

110TH CONGRESS
1ST SESSION

S. 1342

To improve the health of Americans and reduce health care costs by reorienting the Nation's health care system toward prevention, wellness, and self care.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2007

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To improve the health of Americans and reduce health care costs by reorienting the Nation's health care system toward prevention, wellness, and self care.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Healthy Lifestyles and Prevention America Act” or the
6 “HeLP America Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—CHILDHOOD OBESITY

Sec. 101. Federal Task Force on Childhood Obesity.

TITLE II—HEALTHIER KIDS AND SCHOOLS

- Sec. 201. Fresh fruit and vegetable program.
 Sec. 202. Food of minimal nutritional value.
 Sec. 203. School nutrition environment enhancement grants.
 Sec. 204. Baby friendly hospital-center for breastfeeding excellence.
 Sec. 205. Intervention to strengthen families and build children's resilience.
 Sec. 206. Grants for the integration of schools and mental health systems.
 Sec. 207. Grants for the promotion of university-community partnerships to increase youth competencies and reduce youth problem behaviors in communities.
 Sec. 208. Reservations for Early Head Start programs.

TITLE III—HEALTHIER COMMUNITIES AND WORKPLACES

Subtitle A—Incentives for a Healthy Workforce

- Sec. 301. Short title.
 Sec. 302. Tax credit to employers for costs of implementing wellness programs.
 Sec. 303. CDC and employer-based wellness programs.
 Sec. 304. Employer-provided off-premises health club services.

Subtitle B—Healthy Communities

CHAPTER 1—PROVISIONS TO IMPROVE THE HEALTH OF COMMUNITIES

- Sec. 311. Healthy community grants.
 Sec. 312. Promoting the health and wellness of individuals with disabilities through community sports programs.
 Sec. 313. Safe and complete streets.
 Sec. 314. National assessment of mental health needs.
 Sec. 315. Preventive medicine and public health training grant program.
 Sec. 316. Task force for the Promotion of Breastfeeding in the Workplace.
 Sec. 317. Lactation accommodation and breastfeeding promotion at work.

CHAPTER 2—PROMOTING LIFELONG ACTIVE COMMUNITIES

- Sec. 321. Short title.
 Sec. 322. Purpose.
 Sec. 323. Definition of Secretary.

SUBCHAPTER A—NATIONAL PROGRAM PROMOTING LIFELONG ACTIVE COMMUNITIES

- Sec. 331. Development of community play index.
 Sec. 332. Sense of the Senate regarding funding.

SUBCHAPTER B—MODEL COMMUNITIES OF PLAY IMPLEMENTATION GRANTS

- Sec. 341. Model communities of play implementation grants.

TITLE IV—RESPONSIBLE MARKETING AND CONSUMER AWARENESS

Subtitle A—General Provisions

- Sec. 401. Nutrition labeling of restaurant foods.
- Sec. 402. Rulemaking authority for advertising to children.
- Sec. 403. Food advertising in schools.
- Sec. 404. Disallowance of deductions for advertising and marketing expenses relating to tobacco product use.
- Sec. 405. Federal-state tobacco counter-advertising programs.

Subtitle B—Penalties for Failure to Reduce Teen Smoking

- Sec. 411. Child cigarette use surveys.
- Sec. 412. Cigarette use reduction goal and noncompliance.
- Sec. 413. Enforcement.

Subtitle C—Food Guidance

- Sec. 421. Front-label food guidance systems.

TITLE V—REIMBURSEMENT AND COVERAGE OF PREVENTIVE SERVICES

- Sec. 501. Coverage of substance use (other than tobacco), diet, exercise, injury prevention, and dental health counseling.
- Sec. 502. Medicare coverage of medical nutrition therapy services for people with pre-diabetes.
- Sec. 503. Preventive mental health screenings.
- Sec. 504. Encouragement of cessation of tobacco use.
- Sec. 505. Recognition of school-based health centers as model for delivery of primary care for children under the medicaid and State children's health insurance programs.
- Sec. 506. Preventive health care demonstration program.
- Sec. 507. Preventive health services for women.
- Sec. 508. Promoting cessation of tobacco use by pregnant women under the medicaid program.

TITLE VI—HELP (HEALTHY LIFESTYLES AND PREVENTION) AMERICA TRUST FUND

- Sec. 601. HELP (Healthy Lifestyles and Prevention) America Trust Fund.

TITLE VII—RESEARCH

- Sec. 701. Expansion of research regarding obesity.
- Sec. 702. Incorporation of physical activity into Federal programs.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

- 3** (1) Health care costs in the United States are
- 4** rising rapidly. Per capita health spending in the
- 5** United States is 56 percent higher than the median

1 country that is a member of the Organization for
2 Economic Cooperation and Development.

3 (2) According to the Centers for Medicare and
4 Medicaid Services, total health care spending in the
5 United States in 2004 was \$1,800,000,000,000 and
6 is expected to rise to \$3,600,000,000,000 by 2014.
7 Furthermore, chronic disease accounts for approxi-
8 mately 75 percent of health care costs annually.

9 (3) The United States spends less than 2 per-
10 cent of annual health care expenditures on preven-
11 tion

12 (4) Reducing and preventing the incidence of
13 chronic disease is one means by which to reduce
14 health care costs in the United States.

15 (5) More than 1,700,000 Americans die of a
16 chronic disease each year, accounting for nearly 70
17 percent of all deaths in the United States.

18 (6) The economic impact of chronic disease can
19 be seen in the annual costs associated with cardio-
20 vascular disease and stroke (\$352,000,000,000),
21 obesity (\$117,000,000,000), cancer
22 (\$171,600,000,000), and diabetes
23 (\$132,000,000,000).

1 (7) Obesity related health conditions cost em-
2 ployers nearly \$13,000,000,000 in health care and
3 other indirect costs.

4 (8) Health promotion investments by employers
5 on average yield a return of \$3 for every \$1 invested
6 in a program.

7 (9) Being overweight or obese increase the risk
8 of diabetes, heart disease, stroke, several types of
9 cancer and other health problems.

10 (10) An estimated 65 percent of adults and 15
11 percent of children and adolescents in the United
12 States are overweight or obese.

13 (11) The rates of obesity have doubled in chil-
14 dren and tripled in teens since the 1980's.

15 (12) Almost 40 percent of Americans are sed-
16 entary. More than $\frac{1}{3}$ of young people in grades 9
17 through 12 do not regularly engage in vigorous-in-
18 tensity physical activity.

19 (13) Only 1 in 5 young people eat the rec-
20 ommended 5 daily servings of fruits and vegetables.

21 (14) Food and beverage advertisers collectively
22 spend \$10,000,000,000 to \$12,000,000,000 a year
23 to reach children and youth.

1 (15) Between 1977 and 1995, trips made by
2 walking declined by 40 percent for adults while driv-
3 ing trips increased to almost 90 percent of the total.

4 (16) Virtually all-new users of tobacco products
5 are under the minimum legal age to purchase such
6 products. Every day in America, more than 4,000
7 kids try their first cigarette. Another 2,000 children
8 become new daily smokers.

9 (17) In 2002, nearly a quarter of American
10 adults, 46,000,000 people, smoked cigarettes, includ-
11 ing almost 40 percent of college-aged students.

12 (18) Research consistently shows that smoking
13 cessation services offered as a combination of to-
14 bacco medication therapy and counseling can be one
15 of the most cost-effective health interventions and
16 can reduce smoking-related health care costs.

17 (19) Physical and mental health are inter-
18 connected. Physical conditions often result in mental
19 health complications and depression can manifest
20 itself through physical symptoms.

21 (20) The Surgeon General reported that mental
22 disorders collectively account for over 15 percent of
23 the overall burden of disease from all causes, slightly
24 more than the burden associated with all forms of
25 cancer.

1 (21) One of every 2 people who need mental
2 health treatment in the United States does not re-
3 ceive it. Of children and adolescents 6 to 17 years
4 old who need mental health services, nearly 80 per-
5 cent do not receive it.

6 (22) Early screening and prevention programs
7 in the schools can detect high risk children that are
8 vulnerable to developing mental illness and assist in
9 accessing appropriate services.

10 (23) Children are at greater risk for mental
11 health problems when they experience stressful fam-
12 ily circumstances such as social or economic dis-
13 advantage, severe marital discord, divorce, family vi-
14 olence, parental substance abuse or other mental dis-
15 order or physical illness, and parental absence due
16 to military service, imprisonment, or death.

17 (24) The 2003 President's New Freedom Com-
18 mission on Mental Health urged a transformation of
19 the approach to mental health in the United States,
20 including improving the mental health of children
21 and promoting resilience and prevention.

22 (25) People with disabilities report substantial
23 disparities in health compared with people without
24 disabilities. These disparities are caused by a num-
25 ber of factors, including less access to health care

1 than individuals without disabilities. People with dis-
2 abilities report more days of pain, depression, and
3 anxiety and they have higher rates of obesity.

4 (26) Evidence shows that health promotion pro-
5 grams with exercise, nutrition, and wellness compo-
6 nents targeting people with disabilities can signifi-
7 cantly reduce the incidence of these conditions and
8 lead to healthy outcomes for people with disabilities,
9 as well as save money by reducing the frequency of
10 medical visits.

11 **TITLE I—CHILDHOOD OBESITY**

12 **SEC. 101. FEDERAL TASK FORCE ON CHILDHOOD OBESITY.**

13 Part Q of title III of the Public Health Service Act
14 (42 U.S.C. 280h et seq.) is amended by adding at the end
15 the following:

16 **“SEC. 399Z-1. FEDERAL TASK FORCE ON CHILDHOOD OBE-** 17 **SITY.**

18 “(a) ESTABLISHMENT.—The Secretary shall convene
19 a Task Force on Childhood Obesity (referred to in this
20 section as the ‘Task Force’) to—

21 “(1) establish a government-wide strategy for
22 preventing and reducing childhood overweight and
23 obesity;

1 “(2) coordinate effective inter-agency coordina-
2 tion and priorities for action among Federal agen-
3 cies;

4 “(3) implement and evaluate the effectiveness
5 of such strategy; and

6 “(4) direct the Secretary to designate a respon-
7 sible agency to formally monitor and report, not
8 later than January 1, 2008, to Congress on the
9 progress of the various entities and activities related
10 to the recommendations included in the report of In-
11 stitute of Medicine entitled “Food Marketing to
12 Children and Youth”.

13 “(b) MEMBERSHIP.—

14 “(1) IN GENERAL.—The Task Force shall be
15 composed of employees of—

16 “(A) the Department of Health and
17 Human Services;

18 “(B) the Department of Agriculture;

19 “(C) the Department of Education;

20 “(D) the Federal Trade Commission;

21 “(E) the Department of Transportation;

22 and

23 “(F) any other Federal agency that the
24 Secretary determines appropriate.

1 “(2) CHAIRPERSON.—The chairperson of the
2 Task Force shall be—

3 “(A) an individual appointed by the Presi-
4 dent; and

5 “(B) until the date that an individual is
6 appointed under subparagraph (A), the Sec-
7 retary.

8 “(c) MEETINGS.—The Task Force shall meet at the
9 call of the chairperson.

10 “(d) REPORT.—Not later than January 1, 2008, and
11 on annual basis thereafter through January 1, 2013, the
12 Task Force shall submit to the President and to the rel-
13 evant committees of Congress, a report that—

14 “(1) describes the activities and efforts to pre-
15 vent and reduce childhood overweight and obesity
16 conducted by the Task Force during the year to
17 which the report relates; and

18 “(2) evaluates the effectiveness of such activi-
19 ties and efforts to prevent and reduce childhood
20 overweight and obesity.”.

1 **TITLE II—HEALTHIER KIDS AND**
2 **SCHOOLS**

3 **SEC. 201. FRESH FRUIT AND VEGETABLE PROGRAM.**

4 Section 18(g)(6)(B) of the Richard B. Russell Na-
5 tional School Lunch Act (42 U.S.C. 1769(g)(6)(B)) is
6 amended—

7 (1) by redesignating clause (ii) as clause (iv);

8 and

9 (2) by inserting after clause (i) the following:

10 “(ii) **ADDITIONAL MANDATORY FUND-**
11 **ING.**—Out of any funds in the Treasury
12 not otherwise appropriated, the Secretary
13 of the Treasury shall transfer to the Sec-
14 retary of Agriculture to carry out and ex-
15 pand the program under this subsection, to
16 remain available until expended—

17 “(I) on October 1, 2007,
18 \$1,000,000,000; and

19 “(II) on October 1, 2007, and on
20 each October 1 thereafter, the amount
21 made available for the previous fiscal
22 year, as adjusted under clause (iii).

23 “(iii) **ADJUSTMENT.**—On October 1,
24 2007, and on each October 1 thereafter of
25 a fiscal year the amount made available

1 under subclause (I) of clause (ii) shall be
 2 calculated by adjusting the amount made
 3 available for the previous fiscal year to re-
 4 flect changes in the Consumer Price Index
 5 of the Bureau of Labor Statistics for fresh
 6 fruits and vegetables, with the adjust-
 7 ment—

8 “(I) rounded down to the nearest
 9 dollar increment; and

10 “(II) based on the unrounded
 11 amounts for the preceding 12-month
 12 period.”.

13 **SEC. 202. FOOD OF MINIMAL NUTRITIONAL VALUE.**

14 Section 10 of the Child Nutrition Act of 1966 (42
 15 U.S.C. 1779) is amended—

16 (1) by striking the section heading and all that
 17 follows through “(a) The Secretary” and inserting
 18 the following:

19 **“SEC. 10. REGULATIONS.**

20 “(a) IN GENERAL.—The Secretary”; and

21 (2) by striking subsections (b) and (c) and in-
 22 serting the following:

23 “(b) FOOD OF MINIMAL NUTRITIONAL VALUE.—

24 “(1) PROPOSED REGULATIONS.—

1 “(A) IN GENERAL.—Not later than 180
2 days after the date of enactment of this para-
3 graph, the Secretary shall promulgate proposed
4 regulations to revise the definition of ‘food of
5 minimal nutritional value’ that is used to carry
6 out this Act and the Richard B. Russell Na-
7 tional School Lunch Act (42 U.S.C. 1751 et
8 seq.).

9 “(B) APPLICATION.—The revised defini-
10 tion of ‘food of minimal nutritional value’ shall
11 apply to all foods sold—

12 “(i) outside the school meal programs;

13 “(ii) on the school campus; and

14 “(iii) at any time during the school
15 day.

16 “(C) REQUIREMENTS.—In revising the
17 definition, the Secretary shall consider—

18 “(i) both the positive and negative
19 contributions of nutrients, ingredients, and
20 foods (including calories, portion size, satu-
21 rated fat, trans fat, sodium, and added
22 sugars) to the diets of children;

23 “(ii) evidence concerning the relation-
24 ship between consumption of certain nutri-
25 ents, ingredients, and foods to both pre-

1 venting and promoting the development of
2 overweight, obesity, and other chronic ill-
3 nesses;

4 “(iii) recommendations made by au-
5 thoritative scientific organizations con-
6 cerning appropriate nutritional standards
7 for foods sold outside of the reimbursable
8 meal programs in schools; and

9 “(iv) special exemptions for school-
10 sponsored fundraisers (other than fund-
11 raising through vending machines, school
12 stores, snack bars, a la carte sales, and
13 any other exclusions determined by the
14 Secretary), if the fundraisers are approved
15 by the school and are infrequent within the
16 school.

17 “(2) IMPLEMENTATION.—

18 “(A) EFFECTIVE DATE.—

19 “(i) IN GENERAL.—Except as pro-
20 vided in clause (ii), the proposed regula-
21 tions shall take effect at the beginning of
22 the school year following the date on which
23 the regulations are finalized.

24 “(ii) EXCEPTION.—If the regulations
25 are finalized on a date that is not more

1 than 60 days before the beginning of the
 2 school year, the proposed regulations shall
 3 take effect at the beginning of the fol-
 4 lowing school year.

5 “(B) FAILURE TO PROMULGATE.—If, on
 6 the date that is 1 year after the date of enact-
 7 ment of this paragraph, the Secretary has not
 8 promulgated final regulations, the proposed reg-
 9 ulations shall be considered to be final regula-
 10 tions.”.

11 **SEC. 203. SCHOOL NUTRITION ENVIRONMENT ENHANCE-**
 12 **MENT GRANTS.**

13 Section 18 of the Richard B. Russell National School
 14 Lunch Act (42 U.S.C. 1769) is amended by adding at the
 15 end the following:

16 “(1) HEALTHY SCHOOL NUTRITION ENVIRONMENT
 17 INCENTIVE GRANTS.—

18 “(1) IN GENERAL.—The Secretary may imple-
 19 ment a grant program to follow the recommenda-
 20 tions made by the Institute of Medicine report enti-
 21 tled “Nutrition Standards for Foods in Schools-
 22 Leading the Way Toward Healthier Youth” to—

23 “(A) provide schools with technical assist-
 24 ance in implementing the recommendations of

1 the Institute of Medicine regarding appropriate
2 school nutrition standards; and

3 “(B) assess the impact of implementing
4 the recommendations on the health and well-
5 being of children enrolled in the schools.

6 “(2) SELECTION OF SCHOOLS.—In selecting
7 schools to receive incentive grants under this sub-
8 section, the Secretary shall—

9 “(A) ensure that not less than 75 percent
10 of schools selected to participate in the program
11 established under this subsection are schools in
12 which not less than 50 percent of the students
13 enrolled in each school are eligible for free or
14 reduced price meals under this Act;

15 “(B) ensure that, of the schools selected to
16 participate in the program, there is appropriate
17 representation of rural, urban, and suburban
18 schools, as determined by the Secretary;

19 “(C) ensure that, of the schools selected to
20 participate in the program, there is appropriate
21 representation of elementary, middle, and sec-
22 ondary schools, as determined by the Secretary;

23 “(D) ensure that schools selected to receive
24 a grant under this subsection meet the require-
25 ments of paragraph (3);

1 “(E) give priority to schools that develop
2 comprehensive plans that include the involve-
3 ment of a broad range of community stake-
4 holders in achieving healthy school nutrition en-
5 vironments; and

6 “(F) give priority to schools that develop
7 comprehensive plans that include a strategy for
8 maintaining healthy school nutrition environ-
9 ments in the years following the fiscal years for
10 which the schools receive grants under this sub-
11 section.

12 “(3) REQUIREMENTS.—

13 “(A) CRITERIA FOR HEALTHY SCHOOL EN-
14 VIRONMENTS.—The Secretary shall establish
15 criteria, based upon the recommendations of the
16 Institute of Medicine described in paragraph
17 (1), under which schools may receive grants
18 under this section.

19 “(B) PLAN.—To be eligible to receive a
20 grant under this subsection, a school shall—

21 “(i) submit to the Secretary a healthy
22 school nutrition environment plan that de-
23 scribes the actions the school will take to
24 meet the criteria established under sub-
25 paragraph (A); and

1 “(ii) take the actions described in the
2 plan.

3 “(4) GRANTS.—For each of 5-fiscal years fol-
4 lowing the establishment of criteria by the Secretary
5 under paragraph (3), the Secretary shall award a
6 grant to each school selected under paragraph (2).

7 “(5) EVALUATIONS.—

8 “(A) IN GENERAL.—The Secretary, acting
9 through the Administrator of the Food and Nu-
10 trition Service, shall conduct an evaluation of a
11 representative sample of schools that receive
12 grants under this subsection.

13 “(B) CONTENT.—The evaluation shall
14 measure, at a minimum, the effects of a healthy
15 school nutrition environment on—

16 “(i) overweight children and obesity;

17 “(ii) dietary intake;

18 “(iii) nutrition education and behav-
19 ior;

20 “(iv) parental and student attitudes
21 and participation; and

22 “(v) related funding issues, including
23 the cost of maintaining a healthy school
24 nutrition environment.

1 “(C) REPORTS.—The Secretary shall sub-
 2 mit to the Committee on Education and the
 3 Workforce of the House of Representatives and
 4 the Committee on Agriculture, Nutrition, and
 5 Forestry of the Senate—

6 “(i) an interim report on the activities
 7 of schools evaluated under this subsection;
 8 and

9 “(ii) a final report on the activities of
 10 schools evaluated under this subsection.

11 “(6) AUTHORIZATION OF APPROPRIATIONS.—

12 “(A) IN GENERAL.—There are authorized
 13 to be appropriated such sums as are necessary
 14 to carry out this subsection for the 5-fiscal year
 15 following the establishment of criteria by the
 16 Secretary under paragraph (3), to remain avail-
 17 able until expended.

18 “(B) EVALUATIONS.—The Secretary may
 19 use not more than 10 percent of the total funds
 20 made available for a fiscal year under subpara-
 21 graph (A) to carry out paragraph (5).”.

22 **SEC. 204. BABY FRIENDLY HOSPITAL-CENTER FOR**
 23 **BREASTFEEDING EXCELLENCE.**

24 (a) ESTABLISHMENT OF PROGRAM.—The Director of
 25 the Office on Women’s Health of the Department of

1 Health and Human Services (referred to in this section
2 as the “Director”) shall establish a program to be known
3 as the “Baby-Friendly Hospital Initiative” (referred to in
4 this section as the “Initiative”).

5 (b) CERTIFICATION PROCESS.—Under the Initiative,
6 the Director shall establish a certification process under
7 which a hospital can apply for a certification as a “baby
8 friendly hospital/center for breastfeeding excellence”. Such
9 certification process shall be based upon the international
10 guidelines of the Baby-Friendly Hospital Initiative estab-
11 lished by the World Health Organization and United Na-
12 tions Children’s Fund.

13 (c) REQUIREMENTS.—

14 (1) IN GENERAL.—To be certified as a baby
15 friendly hospital/center for breastfeeding excellence,
16 a hospital (as defined for purposes of this section by
17 the Director, and which may include birth centers)
18 shall carry out the following:

19 (A) The hospital shall maintain a written
20 breastfeeding policy that is routinely commu-
21 nicated to all of the healthcare staff of the hos-
22 pital.

23 (B) The hospital shall provide training for
24 all healthcare staff in the skills necessary to im-

1 plement the policy described in subparagraph
2 (A).

3 (C) The hospital shall ensure that all preg-
4 nant women who are patients at the hospital
5 are informed about the benefits and manage-
6 ment of breastfeeding.

7 (D) The hospital shall help mothers ini-
8 tiate breastfeeding within one hour of birth.

9 (E) The hospital shall demonstrate to
10 mothers how to breastfeed and how to maintain
11 lactation, even if the mother is separated from
12 her infant.

13 (F) The hospital shall give infants no food
14 or drink other than breastmilk, unless medically
15 indicated.

16 (G) The hospital shall implement a “room-
17 ing in” policy by allowing mothers and infants
18 to remain together 24 hours a day in the same
19 hospital room.

20 (H) The hospital shall encourage unre-
21 stricted breastfeeding.

22 (I) The hospital shall provide no pacifiers
23 or artificial nipples to breastfeeding infants.

24 (J) The hospital shall foster the establish-
25 ment of breastfeeding support groups and refer

1 mothers to such groups on discharge from the
2 hospital.

3 (2) INSPECTION.—A hospital shall be certified
4 as a baby friendly hospital/center for breastfeeding
5 excellence only upon the completion of an on-site as-
6 sessment by the Director through which the Director
7 has determined that the hospital is in compliance
8 with the guidelines used for certification under sub-
9 section (b).

10 (3) VERIFICATION.—Upon being certified as a
11 baby friendly hospital/center for breastfeeding excel-
12 lence, a hospital shall agree to permit the Director
13 to conduct on-site assessments to verify the contin-
14 ued compliance of the hospital with the requirements
15 of paragraph (1).

16 (d) AUTHORITY FOR AUTOMATIC CERTIFICATION.—
17 The Director may automatically certify a hospital as a
18 baby friendly hospital/center of breastfeeding excellence if
19 such hospital has been designated as a baby-friendly hos-
20 pital under the Baby-Friendly USA program.

21 (e) LIMITATION.—A hospital shall not make any
22 claim that such hospital is a baby friendly hospital/center
23 of breastfeeding excellence unless such hospital has been
24 certified by the Director in accordance with this section.

1 (f) TECHNICAL ASSISTANCE.—The Director shall
2 provide, at the request of a hospital seeking a certification
3 as a baby friendly hospital/center of breastfeeding excel-
4 lence, such technical assistance as appropriate to assist
5 the requesting hospital to achieve such certification.

6 (g) CERTIFICATION COSTS.—Subject to the avail-
7 ability of appropriations, the Director may provide to a
8 hospital that has successfully been certified as a baby
9 friendly hospital/center of breastfeeding excellence under
10 this Act, a one time award of up to \$20,000 to offset the
11 cost to such hospital of being certified as a baby friendly
12 hospital/center of breastfeeding excellence.

13 (h) RECOMMENDATIONS FOR ACCREDITING ENTI-
14 TIES.—Not later than 12 months after certifying the first
15 baby friendly hospital/center for breastfeeding excellence
16 under this section, the Director shall provide to the appro-
17 priate organizations or entities that are engaged in the
18 accreditation of healthcare organizations, recommenda-
19 tions concerning steps that such accrediting entities may
20 take to integrate the baby friendly hospital requirements
21 used in the Baby Friendly Hospital Initiative into
22 healthcare organization accreditation procedures and re-
23 quirements.

1 (i) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated such sums as may be
 3 necessary to carry out this section.

4 **SEC. 205. INTERVENTION TO STRENGTHEN FAMILIES AND**
 5 **BUILD CHILDREN’S RESILIENCE.**

6 Part B of title V of the Public Health Service Act
 7 (42 3 U.S.C. 290bb et seq.) is amended by adding at the
 8 end the following:

9 **“SEC. 520K. INTERVENTIONS TO STRENGTHEN FAMILIES**
 10 **AND BUILD CHILDREN’S RESILIENCE.**

11 “(a) IN GENERAL.—The Secretary shall award
 12 grants to eligible entities for the purpose of implementing
 13 programs that strengthen families of children at risk for
 14 emotional or behavioral problems due to family distress.

15 “(b) ELIGIBLE ENTITY.—Entities eligible to receive
 16 funds under this section may include—

17 “(1) a local public entity, including a health de-
 18 partment or local education agency;

19 “(2) an Indian tribal organization or agency;

20 “(3) a federally qualified health center;

21 “(4) a community-based organization; or

22 “(5) any other entity determined appropriate by
 23 the Secretary, including a consortia or partnership
 24 of entities eligible to receive funds under this sec-
 25 tion.

1 “(c) USE OF FUNDS.—

2 “(1) IN GENERAL.—An eligible entity that re-
3 ceives a grant under this section shall use the funds
4 made available through the grant to carry out home-
5 based, school-based, and community-based activities
6 that—

7 “(A) promote strong, supportive families
8 and child resilience through parenting skills
9 training and supports, or skill-building services
10 with children, as well as provide other consult-
11 ative services and support for family and other
12 caregivers, such as child care providers, edu-
13 cators, and after-school program staff;

14 “(B) enhance mental health promotion ac-
15 tivities in domains where children live, play, and
16 learn; and

17 “(C) enhance community wellness, and re-
18 duce the incidence of preventable mental health
19 problems among children.

20 “(2) INTERVENTION ACTIVITIES.—Intervention
21 activities funded under this section shall—

22 “(A) be consumer and family driven, and
23 use strengths-based approaches;

24 “(B) be designed to promote social and
25 emotional competencies and increase children’s

1 ability to successfully cope with stressful life
2 circumstances;

3 “(C) be designed to strengthen children
4 and their families by enhancing the knowledge,
5 social, emotional, and other life or work skills,
6 and support of, parents or other significant
7 caregivers;

8 “(D) emphasize and model a positive, sup-
9 portive approach to working with children;

10 “(E) be evidence-based and provide in-
11 depth and ongoing training and consultation in
12 the adoption and use of evidence-based inter-
13 ventions by schools, communities, and families;

14 “(F) include a rigorous evaluation compo-
15 nent, including outcome measures suited to the
16 intervention and the overall goals of the grant,
17 as well as use of comparison groups and moder-
18 ating and mediating process variables when-
19 ever possible;

20 “(G) involve partnerships between commu-
21 nities or schools and universities where possible
22 to support effective implementation and evalua-
23 tion of the intervention activities;

24 “(H) provide facilitated referrals for par-
25 ents and other family members who need men-

1 tal health, substance abuse, or social work serv-
2 ices, and coordinate a referral network of pro-
3 fessionals with affordable fees; and

4 “(I) emphasize local capacity-building to
5 use evidence-based intervention, promote link-
6 ages among individuals and groups that serve
7 children and families, and develop community
8 outreach to support coalition-building.

9 “(3) TARGET POPULATIONS.—Families targeted
10 by these activities shall include those with children
11 at risk for increased mental health problems due to
12 stressful family circumstances, including—

13 “(A) social or economic disadvantage;

14 “(B) severe marital discord;

15 “(C) divorce;

16 “(D) family violence;

17 “(E) parental substance abuse or other
18 mental disorder or physical illness;

19 “(F) parental death;

20 “(G) parental absence due to military serv-
21 ice;

22 “(H) parental absence due to imprison-
23 ment; and

24 “(I) other family disruption determined ap-
25 propriate by the Secretary.

1 “(d) PRIORITY FUNDING.—In awarding grants under
2 subsection (a), the Secretary shall give priority to the fol-
3 lowing:

4 “(1) Entities that provide non-Federal contribu-
5 tions, either in cash or in kind.

6 “(2) Entities with demonstrated experience with
7 community-based partnerships.

8 “(3) Entities with demonstrated experience and
9 success with such interventions.

10 “(4) Entities with demonstrated experience
11 working with families.

12 “(5) Entities that develop comprehensive plans
13 that include a strategy for extending program activi-
14 ties developed under this section in the years fol-
15 lowing the fiscal years for which they receive grants
16 under this section.

17 “(6) Entities that submit plans that exhibit co-
18 operative plans that include the involvement of a
19 broad range of stakeholders, including the following:

20 “(A) Community-based organizations.

21 “(B) Local governments.

22 “(C) Local educational agencies.

23 “(D) Local business and community asso-
24 ciations.

1 “(E) Accredited colleges, universities, and
2 community colleges.

3 “(F) Other entities determined appropriate
4 by the Secretary.

5 “(e) EVALUATION.—Of the funds appropriated to
6 carry out this section, the Secretary may reserve up to
7 5 percent for each fiscal year for the purpose of carrying
8 out evaluations of the activities carried out under this sec-
9 tion, including a national cross-site evaluation. Within 90
10 days of the completion of any evaluations, they shall be
11 provided to the relevant authorizing committees and to the
12 Committees on Appropriations of the Senate and the
13 House of Representatives.

14 “(f) DURATION.—The Secretary shall award grants
15 under this section for a period of not more than 5 years.

16 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
17 is authorized to be appropriated to carry out this section,
18 \$25,000,000 for fiscal year 2008, and such sums as may
19 be necessary for each of fiscal years 2008 to 2012.”.

20 **SEC. 206. GRANTS FOR THE INTEGRATION OF SCHOOLS**
21 **AND MENTAL HEALTH SYSTEMS.**

22 Section 5541 of the Elementary and Secondary Edu-
23 cation Act of 1965 (20 U.S.C. 7269) is amended—

24 (1) in subsection (c), by adding at the end the
25 following:

1 “(7) To support schools that work with families
2 and appropriate community partners to implement
3 school-wide prevention strategies, based on mental
4 health research, that will support early and intensive
5 interventions.

6 “(8) To provide necessary training and support
7 to school personnel on how to recognize and seek
8 needed support for children exhibiting early warning
9 signs of behavioral and academic problems.”; and

10 (2) in subsection (d)—

11 (A) in paragraph (4)—

12 (i) in subparagraph (C), by striking
13 “and” after the semicolon;

14 (ii) in subparagraph (D), by striking
15 the period and inserting “; and”; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(E) mental health services provided under
19 this section by schools will be evidence-based or
20 promising early interventions.”; and

21 (B) by adding at the end the following:

22 “(7) An explanation of how the applicant will
23 carry out public education programs in support of
24 mental health promotion and prevention by collabo-
25 rating with—

1 “(A) an institution of higher education (in-
 2 cluding a graduate program in psychology, so-
 3 cial work, or education at an institution of
 4 higher education); and

5 “(B) private nonprofit community-based
 6 organizations that have experience in public
 7 education programs relating to mental health
 8 promotion and prevention.”.

9 **SEC. 207. GRANTS FOR THE PROMOTION OF UNIVERSITY-**
 10 **COMMUNITY PARTNERSHIPS TO INCREASE**
 11 **YOUTH COMPETENCIES AND REDUCE YOUTH**
 12 **PROBLEM BEHAVIORS IN OUR COMMUNITIES.**

13 (a) **IN GENERAL.**—The Secretary of Health and
 14 Human Services shall award grants to eligible entities for
 15 the implementation of programs that promote university-
 16 community partnerships to implement community-based
 17 prevention strategies that will support youth competencies
 18 and prevent youth problem behaviors.

19 (b) **ELIGIBILITY.**—To be eligible to receive a grant
 20 under subsection (a), an entity shall be a partnership be-
 21 tween—

22 (1) an institution of higher education (including
 23 a graduate program in psychology, social work, or
 24 education at an institution of higher education); and

1 **TITLE III—HEALTHIER COMMU-**
2 **NITIES AND WORKPLACES**
3 **Subtitle A—Incentives for a**
4 **Healthy Workforce**

5 **SEC. 301. SHORT TITLE.**

6 This subtitle may be cited as the “Healthy Workforce
7 Act of 2007”.

8 **SEC. 302. TAX CREDIT TO EMPLOYERS FOR COSTS OF IM-**
9 **PLEMENTING WELLNESS PROGRAMS.**

10 (a) **IN GENERAL.**—Subpart D of part IV of sub-
11 chapter A of chapter 1 of the Internal Revenue Code of
12 1986 (relating to business related credits) is amended by
13 adding at the end the following:

14 **“SEC. 450. WELLNESS PROGRAM CREDIT.**

15 “(a) **ALLOWANCE OF CREDIT.**—

16 “(1) **IN GENERAL.**—For purposes of section 38,
17 the wellness program credit determined under this
18 section for any taxable year during the credit period
19 with respect to an employer is an amount equal to
20 50 percent of the costs paid or incurred by the em-
21 ployer in connection with a qualified wellness pro-
22 gram during the taxable year.

23 “(2) **LIMITATION.**—The amount of credit al-
24 lowed under paragraph (1) for any taxable year shall
25 not exceed the sum of—

1 “(A) the product of \$200 and the number
2 of employees of the employer not in excess of
3 200 employees, plus

4 “(B) the product of \$100 and the number
5 of employees of the employer in excess of 200
6 employees.

7 “(b) QUALIFIED WELLNESS PROGRAM.—For pur-
8 poses of this section—

9 “(1) QUALIFIED WELLNESS PROGRAM.—The
10 term ‘qualified wellness program’ means a program
11 which—

12 “(A) consists of any 3 of the wellness pro-
13 gram components described in subsection (c),
14 and

15 “(B) which is certified by the Secretary of
16 Health and Human Services, in coordination
17 with the Director of the Center for Disease
18 Control and Prevention, as a qualified wellness
19 program under this section.

20 “(2) PROGRAMS MUST BE CONSISTENT WITH
21 RESEARCH AND BEST PRACTICES.—

22 “(A) IN GENERAL.—The Secretary of
23 Health and Human Services shall not certify a
24 program as a qualified wellness program unless
25 the program—

1 “(i) is consistent with evidence-based
2 research and best practices, as identified
3 by persons with expertise in employer
4 health promotion and wellness programs,

5 “(ii) includes multiple, evidence-based
6 strategies which are based on the existing
7 and emerging research and careful sci-
8 entific reviews, including the Guide to
9 Community Preventive Services, the Guide
10 to Clinical Preventive Services, and the
11 National Registry for Effective Programs,
12 and

13 “(iii) includes strategies which focus
14 on employee populations with a dispropor-
15 tionate burden of health problems.

16 “(B) PERIODIC UPDATING AND REVIEW.—
17 The Secretary of Health and Human Services
18 shall establish procedures for periodic review
19 and recertifications of programs under this sub-
20 section. Such procedures shall require revisions
21 of programs if necessary to ensure compliance
22 with the requirements of this section and re-
23 quire updating of the programs to the extent
24 the Secretary, in coordination with the Director
25 of the Centers for Disease Control and Preven-

1 tion, determines necessary to reflect new sci-
2 entific findings.

3 “(3) HEALTH LITERACY.—The Secretary of
4 Health and Human Services shall, as part of the
5 certification process, encourage employees to make
6 the programs culturally competent and to meet the
7 health literacy needs of the employees covered by the
8 programs.

9 “(c) WELLNESS PROGRAM COMPONENTS.—For pur-
10 poses of this section, the wellness program components de-
11 scribed in this subsection are the following:

12 “(1) HEALTH AWARENESS COMPONENT.—A
13 health awareness component which provides for the
14 following:

15 “(A) HEALTH EDUCATION.—The dissemi-
16 nation of health information which addresses
17 the specific needs and health risks of employees.

18 “(B) HEALTH SCREENINGS.—The oppor-
19 tunity for periodic screenings for health prob-
20 lems and referrals for appropriate follow up
21 measures.

22 “(2) EMPLOYEE ENGAGEMENT COMPONENT.—
23 An employee engagement component which provides
24 for—

1 “(A) the establishment of a committee to
2 actively engage employees in worksite wellness
3 programs through worksite assessments and
4 program planning, delivery, evaluation, and im-
5 provement efforts, and

6 “(B) the tracking of employee participa-
7 tion.

8 “(3) BEHAVIORAL CHANGE COMPONENT.—A
9 behavioral change component which provides for al-
10 tering employee lifestyles to encourage healthy living
11 through counseling, seminars, on-line programs, or
12 self-help materials which provide technical assistance
13 and problem solving skills. Such component may in-
14 clude programs relating to—

15 “(A) tobacco use,

16 “(B) obesity,

17 “(C) stress management,

18 “(D) physical fitness,

19 “(E) nutrition,

20 “(F) substance abuse,

21 “(G) depression, and

22 “(H) mental health promotion (including
23 anxiety).

1 “(4) SUPPORTIVE ENVIRONMENT COMPO-
2 NENT.—A supportive environment component which
3 includes the following:

4 “(A) ON-SITE POLICIES.—Policies and
5 services at the worksite which promote a
6 healthy lifestyle, including policies relating to—

7 “(i) tobacco use at the worksite,

8 “(ii) the nutrition of food available at
9 the worksite through cafeterias and vend-
10 ing options,

11 “(iii) minimizing stress and promoting
12 positive mental health in the workplace,

13 “(iv) where applicable, accessible and
14 attractive stairs, and

15 “(v) the encouragement of physical
16 activity before, during, and after work
17 hours.

18 “(B) PARTICIPATION INCENTIVES.—

19 “(i) IN GENERAL.—Qualified incentive
20 benefits for each employee who participates
21 in the health screenings described in para-
22 graph (1)(B) or the behavioral change pro-
23 grams described in paragraph (3).

24 “(ii) QUALIFIED INCENTIVE BEN-
25 EFIT.—For purposes of clause (i), the

1 term ‘qualified incentive benefit’ means
2 any benefit which is approved by the Sec-
3 retary of Health and Human Services, in
4 coordination with the Director of the Cen-
5 ters for Disease Control and Prevention.
6 Such benefit may include an adjustment in
7 health insurance premiums or co-pays.

8 “(C) EMPLOYEE INPUT.—The opportunity
9 for employees to participate in the management
10 of any qualified wellness program to which this
11 section applies.

12 “(d) PARTICIPATION REQUIREMENT.—

13 “(1) IN GENERAL.—No credit shall be allowed
14 under subsection (a) unless the Secretary of Health
15 and Human Services, in coordination with the Direc-
16 tor of the Centers for Disease Control and Preven-
17 tion, certifies, as a part of any certification described
18 in subsection (b), that each wellness program compo-
19 nent of the qualified wellness program applies to all
20 qualified employees of the employer. The Secretary
21 of Health and Human Services shall prescribe rules
22 under which an employer shall not be treated as fail-
23 ing to meet the requirements of this subsection
24 merely because the employer provides specialized
25 programs for employees with specific health needs or

1 unusual employment requirements or provides a
2 pilot program to test new wellness strategies.

3 “(2) QUALIFIED EMPLOYEE.—For purposes of
4 paragraph (1), the term ‘qualified employee’ means
5 an employee who works an average of not less than
6 25 hours per week during the taxable year.

7 “(e) OTHER DEFINITIONS AND SPECIAL RULES.—
8 For purposes of this section—

9 “(1) EMPLOYEE AND EMPLOYER.—

10 “(A) PARTNERS AND PARTNERSHIPS.—
11 The term ‘employee’ includes a partner and the
12 term ‘employer’ includes a partnership.

13 “(B) CERTAIN RULES TO APPLY.—Rules
14 similar to the rules of section 52 shall apply.

15 “(2) CERTAIN COSTS NOT INCLUDED.—Costs
16 paid or incurred by an employer for food or health
17 insurance shall not be taken into account under sub-
18 section (a).

19 “(3) NO CREDIT WHERE GRANT AWARDED.—
20 No credit shall be allowable under subsection (a)
21 with respect to any qualified wellness program of
22 any taxpayer (other than an eligible employer de-
23 scribed in subsection (f)(2)(A)) who receives a grant
24 provided by the United States, a State, or a political
25 subdivision of a State for use in connection with

1 such program. The Secretary shall prescribe rules
2 providing for the waiver of this paragraph with re-
3 spect to any grant which does not constitute a sig-
4 nificant portion of the funding for the qualified
5 wellness program.

6 “(4) CREDIT PERIOD.—

7 “(A) IN GENERAL.—The term ‘credit pe-
8 riod’ means the period of 10 consecutive taxable
9 years beginning with the taxable year in which
10 the qualified wellness program is first certified
11 under this section.

12 “(B) SPECIAL RULE FOR EXISTING PRO-
13 GRAMS.—In the case of an employer (or prede-
14 cessor) which operates a wellness program for
15 its employees on the date of the enactment of
16 this section, subparagraph (A) shall be applied
17 by substituting ‘3 consecutive taxable years’ for
18 ‘10 consecutive taxable years’. The Secretary
19 shall prescribe rules under which this sub-
20 section shall not apply if an employer is re-
21 quired to make substantial modifications in the
22 existing wellness program in order to qualify
23 such program for certification as a qualified
24 wellness program.

1 “(C) CONTROLLED GROUPS.—For pur-
2 poses of this paragraph, all persons treated as
3 a single employer under subsection (b), (c),
4 (m), or (o) of section 414 shall be treated as a
5 single employer.

6 “(f) PORTION OF CREDIT MADE REFUNDABLE.—

7 “(1) IN GENERAL.—In the case of an eligible
8 employer of an employee, the aggregate credits al-
9 lowed to a taxpayer under subpart C shall be in-
10 creased by the lesser of—

11 “(A) the credit which would be allowed
12 under this section without regard to this sub-
13 section and the limitation under section 38(c),
14 or

15 “(B) the amount by which the aggregate
16 amount of credits allowed by this subpart (de-
17 termined without regard to this subsection)
18 would increase if the limitation imposed by sec-
19 tion 38(c) for any taxable year were increased
20 by the amount of employer payroll taxes im-
21 posed on the taxpayer during the calendar year
22 in which the taxable year begins.

23 The amount of the credit allowed under this sub-
24 section shall not be treated as a credit allowed under
25 this subpart and shall reduce the amount of the

1 credit otherwise allowable under subsection (a) with-
2 out regard to section 38(c).

3 “(2) ELIGIBLE EMPLOYER.—For purposes of
4 this subsection, the term ‘eligible employer’ means
5 an employer which is—

6 “(A) a State or political subdivision there-
7 of, the District of Columbia, a possession of the
8 United States, or an agency or instrumentality
9 of any of the foregoing, or

10 “(B) any organization described in section
11 501(c) of the Internal Revenue Code of 1986
12 which is exempt from taxation under section
13 501(a) of such Code.

14 “(3) EMPLOYER PAYROLL TAXES.—For pur-
15 poses of this subsection—

16 “(A) IN GENERAL.—The term ‘employer
17 payroll taxes’ means the taxes imposed by—

18 “(i) section 3111(b), and

19 “(ii) sections 3211(a) and 3221(a)
20 (determined at a rate equal to the rate
21 under section 3111(b)).

22 “(B) SPECIAL RULE.—A rule similar to
23 the rule of section 24(d)(2)(C) shall apply for
24 purposes of subparagraph (A).

1 “(g) TERMINATION.—This section shall not apply to
2 any amount paid or incurred after December 31, 2017.”.

3 (b) TREATMENT AS GENERAL BUSINESS CREDIT.—

4 Subsection (b) of section 38 of the Internal Revenue Code
5 of 1986 (relating to general business credit) is amended
6 by striking “plus” at the end of paragraph (30), by strik-
7 ing the period at the end of paragraph (31) and inserting
8 “, plus”, and by adding at the end the following:

9 “(32) the wellness program credit determined
10 under section 45O.”.

11 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of
12 the Internal Revenue Code of 1986 (relating to certain
13 expenses for which credits are allowable) is amended by
14 adding at the end the following new subsection:

15 “(f) WELLNESS PROGRAM CREDIT.—

16 “(1) IN GENERAL.—No deduction shall be al-
17 lowed for that portion of the costs paid or incurred
18 for a qualified wellness program (within the meaning
19 of section 45O) allowable as a deduction for the tax-
20 able year which is equal to the amount of the credit
21 allowable for the taxable year under section 45O.

22 “(2) SIMILAR RULE WHERE TAXPAYER CAP-
23 ITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

24 “(A) the amount of the credit determined
25 for the taxable year under section 45O, exceeds

1 “(B) the amount allowable as a deduction
2 for such taxable year for a qualified wellness
3 program,
4 the amount chargeable to capital account for the
5 taxable year for such expenses shall be reduced by
6 the amount of such excess.

7 “(3) CONTROLLED GROUPS.—In the case of a
8 corporation which is a member of a controlled group
9 of corporations (within the meaning of section
10 41(f)(5)) or a trade or business which is treated as
11 being under common control with other trades or
12 business (within the meaning of section
13 41(f)(1)(B)), this subsection shall be applied under
14 rules prescribed by the Secretary similar to the rules
15 applicable under subparagraphs (A) and (B) of sec-
16 tion 41(f)(1).”.

17 (d) CLERICAL AMENDMENT.—The table of sections
18 for subpart D of part IV of subchapter A of chapter 1
19 of the Internal Revenue Code of 1986 is amended by add-
20 ing at the end the following:

 “Sec. 45O. Wellness program credit.”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2007.

24 (f) OUTREACH.—

1 (1) IN GENERAL.—The Secretary of the Treas-
 2 ury, in conjunction with the Director of the Centers
 3 for Disease Control and members of the business
 4 community, shall institute an outreach program to
 5 inform businesses about the availability of the
 6 wellness program credit under section 45O of the In-
 7 ternal Revenue Code of 1986 as well as to educate
 8 businesses on how to develop programs according to
 9 recognized and promising practices and on how to
 10 measure the success of implemented programs.

11 (2) AUTHORIZATION OF APPROPRIATIONS.—
 12 There are authorized to be appropriated such sums
 13 as are necessary to carry out the outreach program
 14 described in paragraph (1).

15 **SEC. 303. CDC AND EMPLOYER-BASED WELLNESS PRO-**
 16 **GRAMS.**

17 Title III of the Public Health Service Act (42 U.S.C.
 18 241 et seq.) is amended by adding at the end the fol-
 19 lowing:

20 **“PART R—CDC AND EMPLOYER-BASED**
 21 **WELLNESS PROGRAMS**

22 **“SEC. 399Z-1. MOTIVATING EMPLOYERS TO IMPLEMENT**
 23 **WORKPLACE WELLNESS PROGRAMS.**

24 “(a) WORKPLACE WELLNESS MARKETING CAMPAIGN
 25 FOR EMPLOYERS.—The Director of the Centers for Dis-

1 ease Control and Prevention, in coordination with relevant
 2 worksite health promotion organizations, shall conduct an
 3 educational campaign to make employers, employer
 4 groups, and other interested parties aware of the benefits
 5 of employer-based wellness programs.

6 “(b) EMPLOYER AWARD PROGRAM.—The Director of
 7 the Centers for Disease Control and Prevention shall de-
 8 velop an annual awards program for employers to encour-
 9 age the development of creative and effective solutions to
 10 help employees maintain or improve their health. The
 11 awards program shall provide that small, medium, and
 12 large employers that are public or private shall be eligible
 13 for the awards

14 **“SEC. 399Z-2. EVALUATION OF EMPLOYER-BASED**
 15 **WELLNESS PROGRAMS.**

16 “The Director of the Centers for Disease Control and
 17 Prevention shall enter into contracts with entities to—

18 “(1) provide employers (including small, me-
 19 dium, and large employers, as determined by the Di-
 20 rector) with technical assistance in evaluating such
 21 employers’ employer-based wellness programs, in-
 22 cluding—

23 “(A) measuring the participation of em-
 24 ployees in such programs; and

1 “(B) evaluating such programs as they re-
2 late to changes in the health status of employ-
3 ees, the absenteeism of employees, the produc-
4 tivity of employees, and the medical costs in-
5 curred by employees; and

6 “(2) train employers on how to evaluate such
7 employers’ employer-based wellness programs.

8 **“SEC. 399Z-3. NATIONAL WORKSITE HEALTH POLICIES AND**
9 **PROGRAMS STUDY.**

10 “(a) IN GENERAL.—Not later than 1 year after the
11 date of enactment of this section, and annually thereafter,
12 the Director of the Centers for Disease Control and Pre-
13 vention shall conduct a national worksite health policies
14 and programs study to assess employer-based health poli-
15 cies and programs.

16 “(b) REPORT.—After completing each study under
17 subsection (a), the Director of the Centers for Disease
18 Control and Prevention shall submit to Congress a report
19 that includes the recommendations of the Director for the
20 implementation of effective employer-based health policies
21 and programs.

22 **“SEC. 399Z-4. MISCELLANEOUS PROVISIONS.**

23 “(a) BEHAVIORAL RISK FACTOR SURVEILLANCE
24 SYSTEM.—The Secretary shall expand the Behavioral
25 Risk Factor Surveillance System to include a workforce

1 component to enable employers, researchers, and health
2 officials to assess employee health risks, identify emerging
3 problems associated with general employee health, prevent
4 disease within the employee population, and improve em-
5 ployer-based health programs and policies.

6 “(b) DEMONSTRATION PROJECTS.—

7 “(1) IN GENERAL.—The Secretary, acting
8 through the Director of the Centers for Disease
9 Control and Prevention, shall award grants to enti-
10 ties to enable such entities to carry out research
11 demonstration projects to study the effect of the ap-
12 plication of new worksite-based health interventions
13 and models.

14 “(2) ELIGIBILITY.—To be eligible to receive a
15 grant under paragraph (1), an entity shall submit to
16 the Secretary an application at such time, in such
17 manner, and containing such information as the Sec-
18 retary may require.

19 “(3) BROAD PARTICIPATION.—In awarding
20 grants under paragraph (1), the Secretary shall en-
21 sure that demonstration projects are conducted in
22 both the public and private sectors and in small and
23 large employer settings.

24 “(4) SUBMISSION OF FINDINGS.—An entity
25 shall submit to the Secretary a report on the results

1 of the research conducted under the grant within
2 such period as the Secretary may prescribe. Such re-
3 port shall include any guidelines or recommendations
4 developed by the entity based on such research.

5 “(c) IMPLEMENTATION OF RESEARCH RESULTS.—
6 The Secretary shall carry out activities to implement the
7 guidelines or recommendations received by the Secretary
8 under subsection (b)(4) if the Secretary determines that
9 such guidelines or recommendations would result in im-
10 proved employee health through worksite-based health
11 programs or policies.”.

12 **SEC. 304. EMPLOYER-PROVIDED OFF-PREMISES HEALTH**
13 **CLUB SERVICES.**

14 (a) TREATMENT AS FRINGE BENEFIT.—Subpara-
15 graph (A) of section 132(j)(4) of the Internal Revenue
16 Code of 1986 (relating to on-premises gyms and other ath-
17 letic facilities) is amended to read as follows:

18 “(A) IN GENERAL.—Gross income shall
19 not include—

20 “(i) the value of any on-premises ath-
21 letic facility provided by an employer to its
22 employees, and

23 “(ii) so much of the fees, dues, or
24 membership expenses paid by an employer
25 to an athletic or fitness facility described

1 in subparagraph (C) on behalf of its em-
2 ployees as does not exceed \$900 per em-
3 ployee per year.”.

4 (b) ATHLETIC FACILITIES DESCRIBED.—Paragraph
5 (4) of section 132(j) of the Internal Revenue Code of 1986
6 (relating to special rules) is amended by adding at the end
7 the following new subparagraph:

8 “(C) CERTAIN ATHLETIC OR FITNESS FA-
9 CILITIES DESCRIBED.—For purposes of sub-
10 paragraph (A)(ii), an athletic or fitness facility
11 described in this subparagraph is a facility—

12 “(i) which provides instruction in a
13 program of physical exercise, offers facili-
14 ties for the preservation, maintenance, en-
15 couragement, or development of physical
16 fitness, or is the site of such a program of
17 a State or local government,

18 “(ii) which is not a private club owned
19 and operated by its members,

20 “(iii) which does not offer golf, hunt-
21 ing, sailing, or riding facilities,

22 “(iv) whose health or fitness facility is
23 not incidental to its overall function and
24 purpose, and

1 “(v) which is fully compliant with the
2 State of jurisdiction and Federal anti-dis-
3 crimination laws.”.

4 (c) EXCLUSION APPLIES TO HIGHLY COMPENSATED
5 EMPLOYEES ONLY IF NO DISCRIMINATION.—Section
6 132(j)(1) of the Internal Revenue Code of 1986 is amend-
7 ed—

8 (1) by striking “Paragraphs (1) and (2) of sub-
9 section (a)” and inserting “Subsections (a)(1),
10 (a)(2), and (j)(4)”, and

11 (2) by striking the heading thereof through
12 “APPLY” and inserting “CERTAIN EXCLUSIONS
13 APPLY”.

14 (d) EMPLOYER DEDUCTION FOR DUES TO CERTAIN
15 ATHLETIC FACILITIES.—

16 (1) IN GENERAL.—Paragraph (3) of section
17 274(a) of the Internal Revenue Code of 1986 (relat-
18 ing to denial of deduction for club dues) is amended
19 by adding at the end the following new sentence:
20 “The preceding sentence shall not apply to so much
21 of the fees, dues, or membership expenses paid to
22 athletic or fitness facilities (within the meaning of
23 section 132(j)(4)(C)) as does not exceed \$900 per
24 employee per year.”.

1 (2) CONFORMING AMENDMENT.—The last sen-
 2 tence of section 274(e)(4) of such Code is amended
 3 by inserting “the first sentence of” before “sub-
 4 section (a)(3)”.

5 (e) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to taxable years beginning after
 7 the date of the enactment of this Act.

8 **Subtitle B—Healthy Communities**

9 **CHAPTER 1—PROVISIONS TO IMPROVE**

10 **THE HEALTH OF COMMUNITIES**

11 **SEC. 311. HEALTHY COMMUNITY GRANTS.**

12 Part P of title III of the Public Health Service Act
 13 (42 U.S.C. 280g et seq.) is amended by adding at the end
 14 the following:

15 **“SEC. 399P. HEALTHY COMMUNITY GRANTS.**

16 “(a) ESTABLISHMENT.—The Secretary, acting
 17 through the Director of the Centers for Disease Control
 18 and Prevention and in coordination with the Directors of
 19 other appropriate Federal agencies, shall award competi-
 20 tive grants to eligible entities for the purpose of planning
 21 and implementing programs that seek to promote indi-
 22 vidual and community health and to prevent the incidence
 23 of chronic disease.

24 “(b) ELIGIBILITY.—

1 “(1) IN GENERAL.—To be eligible to receive a
2 grant under this section an entity shall—

3 “(A) be—

4 “(i) a city, county, or Indian tribe;

5 “(ii) a local or tribal educational
6 agency;

7 “(iii) an accredited university, college,
8 or community college;

9 “(iv) a federally qualified health cen-
10 ter;

11 “(v) a local health department;

12 “(vi) a health care provider;

13 “(vii) a community-based organiza-
14 tion; or

15 “(viii) any other entity determined ap-
16 propriate by the Secretary, including a
17 consortia or partnership of entities de-
18 scribed in any of clauses (i) through (vii);

19 “(B) prepare and submit an application in
20 accordance with paragraph (2); and

21 “(C) provide assurances that the entity will
22 contribute the non-Federal share as required
23 under paragraph (3) to the cost of the activities
24 carried out under the grant.

25 “(2) APPLICATION.—

1 “(A) IN GENERAL.—An entity desiring a
2 grant under this section shall submit an appli-
3 cation to the Secretary at such time, in such
4 manner, and containing such information as the
5 Secretary may require, including a plan that
6 meets the requirements of subparagraph (B).

7 “(B) PLAN.—A plan meets the require-
8 ments of this subparagraph if such plan, at a
9 minimum, includes information regarding—

10 “(i)(I) programs or community-based
11 activities that the applicant proposes to
12 carry out with funds received under this
13 section and which seek to prevent and re-
14 duce the incidence of—

15 “(aa) overweight and obesity, or
16 chronic diseases associated with over-
17 weight and obesity;

18 “(bb) tobacco use; or

19 “(cc) mental illness; or

20 “(II) other such activities, as deter-
21 mined appropriate by the Secretary, that
22 are consistent with the goals of promoting
23 individual and community health and pre-
24 venting chronic disease; and

1 “(ii) the manner in which the appli-
2 cant will evaluate the effectiveness of the
3 program or activities carried out under this
4 section.

5 “(3) NON-FEDERAL SHARE.—To be eligible to
6 receive a grant under this section, an entity shall
7 provide a non-Federal contribution, in cash or in
8 kind, to the costs of activities under the grant in an
9 amount that is equal to not less than 25 percent of
10 the costs of such activities.

11 “(c) USE OF FUNDS.—An entity that receives a grant
12 under this section shall use the amount made available
13 under the grant to carry out community-based activities,
14 including—

15 “(1) activities that seek to promote individual
16 health and community wellness and to prevent and
17 reduce the incidence of health problems and chronic
18 diseases associated with—

19 “(A) being overweight or obese;

20 “(B) tobacco use; or

21 “(C) mental illness; or

22 “(2) other activities undertaken with the goals
23 of health promotion and chronic disease prevention,
24 as determined appropriate by the Secretary.

1 “(d) PRIORITY.—In awarding grants under sub-
2 section (a), the Secretary shall give priority to—

3 “(1) entities that demonstrate that they have
4 previously applied successfully for funds to carry out
5 activities that seek to promote individual and com-
6 munity health and to prevent the incidence of chron-
7 ic disease and that can cite published and peer-re-
8 viewed research demonstrating that the activities
9 that the entity proposes to carry out under this sub-
10 section are effective;

11 “(2) entities that will carry out programs or ac-
12 tivities that seek to accomplish a goal or goals set
13 by the State in the Healthy People 2010 plan of the
14 State;

15 “(3) entities that provide non-Federal contribu-
16 tions, either in cash or in kind, to the costs of fund-
17 ing activities under the grant;

18 “(4) entities that develop comprehensive plans
19 that include a strategy for extending program activi-
20 ties developed under this section in the years fol-
21 lowing the fiscal years for which they receive grants
22 under this section;

23 “(5) entities located in communities that are
24 medically underserved, as determined by the Sec-
25 retary;

1 “(6) entities located in areas where the average
2 poverty rate is 150 or higher than the average pov-
3 erty rate in the State involved, as determined by the
4 Secretary; and

5 “(7) entities that submit plans that exhibit
6 multisectoral, cooperative conduct that includes the
7 involvement of a broad range of stakeholders, includ-
8 ing—

9 “(A) community-based organizations;

10 “(B) local governments;

11 “(C) local educational agencies;

12 “(D) the private sector;

13 “(E) State or local departments of health;

14 “(F) accredited colleges, universities, and
15 community colleges;

16 “(G) health care providers;

17 “(H) State and local departments of trans-
18 portation and city planning; and

19 “(I) other entities determined appropriate
20 by the Secretary.

21 “(e) TECHNICAL ASSISTANCE.—From amounts ap-
22 propriated to carry out this section, the Secretary may re-
23 serve not more than 10 percent for each fiscal year to pro-
24 vide entities receiving grants under this section with tech-

1 nical assistance in the implementation of the plans re-
2 quired under subsection (b)(2)(B).

3 “(f) EVALUATION.—From amounts appropriated to
4 carry out this section, the Secretary may reserve not to
5 exceed 5 percent for each fiscal year for the purpose of
6 carrying out evaluations of the activities carried out under
7 this section. Not later than 90 days after the completion
8 of any such evaluation, the results of such evaluation shall
9 be submitted to the relevant authorizing committees of
10 Congress and to the Committee on Appropriations of the
11 Senate and the Committee on Appropriations of the House
12 of Representatives.

13 “(g) LIMITATION ON ADMINISTRATIVE COSTS.—An
14 entity may not use more than 10 percent of amounts re-
15 ceived under a grant under this section for administrative
16 expenses.

17 “(h) SUPPLEMENT NOT SUPPLANT.—Amounts pro-
18 vided under a grant under this section shall be used to
19 supplement, and not supplant, other amounts provided for
20 activities of the type to be carried out under this section.

21 “(i) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated such sums as may be nec-
23 essary to carry out this section.”.

1 time, in such manner, and containing such agreements,
2 assurances, and information as the Secretary determines
3 to be necessary to carry out this section.

4 “(c) AUTHORIZED ACTIVITIES.—Amounts awarded
5 under a grant under subsection (a) shall be used for—

6 “(1) community-based sports programs,
7 leagues, or competitions in individual or team sports
8 for individuals with physical disabilities;

9 “(2) regional sports programs or competitions
10 in individual or team sports for individuals with
11 physical disabilities;

12 “(3) the development of competitive team and
13 individual sports programs for individuals with dis-
14 abilities at the high school and collegiate level; or

15 “(4) the development of mentoring programs to
16 encourage participation in sports programs for indi-
17 viduals who are newly disabled or with newly ac-
18 quired physical limitations.

19 “(d) PRIORITIES.—

20 “(1) ADVISORY COMMITTEE.—The Secretary
21 shall establish a National Advisory Committee on
22 Community Sports Programs for Individuals with
23 Disabilities that shall—

24 “(A) establish priorities for the implemen-
25 tation of this section, review grant proposals;

1 “(B) make recommendations for funding
2 under this section; and

3 “(C) annually evaluate the progress of pro-
4 grams carried out under this section in imple-
5 menting such priorities.

6 “(2) REPRESENTATION.—The Advisory Com-
7 mittee established under paragraph (1) shall include
8 representatives of—

9 “(A) the Department of Health and
10 Human Services Office on Disability;

11 “(B) the United States Surgeon General;

12 “(C) the Centers for Disease Control and
13 Prevention;

14 “(D) the Paralympic division of the United
15 States Olympic Committee;

16 “(E) disabled sports organizations;

17 “(F) organizations that represent the in-
18 terests of individuals with disabilities; and

19 “(G) individuals with disabilities (including
20 athletes with physical disabilities) or their fam-
21 ily members.

22 “(e) DISSEMINATION OF INFORMATION.—The Sec-
23 retary shall disseminate information about the availability
24 of grants under this section in a manner that is designed
25 to reach public entities and nonprofit private organizations

1 that are dedicated to providing outreach, advocacy, or
2 independent living services to individuals with disabilities.

3 “(f) TECHNICAL ASSISTANCE.—The Secretary, in
4 conjunction with the United States Olympic Committee
5 and disabled sports organizations, shall establish a tech-
6 nical assistance center to provide training, support, and
7 information to grantees under this section on establishing
8 and operating community sports programs for individuals
9 with disabilities.

10 “(g) REPORT TO CONGRESS.—Not later than 180
11 days after the date of the enactment of this section, and
12 annually thereafter, the Secretary shall submit to Con-
13 gress a report summarizing activities, findings, outcomes,
14 and recommendations resulting from the grant projects
15 funded under this section during the year for which the
16 report is being prepared.

17 “(h) AUTHORIZATION OF APPROPRIATIONS.—

18 “(1) IN GENERAL.—To carry out this section,
19 there are authorized to be appropriated such sums
20 as may be necessary.

21 “(2) LIMITATION.—Not to exceed 10 percent of
22 the amount appropriated in each fiscal year shall be
23 used to carry out activities under subsection
24 (c)(4).”.

1 **SEC. 313. SAFE AND COMPLETE STREETS.**

2 Section 133 of title 23, United States Code, is
3 amended by adding at the end the following:

4 “(g) WITHHOLDING OF FUNDING.—

5 “(1) IN GENERAL.—Beginning with the fiscal
6 year that begins 2 years after the date of enactment
7 of this subsection, the Secretary of Transportation
8 shall withhold 2 percent of the amounts allocated in
9 such fiscal year to the highway and planning funds
10 allotted to a Metropolitan Planning Organization or
11 State Transportation Improvement Program under
12 the Safe, Accountable, Flexible, Efficient Transpor-
13 tation Equity Act unless the State or Metropolitan
14 Planning Organization provides the Secretary with
15 documentation—

16 “(A) of the existence of an explicit state-
17 ment of policy (that meets the requirements of
18 subsection (b)) that the safety and convenience
19 of all users of the transportation system shall
20 be accommodated; and

21 “(B) that such policy has been applied to
22 the projects contained in the Transportation
23 Improvement Plan.

24 “(2) PURPOSE.—The purpose of the policy
25 statement required under paragraph (1)(A) is to en-
26 sure that all users of the transportation system, in-

1 including pedestrians, bicyclists, and transit users as
2 well as children, older individuals, and individuals
3 with disabilities, are able to travel safely and conven-
4 iently on streets and highways within the public
5 right of way.

6 “(h) POLICY STATEMENT REQUIREMENTS.—A policy
7 statement under subsection (g)(1)(A) shall include the fol-
8 lowing:

9 “(1) An assurance that all users of the trans-
10 portation system will include pedestrians (including
11 individuals of all ages, and individuals with disabili-
12 ties (including mobility, sensory, neurological or hid-
13 den disabilities)), bicyclists, transit vehicles and
14 users, and motorists.

15 “(2) An assurance that the statement will apply
16 to both new road construction and transportation
17 improvement projects.

18 “(3) A clear procedure that requires approval
19 by a senior manager of any specified exceptions from
20 implementing the policy statement, including docu-
21 mentation with supporting data that indicates the
22 basis for the exemption.

23 “(4) A statement directing the use of the cur-
24 rent design standards, including those standards ap-
25 plying to access for individuals with disabilities.

1 “(5) A statement requiring that complete
2 streets solutions be developed to fit in with the con-
3 text of the community and that those solutions be
4 flexible.

5 “(6) A description of the performance stand-
6 ards with measurable outcomes that will be devel-
7 oped.

8 “(7) A statement that accommodation shall be
9 made for all users in all construction and improve-
10 ment projects unless one or more of the following
11 apply:

12 “(A) The project involved a roadway on
13 which non-motorized users are prohibited by
14 law from using. In such case, a greater effort
15 shall be made to accommodate bicyclists and
16 pedestrians elsewhere.

17 “(B) The cost of establishing complete fa-
18 cilities would be excessively disproportionate to
19 the need or probable use.

20 “(C) With respect to a project area with a
21 low population, a lack of transit service, or
22 other documented factors indicate an absence of
23 need now and in the future.

1 “(D) The policy statement may be
2 achieved through a State or local law or ordi-
3 nance, or through an agency policy directive.

4 “(i) CERTIFICATIONS.—The Metropolitan Planning
5 Organization and State Transportation Improvement Plan
6 shall certify that each road project included in such plan
7 has been reviewed for its compliance with any applicable
8 policy statement under this section and that each project
9 under such plan enhances the safety, convenience, and ac-
10 cessibility of the transportation system for all users to the
11 extent that it is reasonably possible and that the project
12 applicant addressed these concerns in the material pre-
13 pared for public input with respect to such plan.

14 “(j) ACCESSIBILITY STANDARDS.—Not later than 12
15 months after the date of enactment of this subsection, the
16 United States Access Board shall issue final standards for
17 accessibility of new construction and alterations of pedes-
18 trian facilities in the public right-of-way. Until such time
19 as the Access Board completes a final Public Right of Way
20 Accessibility rule, Department of Transportation Stand-
21 ards for Accessible Transportation Facilities (49 C.F.R.
22 37.9, as amended on 10/30/2006 (71 FR 63263)) shall
23 serve as the minimum standard. If the Department Of
24 Transportation standards are silent or inapplicable with
25 respect to any issue, the 2005 draft Public Right Of Way

1 Accessibility Guidelines provisions shall be consulted. A
2 Metropolitan Planning Organization or State department
3 of transportation that is adopting complete streets policies
4 may consult existing Federal guidance, including the 2000
5 USDOT Guidance document, “Accommodating Bicycle
6 and Pedestrian Travel”.

7 “(k) INCLUSION OF ALL USERS.—Metropolitan plan-
8 ning organizations shall strongly encourage local jurisdic-
9 tions that are served by such organizations to maximize
10 their efforts to include all users in their transportation
11 planning.

12 “(l) ADDITIONAL PROVISIONS.—

13 “(1) RESEARCH.—

14 “(A) IN GENERAL.—The Secretary of
15 Transportation shall require the Federal High-
16 way Administration to conduct complete streets
17 research to assist States and Metropolitan
18 Planning Organizations in developing, adopting,
19 and implementing plans, projects, procedures,
20 policies, and training that comply with the ap-
21 plicable statement of policy under subsection
22 (g)(1)(A).

23 “(B) PARTICIPATION.—Research under
24 subparagraph (A) shall be conducted with the
25 participation of the American Association of

1 State Highway Transportation Officials, the In-
2 stitute of Transportation Engineers, the Amer-
3 ican Public Transit Association, the American
4 Planning Association, the National Association
5 of Regional Councils, the Association of Metro-
6 politan Planning Organizations, and representa-
7 tives of the disability, motoring, bicycling, walk-
8 ing, transit user, aging, and other affected com-
9 munities.

10 “(C) EXISTING NEEDS.—Research under
11 subparagraph (A) shall be based on the existing
12 statement of complete streets research needs as
13 outlined by the Transportation Research Board
14 in TR Circular E110, and shall also develop
15 new areas of inquiry.

16 “(2) BENCHMARKS AND GUIDANCE.—The re-
17 search project conducted under paragraph (1) shall
18 be designed to result in the establishment of bench-
19 marks and the provision of practical guidance on
20 how to effectively implement street procedures and
21 designs that will accommodate all types of users
22 along the same facility or corridor including, vehi-
23 cles, pedestrians, bicycles, and transit use. Such
24 benchmarks and guidance shall focus on changing
25 scoping, design, and construction procedures to more

1 effectively fit the individual modes together into inte-
2 grated facilities that meet the needs of each in an
3 appropriate balance. Such benchmarks and guidance
4 shall indicate the expected operational and safety
5 performance of alternative approaches to facility de-
6 sign.

7 “(3) BEST PRACTICES REPORT.—Not later than
8 2 years after the date of enactment of this sub-
9 section, the Federal Highway Administration shall
10 publish a best practices report showing how trans-
11 portation agencies have changed their procedures to
12 routinely design safe, effective multi-modal facilities.
13 In establishing such best practices, consideration
14 shall be given to the following areas:

15 “(A) Procedures for identifying the needs
16 of the mix of users, including primary and sec-
17 ondary users that need to be served on various
18 highway functional classes.

19 “(B) The identification of the types and
20 designs of facilities needed to serve each of
21 those types of users.

22 “(C) The identification of barriers to im-
23 plementation and identification of costs associ-
24 ated with implementing complete streets poli-
25 cies.

1 the United States and other populations served by the Ad-
2 ministration, that include—

3 “(1) monitoring the mental health status of the
4 population, including incidence and prevalence rates
5 of mental and behavioral health problems through-
6 out the lifespan;

7 “(2) monitoring mental and behavioral health
8 risks;

9 “(3) enhancing existing public health moni-
10 toring systems to include data on mental and behav-
11 ioral health status and risks; and

12 “(4) monitoring the immediate and long-term
13 impact of environmental factors to collect data on
14 the prevalence of mental and behavioral health prob-
15 lems throughout the lifespan with the aim of encour-
16 aging early intervention and treatment.

17 “(b) DISTINGUISHING AMONG AGE GROUPS.—In de-
18 signing and implementing the measures described in sub-
19 section (a) the Secretary shall ensure that methods of
20 monitoring and reporting data distinguish among different
21 age groups, including when identifying groups of children,
22 and very young children under age 3, together with their
23 parents.

24 “(c) REPORT.—Not later than 1 year after the date
25 of enactment of this section, the Secretary shall submit

1 a report to Congress that describes the progress on the
 2 implementation of the monitoring measures described in
 3 subsection (a).

4 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
 5 is authorized to be appropriated to carry out this section
 6 \$5,000,000 for fiscal year 2008 and such sums as may
 7 be necessary for each of the following fiscal years.”.

8 **SEC. 315. PREVENTIVE MEDICINE AND PUBLIC HEALTH**
 9 **TRAINING GRANT PROGRAM.**

10 Part D of title III of the Public Health Service Act
 11 (42 U.S.C. 254b et seq.) is amended by adding at the end
 12 the following:

13 **“Subpart XI—Preventive Medicine Training**
 14 **“SEC. 340H. PREVENTIVE MEDICINE AND PUBLIC HEALTH**
 15 **TRAINING GRANT PROGRAM.**

16 “(a) GRANTS.—The Secretary, acting through the
 17 Director of the Centers for Disease Control and Preven-
 18 tion, may award grants to, or enter into contracts with,
 19 eligible entities to provide training to graduate medical
 20 residents in preventive medicine specialties.

21 “(b) ELIGIBILITY.—To be eligible to receive a grant
 22 or contract under subsection (a), an entity shall—

23 “(1) be a school of public health, public health
 24 department, school of medicine or osteopathic medi-

1 cine, public or private hospital, or public or private
2 non-profit entity;

3 “(2) submit to the Secretary an application at
4 such time, in such manner, and containing such in-
5 formation as the Secretary may require; and

6 “(3) maintain and adhere to a Letter of Agree-
7 ment with a local community health center (if avail-
8 able in the local area involved) that supports
9 practicum training of preventive medicine residents,
10 if practicable.

11 “(c) USE OF FUNDS.—Amounts received under a
12 grant or contract under this section shall be used to—

13 “(1) to plan, develop, and operate residency
14 programs for preventive medicine or public health;

15 “(2) provide financial assistance, including tui-
16 tion and stipends, to resident physicians (MD or
17 DO) who plan to specialize in preventive medicine or
18 public health;

19 “(3) defray the costs associated with the plan-
20 ning, development, and operation of preventive medi-
21 cine or public health programs, including the devel-
22 opment of curriculum to be used in such program;
23 and

24 “(4) provide for the improvement of academic
25 administrative units.

1 (5) appointed by the Secretary of Health and
2 Human Services and the Secretary of Labor, includ-
3 ing—

4 (A) working mothers who have experience
5 in working and breastfeeding; and

6 (B) representatives of the human resource
7 departments of both large and small employers
8 that have successfully promoted breastfeeding
9 and breastmilk pumping support at work.

10 (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-
11 bers shall be appointed for the life of the Task Force. Any
12 vacancy in the Task Force shall not affects its powers,
13 but shall be filled in the same manner as the original ap-
14 pointment.

15 (d) CHAIR.—The Task Force shall be chaired jointly
16 by the Secretary of Health and Human Services and the
17 Secretary of Labor, or their designees.

18 (e) DUTIES OF THE TASK FORCE.—

19 (1) EXAMINATION.—Consistent with the De-
20 partment of Health and Human Services Blueprint
21 for Action on Breastfeeding (2000), the Task Force
22 shall examine the following issues:

23 (A) The challenges that mothers face with
24 continuing breastfeeding when the mothers re-
25 turn to work after giving birth.

1 (B) The challenges that employers face in
2 accommodating mothers who seek to continue
3 to breastfeed or to express milk when the moth-
4 ers re-enter the workforce, including different
5 challenges that mothers of varying socio-econ-
6 omic status and in different professions may
7 face.

8 (C) The benefits that accrue to mothers,
9 babies, and to employers when mothers are able
10 to continue to breastfeed or to express
11 breastmilk at work after the mothers have re-
12 entered the workforce.

13 (D) Federal and State statutes that may
14 have the effect of reducing breastfeeding and
15 breastfeeding retention rates among working
16 mothers.

17 (2) REPORTS.—

18 (A) IN GENERAL.—Not later than 1 year
19 after the date of enactment of this section, the
20 Task Force shall issue a public report with rec-
21 ommendations on the following:

22 (i) Steps that can be taken to promote
23 breastfeeding among working mothers and
24 to remove barriers to breastfeeding among
25 working mothers.

1 (ii) Potential ways in which the Fed-
2 eral Government can work with employers
3 to promote breastfeeding among working
4 mothers.

5 (iii) Areas in which changes to exist-
6 ing Federal, State, or local laws would
7 likely have the effect of making it easier
8 for working mothers to breastfeed or would
9 remove impediments to breastfeeding that
10 currently exist in such laws.

11 (iv) Whether or not increased rates of
12 breastfeeding among working mothers
13 would likely have the result of reducing
14 health care costs among such mothers and
15 their children, and, in particular, whether
16 increased rates of breastfeeding would be
17 likely to result in lower Federal expendi-
18 tures on health care for such mothers and
19 their children.

20 (v) Areas in which the Federal Gov-
21 ernment, through additional appropria-
22 tions, increased efforts by Federal agen-
23 cies, or changes to existing Federal law,
24 can and should increase the Federal Gov-

1 ernment's efforts to promote breastfeeding
2 among working mothers.

3 (B) COPY TO CONGRESS.—Upon comple-
4 tion of the report described in subparagraph
5 (A), the Task Force shall submit a copy of the
6 report to the Committee on Health, Education,
7 Labor, and Pensions of the Senate, the Com-
8 mittee on Appropriations of the Senate, the
9 Committee on Education and the Workforce of
10 the House of Representatives, and the Com-
11 mittee on Appropriations of the House of Rep-
12 resentatives.

13 (f) POWERS OF THE TASK FORCE.—

14 (1) HEARINGS.—The Task Force may hold
15 such hearings, sit and act at such times and places,
16 take such testimony, and receive such evidence as
17 the Task Force considers advisable to carry out this
18 section.

19 (2) INFORMATION FROM FEDERAL AGENCIES.—
20 The Task Force may secure directly from any Fed-
21 eral department or agency such information as the
22 Task Force considers necessary to carry out this
23 section. Upon request of the Chair of the Task
24 Force, the head of such department or agency shall
25 furnish such information to the task Force.

1 (3) **POSTAL SERVICES.**—The Task Force may
 2 use the United States mails in the same manner and
 3 under the same conditions as other departments and
 4 agencies of the Federal Government.

5 (4) **GIFTS.**—The Task Force may accept, use,
 6 and dispose of gifts or donations of services or prop-
 7 erty.

8 (g) **OPERATING EXPENSES.**—The operating expenses
 9 of the Task Force, including travel expenses for members
 10 of the Task Force, shall be paid for from the general oper-
 11 ating expenses funds of the Secretary of Health and
 12 Human Services and the Secretary of Labor.

13 **SEC. 317. LACTATION ACCOMMODATION AND**
 14 **BREASTFEEDING PROMOTION AT WORK.**

15 (a) **BREASTFEEDING AT WORK GENERAL REQUIRE-**
 16 **MENTS.**—The Family and Medical Leave Act of 1993 (29
 17 U.S.C. 2611 et seq.) is amended by inserting after title
 18 IV the following:

19 **“TITLE V—LACTATION PERIODS**
 20 **AND FACILITIES**

21 **“SEC. 501. DEFINITIONS.**

22 “In this title:

23 “(1) **ELIGIBLE CHILD.**—The term ‘eligible
 24 child’, used with respect to an eligible employee,

1 means a son or daughter (as defined in section 101)
2 who is a child of the employee.

3 “(2) ELIGIBLE EMPLOYEE.—The term ‘eligible
4 employee’ has the meaning given the term in section
5 101, except that the limitations established in
6 clauses (i) and (ii) of section 101(2)(A) shall not
7 apply. The term ‘eligible employee’ does not include
8 any Federal officer or employee covered under sub-
9 chapter VII of chapter 63 of title 5, United States
10 Code, but does include a State employee described in
11 section 304(a) of the Government Employee Rights
12 Act of 1991 (42 U.S.C. 2000e–16c(a)).

13 “(3) EMPLOYER.—The term ‘employer’ has the
14 meaning given the term in section 101, and includes
15 an entity employing a State employee described in
16 section 304(a) of the Government Employee Rights
17 Act of 1991.

18 “(4) UNDUE HARDSHIP.—The term ‘undue
19 hardship’ means an action requiring significant dif-
20 ficulty or expense.

21 **“SEC. 502. LACTATION PERIODS.**

22 “(a) IN GENERAL.—An employer shall provide an ap-
23 propriate number of lactation periods, of reasonable
24 length, for an eligible employee during each workday, to

1 permit the employee to express milk for, or breastfeed, an
2 eligible child.

3 “(b) BREAK TIME.—

4 “(1) UNPAID BREAK PERIODS.—Except as pro-
5 vided in paragraph (2), the lactation periods may
6 consist of unpaid break periods.

7 “(2) COMBINED BREAK PERIODS.—To the ex-
8 tent practicable, an employer shall combine break
9 periods by providing the lactation periods for an eli-
10 gible employee at the same time as the employer
11 provides other break periods for the employee. If the
12 employer combines the break periods, the employee
13 shall receive the same compensation for a combined
14 break period as the employee would have received for
15 an original break period.

16 “(c) LIMITATION.—

17 “(1) UNDUE HARDSHIP.—An employer shall
18 not be required to provide a lactation period under
19 this section if the employer demonstrates that pro-
20 viding the period would impose an undue hardship
21 on the employer, subject to paragraph (2).

22 “(2) REASONABLE EFFORTS.—An employer
23 who maintains that an undue hardship would result
24 from providing a lactation period to an eligible em-
25 ployee shall demonstrate that the employer made

1 reasonable efforts to comply with subsections (a)
2 and (b).

3 **“SEC. 503. LACTATION FACILITIES.**

4 “(a) IN GENERAL.—An employer shall provide an ap-
5 propriate lactation facility for an eligible employee, within
6 a reasonable distance from the employee’s usual work loca-
7 tion, to permit the employee to express milk for, or
8 breastfeed, an eligible child.

9 “(b) LIMITATION.—

10 “(1) UNDUE HARDSHIP.—An employer shall
11 not be required to provide a lactation facility under
12 this section if the employer demonstrates that pro-
13 viding the facility would impose an undue hardship
14 on the employer, subject to paragraph (2).

15 “(2) REASONABLE EFFORTS.—An employer
16 who maintains that an undue hardship would result
17 from providing a lactation facility to an eligible em-
18 ployee shall demonstrate that the employer made
19 reasonable efforts to comply with subsection (a).

20 **“SEC. 504. ENFORCEMENT AND REMEDIES.**

21 “(a) ENFORCEMENT PROCESS.—The Secretary of
22 Labor shall establish or designate a process through
23 which—

24 “(1) an individual may file a complaint regard-
25 ing a violation of this title; and

1 “(2) an office designated by the Secretary in
2 the Department of Labor shall receive, investigate,
3 make determinations regarding, and administer rem-
4 edies with respect to such complaints.

5 “(b) REMEDIES.—The Secretary of Labor shall es-
6 tablish remedies for violations of this title.

7 “(c) GOVERNMENT ACCOUNTABILITY OFFICE AND
8 LIBRARY OF CONGRESS.—In the case of the Government
9 Accountability Office and the Library of Congress, the au-
10 thority of the Secretary of Labor under this title shall be
11 exercised respectively by the Comptroller General of the
12 United States and the Librarian of Congress.

13 **“SEC. 505. REGULATIONS.**

14 “The Secretary of Labor shall issue regulations to
15 carry out this title, including provisions prescribing—

16 “(1) an appropriate number and reasonable
17 length of lactation periods, for purposes of section
18 502;

19 “(2) an appropriate lactation facility (which
20 shall not be a restroom or a portion of a restroom)
21 and a reasonable distance from a usual work loca-
22 tion, for purposes of section 503; and

23 “(3) the process and remedies described in sec-
24 tion 504.”.

1 (b) BREASTFEEDING AT WORK FOR CIVIL SERVICE
2 EMPLOYEES.—Chapter 63 of title 5, United States Code,
3 is amended by adding at the end:

4 “SUBCHAPTER VII—LACTATION PERIODS AND
5 FACILITIES

6 “§ 6392. Definitions

7 “For the purpose of this subchapter—

8 “(1) the term ‘eligible child’, used with respect
9 to an employee, means a son or daughter (as defined
10 in section 6381) who is a child of the employee;

11 “(2) the term ‘employee’ means any individual
12 who is an ‘employee’, as defined by section 6301(2),
13 including any individual employed in a position re-
14 ferred to in clause (v) or (ix) of section 6301(2), but
15 excluding any individual employed by the govern-
16 ment of the District of Columbia, any individual em-
17 ployed on a temporary or intermittent basis, and any
18 employee of the General Accounting Office or the Li-
19 brary of Congress; and

20 “(3) the term ‘undue hardship’ means an action
21 requiring significant difficulty or expense.

22 “§ 6392A. Lactation periods

23 “(a) An employing agency shall provide an appro-
24 priate number of lactation periods, of reasonable length,

1 for an employee during each workday, to permit the em-
2 ployee to express milk for, or breastfeed, an eligible child.

3 “(b)(1) Except as provided in paragraph (2), the lac-
4 tation periods may consist of unpaid break periods.

5 “(2) To the extent practicable, an employing agency
6 shall combine break periods by providing the lactation pe-
7 riods for an employee at the same time as the employing
8 agency provides other break periods for the employee. If
9 the employing agency combines the break periods, the em-
10 ployee shall receive the same compensation for a combined
11 break period as the employee would have received for an
12 original break period.

13 “(c)(1) An employing agency shall not be required to
14 provide a lactation period under this section if the employ-
15 ing agency demonstrates that providing the period would
16 impose an undue hardship on the employing agency, sub-
17 ject to paragraph (2).

18 “(2) An employing agency who maintains that an
19 undue hardship would result from providing a lactation
20 period to an employee shall demonstrate that the employ-
21 ing agency made reasonable efforts to comply with sub-
22 sections (a) and (b).

23 **“§ 6392B. Lactation facilities**

24 “(a) An employing agency shall provide an appro-
25 priate lactation facility for an employee, within a reason-

1 able distance from the employee’s usual work location, to
2 permit the employee to express milk for, or breastfeed, an
3 eligible child.

4 “(b)(1) An employing agency shall not be required
5 to provide a lactation facility under this section if the em-
6 ploying agency demonstrates that providing the facility
7 would impose an undue hardship on the employing agency,
8 subject to paragraph (2).

9 “(2) An employing agency who maintains that an
10 undue hardship would result from providing a lactation
11 facility to an employee shall demonstrate that the employ-
12 ing agency made reasonable efforts to comply with sub-
13 section (a).

14 **“§ 6392C. Remedies**

15 “(a) The Office of Personnel Management shall es-
16 tablish or designate a process through which—

17 “(1) an individual may file a complaint regard-
18 ing a violation of this subchapter; and

19 “(2) an office designated by the Director of the
20 Office of Personnel Management shall receive, inves-
21 tigate, make determinations regarding, and admin-
22 ister remedies with respect to such complaints.

23 “(b) The Office of Personnel Management shall es-
24 tablish remedies for violations of this subchapter.

1 **“§ 6392D. Regulations**

2 “(a) The Office of Personnel Management shall issue
3 regulations to carry out this subchapter, including provi-
4 sions prescribing—

5 “(1) an appropriate number and reasonable
6 length of lactation periods, for purposes of section
7 6392A;

8 “(2) an appropriate lactation facility (which
9 shall not be a restroom or a portion of a restroom)
10 and a reasonable distance from a usual work loca-
11 tion, for purposes of section 6392B; and

12 “(3) the process and remedies described in sec-
13 tion 6392C.

14 “(b) The regulations prescribed under this sub-
15 chapter shall, to the extent appropriate, be consistent with
16 the regulations prescribed by the Secretary of Labor to
17 carry out title V of the Family and Medical Leave Act
18 of 1993.”.

19 (c) BREASTFEEDING AT WORK FOR CONGRESSIONAL
20 EMPLOYEES.—

21 (1) APPLICATION OF LAWS.—Section 102(a) of
22 the Congressional Accountability Act of 1995 (2
23 U.S.C. 1302(a)) is amended—

24 (A) in paragraph (5), by striking “The”
25 and inserting “Title I of the”; and

26 (B) by adding at the end the following:

1 “(12) Title V of the Family and Medical Leave
2 Act of 1993.”.

3 (2) EXTENSION OF RIGHTS AND PROTEC-
4 TIONS.—Part A of title II of the Congressional Ac-
5 countability Act of 1995 (2 U.S.C. 1311 et seq.) is
6 amended—

7 (A) in section 202 (2 U.S.C. 1312), by
8 striking the title and inserting the following:

9 **“SEC. 202. RIGHTS AND PROTECTIONS UNDER TITLE I OF**
10 **THE FAMILY AND MEDICAL LEAVE ACT OF**
11 **1993.”;**

12 (B) by redesignating section 207 as section
13 208; and

14 (C) by inserting after section 206 the fol-
15 lowing:

16 **“SEC. 207. RIGHTS AND PROTECTIONS UNDER TITLE V OF**
17 **THE FAMILY AND MEDICAL LEAVE ACT OF**
18 **1993.**

19 “(a) BREASTFEEDING RIGHTS AND PROTECTIONS
20 PROVIDED.—

21 “(1) IN GENERAL.—The rights and protections
22 established by sections 501 through 503 of the Fam-
23 ily and Medical Leave Act of 1993 shall apply to
24 covered employees.

1 “(2) DEFINITION.—For purposes of the appli-
2 cation described in paragraph (1)—

3 “(A) the term ‘employer’ as used in the
4 Family and Medical Leave Act of 1993 means
5 any employing office; and

6 “(B) the term ‘eligible employee’ as used
7 in the Family and Medical Leave Act of 1993
8 means a covered employee who has been em-
9 ployed in any employing office.

10 “(b) REMEDY.—The remedy for a violation of sub-
11 section (a) shall be such remedy as would be appropriate
12 if awarded under section 504 of the Family and Medical
13 Leave Act of 1993.

14 “(c) REGULATIONS.—

15 “(1) IN GENERAL.—The Board shall, pursuant
16 to section 304, issue regulations to implement the
17 rights and protections under this section.

18 “(2) AGENCY REGULATIONS.—The regulations
19 issued under paragraph (1) shall be the same as
20 substantive regulations promulgated by the Sec-
21 retary of Labor to implement the statutory provi-
22 sions referred to in subsections (a) and (b), except
23 insofar as the Board may determine, for good cause
24 shown and stated together with the issued regula-
25 tions, that a modification of such promulgated regu-

1 lations would be more effective for the implementa-
 2 tion of the rights and protections under this sec-
 3 tion.”.

4 (3) TABLE OF CONTENTS.—The table of con-
 5 tents for the Congressional Accountability Act of
 6 1995 is amended by striking the item relating to
 7 section 207 and inserting the following:

“Sec. 207. Rights and protections under title V of the Family and Medical
 Leave Act of 1993.

“Sec. 208. Prohibition of intimidation or reprisal.”.

8 (d) BREASTFEEDING AT WORK FOR EMPLOYEES IN
 9 PRESIDENTIAL OFFICES.—

10 (1) APPLICATION OF LAWS.—Section 402 of
 11 title 3, United States Code, is amended—

12 (A) in paragraph (5), by striking “The”
 13 and inserting “Title I of the”; and

14 (B) by adding at the end the following:

15 “(12) Title V of the Family and Medical Leave
 16 Act of 1993.”.

17 (2) EXTENSION OF RIGHTS AND PROTEC-
 18 TIONS.—Subchapter II of chapter 5 of title 3,
 19 United States Code, is amended—

20 (A) in section 412, by striking the title and
 21 inserting the following:

1 **“SEC. 412. RIGHTS AND PROTECTIONS UNDER TITLE I OF**
 2 **THE FAMILY AND MEDICAL LEAVE ACT OF**
 3 **1993.”;**

4 (B) by redesignating section 417 as section
 5 418; and

6 (C) by inserting after section 416 the fol-
 7 lowing:

8 **“SEC. 417. RIGHTS AND PROTECTIONS UNDER TITLE V OF**
 9 **THE FAMILY AND MEDICAL LEAVE ACT OF**
 10 **1993.**

11 **“(a) BREASTFEEDING RIGHTS AND PROTECTIONS**
 12 **PROVIDED.—**

13 **“(1) IN GENERAL.—**The rights and protections
 14 established by sections 501 through 503 of the Fam-
 15 ily and Medical Leave Act of 1993 shall apply to
 16 covered employees.

17 **“(2) DEFINITION.—**For purposes of the appli-
 18 cation described in paragraph (1)—

19 **“(A) the term ‘employer’ as used in the**
 20 **Family and Medical Leave Act of 1993 means**
 21 **any employing office; and**

22 **“(B) the term ‘eligible employee’ as used**
 23 **in the Family and Medical Leave Act of 1993**
 24 **means a covered employee.**

25 **“(b) REMEDY.—**The remedy for a violation of sub-
 26 section (a) shall be such remedy as would be appropriate

1 if awarded under section 504 of the Family and Medical
2 Leave Act of 1993.

3 “(c) REGULATIONS.—

4 “(1) IN GENERAL.—The President, or the des-
5 ignee of the President, shall issue regulations to im-
6 plement this section.

7 “(2) AGENCY REGULATIONS.—The regulations
8 issued under paragraph (1) shall be the same as
9 substantive regulations promulgated by the Sec-
10 retary of Labor to implement the statutory provi-
11 sions referred to in subsections (a) and (b)—

12 “(A) except to the extent that the Presi-
13 dent or designee may determine, for good cause
14 shown and stated together with the issued regu-
15 lations, that a modification of such promulgated
16 regulations would be more effective for the im-
17 plementation of the rights and protections
18 under this section; and

19 “(B) except that the President or designee
20 may, at the discretion of the President or des-
21 ignee, issue regulations to implement a provi-
22 sion of subchapter VII of chapter 63 of title 5,
23 United States Code, that applies to employees
24 in the executive branch of the Federal Govern-
25 ment in lieu of an analogous statutory provision

1 referred to in subsection (a) or (b), if the
2 issuance of such regulations—

3 “(i) would be equally effective for the
4 implementation of the rights and protec-
5 tions under this section; and

6 “(ii) would promote uniformity in the
7 application of Federal law to employees in
8 the executive branch of the Federal Gov-
9 ernment.”.

10 (3) CONFORMING AMENDMENT.—Section
11 411(e) of title 3, United States Code, is amended by
12 striking “417” and inserting “418”.

13 (4) TABLE OF CONTENTS.—The table of con-
14 tents for chapter 5 of title 3, United States Code,
15 is amended by striking the item relating to section
16 417 and inserting the following:

“417. Rights and protections under title V of the Family and Medical Leave
Act of 1993.

“418. Prohibition of intimidation or reprisal.”.

17 (e) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), this section and the amendments made by
20 this section take effect 18 months after the date of
21 enactment of this Act.

22 (2) REGULATIONS.—Section 505 of the Family
23 and Medical Leave Act of 1993 (as added by sub-
24 section (a)), section 6392D of title 5, United States

1 Code (as added by subsection (b)), section 207(c) of
2 the Congressional Accountability Act of 1995 (as
3 added by subsection (c)), and section 417(c) of title
4 3, United States Code (as added by subsection (d))
5 take effect on the date of enactment of this Act.

6 **CHAPTER 2—PROMOTING LIFELONG**
7 **ACTIVE COMMUNITIES**

8 **SEC. 321. SHORT TITLE.**

9 This chapter may be cited as the “Promoting Life-
10 long Active Communities Every Day Act” or the “PLAY
11 Every Day Act”.

12 **SEC. 322. PURPOSE.**

13 The purpose of this chapter is to help children, fami-
14 lies and communities achieve the national recommendation
15 of 60 minutes of physical activity every day.

16 **SEC. 323. DEFINITION OF SECRETARY.**

17 In this chapter, the term “Secretary” means the Sec-
18 retary of Health and Human Services.

19 **Subchapter A—National Program Promoting**
20 **Lifelong Active Communities**

21 **SEC. 331. DEVELOPMENT OF COMMUNITY PLAY INDEX.**

22 (a) COMMUNITY PLAY INDEX.—The Secretary, act-
23 ing through the Director of the Centers for Disease Con-
24 trol and Prevention, shall develop a well-validated commu-
25 nity measurement tool, which shall be known as the “Com-

1 munity Play Index”, that can measure the policy, pro-
2 gram, or environmental barriers in communities to partici-
3 pating in physical activity. The Community Play Index
4 shall include—

5 (1) cross-cutting measurements that—

6 (A) examine barriers to physical activities
7 across multiple settings, including homes, after
8 school and child care sites, schools, the commu-
9 nity at-large, and worksites; and

10 (B) focus on the—

11 (i) availability of adequate spaces and
12 places for physical activity;

13 (ii) availability of, and access to, qual-
14 ity physical activity and physical education
15 programs; and

16 (iii) the availability of programs, ac-
17 tivities, and leaders to educate about the
18 importance of physical activity for the com-
19 munity; and

20 (2) additional measurements to assist economi-
21 cally and culturally diverse communities in exam-
22 ining the social determinants of health.

23 (b) GUIDANCE AND TRAINING.—The Secretary shall
24 provide guidance and develop training on utilizing the
25 Community Play Index.

1 **SEC. 332. SENSE OF THE SENATE REGARDING FUNDING.**

2 It is the sense of the Senate that the Secretary, act-
 3 ing through the Director of the Centers for Disease Con-
 4 trol and Prevention, shall carry out this subchapter using
 5 any additional and available funds provided to the Sec-
 6 retary for the steps to a healthier United States program
 7 carried out by the Centers for Disease Control and Pre-
 8 vention.

9 **Subchapter B—Model Communities of Play**
 10 **Implementation Grants**

11 **SEC. 341. MODEL COMMUNITIES OF PLAY IMPLEMENTA-**
 12 **TION GRANTS.**

13 (a) PROGRAM AUTHORIZED.—

14 (1) IN GENERAL.—The Secretary, acting
 15 through the Director of the Centers for Disease
 16 Control and Prevention, shall award 3 grants to
 17 State health departments to enable the State health
 18 departments to work in partnership with eligible
 19 community-based coalitions to plan and implement
 20 model communities of play that—

21 (A) increase the physical spaces and places
 22 available for physical activity;

23 (B) increase the opportunities for children
 24 and families to participate in quality play, and
 25 the number of children and families partici-
 26 pating in quality play; and

1 (C) increase knowledge and awareness
2 about the importance of individuals achieving
3 60 minutes of recommended physical activity
4 every day.

5 (2) AMOUNT OF GRANTS.—A grant awarded
6 under this subsection shall be in the amount of
7 \$250,000. If the amounts appropriated under this
8 title for a fiscal year are not sufficient to support 3
9 grants at such level, the Secretary shall ratably re-
10 duce the amount of all grants.

11 (b) APPLICATION.—A State health department desir-
12 ing a grant under subsection (a) shall submit an applica-
13 tion to the Secretary at such time, in such manner, and
14 containing such information as the Secretary may require.

15 (c) COORDINATION.—In awarding grants under sub-
16 section (a), the Secretary shall ensure that the proposed
17 programs assisted under each grant are coordinated in
18 substance and format with programs currently funded
19 through other Federal departments and agencies, includ-
20 ing—

21 (1) State-based nutrition and physical activity
22 programs, comprehensive school health education
23 programs, and community-based health and wellness
24 programs of the Centers for Disease Control and
25 Prevention;

1 (2) the physical education programs under sub-
2 part 10 of part D of title V of the Elementary and
3 Secondary Education Act of 1965 (20 U.S.C. 7261
4 et seq.;

5 (3) the safe routes to schools program under
6 section 1404 of the Safe, Accountable, Flexible, Effi-
7 cient Transportation Equity Act: A Legacy for
8 Users (23 U.S.C. 402 note; 119 Stat. 1228); and

9 (4) other health and wellness programs oper-
10 ating within the community.

11 (d) PARTNERSHIP WITH COMMUNITY COALITIONS.—

12 A State health department receiving a grant under sub-
13 section (a) shall use grant funds to carry out the activities
14 described in subsection (e) in partnership with 1 or more
15 community coalitions that meet all of the following re-
16 quirements:

17 (1) The community coalition is comprised of a
18 representative sampling of community partners, in-
19 cluding not less than half of the different types of
20 individuals or entities described in subparagraphs
21 (A) through (O):

22 (A) A community-based organization that
23 focuses on children and youth, preventive
24 health, physical activity, or physical education.

1 (B) A local parks and recreation depart-
2 ment.

3 (C) A local health department.

4 (D) A local educational agency, as defined
5 in section 9101 of the Elementary and Sec-
6 ondary Education Act of 1965 (20 U.S.C.
7 7801).

8 (E) A local city planning agency.

9 (F) A local health care provider.

10 (G) A 4-year institution of higher edu-
11 cation, as defined in section 101 of the Higher
12 Education Act of 1965 (20 U.S.C. 1001).

13 (H) A tribal health facility, where applica-
14 ble.

15 (I) A tribal educational agency, where ap-
16 plicable.

17 (J) A Federally qualified health center or
18 rural health clinic, where applicable.

19 (K) A hospital.

20 (L) A faith-based organization.

21 (M) A policymaker or elected official.

22 (N) A community planning organization.

23 (O) A business.

24 (2) The community coalition completed and
25 submitted to the State health department—

1 (A) a Community Play Index developed
2 under section 101 for the community that iden-
3 tifies the gaps and barriers to physical activity
4 in the community to children and youth; and

5 (B) a community action plan describing
6 the programs, policy, and environmental change
7 strategies that will be implemented with grant
8 funds to help children and youth in the commu-
9 nity reach the recommended 60 minutes of
10 physical activity every day.

11 (3) The community coalition provided—

12 (A) documentation to the State health de-
13 partment on the manner in which the coalition
14 will coordinate with appropriate State and local
15 authorities, including—

16 (i) State or local health departments;

17 (ii) State educational agencies or local
18 educational agencies, as defined in section
19 9101 of the Elementary and Secondary
20 Education Act of 1965 (20 U.S.C. 7801);

21 (iii) State or local parks and recre-
22 ation departments or associations;

23 (iv) State or local departments of
24 transportation or city planning;

25 (v) community foundations; and

1 (vi) any other entities determined to
2 be appropriate by the Secretary; and

3 (B) a description of the manner in which
4 the coalition will evaluate the effectiveness of
5 the programs carried out with grant funds.

6 (e) AUTHORIZED ACTIVITIES.—A State health de-
7 partment that receives a grant under subsection (a) shall
8 use funds available through the grant to carry out the fol-
9 lowing activities:

10 (1) Train community-based coalitions on how to
11 utilize the Community Play Index to measure the
12 program, policy, and environmental barriers to pro-
13 moting lifelong physical activity for youth.

14 (2) Work in partnership with community coali-
15 tions described in subsection (d) to enable the com-
16 munity coalitions to carry out the coalition's commu-
17 nity action plan and promote a model community of
18 play, which may include the following:

19 (A) Enabling the maximum use of, or the
20 creation of spaces and places for, physical activ-
21 ity for children, families, and communities be-
22 fore, during, and after school or work, which
23 may include increasing the number of—

24 (i) programs that increase the number
25 of safe streets and sidewalks in the com-

1 community to walk and bike to school, work,
2 or other community destinations, such as
3 recreation sites, parks, or community cen-
4 ters;

5 (ii) schools, faith-based organizations,
6 and recreational facilities serving the com-
7 munity that provide programming on phys-
8 ical activity and physical education before,
9 during, or after school;

10 (iii) schools serving the community
11 that provide recess, physical education, and
12 physical activity for children and youth;

13 (iv) day care, child care, and after
14 school care sites in the community that
15 provide physical activity for children and
16 youth;

17 (v) venues in the community that pro-
18 vide co-curricular physical activity pro-
19 grams, including sports fields and courts,
20 especially venues for all-inclusive intra-
21 mural programs and physical activity
22 clubs;

23 (vi) playgrounds and activity sites in
24 the community for young children, includ-
25 ing sites that offer programs that provide

1 physical activity instruction that meet the
2 various needs and interests of all students,
3 including those with illness, injury, and
4 physical and developmental disabilities, as
5 well as those that live sedentary lifestyles
6 or with a disinterest in traditional team
7 sports;

8 (vii) capital improvement projects that
9 increase opportunities for physical activity
10 in the community; and

11 (viii) networks of walking and cycling
12 trails where trails do not exist in the com-
13 munity, that offer both a functional alter-
14 native to automobile travel and an oppor-
15 tunity for exercise, recreation, and commu-
16 nity connectedness.

17 (B) Enhancing opportunities and access
18 for children and youth in the community to par-
19 ticipate in quality physical activity and physical
20 education programs before, during, and after
21 school, which may include increasing the num-
22 ber of—

23 (i) school and after school care sites
24 in the community that implement proven
25 health curricula, physical education (in-

- 1 including developing innovative approaches
2 to teaching and staffing, physical edu-
3 cation), and physical activity programming;
- 4 (ii) children and youth in the commu-
5 nity that are able to participate in physical
6 education or activity during and after
7 school, by ensuring that adequate equip-
8 ment is available to such children and
9 youth;
- 10 (iii) scholarships to low-income chil-
11 dren and youth for physical activity pro-
12 grams;
- 13 (iv) education and training programs
14 for education, recreation, leisure, child
15 care, and coaching professionals regarding
16 quality physical education and physical ac-
17 tivity programs and policies;
- 18 (v) training programs to assist physi-
19 cians in—
- 20 (I) carefully communicating the
21 results of body mass index (BMI)
22 tests to parents and, in an age-appro-
23 priate manner, to the children and
24 youth themselves;

1 (II) providing information to
2 families so they may make informed
3 decisions about physical activity and
4 nutrition; and

5 (III) explaining the benefits asso-
6 ciated with physical activity and the
7 risks associated with childhood over-
8 weight and obesity;

9 (vi) assessment tools used to measure
10 the quality of physical activity, sports, and
11 intramural sports programs;

12 (vii) guidelines and informational ma-
13 terials used by teachers, parents, care-
14 givers, and health-care professionals who
15 are interested in promoting physical activ-
16 ity for infants, toddlers, and preschoolers;
17 and

18 (viii) guidelines and informational ma-
19 terials used to promote physical activity
20 with the intent of improving the current
21 health, fitness, and wellness of preadoles-
22 cent children (ages 6 through 12) as well
23 as to promote lifelong physical activity.

24 (C) Identifying, engaging and mobilizing
25 community leaders, decision-makers, experts,

1 and the media to raise awareness and educate
2 the public about the importance of securing 60
3 minutes of physical activity every day, which
4 may include increasing the number of—

5 (i) school and after school care faculty
6 and staff, including coaches, that serve as
7 positive role models for students regarding
8 regular physical activity;

9 (ii) businesses that serve as role mod-
10 els by providing physical space and incen-
11 tives for employees to participate in phys-
12 ical activity;

13 (iii) businesses that serve as role mod-
14 els to communities by—

15 (I) providing support to intra-
16 mural teams, clubs, sports leagues,
17 playgrounds, trails, biking and walk-
18 ing paths, and fields and venues for
19 sports, play, and physical activity;

20 (II) incorporating built environ-
21 ment strategies into new construction
22 of facilities;

23 (III) adopting safe routes to
24 school programs;

1 (IV) providing bike racks at the
2 office; and

3 (V) encouraging the use of the
4 stairs;

5 (iv) insurers that provide incentives
6 for maintaining healthy body weight, in-
7 cluding offering screening and obesity pre-
8 vention services in routine clinical practice;

9 (v) groups representing low-income in-
10 dividuals or individuals with disabilities,
11 that can promote and secure safer and
12 more accessible sites for activity;

13 (vi) consumer research-driven mar-
14 keting strategies for ongoing initiatives
15 and interventions that enhance physical ac-
16 tivity for children and youth;

17 (vii) products and opportunities pro-
18 vided or offered by leisure, entertainment,
19 and recreation industries that promote reg-
20 ular physical activity and reduce sedentary
21 behaviors;

22 (viii) media advocacy training pro-
23 grams for public health and exercise sci-
24 entists so as to empower the scientists to

1 disseminate their knowledge to a broad au-
2 dience; and

3 (ix) campaigns to foster awareness
4 about the health benefits of regular phys-
5 ical activity of not less than 60 minutes a
6 day for all children and youth.

7 (3) To support the evaluation of the community
8 action plans of the community coalitions and the ac-
9 tivities carried out under this title.

10 (f) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to carry out this subtitle
12 \$750,000 for fiscal year 2008.

13 **TITLE IV—RESPONSIBLE MAR-**
14 **KETING AND CONSUMER**
15 **AWARENESS**

16 **Subtitle A—General Provisions**

17 **SEC. 401. NUTRITION LABELING OF RESTAURANT FOODS.**

18 Section 403(q)(5) of the Federal Food, Drug, and
19 Cosmetic Act (21 U.S.C. 343(q)(5)(A)(i)) is amended—

20 (1) in clause (A)—

21 (A) in subclause (i), by inserting “except
22 as provided in clauses (H) and (I),” before
23 “which” the first place it appears; and

1 (B) in subclause (ii), by inserting “except
2 as provided in clauses (H) and (I),” before
3 “which” the first place it appears; and
4 (2) by adding at the end the following:

5 “(H) RESTAURANTS AND RETAIL FOOD ESTABLISH-
6 MENTS.—

7 “(i) IN GENERAL.—Except for food described in
8 subclause (iii), in the case of food that is served,
9 processed, or prepared in a restaurant or similar re-
10 tail food establishment that is part of a chain with
11 20 or more locations doing business under the same
12 trade name (regardless of the type of ownership of
13 the locations), the restaurant or establishment shall
14 disclose the information described in subclause (ii).

15 “(ii) INFORMATION REQUIRED TO BE DIS-
16 CLOSED.—Except as provided in subclause (iii), the
17 establishment shall disclose—

18 “(I)(aa) in a statement adjacent to the
19 name of the food on any menu listing the food
20 for sale, or by any other means deemed equiva-
21 lent by the Secretary, the number of calories,
22 grams of saturated fat plus trans fat, and milli-
23 grams of sodium contained in a standard serv-
24 ing of the food, as usually offered for sale, in
25 a clear and conspicuous manner; and

1 “(bb) information, specified by the Sec-
2 retary by regulation, designed to enable the
3 public to understand, in the context of a total
4 daily diet, the significance of the nutrition in-
5 formation that is provided; and

6 “(II) in a statement adjacent to the name
7 of the food on any menu board or other sign
8 listing the food for sale, or by any other means
9 deemed equivalent by the Secretary—

10 “(aa) the number of calories con-
11 tained in a serving of the food, as usually
12 offered for sale, in a clear and conspicuous
13 manner; and

14 “(bb) notification that the information
15 required by subitems (aa) and (bb) of item
16 (I) shall be provided in writing at the re-
17 quest of a prospective purchaser.

18 “(iii) NONAPPLICABILITY TO CERTAIN FOOD.—

19 This clause does not apply to—

20 “(I) items that are not listed on a menu or
21 menu board (such as condiments and other
22 items placed on the table or counter for general
23 use); or

1 “(II) daily specials, temporary menu items,
2 or other irregular menu items, as specified by
3 the Secretary by regulation.

4 “(iv) SELF-SERVICE FACILITIES.—In the case
5 of food sold at a salad bar, buffet line, cafeteria line,
6 or similar self-service facility, a restaurant or other
7 establishment shall place a sign that lists calories
8 per standard serving adjacent to each food offered.

9 “(v) VOLUNTARY PROVISION OF NUTRITION IN-
10 FORMATION; STATE REGULATION OF NUTRITION IN-
11 FORMATION FOR RESTAURANT FOOD.—

12 “(I) RETAIL FOOD ESTABLISHMENTS.—
13 Nothing in this clause precludes a restaurant or
14 similar retail food establishment from providing
15 additional nutrition information, voluntarily, if
16 the information complies with the nutrition la-
17 beling requirements contained in this subpara-
18 graph.

19 “(II) STATE OR LOCAL REQUIREMENTS.—
20 Nothing in this clause precludes a State or po-
21 litical subdivision of a State from requiring that
22 a restaurant or similar food establishment pro-
23 vide nutrition information in addition to that
24 required under this clause.

25 “(vi) REGULATIONS.—

1 “(I) PROPOSED REGULATION.—Not later
2 than 1 year after the date of enactment of this
3 clause, the Secretary shall promulgate proposed
4 regulations to carry out this clause.

5 “(II) CONTENTS.—The regulations shall
6 allow for the variations in serving sizes and in
7 food preparation that can reasonably be ex-
8 pected to result from inadvertent human error,
9 training of food service workers, and other fac-
10 tors.

11 “(III) FINAL REGULATIONS.—Not later
12 than 2 years after the date of enactment of this
13 clause, the Secretary shall promulgate final reg-
14 ulations to implement this clause.

15 “(IV) FAILURE TO PROMULGATE FINAL
16 REGULATIONS BY REQUIRED DATE.—If the Sec-
17 retary does not promulgate final regulations
18 under item (III) by the date that is 2 years
19 after the date of enactment of this clause—

20 “(aa) the proposed regulations issued
21 in accordance with item (I) shall become
22 effective as the final regulations on the day
23 after that date; and

1 “(bb) the Secretary shall publish in
2 the Federal Register notice of the final
3 regulations.

4 “(I) VENDING MACHINES.—

5 “(i) IN GENERAL.—In the case of an article of
6 food sold from a vending machine that—

7 “(I) does not permit a prospective pur-
8 chaser to examine the article so as to be able
9 to read a statement affixed to the article before
10 purchasing the article; and

11 “(II) is operated by a person that is en-
12 gaged in the business of owning and operating
13 20 or more vending machines;

14 the vending machine operator shall provide a con-
15 spicuous sign in close proximity to the article that
16 includes a statement disclosing the number of cal-
17 ories contained in the article.

18 “(ii) VOLUNTARY PROVISION OF NUTRITION IN-
19 FORMATION; STATE REGULATION OF NUTRITION IN-
20 FORMATION FOR VENDING MACHINES.—

21 “(I) VENDING MACHINE OPERATORS.—

22 Nothing in this clause precludes a vending ma-
23 chine operator from providing additional nutri-
24 tion information, voluntarily, if the information

1 complies with the nutrition labeling require-
2 ments contained in this subparagraph.

3 “(II) STATE OR LOCAL REQUIREMENTS.—
4 Nothing in this title precludes a State or polit-
5 ical subdivision of a State from requiring that
6 a vending machine operator provide nutrition
7 information in addition to that required under
8 this clause.

9 “(iii) REGULATIONS.—

10 “(I) PROPOSED REGULATIONS.—Not later
11 than 1 year after the date of enactment of this
12 clause, the Secretary shall promulgate proposed
13 regulations to carry out this clause.

14 “(II) FINAL REGULATIONS.—Not later
15 than 2 years after the date of enactment of this
16 clause, the Secretary shall promulgate final reg-
17 ulations to implement this clause.

18 “(III) FAILURE TO PROMULGATE FINAL
19 REGULATIONS BY REQUIRED DATE.—If the Sec-
20 retary does not promulgate final regulations
21 under item (II) by the date that is 2 years after
22 the date of enactment of this clause—

23 “(aa) the proposed regulations issued
24 in accordance with item (I) shall become

1 effective as the final regulations on the day
2 after that date; and

3 “(bb) the Secretary shall publish in
4 the Federal Register notice of the final
5 regulations.”.

6 **SEC. 402. RULEMAKING AUTHORITY FOR ADVERTISING TO**
7 **CHILDREN.**

8 (a) **PURPOSE.**—The purpose of this section is to re-
9 store the authority of the Federal Trade Commission to
10 issue regulations that restrict the marketing or advertising
11 of foods and beverages to children under the age of 18
12 years if the Federal Trade Commission determines that
13 there is evidence that consumption of certain foods and
14 beverages is detrimental to the health of children.

15 (b) **AUTHORITY.**—Section 18 of the Federal Trade
16 Commission Act (15 U.S.C. 57a) is amended by striking
17 subsection (h).

18 **SEC. 403. FOOD ADVERTISING IN SCHOOLS.**

19 Section 10 of the Child Nutrition Act of 1966 (42
20 U.S.C. 1779) is amended by adding at the end the fol-
21 lowing:

22 “(d) **FOOD ADVERTISING.**—The Secretary may pro-
23 hibit the advertising of food in participating schools if the
24 Secretary determines that consumption of the advertised

1 food has a detrimental effect on the diets or health of chil-
2 dren.”.

3 **SEC. 404. DISALLOWANCE OF DEDUCTIONS FOR ADVER-**
4 **TISING AND MARKETING EXPENSES RELAT-**
5 **ING TO TOBACCO PRODUCT USE.**

6 (a) **IN GENERAL.**—Part IX of subchapter B of chap-
7 ter 1 of subtitle A of the Internal Revenue Code of 1986
8 (relating to items not deductible) is amended by adding
9 at the end the following new section:

10 **“SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO**
11 **ADVERTISING AND MARKETING EXPENSES.**

12 “No deduction shall be allowed under this chapter for
13 expenses relating to advertising or marketing cigars, ciga-
14 rettes, smokeless tobacco, pipe tobacco, or any similar to-
15 bacco product. For purposes of this section, any term used
16 in this section which is also used in section 5702 shall
17 have the same meaning given such term by section 5702.”.

18 (b) **CONFORMING AMENDMENT.**—The table of sec-
19 tions for such part IX is amended by adding after the
20 item relating to section 280H the following new item:

“Sec. 280I. Disallowance of deduction for tobacco advertising
and marketing expenses.”.

21 (c) **EFFECTIVE DATE.**—The amendments made by
22 this section shall apply to taxable years beginning after
23 the date of the enactment of this Act.

1 **SEC. 405. FEDERAL-STATE TOBACCO COUNTER-ADVER-**
2 **TISING PROGRAMS.**

3 Part P of title III of the Public Health Service Act
4 (42 U.S.C. 280g et seq.), as amended in section 312, is
5 further amended by adding at the end the following:

6 **“SEC. 399S. FEDERAL-STATE TOBACCO COUNTER-ADVER-**
7 **TISING PROGRAMS.**

8 “(a) IN GENERAL.—The Secretary, acting through
9 the Director of the Centers for Disease Control and Pre-
10 vention, shall award grants to and enter into contracts
11 with eligible entities for the implementation of national
12 and local media (such as counter-advertising) and non-
13 media campaigns designed to reduce the use of tobacco
14 products.

15 “(b) ELIGIBILITY.—To be eligible to receive a grant
16 under subsection (a), an entity shall be—

17 “(1) a public entity, including a State public
18 health department; or

19 “(2) a private, nonprofit entity that—

20 “(A) is not affiliated with a manufacturer
21 or importer of a tobacco product;

22 “(B) has demonstrated a record of con-
23 ducting a national antitobacco public education
24 campaign to effectively reduce the use of to-
25 bacco products;

1 “(C) has expertise in conducting a multi-
2 media communications campaign; and

3 “(D) has expertise in developing strategies
4 that affect behavior changes in children and
5 other targeted populations.

6 “(e) APPLICATION.—An eligible entity shall submit
7 an application to the Secretary for a grant under this sec-
8 tion at such time, in such manner, and accompanied by
9 such information as the Secretary may require.

10 “(d) USE OF FUNDS.—An eligible entity shall use
11 amounts received under a grant under this section to—

12 “(1) design and implement multimedia public
13 education and social marketing campaigns that—

14 “(A) discourage the use of tobacco prod-
15 ucts;

16 “(B) encourage the use of products de-
17 signed to enable tobacco use cessation; and

18 “(C) educate the public about the hazards
19 of environmental tobacco smoke exposure; or

20 “(2) conduct research related to the effective-
21 ness of the campaigns described in paragraph (1).

22 “(e) ALLOCATION OF GRANTS.—Of the amounts
23 awarded under this section, the Secretary shall award—

24 “(1) 50 percent of such amounts to eligible
25 public entities; and

1 “(2) 50 percent of such amounts to eligible pri-
2 vate, nonprofit entities.

3 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated \$200,000,000 to carry
5 out this section.”.

6 **Subtitle B—Penalties for Failure to** 7 **Reduce Teen Smoking**

8 **SEC. 411. CHILD CIGARETTE USE SURVEYS.**

9 (a) ANNUAL PERFORMANCE SURVEY.—

10 (1) IN GENERAL.—Not later than August 31,
11 2007, and annually thereafter, the Secretary of
12 Health and Human Services (referred to in this sec-
13 tion as the “Secretary”) shall publish the results of
14 an annual cigarette survey, to be carried out after
15 the date of enactment of this Act and completed
16 prior to August 21, 2007, and prior to August 21
17 of each year thereafter, to determine—

18 (A) the percentage of all young individuals
19 who used a type of cigarette within the 30-day
20 period prior to the conduct of the survey in-
21 volved; and

22 (B) the percentage of young individuals
23 who identify each brand of each type of ciga-
24 rette as the usual brand smoked within such
25 30-day period.

1 (2) YOUNG INDIVIDUALS.—For the purposes of
2 this subtitle, the term “young individuals” means in-
3 dividuals who are under 18 years of age.

4 (b) SIZE AND METHODOLOGY.—

5 (1) IN GENERAL.—The survey referred to in
6 subsection (a) shall be comparable in size and meth-
7 odology to the Monitoring the Future survey that
8 was completed in 1999 to measure the use of ciga-
9 rettes (by brand) by youths under 18 years of age
10 within the 30-day period prior to the conduct of the
11 study.

12 (2) CONCLUSIVE ACCURATENESS.—A survey
13 using the methodology described in paragraph (1)
14 shall be deemed conclusively proper, correct, and ac-
15 curate for purposes of this section.

16 (3) DEFINITION.—In this subtitle, the term
17 “Monitoring the Future survey” means the com-
18 bined survey of 8th, 10th, and 12th grade students
19 that was conducted at the Institute for Social Re-
20 search at the University of Michigan.

21 (c) REDUCTION.—The Secretary, based on a com-
22 parison of the results of the first annual cigarette survey
23 referred to in subsection (a) and the Monitoring the Fu-
24 ture survey referred to in subsection (b)(1), shall deter-

1 mine the percentage reduction (if any) in youth cigarette
2 use for each manufacturer of cigarettes.

3 (d) PARTICIPATION IN SURVEY.—Notwithstanding
4 any other provision of law, the Secretary may conduct a
5 survey under this section involving minors if the results
6 of such survey with respect to such minors are kept con-
7 fidential and not disclosed.

8 (e) NONAPPLICABILITY.—Chapter 35 of title 44,
9 United States Code, shall not apply to information re-
10 quired for the purposes of carrying out this section.

11 (f) DEFINITION.—In this subtitle the term “ciga-
12 rette” has the meaning given such term in section 3(1)
13 of the Federal Cigarette Labeling and Advertising Act (15
14 U.S.C. 1332(1)).

15 **SEC. 412. CIGARETTE USE REDUCTION GOAL AND NON-**
16 **COMPLIANCE.**

17 (a) GOAL.—It shall be the cigarette use reduction
18 goal that each manufacturer reduce youth cigarette use
19 by at least 15 percent during the period between the Moni-
20 toring the Future survey referred to in section 411(b)(1)
21 and the completion of the first annual cigarette survey
22 (and such subsequent surveys as compared to the previous
23 year’s survey) referred to in section 411(a).

24 (b) NONCOMPLIANCE.—

1 (1) INDUSTRY-WIDE PENALTY.—If the Sec-
2 retary determines that the cigarette use reduction
3 goal under subsection (a) has not been achieved, the
4 Secretary shall, not later than September 10, 2007,
5 and September 10 of each year thereafter, impose
6 an industry-wide penalty on the manufacturers of
7 cigarettes in an amount that is in the aggregate
8 equal to—

9 (A) if youth cigarette use has been reduced
10 by 5 percent or less, \$6,000,000,000;

11 (B) if youth cigarette use has been reduced
12 by at least 6 percent but less than 10 percent,
13 \$4,000,000,000; and

14 (C) if youth cigarette use has been reduced
15 by at least 11 percent but less than 15 percent,
16 \$2,000,000,000.

17 (2) PAYMENT.—The industry-wide penalty im-
18 posed under this subsection shall be paid by each
19 manufacturer based on the percentage of cigarettes
20 of each such manufacturer that are used by youth
21 (as determined under the Monitoring the Future
22 survey and compared to the cigarettes manufactured
23 by all manufacturers) as such percentage relates to
24 the total amount to be paid by all manufacturers.

1 (3) FINAL DETERMINATION.—The determina-
2 tion of the Secretary as to the amount and allocation
3 of a surcharge under this subtitle shall be final and
4 the manufacturer shall pay such surcharge within 10
5 days of the date on which the manufacturer is as-
6 sessed. Such payment shall be retained by the Sec-
7 retary pending final judicial review of what, if any,
8 change in the surcharge is appropriate.

9 (4) COMPLIANCE BY CERTAIN MANUFACTUR-
10 ERS.—A manufacturer that individually complies
11 with the goal under subsection (a) shall not be liable
12 for the payment of any portion of the penalty under
13 this subsection.

14 (5) LIMITATION.—With respect to cigarettes, a
15 manufacturer with a market share of 1 percent or
16 less of youth cigarette use shall not be liable for the
17 payment of a surcharge under this section.

18 (c) PENALTIES NONDEDUCTIBLE.—The payment of
19 penalties under this subtitle shall not be considered to be
20 an ordinary and necessary expense in carrying on a trade
21 or business for purposes of the Internal Revenue Code of
22 1986 and shall not be deductible.

23 (d) JUDICIAL REVIEW.—

24 (1) AFTER PAYMENT.—A manufacturer of ciga-
25 rettes may seek judicial review of any action under

1 this subtitle only after the assessment involved has
2 been paid by the manufacturer to the Department of
3 the Treasury and only in the United States District
4 Court for the District of Columbia.

5 (2) REVIEW BY ATTORNEY GENERAL.—Prior to
6 the filing of an action by a manufacturer seeking ju-
7 dicial review of an action under this subtitle, the
8 manufacturer shall notify the Attorney General of
9 such intent to file and the Attorney General shall
10 have 30 days in which to respond to the action.

11 (3) REVIEW.—The amount of any surcharge
12 paid under this subtitle shall be subject to judicial
13 review by the United States Court of Appeals for the
14 District of Columbia Circuit, based on the arbitrary
15 and capricious standard of section 706 of title 5,
16 United States Code. Notwithstanding any other pro-
17 vision of law, no court shall have the authority to
18 stay any surcharge payment due to the Secretary
19 under this subtitle pending judicial review until the
20 Secretary has made or failed to make a compliance
21 determination, as described under this subtitle, that
22 has adversely affected the person seeking the review.

23 **SEC. 413. ENFORCEMENT.**

24 (a) INITIAL PENALTY.—There is hereby imposed an
25 initial penalty on the failure of any manufacturer to make

1 any payment required under this subtitle within 10 days
2 after the date on which such payment is due.

3 (b) AMOUNT OF PENALTY.—The amount of the pen-
4 alty imposed by subsection (a) on any failure with respect
5 to a manufacturer shall be an amount equal to 2 percent
6 of the penalty owed under section 412 for each day during
7 the noncompliance period.

8 (c) NONCOMPLIANCE PERIOD.—For purposes of this
9 section, the term “noncompliance period” means, with re-
10 spect to any failure to make the surcharge payment re-
11 quired under this subtitle, the period—

12 (1) beginning on the due date for such pay-
13 ment; and

14 (2) ending on the date on which such payment
15 is paid in full.

16 (d) LIMITATIONS.—No penalty shall be imposed by
17 subsection (a) on—

18 (1) any failure to make a surcharge payment
19 under this subtitle during any period for which it is
20 established to the satisfaction of the Secretary that
21 none of the persons responsible for such failure
22 knew or, exercising reasonable diligence, would have
23 known, that such failure existed; or

1 (2) any manufacturer that produces less than 1
2 percent of cigarettes used by youth in that year (as
3 determined by the annual survey).

4 **Subtitle C—Food Guidance**

5 **SEC. 421. FRONT-LABEL FOOD GUIDANCE SYSTEMS.**

6 (a) IN GENERAL.—Not later than March 1, 2008, the
7 Secretary of Health and Human Services (referred to in
8 this section as the “Secretary”) shall begin solicitation of
9 public comments regarding—

10 (1) the use of retail front-label food guidance
11 systems to convey nutrition information to the public
12 using logos, symbols, signs, emblems, insignia, or
13 other graphic representations on the labeling of food
14 intended for human consumption that are intended
15 to provide simple, standardized, and understandable
16 nutrition information to the public in graphic form;

17 (2) appropriate nutrition standards by which a
18 retail front-label food guidance system may convey
19 the relative nutritional value of different foods in
20 simple graphic form; and

21 (3) whether American consumers would be bet-
22 ter served by establishing a single, standardized re-
23 tail front-label food guidance system regulated by
24 the Food and Drug Administration, or by allowing
25 individual food companies, trade associations, non-

1 profit organizations, and others to continue to de-
2 velop their own retail front-label food guidance sys-
3 tems.

4 (b) EFFECT ON NUTRITION FACTS PANEL.—In solici-
5 iting public comments under subsection (a), the Secretary
6 shall inform the public that any retail front-label food
7 guidance system is intended to supplement, not replace,
8 the Nutrition Facts Panel that appears on food labels pur-
9 suant to section 403(q) of the Federal Food, Drug, and
10 Cosmetic Act (21 U.S.C. 343(q)).

11 (c) PROPOSED REGULATION.—Not later than 12
12 months following the closure of the public comment solici-
13 tation period under subsection (a), the Secretary shall—

14 (1) publish a notice in the Federal Register
15 that summarizes the public comments and describes
16 the suggested retail front-label food guidance sys-
17 tems received through such solicitation; and

18 (2) publish proposed regulations that—

19 (A) establish a single, standardized retail
20 front-label food guidance system; or

21 (B) establish the conditions under which
22 individual food companies, trade associations,
23 nonprofit organizations, and other persons may
24 continue to develop their own retail front-label
25 food guidance systems.

1 **TITLE V—REIMBURSEMENT AND**
2 **COVERAGE OF PREVENTIVE**
3 **SERVICES**

4 **SEC. 501. COVERAGE OF SUBSTANCE USE (OTHER THAN TO-**
5 **BACCO), DIET, EXERCISE, INJURY PREVEN-**
6 **TION, AND DENTAL HEALTH COUNSELING.**

7 (a) COVERAGE.—

8 (1) IN GENERAL.—Section 1861(s)(2) of the
9 Social Security Act (42 U.S.C. 1395x(s)(2)), as
10 amended by section 642(a) of the Medicare Prescrip-
11 tion Drug, Improvement, and Modernization Act of
12 2003 (Public Law 108–173; 117 Stat. 2322), is
13 amended—

14 (A) in subparagraph (Y), by striking
15 “and” after the semicolon at the end;

16 (B) in subparagraph (Z), by adding “and”
17 after the semicolon at the end; and

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

20 “(AA) substance use (other than tobacco), diet,
21 exercise, injury prevention, and dental health coun-
22 seling (as defined in subsection (bbb)(1));”.

23 (2) CONFORMING AMENDMENTS.—(A) Section
24 1862(a)(12) of the Social Security Act (42 U.S.C.
25 1395y(a)(12)) is amended by inserting “(except as

1 otherwise allowed under subsection
2 1861(s)(2)(AA))” after “directly supporting teeth”.

3 (B) Clauses (i) and (ii) of section
4 1861(s)(2)(K) of the Social Security Act (42 U.S.C.
5 1395x(s)(2)(K)), as amended by section 611(d)(2) of
6 the Medicare Prescription Drug, Improvement, and
7 Modernization Act of 2003 (Public Law 108–173;
8 117 Stat. 2304), are each amended by striking
9 “subsection (ww)(1)” and inserting “subsections
10 (ww)(1) and (bbb)”.

11 (b) SERVICES DESCRIBED.—Section 1861 of the So-
12 cial Security Act (42 U.S.C. 1395x), as amended by sec-
13 tion 706(b) of the Medicare Prescription Drug, Improve-
14 ment, and Modernization Act of 2003 (Public Law 108–
15 173; 117 Stat. 2339), is amended by adding at the end
16 the following new subsection:

17 “Substance Use (Other Than Tobacco), Diet, Exercise,
18 Injury Prevention, and Dental Health Counseling

19 “(bbb) The term ‘substance use (other than tobacco),
20 diet, exercise, injury prevention, and dental health coun-
21 seling’ means therapy and counseling relating to substance
22 use (other than tobacco), diet, exercise, injury prevention,
23 and dental health counseling that is furnished—

24 “(1) by or under the supervision of a physician;
25 or

1 “(2) by any other health care professional
2 who—

3 “(A) is legally authorized to furnish such
4 services under State law (or the State regu-
5 latory mechanism provided by State law) of the
6 State in which the services are furnished; and

7 “(B) is authorized to receive payment for
8 other services under this title or is designated
9 by the Secretary for this purpose.”.

10 (c) PAYMENT AND ELIMINATION OF COST-SHAR-
11 ING.—

12 (1) PAYMENT AND ELIMINATION OF COINSUR-
13 ANCE.—Section 1833(a)(1) of the Social Security
14 Act (42 U.S.C. 1395l(a)(1)), as amended by section
15 302(b)(2) of the Medicare Prescription Drug, Im-
16 provement, and Modernization Act of 2003 (Public
17 Law 108–173; 117 Stat. 2229), is amended—

18 (A) in subparagraph (N), by inserting “or
19 substance use (other than tobacco), diet, exer-
20 cise, injury prevention, and dental health coun-
21 seling (as defined in section 1861(bbb))” after
22 “(as defined in section 1848(j)(3))”;

23 (B) by striking “and” before “(V)”;

24 (C) by inserting before the semicolon at
25 the end the following: “and (W) with respect to

1 substance use (other than tobacco), diet, exer-
2 cise, injury prevention, and dental health coun-
3 seling (as defined in section 1861(bbb)) the
4 amount paid shall be the lesser of the actual
5 charge for the services or the amount deter-
6 mined under the payment basis determined
7 under section 1848”.

8 (2) PAYMENT UNDER PHYSICIAN FEE SCHED-
9 ULE.—Section 1848(j)(3) of the Social Security Act
10 (42 U.S.C. 1395w-4(j)(3)), as amended by section
11 611(c) of the Medicare Prescription Drug, Improve-
12 ment, and Modernization Act of 2003 (Public Law
13 108-173; 117 Stat. 2304), is amended by inserting
14 “(2)(AA),” after “(2)(W),”.

15 (3) ELIMINATION OF COINSURANCE IN OUT-
16 PATIENT HOSPITAL SETTINGS.—

17 (A) EXCLUSION FROM OPD FEE SCHED-
18 ULE.—Section 1833(t)(1)(B)(iv) of the Social
19 Security Act (42 U.S.C. 1395l(t)(1)(B)(iv)), as
20 amended by section 614(a) of the Medicare
21 Prescription Drug, Improvement, and Mod-
22 ernization Act of 2003 (Public Law 108-173;
23 117 Stat. 2306), is amended by striking “and
24 diagnostic mammography” and inserting “, di-
25 agnostic mammography, or substance use

1 (other than tobacco), diet, exercise, injury pre-
 2 vention, and dental health counseling (as de-
 3 fined in section 1861(bbb))”.

4 (B) CONFORMING AMENDMENTS.—Section
 5 1833(a)(2) of the Social Security Act (42
 6 U.S.C. 1395l(a)(2)) is amended—

7 (i) in subparagraph (F), by striking
 8 “and” after the semicolon at the end;

9 (ii) in subparagraph (G)(ii), by strik-
 10 ing the comma at the end and inserting
 11 “; and”; and

12 (iii) by inserting after subparagraph
 13 (G)(ii) the following new subparagraph:

14 “(H) with respect to substance use (other
 15 than tobacco), diet, exercise, injury prevention,
 16 and dental health counseling (as defined in sec-
 17 tion 1861(bbb)) furnished by an outpatient de-
 18 partment of a hospital, the amount determined
 19 under paragraph (1)(W),”.

20 (4) ELIMINATION OF DEDUCTIBLE.—The first
 21 sentence of section 1833(b) of the Social Security
 22 Act (42 U.S.C. 1395l(b)) is amended—

23 (A) by striking “and” before “(6)”; and

24 (B) by inserting before the period at the
 25 end the following: “, and (7) such deductible

1 shall not apply with respect to substance use
2 (other than tobacco), diet, exercise, injury pre-
3 vention, and dental health counseling (as de-
4 fined in section 1861(bbb))”.

5 (d) APPLICATION OF LIMITS ON BILLING.—Section
6 1842(b)(18)(C) of the Social Security Act (42 U.S.C.
7 1395u(b)(18)(C)) is amended by adding at the end the
8 following new clause:

9 “(vii) Any health care professional designated
10 under section 1861(bbb)(2)(B) to perform substance
11 use (other than tobacco), diet, exercise, injury pre-
12 vention, and dental health counseling that is not oth-
13 erwise described in this subparagraph.”.

14 (e) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect as if included in the enact-
16 ment of the Medicare Prescription Drug, Improvement,
17 and Modernization Act of 2003 (Public Law 108–173; 117
18 Stat. 2066) and shall apply to services furnished on and
19 after January 1, 2008.

20 **SEC. 502. MEDICARE COVERAGE OF MEDICAL NUTRITION**
21 **THERAPY SERVICES FOR PEOPLE WITH PRE-**
22 **DIABETES.**

23 (a) COVERAGE OF MEDICAL NUTRITION THERAPY
24 SERVICES.—Section 1861(s)(2)(V) of the Social Security
25 Act (42 U.S.C. 1395x(s)(2)(V)) is amended by inserting

1 after “beneficiary with diabetes” the following “, pre-dia-
2 betes or its risk factors, including hypertension,
3 dyslipidemia, or obesity”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply with respect to services fur-
6 nished on or after the date of the enactment of this Act.

7 **SEC. 503. PREVENTIVE MENTAL HEALTH SCREENINGS.**

8 (a) COVERAGE.—

9 (1) IN GENERAL.—Section 1861(s)(2) of the
10 Social Security Act (42 U.S.C. 1395x(s)(2)), as
11 amended by section 501(a)(1), is amended—

12 (A) in subparagraph (Z), by striking
13 “and” after the semicolon at the end;

14 (B) in subparagraph (AA), by adding
15 “and” after the semicolon at the end; and

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

18 “(BB) screenings for clinical depression, anx-
19 iety, and impaired cognitive functioning (as defined
20 in subsection (ccc)(1));”.

21 (2) CONFORMING AMENDMENTS.—Clauses (i)
22 and (ii) of section 1861(s)(2)(K) of the Social Secu-
23 rity Act (42 U.S.C. 1395x(s)(2)(K)), as amended by
24 section 501(a)(2)(B), are each amended by striking
25 “and (bbb)” and inserting “(bbb), and (ccc)”.

1 (b) SERVICES DESCRIBED.—Section 1861 of the So-
2 cial Security Act (42 U.S.C. 1395x), as amended by sec-
3 tion 501(b), is amended by adding at the end the following
4 new subsection:

5 “Screenings for Clinical Depression, Anxiety, and
6 Impaired Cognitive Functioning

7 “(ccc)(1) The term ‘screening for clinical depression,
8 anxiety, and impaired cognitive functioning’ means a con-
9 sultation for the purpose of detecting clinical depression,
10 anxiety, and impaired cognitive functioning during which
11 a qualified health professional (as defined in paragraph
12 (2))—

13 “(A) uses a screening on the list established or
14 identified under paragraph (3);

15 “(B) assesses the individual’s risk of clinical de-
16 pression, anxiety, and impaired cognitive func-
17 tioning; and

18 “(C) if the qualified health professional deter-
19 mines that the individual is at high risk for clinical
20 depression, anxiety, or impaired cognitive func-
21 tioning, refers the individual for a full diagnostic
22 evaluation and such additional treatment as may be
23 required.

24 Nothing in subparagraph (C) shall be construed as prohib-
25 iting a qualified health professional performing the screen-

1 ing for clinical depression, anxiety, and impaired cognitive
2 functioning with respect to an individual from directly pro-
3 viding the diagnostic evaluation and additional treatment
4 described in such clause to such individual if such profes-
5 sional is legally authorized to provide such an evaluation
6 and additional treatment under State law (or the State
7 regulatory mechanism provided by State law) of the State
8 in which the screening is performed.

9 “(2) For purposes of this subsection, the term ‘quali-
10 fied health professional’ means an individual who—

11 “(A) is—

12 “(i) a physician (as defined in subsection
13 (r)(1));

14 “(ii) a nurse practitioner (as defined in
15 subsection (aa)(5)); or

16 “(iii) a mental health care professional (in-
17 cluding clinical psychologists (as defined by the
18 Secretary for purposes of section 1861(ii)) and
19 clinical social workers (as defined in subsection
20 1861(hh))) that is licensed or certified to per-
21 form mental health services by the State in
22 which the screenings are performed; and

23 “(B) has an agreement in effect with the Sec-
24 retary to accept—

1 “(i) the amount determined under section
2 1833(a)(1)(W) as full payment for screenings
3 for clinical depression, anxiety, and impaired
4 cognitive functioning; and

5 “(ii) an assignment described in section
6 1842(b)(3)(B)(ii) with respect to payment for
7 each screening furnished by the professional to
8 an individual enrolled under part B.

9 “(3) The Secretary shall, in consultation with mental
10 health professionals and other stakeholders with experi-
11 ence in screening for clinical depression, anxiety, and im-
12 paired cognitive functioning, shall establish or identify a
13 list of approved screenings to be used under this para-
14 graph. The Secretary, in consultation with such profes-
15 sionals and stakeholders, shall review and update such list
16 not less frequently than once every 5 years.”.

17 (c) PAYMENT AND ELIMINATION OF COST-SHAR-
18 ING.—

19 (1) PAYMENT AND ELIMINATION OF COINSUR-
20 ANCE.—Section 1833(a)(1) of the Social Security
21 Act (42 U.S.C. 1395l(a)(1)), as amended by section
22 501(c)(1), is amended—

23 (A) in subparagraph (N), by striking “or
24 substance use (other than tobacco), diet, exer-
25 cise, injury prevention, and dental health coun-

1 seling (as defined in section 1861(bbb))” and
2 inserting “substance use (other than tobacco),
3 diet, exercise, injury prevention, and dental
4 health counseling (as defined in section
5 1861(bbb)), or screenings for clinical depres-
6 sion, anxiety, and impaired cognitive func-
7 tioning (as defined in section 1861(ccc))”; and

8 (B) in subparagraph (W), by inserting
9 “and screenings for clinical depression, anxiety,
10 and impaired cognitive functioning (as defined
11 in section 1861(ccc))” after “(as defined in sec-
12 tion 1861(bbb))”.

13 (2) PAYMENT UNDER PHYSICIAN FEE SCHED-
14 ULE.—Section 1848(j)(3) of the Social Security Act
15 (42 U.S.C. 1395w-4(j)(3)), as amended by section
16 501(c)(2), is amended by inserting “(2)(BB),” after
17 “(2)(AA),”.

18 (3) ELIMINATION OF COINSURANCE IN OUT-
19 PATIENT HOSPITAL SETTINGS.—

20 (A) EXCLUSION FROM OPD FEE SCHED-
21 ULE.—Section 1833(t)(1)(B)(iv) of the Social
22 Security Act (42 U.S.C. 1395l(t)(1)(B)(iv)), as
23 amended by section 501(c)(3)(A), is amended
24 by striking “or substance use (other than to-
25 bacco), diet, exercise, injury prevention, and

1 dental health counseling (as defined in section
2 1861(bbb))” and inserting “substance use
3 (other than tobacco), diet, exercise, injury pre-
4 vention, and dental health counseling (as de-
5 fined in section 1861(bbb)), or screenings for
6 clinical depression, anxiety, and impaired cog-
7 nitive functioning (as defined in section
8 1861(ccc))”.

9 (B) CONFORMING AMENDMENT.—Section
10 1833(a)(2)(H) of the Social Security Act (42
11 U.S.C. 1395l(a)(2)(H)), as added by section
12 501(c)(3)(B)(iii), is amended by inserting “and
13 screenings for clinical depression, anxiety, and
14 impaired cognitive functioning (as defined in
15 section 1861(ccc))” after “(as defined in section
16 1861(bbb))”.

17 (4) ELIMINATION OF DEDUCTIBLE.—Section
18 1833(b)(7) of the Social Security Act (42 U.S.C.
19 1395l(b)(7)), as amended by section 501(c)(4), is
20 amended by inserting “or screenings for clinical de-
21 pression, anxiety, and impaired cognitive functioning
22 (as defined in section 1861(ccc))” before the period
23 at the end.

24 (d) APPLICATION OF LIMITS ON BILLING.—Section
25 1842(b)(18)(C) of the Social Security Act (42 U.S.C.

1 1395u(b)(18)(C)), as amended by section 501(d), is
2 amended by adding at the end the following new clause:

3 “(viii) A mental health care professional de-
4 scribed in section 1861(ccc)(2) that is authorized to
5 perform screenings for clinical depression, anxiety,
6 and impaired cognitive functioning (as defined in
7 section 1861(ccc)(1)) that is not otherwise described
8 in this subparagraph.”.

9 (e) FREQUENCY.—Section 1862(a)(1) of the Social
10 Security Act (42 U.S.C. 1395y(a)(1)), as amended by sec-
11 tion 613(c) of the Medicare Prescription Drug, Improve-
12 ment, and Modernization Act of 2003 (Public Law 108–
13 173; 117 Stat. 2306), is amended—

14 (1) in subparagraph (L), by striking “and”
15 after the comma at the end;

16 (2) in subparagraph (M), by striking the semi-
17 colon at the end and inserting “, and”; and

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

20 “(N) in the case of screenings for clinical de-
21 pression, anxiety, and impaired cognitive functioning
22 (as defined in section 1861(ccc)(1)), which is per-
23 formed more frequently than is covered under such
24 section;”.

1 (f) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect as if included in the enact-
 3 ment of the Medicare Prescription Drug, Improvement,
 4 and Modernization Act of 2003 (Public Law 108–173; 117
 5 Stat. 2066) and shall apply to services furnished on and
 6 after January 1, 2008.

7 **SEC. 504. ENCOURAGEMENT OF CESSATION OF TOBACCO**
 8 **USE.**

9 (a) MEDICARE COVERAGE OF COUNSELING AND
 10 PHARMACOTHERAPY FOR CESSATION OF TOBACCO
 11 USE.—

12 (1) COVERAGE.—

13 (A) IN GENERAL.—Section 1861(s)(2) of
 14 the Social Security Act (42 U.S.C.
 15 1395x(s)(2)), as amended by section 502(a)(1),
 16 is amended—

17 (i) in subparagraph (AA), by striking
 18 “and” after the semicolon at the end;

19 (ii) in subparagraph (BB), by adding
 20 “and” after the semicolon at the end; and

21 (iii) by adding at the end the fol-
 22 lowing new subparagraph:

23 “(CC) counseling and pharmacotherapy for ces-
 24 sation of tobacco use (as defined in subsection
 25 (ddd)(1));”.

1 (B) CONFORMING AMENDMENTS.—Clauses
2 (i) and (ii) of section 1861(s)(2)(K) of the So-
3 cial Security Act (42 U.S.C. 1395x(s)(2)(K)),
4 as amended by section 502(a)(2), are each
5 amended by striking “and (ccc)” and inserting
6 “(ccc), and (ddd)”.

7 (2) SERVICES DESCRIBED.—Section 1861 of
8 the Social Security Act (42 U.S.C. 1395x), as
9 amended by section 502(b), is amended by adding at
10 the end the following new subsection:

11 “Counseling and Pharmacotherapy for Cessation of
12 Tobacco Use

13 “(ddd)(1) Subject to paragraphs (2) and (3), the
14 term ‘counseling and pharmacotherapy for cessation of to-
15 bacco use’ means diagnostic, therapy, and counseling serv-
16 ices and pharmacotherapy (including the coverage of pre-
17 scription and nonprescription tobacco cessation agents ap-
18 proved by the Food and Drug Administration) for ces-
19 sation of tobacco use for individuals who use tobacco prod-
20 ucts or who are being treated for tobacco use which are
21 furnished—

22 “(A) by or under the supervision of a physician;

23 or

24 “(B) by any other health care professional
25 who—

1 “(i) is legally authorized to furnish such
2 services under State law (or the State regu-
3 latory mechanism provided by State law) of the
4 State in which the services are furnished; and

5 “(ii) is authorized to receive payment for
6 other services under this title or is designated
7 by the Secretary for this purpose.

8 “(2) Such term is limited to—

9 “(A) services recommended in ‘Treating To-
10 bacco Use and Dependence: A Clinical Practice
11 Guideline’, published by the Public Health Service in
12 June 2000, or any subsequent modification of such
13 Guideline; and

14 “(B) such other services that the Secretary rec-
15 ognizes to be effective.

16 “(3) Each individual who is described in paragraph
17 (1) and enrolled under part B shall be eligible for the serv-
18 ices described in this subsection for up to 3 attempts to
19 cease the use of tobacco.”.

20 (3) PAYMENT AND ELIMINATION OF COST-
21 SHARING.—

22 (A) PAYMENT AND ELIMINATION OF COIN-
23 SURANCE.—Section 1833(a)(1) of the Social
24 Security Act (42 U.S.C. 1395l(a)(1)), as
25 amended by section 502(e)(1), is amended—

1 (i) in subparagraph (N) by striking
2 “or screenings for clinical depression, anx-
3 iety, and impaired cognitive functioning (as
4 defined in section 1861(ccc))” and insert-
5 ing “, screenings for clinical depression,
6 anxiety, and impaired cognitive functioning
7 (as defined in section 1861(ccc)), or coun-
8 seling and pharmacotherapy for cessation
9 of tobacco use (as defined in section
10 1861(ddd))”; and

11 (ii) in subparagraph (W), by striking
12 “and screenings for clinical depression,
13 anxiety, and impaired cognitive functioning
14 (as defined in section 1861(ccc))” and in-
15 sserting “screenings for clinical depression,
16 anxiety, and impaired cognitive functioning
17 (as defined in section 1861(ccc)), and
18 counseling and pharmacotherapy for ces-
19 sation of tobacco use (as defined in section
20 1861(ddd))”.

21 (B) PAYMENT UNDER PHYSICIAN FEE
22 SCHEDULE.—Section 1848(j)(3) of the Social
23 Security Act (42 U.S.C. 1395w-4(j)(3)), as
24 amended by section 502(c)(2), is amended by
25 inserting “(2)(CC) (with separate payment

1 amounts for pharmacotherapy, including pre-
2 scription and nonprescription tobacco cessation
3 agents approved by the Food and Drug Admin-
4 istration),” after “(2)(BB),”.

5 (C) ELIMINATION OF COINSURANCE IN
6 OUTPATIENT HOSPITAL SETTINGS.—

7 (i) EXCLUSION FROM OPD FEE
8 SCHEDULE.—Section 1833(t)(1)(B)(iv) of
9 the Social Security Act (42 U.S.C.
10 1395l(t)(1)(B)(iv)), as amended by section
11 502(c)(3)(A), is amended by striking “or
12 screenings for clinical depression, anxiety,
13 and impaired cognitive functioning (as de-
14 fined in section 1861(ccc))” and inserting
15 “screenings for clinical depression, anxiety,
16 and impaired cognitive functioning (as de-
17 fined in section 1861(ccc)), or counseling
18 and pharmacotherapy for cessation of to-
19 bacco use (as defined in section
20 1861(ddd))”.

21 (ii) CONFORMING AMENDMENT.—Sec-
22 tion 1833(a)(2)(H) of the Social Security
23 Act (42 U.S.C. 1395l(a)(2)(H)), as added
24 by section 502(c)(3)(B), is amended by
25 striking “and screenings for clinical de-

1 pression, anxiety, and impaired cognitive
2 functioning (as defined in section
3 1861(ccc))” and inserting “screenings for
4 clinical depression, anxiety, and impaired
5 cognitive functioning (as defined in section
6 1861(ccc)), and counseling and
7 pharmacotherapy for cessation of tobacco
8 use (as defined in section 1861(ddd))”.

9 (D) ELIMINATION OF DEDUCTIBLE.—Sec-
10 tion 1833(b)(7) of the Social Security Act (42
11 U.S.C. 1395l(b)(7)), as added by section
12 502(c)(4), is amended by striking “or
13 screenings for clinical depression, anxiety, and
14 impaired cognitive functioning (as defined in
15 section 1861(ccc))” and inserting “screenings
16 for clinical depression, anxiety, and impaired
17 cognitive functioning (as defined in section
18 1861(ccc)), or counseling and pharmacotherapy
19 for cessation of tobacco use (as defined in sec-
20 tion 1861(ddd))”.

21 (4) APPLICATION OF LIMITS ON BILLING.—Sec-
22 tion 1842(b)(18)(C) of the Social Security Act (42
23 U.S.C. 1395u(b)(18)(C)), as amended by section
24 502(d), is amended by adding at the end the fol-
25 lowing new clause:

1 “(ix) Any individual designated by the Sec-
2 retary under section 1861(ddd)(1)(B)(ii).”.

3 (5) FREQUENCY.—Section 1862(a)(1) of the
4 Social Security Act (42 U.S.C. 1395y(a)(1)), as
5 amended by section 502(e), is amended—

6 (A) in subparagraph (M), by striking

7 “and” after the comma at the end;

8 (B) in subparagraph (N), by striking the

9 semicolon at the end and inserting “, and”; and

10 (C) by adding at the end the following new

11 subparagraph:

12 “(O) in the case of counseling and

13 pharmacotherapy for cessation of tobacco use (as de-

14 fined in section 1861(ddd)), which is performed with

15 respect to more attempts to cease tobacco use than

16 is covered under such section;”.

17 (b) PROMOTING CESSATION OF TOBACCO USE

18 UNDER THE MEDICAID PROGRAM.—

19 (1) DROPPING EXCEPTION FROM MEDICAID

20 PRESCRIPTION DRUG COVERAGE FOR TOBACCO CES-

21 SATION MEDICATIONS.—Section 1927(d)(2) of the

22 Social Security Act (42 U.S.C. 1396r–8(d)(2)) is

23 amended—

24 (A) by striking subparagraph (E);

1 (B) by redesignating subparagraphs (F)
2 through (J) as subparagraphs (E) through (I),
3 respectively; and

4 (C) in subparagraph (F) (as redesignated
5 by paragraph (2)), by inserting before the pe-
6 riod at the end the following: “, except agents
7 approved by the Food and Drug Administration
8 for purposes of promoting, and when used to
9 promote, tobacco cessation”.

10 (2) REQUIRING COVERAGE OF TOBACCO CES-
11 SATION COUNSELING AND PHARMACOTHERAPY
12 SERVICES FOR PREGNANT WOMEN.—Section
13 1905(a)(4) of the Social Security Act (42 U.S.C.
14 1396d(a)(4)) is amended—

15 (A) by striking “and” before “(C)”; and

16 (B) by inserting before the semicolon at
17 the end the following: “; and (D) counseling
18 and pharmacotherapy for cessation of tobacco
19 use (as defined in section 1861(ddd)) for preg-
20 nant women”.

21 (3) REMOVAL OF COST-SHARING FOR TOBACCO
22 CESSATION COUNSELING AND PHARMACOTHERAPY
23 SERVICES FOR PREGNANT WOMEN.—Section 1916 of
24 the Social Security Act (42 U.S.C. 1396o) is amend-
25 ed in each of subsections (a)(2)(B) and (b)(2)(B),

1 by inserting “, and counseling for cessation of to-
2 bacco use (as defined in section 1861(ddd))” after
3 “complicate the pregnancy”.

4 (c) COVERAGE UNDER FEHBP.—The last sentence
5 of section 8904(a) of title 5, United States Code, is
6 amended by striking “both for costs associated with care
7 in a general hospital and for other health services of a
8 catastrophic nature” and inserting “for costs associated
9 with care in a general hospital, for other health services
10 of a catastrophic nature, and for counseling and
11 pharmacotherapy for cessation of tobacco use (as defined
12 in section 1861(ddd)(1) of the Social Security Act)”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect as if included in the enact-
15 ment of the Medicare Prescription Drug, Improvement,
16 and Modernization Act of 2003 (Public Law 108–173; 117
17 Stat. 2066) and shall apply to services furnished on and
18 after January 1, 2008.

1 **SEC. 505. RECOGNITION OF SCHOOL-BASED HEALTH CEN-**
2 **TERS AS MODEL FOR DELIVERY OF PRIMARY**
3 **CARE FOR CHILDREN UNDER THE MEDICAID**
4 **AND STATE CHILDREN'S HEALTH INSURANCE**
5 **PROGRAMS.**

6 (a) IN GENERAL.—Title XIX of the Social Security
7 Act (42 U.S.C. 1396 et seq.) is amended by inserting after
8 section 1911 the following:

9 “SCHOOL-BASED HEALTH CENTERS
10 “SEC. 1911A. Not later than 12 months after the
11 date of enactment of this section, the Secretary shall es-
12 tablish procedures to encourage a State program estab-
13 lished under this title, title XXI, or both, to recognize
14 school-based health centers as a model of delivery for pri-
15 mary care for children who are eligible for medical assist-
16 ance under this title or child health assistance under title
17 XXI. Such procedures shall include the following:

18 “(1) RECOGNITION OF, AND REIMBURSEMENT
19 FOR, SERVICES PROVIDED THROUGH SCHOOL-BASED
20 HEALTH CENTERS.—Procedures that encourage a
21 State to recognize as primary care providers under
22 this title and title XXI, providers who furnish phys-
23 ical or mental health services that are available as
24 medical assistance under this title or child health as-
25 sistance under title XXI to children who are eligible
26 for such assistance through school-based health cen-

1 ters, and to reimburse such providers or centers (as
2 appropriate) for furnishing such services to such
3 children.

4 “(2) EXCEPTIONS TO THE ‘FREE CARE’
5 RULE.—Procedures that allow a State the option to
6 permit school-based health centers to bill the State
7 for physical or mental health services that are avail-
8 able as medical assistance under this title or child
9 health assistance under title XXI and that are fur-
10 nished to children who are eligible for such assist-
11 ance through such centers without billing all chil-
12 dren who are provided such services.

13 “(3) EXCEPTIONS TO THE ‘THIRD PARTY LI-
14 ABILITY’ COST AVOIDANCE POLICY.—Procedures
15 that encourage a State to include physical or mental
16 health services that are available as medical assist-
17 ance under this title and that are provided through
18 school-based health centers in the list of diagnosis
19 billing codes for preventive pediatric care services
20 that the State will pay for under this title and then
21 seek reimbursement from any liable third party in
22 accordance with the requirements of section
23 1902(a)(25).

24 “(4) ASSURANCE OF PAYMENT FOR SERVICES
25 COVERED BY A CONTRACT WITH A MANAGED CARE

1 ENTITY.—Procedures that encourage a State to in-
2 clude in any contract entered into with a managed
3 care entity (as defined in section 1932(a)(1)(B))
4 under this title or title XXI provisions which ensure
5 that the entity will make prompt payment to a
6 school-based health center for furnishing physical or
7 mental health services to a child who is eligible for
8 medical assistance under this title or child health as-
9 sistance under title XXI that are within the scope of
10 items and services for which benefits are available
11 with respect to the child under the contract between
12 the entity and the State (or to a provider who fur-
13 nishes such services to such a child through a
14 school-based health center), regardless of whether
15 the center (or provider) is a participating provider
16 with respect to such entity, at a rate established by
17 the entity for such services that is not less than the
18 level and amount of payment which the entity would
19 make for the services if the services were furnished
20 by a participating provider.”.

21 (b) REPORT TO CONGRESS.—Not later than 36
22 months after the date of enactment of this section, the
23 Secretary of Health and Human Services shall submit a
24 report to Congress on the effectiveness of the procedures
25 established in accordance with section 1911A of the Social

1 Security Act (as added by subsection (a)) in encouraging
2 the use of school-based health centers for the delivery of
3 primary care physical and mental health services to chil-
4 dren who are eligible for medical assistance under title
5 XIX of the Social Security Act (42 U.S.C. 1396 et seq.)
6 or child health assistance under title XXI of such Act (42
7 U.S.C. 1397aa et seq.), together with such recommenda-
8 tions for administrative or legislative action as the Sec-
9 retary determines to be appropriate.

10 **SEC. 506. PREVENTIVE HEALTH CARE DEMONSTRATION**
11 **PROGRAM.**

12 (a) ESTABLISHMENT.—

13 (1) IN GENERAL.—Not later than 18 months
14 after the date of enactment of this Act, the Sec-
15 retary of Health and Human Services (in this sec-
16 tion referred to as the “Secretary”) shall conduct a
17 5-year demonstration program under part B of title
18 XVIII of the Social Security Act under which the
19 Secretary establishes demonstration projects to con-
20 tract with appropriate entities to provide preventive
21 health care to eligible beneficiaries through the de-
22 velopment and implementation of a disease preven-
23 tion plan (as described in subsection (b)).

1 (2) SITES.—The Secretary shall designate at
2 least 2 sites at which to conduct the demonstration
3 program under this section, of which—

4 (A) 1 shall be in an urban area; and

5 (B) 1 shall be in a rural area.

6 (3) NUMBER OF ELIGIBLE BENEFICIARIES.—

7 Each demonstration project site under this section
8 shall consist of at least 1,000 eligible beneficiaries
9 representative of the population of individuals enti-
10 tled to benefits under part A of title XVIII of the
11 Social Security Act, and enrolled under part B of
12 such title. The Secretary may expand the population
13 as needed to measure statistical significance.

14 (4) IDENTIFYING ELIGIBLE BENEFICIARIES.—

15 The Secretary shall develop a method for identifying
16 eligible beneficiaries who may benefit from the dem-
17 onstration program and communicate with them re-
18 garding their eligibility.

19 (5) VOLUNTARY PARTICIPATION.—Participation

20 of health care providers, and individual beneficiaries,
21 in the demonstration program shall be voluntary.

22 (b) DISEASE PREVENTION PLAN.—

23 (1) IN GENERAL.—The disease prevention plan
24 described in this subsection is a plan, developed in
25 consultation with an eligible beneficiary participating

1 in the demonstration program, to mitigate the risk
2 factors associated with a particular disease.

3 (2) PLAN CONTENTS.—The disease prevention
4 plan should include the following:

5 (A) POINT OF CONTACT.—The disease pre-
6 vention plan shall provide for a point of contact
7 responsible for communicating with the partici-
8 pating beneficiary and with other health care
9 providers on behalf of such beneficiary.

10 (B) PERSONAL HEALTH CARE.—The dis-
11 ease prevention plan shall provide for instruc-
12 tion on personal health care.

13 (C) PHYSICIAN AND HEALTH CARE PRO-
14 VIDER TRAINING.—The disease prevention plan
15 shall provide for the training of physicians or
16 other health care providers in the communica-
17 tion of relevant clinical information.

18 (D) MONITORING TECHNOLOGY.—The dis-
19 ease prevention plan may provide for necessary
20 monitoring technology to facilitate the exchange
21 of information, including information such as
22 vital signs, symptoms, and health self assess-
23 ments.

24 (c) PROGRAM STANDARDS AND CRITERIA.—The Sec-
25 retary shall establish performance standards for the dem-

1 onstration program under this section, including best
2 practices for the prevention of chronic diseases. Such prac-
3 tices shall be standardized to the greatest extent possible.
4 The eligibility of entities or individuals to enter into a con-
5 tract to provide preventive health care under the dem-
6 onstration program shall be conditioned, at a minimum,
7 on performance that meets or exceeds such standards.

8 (d) PAYMENT.—The Secretary shall develop a meth-
9 od and level of payment for entities that participate in
10 the program under this section based on best practices,
11 as determined by the Secretary.

12 (e) WAIVER AUTHORITY.—The Secretary may waive
13 such requirements of titles XI and XVIII of the Social
14 Security Act as may be necessary to carry out the pur-
15 poses of the demonstration program under this section.

16 (f) EVALUATION AND REPORT.—

17 (1) EVALUATION.—The Secretary shall conduct
18 evaluations of—

19 (A) the benefits due to a reduction, if any,
20 in disease incidence for participants in the dem-
21 onstration projects compared to the medicare
22 population as a whole, as determined by the use
23 of appropriate statistical techniques;

24 (B) the long term cost effectiveness of the
25 demonstration projects to the medicare program

1 in terms of acute care costs avoided due to dis-
2 ease prevention; and

3 (C) patient satisfaction under the dem-
4 onstration projects.

5 (2) REPORT.—Not later than 6 months after
6 the date on which the demonstration program under
7 this section ends, the Secretary shall prepare and
8 submit to Congress a report on the demonstration
9 program together with—

10 (A) recommendations on whether the dem-
11 onstration program should be expanded in
12 terms of its success in disease prevention and
13 the cost effectiveness of the demonstration pro-
14 gram; and

15 (B) such recommendations for legislation
16 or administrative action as the Secretary deter-
17 mines appropriate.

18 (g) FUNDING.—The Secretary shall provide for the
19 transfer from the Federal Supplementary Medical Insur-
20 ance Trust Fund under section 1841 of the Social Secu-
21 rity Act (42 U.S.C. 1395t) of such funds, not to exceed
22 \$50,000,000, as are necessary for the costs of carrying
23 out the demonstration program under this Act.

24 (h) DEFINITIONS.—In this section:

1 (1) APPROPRIATE ENTITY.—The term “appro-
2 priate entity” means—

3 (A) a chronic care improvement program;

4 (B) a hospital; and

5 (C) any other entity that the Secretary de-
6 termines appropriate based on clinical, finan-
7 cial, or other requirements appropriate to carry
8 out the purposes of the demonstration program
9 under this section.

10 (2) ELIGIBLE BENEFICIARY.—The term “eligi-
11 ble beneficiary” means an individual who—

12 (A) is entitled to benefits under part A of
13 title XVIII of the Social Security Act or en-
14 rolled under part B of such title; and

15 (B) has 2 or more risk factors associated
16 with—

17 (i) chronic obstructive pulmonary dis-
18 ease;

19 (ii) diabetes; or

20 (iii) any other chronic condition that
21 the Secretary determines would be appro-
22 priate for the purpose of providing signifi-
23 cant potential cost benefits to the medicare
24 program through the prevention of such
25 condition.

1 **SEC. 507. PREVENTIVE HEALTH SERVICES FOR WOMEN.**

2 Section 1509 of the Public Health Service Act (42
3 U.S.C. 300n-4a) is amended to read as follows:

4 **“SEC. 1509. ESTABLISHMENT OF PROGRAM FOR ADDI-**
5 **TIONAL PREVENTIVE HEALTH SERVICES.**

6 “(a) IN GENERAL.—The Secretary, acting through
7 the Director of the Centers for Disease Control and Pre-
8 vention, may, through a competitive review process, award
9 grants to States that have received grants under section
10 1501 for a fiscal year, to enable such State to carry out
11 programs—

12 “(1) to provide preventive health services, in ad-
13 dition to the services authorized in such section
14 1501, for diseases such as cardiovascular diseases,
15 osteoporosis, and obesity;

16 “(2) to provide screenings, such as screening
17 for blood pressure, cholesterol, and osteoporosis, and
18 other services that the Secretary, acting through the
19 Director of the Centers for Disease Control and Pre-
20 vention, determines to be appropriate and feasible;

21 “(3) for health education, counseling, and inter-
22 ventions for behavioral risk factors, such as physical
23 inactivity and poor nutrition, and diseases referred
24 to in paragraph (1);

25 “(4) to provide appropriate referrals for medical
26 treatment of women receiving services pursuant to

1 paragraph (1) through (3), and ensuring, to the ex-
2 tent practicable, the provision of appropriate follow-
3 up services; and

4 “(5) to evaluate the activities conducted under
5 paragraphs (1) through (4) through appropriate sur-
6 veillance, research, or program monitoring activities.

7 “(b) STATUS AS PARTICIPANT IN PROGRAM REGARD-
8 ING BREAST AND CERVICAL CANCER.—The Secretary
9 may not make a grant to a State under subsection (a)
10 unless the State involved agrees that services under the
11 grant will be provided in conjunction with entities that are
12 screening women for breast or cervical cancer pursuant
13 to a grant under section 1501.

14 “(c) APPLICABILITY OF PROVISIONS.—The provi-
15 sions of this title shall apply to a grant under subsection
16 (a) to the same extent and in the same manner as such
17 provisions apply to a grant under section 1501.

18 “(d) FUNDING.—

19 “(1) IN GENERAL.—There is authorized to be
20 appropriated such sums as may be necessary to
21 carry out this section for fiscal year 2008 and for
22 each subsequent fiscal year.

23 “(2) LIMITATION REGARDING FUNDING WITH
24 RESPECT TO BREAST AND CERVICAL CANCER.—No
25 additional resources shall be appropriated for a fis-

1 cal year under paragraph (1) unless the amount ap-
 2 propriated under section 1510(a) for such fiscal year
 3 is at least \$173,920,000.”.

4 **SEC. 508. PROMOTING CESSATION OF TOBACCO USE BY**
 5 **PREGNANT WOMEN UNDER THE MEDICAID**
 6 **PROGRAM.**

7 (a) **REQUIRING COVERAGE OF COUNSELING AND**
 8 **PHARMACOTHERAPY FOR CESSATION OF TOBACCO USE**
 9 **BY PREGNANT WOMEN.**—Section 1905 of the Social Secu-
 10 rity Act (42 U.S.C. 1396d(a)(4)) is amended—

11 (1) in subsection (a)(4)—

12 (A) by striking “and” before “(C)”; and

13 (B) by inserting before the semicolon at
 14 the end the following new subparagraph: “; and
 15 (D) counseling and pharmacotherapy for ces-
 16 sation of tobacco use by pregnant women (as
 17 defined in subsection (y))”; and

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

19 “(y)(1) For purposes of this title, the term ‘coun-
 20 seling and pharmacotherapy for cessation of tobacco use
 21 by pregnant women’ means diagnostic, therapy, and coun-
 22 seling services and pharmacotherapy (including the cov-
 23 erage of prescription and nonprescription tobacco ces-
 24 sation agents approved by the Food and Drug Administra-
 25 tion) for cessation of tobacco use by pregnant women who

1 use tobacco products or who are being treated for tobacco
2 use that is furnished—

3 “(A) by or under the supervision of a physician;

4 or

5 “(B) by any other health care professional
6 who—

7 “(i) is legally authorized to furnish such
8 services under State law (or the State regu-
9 latory mechanism provided by State law) of the
10 State in which the services are furnished; and

11 “(ii) is authorized to receive payment for
12 other services under this title or is designated
13 by the Secretary for this purpose.

14 “(2) Subject to paragraph (3), such term is limited
15 to—

16 “(A) services recommended with respect to
17 pregnant women in ‘Treating Tobacco Use and De-
18 pendence: A Clinical Practice Guideline’, published
19 by the Public Health Service in June 2000, or any
20 subsequent modification of such Guideline; and

21 “(B) such other services that the Secretary rec-
22 ognizes to be effective for cessation of tobacco use
23 by pregnant women.

1 “(3) Such term shall not include coverage for drugs
2 or biologicals that are not otherwise covered under this
3 title.”.

4 (b) EXCEPTION FROM OPTIONAL RESTRICTION
5 UNDER MEDICAID PRESCRIPTION DRUG COVERAGE.—
6 Section 1927(d)(2) of the Social Security Act (42 U.S.C.
7 1396r–8(d)(2)) is amended—

8 (1) in subparagraph (E), by inserting before the
9 period at the end the following: “, except in the case
10 of pregnant women when recommended in accord-
11 ance with the Guideline referred to in section
12 1905(y)(2)(A)”;

13 (2) in subparagraph (G), by inserting before the
14 period at the end the following: “, except, in the case
15 of pregnant women when recommended in accord-
16 ance with the Guideline referred to in section
17 1905(y)(2)(A), agents approved by the Food and
18 Drug Administration for purposes of promoting, and
19 when used to promote, tobacco cessation”.

20 (c) REMOVAL OF COST-SHARING FOR COUNSELING
21 AND PHARMACOTHERAPY FOR CESSATION OF TOBACCO
22 USE BY PREGNANT WOMEN.—

23 (1) GENERAL COST SHARING LIMITATIONS.—
24 Section 1916 of the Social Security Act (42 U.S.C.
25 1396o) is amended in each of subsections (a)(2)(B)

1 and (b)(2)(B) by inserting “, and counseling and
2 pharmacotherapy for cessation of tobacco use by
3 pregnant women (as defined in section 1905(y)) and
4 covered outpatient drugs (as defined in subsection
5 (k)(2) of section 1927 and including nonprescription
6 drugs described in subsection (d)(2) of such section)
7 that are prescribed for purposes of promoting, and
8 when used to promote, tobacco cessation by preg-
9 nant women in accordance with the Guideline re-
10 ferred to in section 1905(y)(2)(A)” after “com-
11 plicate the pregnancy”.

12 (2) APPLICATION TO ALTERNATIVE COST SHAR-
13 ING.—Section 1916A(b)(3)(B)(iii) of such Act (42
14 U.S.C. 1396o–1(b)(3)(B)(iii)) is amended by insert-
15 ing “, and counseling and pharmacotherapy for ces-
16 sation of tobacco use by pregnant women (as defined
17 in section 1905(y))” after “complicate the preg-
18 nancy”.

19 (d) INCREASED FMAP FOR TOBACCO CESSATION
20 COUNSELING SERVICES AND MEDICATIONS.—The first
21 sentence of section 1905(b) of the Social Security Act (42
22 U.S.C. 1396d(b)) is amended by inserting the following
23 before the period: “, and medical assistance provided for
24 counseling and pharmacotherapy for cessation of tobacco
25 use by pregnant women (as defined in subsection (y)) and

1 for covered outpatient drugs (as defined in subsection
 2 (k)(2) of section 1927 and including nonprescription
 3 drugs described in subsection (d)(2) of such section) that
 4 are prescribed for purposes of promoting, and when used
 5 to promote, tobacco cessation by pregnant women in ac-
 6 cordance with the Guideline referred to in subsection
 7 (y)(2)(A)”.

8 (e) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to services furnished on or after
 10 the first fiscal year quarter that begins after the date of
 11 enactment of this Act.

12 **TITLE VI—HELP (HEALTHY LIFE-**
 13 **STYLES AND PREVENTION)**
 14 **AMERICA TRUST FUND**

15 **SEC. 601. HELP (HEALTHY LIFESTYLES AND PREVENTION)**

16 **AMERICA TRUST FUND.**

17 (a) CREATION OF TRUST FUND.—There is estab-
 18 lished in the Treasury of the United States a trust fund
 19 to be known as the ‘HeLP (Healthy Lifestyles and Preven-
 20 tion) America Trust Fund’ (referred to in this section as
 21 the ‘Trust Fund’), consisting of such amounts as may be
 22 appropriated or credited to the Trust Fund as provided
 23 in this section.

1 (b) TRANSFERS TO TRUST FUND.—There is hereby
2 appropriated to the Trust Fund an amount equivalent
3 to—

4 (1) the increase in revenues received in the
5 Treasury as the result of the amendment made by
6 section 405 of this Act,

7 (2) the increase in revenues received in the
8 Treasury as the result of the amendments made by
9 title II of this Act, and

10 (3) the receipts paid by tobacco companies
11 under subtitle B of title III of this Act.

12 (c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—

13 (1) MANDATORY EXPENDITURES.—On a fiscal
14 year basis (beginning with fiscal year 2008) and
15 without further appropriation the Secretary of the
16 Treasury shall distribute from amounts in the Trust
17 Fund such amounts as are necessary to provide for
18 the Federal expenditures attributable to the fol-
19 lowing:

20 (A) The amendments made to the Fruit
21 and Vegetable Program by section 201 of this
22 Act.

23 (B) Smoking cessation drugs under title
24 XIX of the Social Security Act as identified by
25 the Secretary of Health and Human Services.

1 (C) Coverage of smoking cessation under
2 the Federal Employee Health Benefits Program
3 under chapter 89 of title 5, United States Code
4 (as amended by section 503).

5 (D) The amendments made to the medi-
6 care program under title XVIII of the Social
7 Security Act by sections 501 and 502 of this
8 Act.

9 (E) The preventive health care demonstra-
10 tion program carried out under section 505 of
11 this Act.

12 Such amounts shall be in addition to any other
13 amounts appropriated for such purposes.

14 (2) DISCRETIONARY EXPENDITURES.—Amounts
15 in the Trust Fund not to exceed \$2,050,000,000
16 shall be available, as provided in appropriation Acts,
17 for each fiscal year (beginning with fiscal year 2008)
18 only for purposes of making expenditures to carry
19 out the following:

20 (A) School nutrition environment enhance-
21 ment grants under section 18(l) of the Richard
22 B. Russell National School Lunch Act (as
23 added by section 203).

24 (B) Mental health services in schools under
25 paragraphs (7) and (8) of section 5541(c) of

1 the Elementary and Secondary Education Act
2 of 1965 (as added by section 204).

3 (C) The Baby-Friendly Hospital Initiative
4 carried out under section 205 of this Act.

5 (D) The grant program to strengthen fam-
6 ilies and build children's resilience carried out
7 under section 520K of the Public Health Serv-
8 ice Act (as added by section 206).

9 (E) The reservation for early Head Start
10 programs under section 640(a)(6)(A) of the
11 Head Start Act (as amended by section 207).

12 (F) Community grants to prevent and re-
13 duce the incidence of chronic disease under sec-
14 tion 399P of the Public Health Service Act (as
15 added by section 313).

16 (G) Living well with a disability and work-
17 ing well with a disability programs under sec-
18 tions 399Q and 399R of the Public Health
19 Service Act (as added by section 312).

20 (H) The amendments made to title 23,
21 United States Code, by section 313 of this Act
22 and the nonmotorized transportation pilot pro-
23 gram carried out under section 313(d).

24 (I) The national assessment of mental
25 health needs program carried out under section

1 506C of the Public Health Service Act (as
2 added by section 314).

3 (J) The preventive medicine and public
4 health training grant program carried out
5 under section 747A of the Public Health Serv-
6 ice Act (as added by section 315).

7 (K) Federal-State tobacco counter-adver-
8 tising programs under section 399S of the Pub-
9 lic Health Service Act (as added by section
10 406).

11 (L) Preventive health services for women,
12 including well-integrated screening and evalua-
13 tion for women across the Nation, under section
14 1509 of the Public Health Service Act (as
15 added by section 506).

16 (M) Carol M. White Physical Education
17 Program under subpart 10 of part D of title V
18 of the Elementary and Secondary Education
19 Act of 1965.

20 (N) Research regarding obesity under sec-
21 tion 101 of this Act.

22 (O) Expanded Food and Nutrition Edu-
23 cation Program under section 3175 of title 23,
24 United States Code.

1 (P) The following programs under the au-
2 thority of the Secretary of Health and Human
3 Services through the Centers for Disease Con-
4 trol and Prevention:

5 (i) Nutrition and physical activity
6 grants.

7 (ii) Division of Adolescent and School
8 Health.

9 (iii) Verb Campaign.

10 (iv) Prevention research centers.

11 (v) 5-a-day programs.

12 (vi) Steps to a healthier United
13 States.

14 (Q) Access to local foods and school gar-
15 dens, as authorized by section 122 of the Child
16 Nutrition and WIC Reauthorization Act of
17 2004 (Public Law 108–265).

18 (d) APPLICATION OF CERTAIN RULES.—For pur-
19 poses of this section, rules similar to the rules of sections
20 9601 and 9602 of the Internal Revenue Code of 1986 shall
21 apply.

22 **TITLE VII—RESEARCH**

23 **SEC. 701. EXPANSION OF RESEARCH REGARDING OBESITY.**

24 The Secretary of Health and Human Services shall,
25 based on the conclusions of the United States Preventive

1 Services Task Force on Obesity, conduct research on obe-
2 sity prevention, treatment, and control with regard to the
3 following:

4 (1) The effectiveness of physical activity and di-
5 etary counseling with children and adolescents in the
6 primary care setting to prevent, treat, and control
7 obesity.

8 (2) The cost-effectiveness of intensive dietary
9 and physical activity counseling to prevent, treat,
10 and control obesity in a variety of populations.

11 (3) The effectiveness of dietary and physical ac-
12 tivity counseling among children and adolescents,
13 low income populations, and minority groups in the
14 primary care setting to prevent, treat, and control
15 obesity.

16 (4) The effectiveness of the assessment of obe-
17 sity by a primary care physician and subsequent re-
18 ferral for obesity counseling to a nonaffiliated obe-
19 sity expert or specialist.

20 **SEC. 702. INCORPORATION OF PHYSICAL ACTIVITY INTO**
21 **FEDERAL PROGRAMS.**

22 (a) STUDY.—The Secretary of Health and Human
23 Services, in collaborate with the Secretary of Education
24 the Director of the Centers for Disease Control and Pre-
25 vention, shall enter into a contract with the Institute of

1 Medicine of the National Academy of Sciences for the con-
2 duct of a study to examine and make recommendations
3 concerning the various means that could be employed to
4 incorporate physical activity into Head Start and childcare
5 settings, elementary, middle and high school settings, and
6 before- and after-school programs. The Institute of Medi-
7 cine shall submit to Congress a report concerning the re-
8 sults of such study.

9 (b) CLASSIFICATION.—The Commissioner of Food
10 and Drugs shall conduct a review of the classification of
11 sodium and partially hydrogenated oil as a Generally Rec-
12 ognized as Safe (GRAS) ingredient based on new scientific
13 developments.

14 (c) REDUCING SODIUM INTAKE.—The Secretary of
15 Health and Human Services shall enter into a contract
16 with the Institute of Medicine of the National Academy
17 of Sciences for the conduct of a study and the development
18 of recommendations on various means that could be em-
19 ployed to reduce dietary sodium intake to recommended
20 levels and food reformulation approaches.

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