\$250” and inserting “\$350”.*

18 *(b) APPEALS FILED IN COURTS OF APPEALS.—The*
 19 *\$250 fee for docketing a case on appeal or review, or dock-*
 20 *eting any other proceeding, in a court of appeals, as pre-*
 21 *scribed by the Judicial Conference, effective as of January*
 22 *1, 2005, under section 1913 of title 28, United States Code,*
 23 *shall be increased to \$450.*

24 *(c) EXPENDITURE LIMITATION.—Incremental amounts*
 25 *collected by reason of the enactment of this section shall be*

1 deposited in a special fund in the Treasury to be established
 2 after the enactment of this Act. Such amounts shall be
 3 available for the purposes specified in section 1931(a) of
 4 title 28, United States Code, but only to the extent specifi-
 5 cally appropriated by an Act of Congress enacted after the
 6 enactment of this Act.

7 (d) *EFFECTIVE DATE.*—This section and the amend-
 8 ment made by this section shall take effect 60 days after
 9 the date of the enactment of this Act.

10 **Subtitle B—Bankruptcy Fees**

11 **SEC. 11101. BANKRUPTCY FEES.**

12 (a) *BANKRUPTCY FILING FEES.*—Section 1930(a) of
 13 title 28, United States Code, is amended—

14 (1) in paragraph (1)—

15 (A) in subparagraph (A) by striking
 16 “\$220” and inserting “\$245”; and

17 (B) in subparagraph (B) by striking
 18 “\$150” and inserting “\$235”; and

19 (2) in paragraph (2) by striking “\$1,000” and
 20 inserting “\$2,750”.

21 (b) *EXPENDITURE LIMITATION.*—Incremental
 22 amounts collected by reason of the amendments made by
 23 subsection (a) shall be deposited in a special fund in the
 24 Treasury to be established after the enactment of this Act.
 25 Such amounts shall be available for the purposes specified

1 *in section 1931(a) of title 28, United States Code, but only*
2 *to the extent specifically appropriated by an Act of Congress*
3 *enacted after the enactment of this Act.*

4 *(c) EFFECTIVE DATE.—This section and the amend-*
5 *ments made by this section shall take effect 60 days after*
6 *the date of the enactment of this Act.*

Attest:

Secretary.

109TH CONGRESS
1ST SESSION

S. 1932

**SENATE AMENDMENT TO
HOUSE AMENDMENT**