

108TH CONGRESS  
2D SESSION

# S. 2526

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

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IN THE SENATE OF THE UNITED STATES

JUNE 16, 2004

Mr. BOND (for himself, Mr. KENNEDY, Mr. DEWINE, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Children's Hospitals  
5 Educational Equity and Research Act" or the "CHEER  
6 Act".

1 **SEC. 2. REAUTHORIZATION OF CHILDREN'S HOSPITALS**  
2 **GRADUATE MEDICAL EDUCATION PROGRAM.**

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

6 (b) DESCRIPTION OF AMOUNT OF PAYMENTS.—Sec-  
7 tion 340E(b) of the Public Health Service Act (42 U.S.C.  
8 256e(b)) is amended—

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

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

15 (c) DIRECT GRADUATE MEDICAL EDUCATION.—Sec-  
16 tion 340E(c) of the Public Health Service Act (42 U.S.C.  
17 245e(c)) is amended—

18 (1) in paragraph (1)—

19 (A) in the matter preceding subparagraph  
20 (A), by striking “product” and inserting  
21 “sum”;

22 (B) in subparagraph (A), by striking “(A)  
23 the updated per resident” and inserting the fol-  
24 lowing:

25 “(A) the product of—

26 “(i) the updated per resident”.

1 (C) by redesignating subparagraph (B) as  
2 clause (ii) and indenting appropriately;

3 (D) in subparagraph (A)(ii) (as so redesign-  
4 nated)—

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

9 (ii) by striking the period and insert-  
10 ing “; and”; and

11 (E) by inserting after subparagraph (A)  
12 the following:

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

21 (2) in paragraph (2)(B), by inserting before the  
22 period at the end “, without giving effect to section  
23 1886(d)(3)(E)(ii) of the Social Security Act”.

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

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

6 (2) in paragraph (2)(A)—

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

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

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

15 (1) in paragraph (2), by striking the first sen-  
16 tence;

17 (2) in paragraph (3)—

18 (A) by striking “made to pay” and insert-  
19 ing “made and pay”; and

20 (B) by striking “to the extent possible”  
21 and all that follows through the end of the  
22 paragraph and inserting the following: “. To  
23 the greatest extent possible, amounts recouped  
24 from a hospital are to be distributed to other  
25 hospitals in the same fiscal year. Amounts re-

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

9           (3) by adding at the end the following:

10          “(4) APPEALS.—

11                 “(A) IN GENERAL.—A decision affecting  
12           the amount payable to a hospital pursuant to  
13           this section shall—

14                         “(i) be subject to review under section  
15                         1878 of the Social Security Act in the  
16                         same manner as a final determination of a  
17                         fiscal intermediary of the amount of pay-  
18                         ment under 1886(d) of such Act is subject  
19                         to review; and

20                         “(ii) be handled expeditiously so that  
21                         the review decision is reflected in the final  
22                         reconciliation for the year in which the ap-  
23                         peal is made.

24                 “(B) LIMITATION.—A review decision pur-  
25           suant to this section shall not affect payments

1 for a fiscal year prior to the fiscal year in which  
2 the review decision is rendered.

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

16 (f) AUTHORIZATION OF APPROPRIATIONS.—Section  
17 340E(f) of the Public Health Service Act (42 U.S.C.  
18 256e(f)) is amended—

19 (1) in paragraph (1)—

20 (A) in subparagraph (A)—

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

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

24 and

1 (iii) by adding at the end the fol-  
2 lowing:

3 “(iv) for fiscal year 2006,  
4 \$110,000,000; and

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

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

16 (2) in paragraph (2)—

17 (A) by redesignating subparagraphs (A),  
18 (B), and (C) as clauses (i), (ii), and (iii), re-  
19 spectively, and indenting appropriately;

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

22 “(A) IN GENERAL.—There are author-  
23 ized”;

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

1 (D) in clause (iii) (as redesignated by this  
2 paragraph), by striking the period at the end  
3 and inserting a semicolon;

4 (E) by adding at the end of subparagraph  
5 (A) (as designated by this paragraph), the fol-  
6 lowing:

7 “(iv) for fiscal year 2006,  
8 \$220,000,000; and

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

14 (F) at the end of paragraph (2), by adding  
15 the following:

16 “(B) CARRYOVER OF EXCESS.—To the ex-  
17 tent that amounts are not expended in the year  
18 for which they are appropriated, the amounts  
19 appropriated under subparagraph (A) for fiscal  
20 year 2006 and each subsequent fiscal year shall  
21 remain available for obligation through the end  
22 of the following fiscal year.”.

23 (g) DEFINITIONS.—Section 340E(g)(3) of the Public  
24 Health Service Act (42 U.S.C. 256e(g)(3)) is amended by

1 striking “has” and all that follows through the end of the  
2 sentence and inserting the following: “includes—

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

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

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