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***SUMMARY: SELECTED ENACTED HEALTH LEGISLATION
THE 108TH CONGRESS***

JANUARY 14, 2005

TABLE OF CONTENTS
SUMMARY: SELECTED ENACTED HEALTH LEGISLATION IN THE 108TH CONGRESS

AIDS/HIV	5
INTERNATIONAL AIDS TREATMENT AND PREVENTION ACT OF 2003 (“GLOBAL AIDS FUND”)	5
APPROPRIATIONS/BUDGET.....	5
FY 2005 AGRICULTURE APPROPRIATIONS.....	5
FY 2005 LABOR, HHS, EDUCATION APPROPRIATIONS	5
FY 2005 HOMELAND SECURITY APPROPRIATIONS	5
FY 2005 APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE.....	5
FY 2004 AGRICULTURE APPROPRIATIONS	6
FY 2004 LABOR, HHS, EDUCATION APPROPRIATIONS	6
FY 2004 SUPPLEMENTAL APPROPRIATIONS.....	6
EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT OF 2003	6
CONSOLIDATED APPROPRIATIONS RESOLUTION, 2003	6
BIOTERRORISM	7
SMALLPOX EMERGENCY PERSONNEL PROTECTION ACT OF 2003	7
CONSUMER PROTECTION	7
FAIRNESS TO CONTACT LENS CONSUMERS ACT	7
ECONOMIC STIMULUS.....	8
JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.....	8
FOOD AND NUTRITION	8
FOOD ALLERGEN LABELING AND CONSUMER PROTECTION ACT OF 2004	8
CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 2004.....	9
SCHOOL LUNCH AND CHILD NUTRITION REAUTHORIZATION	9
HEALTH PROFESSIONS AND HEALTH CARE WORKFORCE.....	10
HEALTH CARE SAFETY NET AMENDMENTS ACT	10
ACCESS TO PHYSICIAN IN MEDICALLY UNDERSERVED AREAS	10
HEALTH PROMOTION & DISEASE PREVENTION.....	10
ASTHMATIC SCHOOLCHILDREN’S TREATMENT AND HEALTH MANAGEMENT ACT OF 2004	10
PANCREATIC ISLET CELL TRANSPLANTATION ACT OF 2004	10

BIRTH DEFECTS AND DEVELOPMENTAL DISABILITIES PREVENTION ACT OF 2003.....	11
HOMELAND SECURITY.....	11
PROJECT BIOSHIELD.....	11
HOSPITAL CONSTRUCTION.....	11
HOSPITAL MORTGAGE INSURANCE ACT OF 2003.....	11
MEDICAID.....	12
EXTENSION OF AUTHORITY FOR MEDICAID COVERAGE OF COST SHARING FOR PART B PREMIUMS FOR CERTAIN LOW INCOME MEDICARE BENEFICIARIES.....	12
TEMPORARY STATE FISCAL RELIEF.....	12
MEDICARE.....	12
PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003.....	12
MENTAL HEALTH.....	14
MENTAL HEALTH PARITY ACT REAUTHORIZATION.....	14
ORGAN DONATION.....	14
ORGAN DONATION AND RECOVERY IMPROVEMENT ACT.....	14
PUBLIC HEALTH.....	15
GARRETT LEE SMITH MEMORIAL ACT.....	15
POISON CONTROL CENTER ENHANCEMENT AND AWARENESS ACT AMENDMENTS OF 2003.....	16
MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT.....	16
AUTOMATIC DEFIBRILLATION IN ADAM’S MEMORY ACT.....	17
PHARMACEUTICAL ISSUES.....	17
ANABOLIC STEROID CONTROL ACT OF 2004.....	17
PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003.....	17
PEDIATRIC RESEARCH EQUITY ACT OF 2003.....	17
REPRODUCTIVE HEALTH.....	18
PARTIAL BIRTH ABORTION.....	18
RURAL HEALTH.....	18
UNIVERSAL SERVICE FUND.....	18
STATE CHILDREN’S HEALTH INSURANCE PROGRAM.....	18
STATE CHILDREN'S HEALTH INSURANCE PROGRAM.....	18

TAX AND TRADE (HEALTH PROVISIONS)	18
WORKING FAMILIES TAX RELIEF ACT OF 2004	18
JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT	19
WELFARE REFORM (HEALTH PROVISIONS)	21
WELFARE REFORM EXTENSION, PART VIII	21
TANF AND RELATED PROGRAMS CONTINUATION ACT OF 2004	21
WELFARE REFORM EXTENSION ACT.....	21
ACT TO EXTEND THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM, AND CERTAIN TAX AND TRADE PROGRAMS	21
WELFARE REFORM EXTENSION ACT OF 2003	21
MISCELLANEOUS HEALTH	22
ASSISTIVE TECHNOLOGY ACT OF 2004.....	22

SUMMARY: SELECTED HEALTH LEGISLATION IN THE 108TH CONGRESS

(Copies Of The Public Laws Referenced Here Can Be Obtained From The THOMAS Website At: [Http://Thomas.Loc.Gov](http://Thomas.Loc.Gov))

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
AIDS/HIV		
International AIDS Treatment and Prevention Act of 2003 (“Global AIDS Fund”) (P.L. 108-25)	<ul style="list-style-type: none"> ▪ Authorizes \$15 billion during fiscal years 2004-08 to provide multilateral and bilateral support for the treatment and prevention of HIV/AIDS, tuberculosis and malaria. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (5/27/03).
APPROPRIATIONS/BUDGET		
FY 2005 Agriculture Appropriations (P.L. 108-447) ¹	<ul style="list-style-type: none"> ▪ Appropriates funding for the Food and Drug Administration (HHS) and the Food and Nutrition Service (USDA) for FY 2005. ▪ Appropriates \$15 million for a breastfeeding support initiative. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/8/04).
FY 2005 Labor, HHS, Education Appropriations (P.L. 108-447) ²	<ul style="list-style-type: none"> ▪ Appropriates funding for labor, health and human services and education programs for FY 2005. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/8/04).
FY 2005 Homeland Security Appropriations (P.L. 108-334)	<ul style="list-style-type: none"> ▪ Transfers the Strategic National Stockpile back to the U.S. Department of Health and Human Services and transfers the Metropolitan Medical Response System to the Office for State and Local Government Coordination and Preparedness, consolidating all preparedness grants into a single one-stop shopping office. ▪ Provides the authority to obligate \$2.5 billion for Project BioShield in FY 2005. <i>[Also see Homeland Security for additional information on Project BioShield]</i> 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (10/20/04).
FY 2005 Appropriations for the Department of Defense (P.L. 108-287)	<ul style="list-style-type: none"> ▪ Provides enhanced TRICARE benefits for members of the National Guard and Reserve as included in S. 2400, National Defense Authorization Act for Fiscal Year 2005. These enhanced benefits include the extension of pre-deployment and post-deployment eligibility for TRICARE, and the enrollment of non-active duty status reservists into TRICARE on a cost sharing basis. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (8/5/2004).

¹ Enacted as Part A of the Consolidated Appropriations Act, 2005 (P.L. 108-447).

² Enacted as Part F of the Consolidated Appropriations Act, 2005 (P.L. 108-447).

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
FY 2004 Agriculture Appropriations (P.L. 108-199) ³	<ul style="list-style-type: none"> ▪ Appropriates funding for the Food and Drug Administration (HHS) and the Food and Nutrition Service (USDA) for FY 2004. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (01/23/04).
FY 2004 Labor, HHS, Education Appropriations (P.L. 108-199) ⁴	<ul style="list-style-type: none"> ▪ Appropriates funding for labor, health and human services and education programs for FY 2004. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (01/23/04).
FY 2004 Supplemental Appropriations (P.L. 108-106)	<p><u>TRICARE⁵ and Reservist Health Care Benefits</u></p> <ul style="list-style-type: none"> ▪ Allows inactive reservist and their family members to become eligible for TRICARE health care coverage if they are receiving unemployment compensation or not eligible for any other health coverage. ▪ Includes provisions that expand eligibility time periods for reservists and provides medical and dental screening and care coverage where appropriate. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (11/06/03).
Emergency Wartime Supplemental Appropriations Act of 2003 (P.L. 108-11)	<p><u>Health Provisions</u></p> <ul style="list-style-type: none"> ▪ Provides \$100 million for the implementation of the civilian smallpox vaccination program [See “Bioterrorism” – “Smallpox Emergency Personnel Protection Act of 2003”]; ▪ Provides \$42 million for compensating people injured by smallpox vaccinations; and ▪ Provides \$16 million for research related to severe acute respiratory syndrome (SARS). 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (4/16/03).
Consolidated Appropriations Resolution, 2003 (P.L. 108-7)	<ul style="list-style-type: none"> ▪ Law includes 11 of 13 FY 2003 appropriations bills, including the FY 2003 appropriations for the U.S. Departments of Labor, Health and Human Services and Education. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (2/20/03).

3 Enacted as a Division A of the Consolidated Appropriations Act, 2004 (P.L. 108-199).

4 Enacted as a Division E of the Consolidated Appropriations Act, 2004 (P.L. 108-199).

5 Active duty, retired and their eligible family members and survivors under age 65 are eligible to receive medical care under DOD’s Tricare Program. A beneficiary under age 65 qualifies for medical care in uniformed services hospitals and numerous clinics of the Army, Navy, Air Force, and Coast Guard. Very limited space-available care for those ages 65 and over may be available as well. Care at these facilities, located throughout the United States, is, by law, on a space-available basis. Priority at these facilities is as follows: (1) active duty service members; (2) active duty family members enrolled in Tricare Prime; (3) retirees and their family members/survivors enrolled in Tricare Prime; (4) active duty family members not enrolled in Tricare Prime; and (5) all other beneficiaries. Depending on where a person lives, they may be able to get healthcare through one of seven Uniformed Services Treatment Facilities (USTFs) operated under Department of Defense (DOD) contract. These former Public Health hospitals are an integral part of Tricare. They are located in Baltimore, Md.; Staten Island, N.Y.; Boston, Mass.; Portland, Maine; Cleveland, Ohio; Houston, Texas; and Seattle, Wash.³

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
BIOTERRORISM		
<p>Smallpox Emergency Personnel Protection Act of 2003 (P. L. 108-20)</p>	<p><u>Health Care for Individuals Suffering an Adverse Reaction or Complication from the Smallpox Vaccine</u></p> <ul style="list-style-type: none"> ▪ Authorizes HHS to compensate individuals for reasonable out-of-pocket medical expenses for other than minor injuries. ▪ Benefit would be secondary to any health insurance benefit that might be available to the individual. ▪ Provides compensation to third parties who contract vaccinia from public health and medical response team workers who have been vaccinated. <p><u>National Smallpox Vaccine Injury Compensation Program</u></p> <ul style="list-style-type: none"> ▪ Creates a benefit modeled on the Public Safety Officers Benefit (PSOB) program.⁶ <p><u>Death Benefit</u></p> <ul style="list-style-type: none"> ▪ Provides for a \$262,100 death benefit. ▪ Benefit would be paid regardless of other death benefits available to the individual (except the approximately one-third of first responders who are already covered by the PSOB). <p><u>Temporary or Partial Disability Benefit</u></p> <ul style="list-style-type: none"> ▪ Provides for a \$262,100 permanent and total disability benefit for disability caused by the administration of the vaccine. ▪ Individuals would be compensated for two-thirds of lost wages after the fifth day from work, up to a maximum of \$50,000. ▪ Benefit would be secondary to any workers compensation or disability insurance benefits that might be available to the individual. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (4/30/03).
CONSUMER PROTECTION		
<p>Fairness to Contact Lens Consumers Act (P.L. 108-164)</p>	<ul style="list-style-type: none"> ▪ Requires eye care professionals with prescriptive authority for contact lenses to provide to their patients with a copy of their prescription without condition, which would permit the patient to purchase needed ophthalmic goods from a place of their choosing.⁷ 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/06/03).

6 Under the Public Safety Officers Benefit (PSOB) program, administered by the U.S. Department of Justice, the federal government currently pays a \$262,100 death and a \$262,100 permanent and total disability benefit to police officers and firefighters. The benefit amount is increased annually by inflation. State and local governments provide short-term disability benefits and health benefits.

7 Contact lens prescribers may require patients to pay the fees for an eye examination, fitting, and evaluation before the contact lens prescription is released, but this can only be done if the

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
	<ul style="list-style-type: none"> ▪ Establishes a “passive verification system” for conducting the verification of contact lens prescriptions requiring the prescriber to respond to a request for verification within 8 business hours or the prescription is deemed authentic. ▪ Establishes rules regarding the expiration of a contact lens prescription. Under the legislation, a contact lens prescription expires on the date specified by state law, not less than one year if there is no state law or on the date specified by the prescriber, if that date is based on the medical judgment of the prescriber. ▪ Prohibits advertising that says contact lenses can be obtained without a prescription. 	
ECONOMIC STIMULUS		
Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27)	<ul style="list-style-type: none"> ▪ Includes \$20 billion in state assistance, \$10 billion for enhanced federal matching payments for Medicaid, and \$10 billion for flexible assistance to states to support essential government services and unfunded federal mandates. ▪ The enhanced Medicaid match was available from April 1, 2003 through September 30, 2004. ▪ The Act made \$5 billion of the flexible grant funds available in FY 2003 and the remaining \$5 billion became available October 1, 2003, the beginning of FY 2004. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (5/28/03).
FOOD AND NUTRITION		
Food Allergen Labeling and Consumer Protection Act of 2004 (P.L. 108-282)	<ul style="list-style-type: none"> ▪ Adopted as Title II of S. 741. Title I is the Minor Use and Minor Species Animal Health Act of 2004.⁸ ▪ Amends the Food, Drug, and Cosmetic Act to establish food labeling requirements for a food that is not a raw agricultural commodity and that is, or contains, a major food allergen.⁹ ▪ Provides that: (1) any person may petition the HHS Secretary to exempt a food ingredient from the requirements; and (2) the Secretary's determination of the petition will constitute final agency 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (8/02/04).

examination reveals no need for ophthalmic goods. Proof of insurance must be considered payment.

8 The Minor Use and Minor Species Animal Health Act amends the Food, Drug and Cosmetic Act to: (1) define “minor species” as animals other than cattle, horses, swine, chickens, turkeys, dogs and cats; and (2) “minor use” as use on minor species or on other species for a disease or condition that occurs infrequently or in limited geographic areas. Provides for the designation of new animal drugs for minor use and three-year approval exclusivity.

9 The bill requires manufacturers to label the presence of the eight most common allergens in food: milk, eggs, soy, peanuts, tree nuts, wheat, fish and shellfish. These foods account for approximately 90 percent of food allergies.

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	<p>action.</p> <ul style="list-style-type: none"> ▪ Directs the Secretary to: (1) conduct inspections to ensure compliance with practices to reduce or eliminate cross-contact with major food allergen residues, and ensure that major food allergens are properly labeled on foods; (2) issue a final rule to define, and permit use of, the term "gluten-free" on the labeling of foods; (3) improve food allergen data collection, including physician and health care provider education; (4) convene a panel of allergy and immunology experts to review food allergy research efforts; (5) pursue Food Code revisions in order to provide allergen-free food preparation guidelines for food establishments; and (6) include food allergy treatment in trauma and emergency care technical assistance. 	
<p>Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265)</p>	<ul style="list-style-type: none"> ▪ Reauthorizes child nutrition programs (e.g. school lunch and breakfast) and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). ▪ Authorizes the Health School Nutrition Environmental Demonstration Program that authorizes such sums as may be necessary to conduct demonstration programs in elementary and secondary schools to create healthy school nutrition environments and to evaluate the impact on the health and welfare of students. ▪ Authorizes the Childhood Obesity Prevention Demonstration that authorizes \$250,000 for each of FY 2005 – FY 2008 for a grant to a national organization to establish obesity prevention activities for children with limited English proficiency in child care centers. ▪ Revises certification provisions for the WIC program to allow a state to certify breastfeeding women for up to one year or until they stop breastfeeding, whichever is earlier. ▪ Directs the HHS Secretary to partner with communities, state and local agencies, employers, health care professionals, and the private sector to build a supportive breastfeeding environment for women participating in federal nutrition programs to support the breastfeeding goals set out in the Health People 2010 Initiative. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush as P.L. 108-265 (6/30/04).
<p>School Lunch and Child Nutrition Reauthorization (P.L. 108-211)</p>	<ul style="list-style-type: none"> ▪ Reauthorized the School Lunch and Child Nutrition programs through June 30, 2004. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (3/31/04).

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
HEALTH PROFESSIONS AND HEALTH CARE WORKFORCE		
Health Care Safety Net Amendments Act (P.L. 108-163)	<ul style="list-style-type: none"> ▪ Makes technical corrections to the Health Care Safety Net Amendments Act (P.L. 107-251).¹⁰ 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/06/03).
Access to Physician in Medically Underserved Areas (P.L. 108-441)	<ul style="list-style-type: none"> ▪ Amends the Immigration and Nationality Technical Corrections Act of 1994 to reauthorize for a period of five years the "Conrad State 30" program, which annually allows each state to request up to 30 waivers of the home residency requirement applicable to J-1 foreign medical graduates for medical service by those graduates in health professional shortage areas.¹¹ ▪ Amends the Immigration and Nationality Act to allow state departments of public health to designate health professional shortage areas for purposes of the Conrad State 30 program (currently designated only by the Secretary of Health and Human Services). ▪ Exempts Conrad State 30 physicians from the numerical limitation on H-1B visas. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/03/04).
HEALTH PROMOTION & DISEASE PREVENTION		
Asthmatic Schoolchildren's Treatment and Health Management Act of 2004 (P.L. 108-377)	<ul style="list-style-type: none"> ▪ Directs the HHS Secretary to give preference in making grants that are asthma-related to state and local educational systems that permit students to self-administer medication to treat the student's asthma or anaphylaxis. ▪ Requires states to address the potential liability of the school and to inform the parent or guardian in writing that the school will incur no liability as a result of injury arising from self-administration of medication. ▪ Requires schools to: (1) require that back-up medication be made available in the event of an asthma or anaphylaxis emergency; and (2) to keep treatment information on file. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (10/30/04).
Pancreatic Islet Cell Transplantation Act of 2004 (P.L. 108-362)	<ul style="list-style-type: none"> ▪ Amends the Public Health Service Act to: (1) allow pancreata procured for use in islet cell transplantation or research to be counted for certification purposes for qualified organ procurement organization grants; and (2) require the Diabetes Mellitus Interagency Coordinating Committee to include in its annual report an assessment of the federal activities and programs related to pancreatic islet cell 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (10/25/04).

¹⁰ The Health Care Safety Net Amendments Act reauthorized the Community Health Center and National Health Services Corps programs.

¹¹ Normally these physicians are required to leave the United States and return to their home country for at least two years after they have completed their medical training. J-1 visa waiver recipients may remain in the United States after the completion of their medical training provided they agree to practice medicine for at least three years in a medically underserved area. These physicians are granted nonimmigrant H-1B status (temporary worker in specialty occupation). The current waiver authority expired June 1, 2004

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
Birth Defects and Developmental Disabilities Prevention Act of 2003 (P.L. 108-154)	transplantation. <ul style="list-style-type: none"> ▪ Reauthorizes the National Center on Birth Defects and Disabilities at the Centers for Disease Control and Prevention (CDC). ▪ Amends the Developmental Disabilities Act with regard to the funding of state developmental disability councils.¹² 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/03/03).
HOMELAND SECURITY		
Project BioShield (P.L. 108-0)	<ul style="list-style-type: none"> ▪ Authorizes up to \$5.6 billion for FY 2004 – FY 2013 for government procurement of security countermeasures (drugs, devices, and biological products to treat, identify, and prevent the public health consequences of terrorism). 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (7/21/04).
HOSPITAL CONSTRUCTION		
Hospital Mortgage Insurance Act of 2003 (P.L. 108-91)	<ul style="list-style-type: none"> ▪ In states that no longer have a certificate of need (CON) process or where the facility or project fails to qualify for the CON process in the state, the bill would give the U.S. Department of Housing and Urban Development (HUD) the authority to establish a process for determining the need and feasibility for a hospital’s proposed project, eliminating the requirement for the state to provide a feasibility study.¹³ ▪ Authorizes the Secretary to determine need if a state does not have a process. But if a state has an official procedure for determining need for hospital construction, the HUD Secretary will require the facility to follow the state procedure before filing an application. When an application is submitted, it must document that need was established under the state procedure. ▪ Provides an exemption for critical access hospitals effective until 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (10/03/03).

12 Congress reauthorized programs to assist people with developmental disabilities in the Developmental Disabilities Assistance and Bill of Rights of at 2000 (P.L. 106-402). The legislation retained the state grant formulas for State Developmental Disabilities Councils and State Protection and Advocacy Systems from prior law, except for the hold harmless provisions that had been added to the statute in the 1994 reauthorization. The failure to retain the hold harmless provision was not intentional. In fact, that change was specifically rejected during the development of the legislation. HHS however, allocated funds to states assuming the hold harmless provision was retained. In late February 2002, HHS became aware of the error and computed the impact of the failure to use the correct formula on state grants in FY 2001 and FY 2002. As a result, State Development Disabilities Councils were notified on May 21, 2002 by e-mail that effective Friday, May 24, 2002 the Department will initiate the “negative and corrective grant award process” to take funds from the states that were “overpaid” and to redistribute those funds to the “underpaid” states. Funds in jurisdictions that receive “minimum allotments (Alaska, Delaware, the District of Columbia, Hawaii, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, Wyoming, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands) were not affected.

13 Under the National Housing Act, the Federal Housing Administration (FHA) offers to insure private loans used to finance the modernization and rehabilitation of certain hospital facilities. To qualify for the insurance, a hospital must obtain a certificate of need (CON) issued by a designated state agency. The CON determines whether or not the hospital applying for the loan meets certain eligibility requirements necessary for receipt of the FHA loan guarantee. If a state has no CON process, it must commission or conduct an independent feasibility study in lieu of the CON. Currently, 14 states--Arizona, California, Colorado, Idaho, Indiana, Kansas, Minnesota, New Mexico, North Dakota, Pennsylvania, South Dakota, Texas, Utah and Wyoming--no longer have a CON program.

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
	<p>July 31, 2006.</p> <ul style="list-style-type: none"> ▪ Orders a study to be conducted to determine the barriers to the receipt of mortgage insurance by federally qualified health centers. 	
MEDICAID		
<p>Extension of Authority for Medicaid Coverage of Cost Sharing for Part B Premiums for Certain Low Income Medicare Beneficiaries (P.L. 108-448)</p>	<ul style="list-style-type: none"> ▪ Extends authority for Medicaid coverage for the Medicare part B premium for certain qualifying low-income individuals through September 2005. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/8/04).
<p>Temporary State Fiscal Relief</p>	<p>[SEE ECONOMIC STIMULUS, “JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003]</p>	
MEDICARE		
<p>Prescription Drug and Medicare Improvement Act of 2003 (P.L. 108-173)</p>	<p><u>Medicare Prescription Drug Benefit</u></p> <ul style="list-style-type: none"> ▪ Prescription Drug Discount Cards—Initiates Medicare-endorsed drug discount cards ending in 2006 when prescription drug benefits begins. ▪ Transitional Low-Income Assistance—Eligible individuals with an income level under 135% of the federal poverty level, excludes certain populations. <p><u>Prescription Drug Benefit</u></p> <ul style="list-style-type: none"> ▪ Standard Benefit in 2006. ▪ \$250 deductible. ▪ 75% coverage to \$2,250. ▪ \$3,600 out-of-pocket catastrophic coverage. ▪ \$35 average premium. ▪ Low-income Assistance—dual eligible individuals will have access to Medicare benefit with a 10 year phase down to 75% state contribution and 75% applies thereafter. ▪ Retiree plan subsidy. <p><u>Quality Measures Related to Prescription Drugs</u></p> <ul style="list-style-type: none"> ▪ Medication Therapy Management—Plans must have a medication therapy management program for beneficiaries with multiple prescriptions or complex conditions likely to incur high drug expenses. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/08/03).

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
	<p><u>Rural Provisions</u></p> <ul style="list-style-type: none"> ▪ Rural Health Care Improvements including making standardized payments permanent and improvement of the Critical Access Hospital (CAH) program. <p><u>Part A and B Benefit Changes</u></p> <ul style="list-style-type: none"> ▪ Part A provisions include an 18 month moratorium on the self-referral whole hospital exemption for new specialty hospitals, a technology integration package at \$600 million and Medicare payments to skilled nursing facilities that will reflect the high cost of providing care to patients with AIDS. ▪ Part B provisions include the 4.5% cut in compensation to physicians in 2004 and additional cuts in 2005 will be blocked, a five-year freeze in laboratory payments. <p><u>Emergency Health Care for Undocumented Immigrants</u></p> <ul style="list-style-type: none"> ▪ Amends the Balanced Budget Act of 1997 to appropriate \$1.45 billion for each of FY's 2004 through 2008 for allotments to States for reimbursement of emergency health services furnished to undocumented immigrants (appropriations ended after FY 2001). ▪ Establishes formulas for the disbursement of funds. Provides that \$957,000,000 is to be allotted based on a percentage of undocumented immigrants and \$493,000,000 is to be allotted based on numbers of undocumented immigrant apprehensions (in the six states with the highest number of apprehensions). ▪ Permits a State to receive funds on both accounts. ▪ Permits reimbursement to providers for uncompensated emergency health services to immigrants who enter the U.S. for the sole purpose of receiving services. ▪ Allows for the reallocation of unused funds. <p><u>Medicare Reforms</u></p> <ul style="list-style-type: none"> ▪ Coverage of screening tests for cardiovascular disease. ▪ Diabetes screening for high-risk individuals. ▪ Eliminates the copayment for home health services. ▪ Coverage for initial voluntary physical when eligible for Medicare. 	

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
MENTAL HEALTH		
Mental Health Parity Act Reauthorization	<ul style="list-style-type: none"> ▪ [“TAX” – WORKING FAMILIES TAX RELIEF ACT OF 2004] 	
ORGAN DONATION		
Organ Donation and Recovery Improvement Act (P.L. 108-216)	<ul style="list-style-type: none"> ▪ Amends the Public Health Service Act to authorize the HHS Secretary to award: (1) grants for reimbursement of travel and subsistence expenses and incidental non-medical expenses incurred by individuals toward making living organ donations; (2) peer reviewed grants, or enter into contracts, for studies and demonstration projects to increase organ donation and recovery rates; (3) grants to states for organ donor awareness, public education and outreach activities, and programs designed to increase the number of organ donors within the state; and (4) matching grants to qualified organ procurement organizations and hospitals to establish programs coordinating organ donation activities to increase the rate of organ donations for such hospitals. ▪ Requires the Secretary to: (1) establish a public education program to increase awareness about organ donation and the need to provide for an adequate rate of donation; (2) support the development and dissemination of educational materials to inform health care professionals about organ, tissue, and eye donation issues; and (3) report on the ethical implications of proposals to increase cadaveric donation. ▪ Directs the Secretary, acting through the Director of the Agency for Healthcare Research and Quality, to: (1) develop scientific evidence supporting increased donation and improved recovery, preservation, and transportation of donated organs; and (2) support research and dissemination of findings to develop a uniform clinical vocabulary, apply technology to support organ procurement organizations, enhance the skills of the organ procurement workforce, and assess specific organ recovery, preservation, and transportation technologies. ▪ Authorizes the Secretary to establish mechanisms to evaluate the long-term effects associated with living organ donations. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (4/05/04).

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
PUBLIC HEALTH		
Garrett Lee Smith Memorial Act ¹⁴ (P.L. 108-355)	<ul style="list-style-type: none"> ▪ Amends the Public Health Service Act to require the HHS Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration (SAMSA), to award a grant to an additional research, training, and technical assistance center to provide information, training, and technical assistance to various entities, including for: (1) developing or continuing statewide or tribal suicide early intervention and prevention strategies; (2) ensuring the surveillance of such strategies; (3) studying the costs and effectiveness of such strategies; (4) promoting the sharing of data regarding youth suicide; and (5) evaluating and disseminating outcomes and best practices of mental and behavioral health services at institutions of higher education. ▪ Requires the Secretary to award grants or cooperative agreements to various entities to design early intervention and prevention strategies that will complement the state-sponsored statewide or tribal youth suicide prevention strategies developed under this Act, including by: (1) providing for the timely assessment, treatment, or referral for mental health or substance abuse services of youth at risk for suicide; (2) offering access to services and care to youth with diverse linguistic and cultural backgrounds; and (3) conducting annual self-evaluations of outcomes and activities. Provides grants for three years. ▪ Requires the Secretary, acting through the SAMSA Administrator, to award grants or cooperative agreements to states or Indian tribes to: (1) develop and implement the suicide prevention strategies in schools, juvenile justice systems, and other child and youth support entities; (2) support organizations actively involved in such strategies and in developing and continuing such strategies; (3) provide grants to institutions of higher education to coordinate the implementation of such strategies; (4) collect and analyze data to monitor the effectiveness of suicide prevention services and for research, technical assistance, and policy developments; and (5) assist eligible entities in achieving their targets for youth suicide reductions. Limits grant or cooperative agreement awards to one per state. ▪ Requires states to give preference to certain entities in providing assistance, including those that: (1) provide suicide prevention 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (10/21/04).

¹⁴ The Act is named in the memory of Garrett Lee Smith, the son of U.S. Senator Gordon Smith of Oregon.

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
	<p>services to at-risk youth and that are integrated with child and youth support organizations; (2) provide immediate support and information resources to families of at-risk youth; (3) offer appropriate post-suicide intervention services, care, and information; (4) train professionals in suicide prevention services and in effectively identifying youth who are at risk; and (5) obtain informed written consent from a parent or legal guardian of an at-risk child before involving the child in an intervention and prevention program. Requires 85 percent of grant funds to be used to provide direct services and at least 5% to be awarded to institutions of higher education.</p> <ul style="list-style-type: none"> ▪ Requires the Secretary to coordinate and collaborate on policy development with relevant HHS agencies and suicide working groups and to consult with the private sector on policy development with respect to suicide prevention strategies. 	
<p>Poison Control Center Enhancement and Awareness Act Amendments of 2003 (P.L. 108-194)</p>	<ul style="list-style-type: none"> ▪ Authorizes appropriations for: (1) the maintenance of a national toll-free number to access regional poison control centers; and (2) the nationwide media campaign to promote poison control center utilization. ▪ Provides funds for: (1) developing standardized poison prevention and poison control centers; and (2) improving national toxic exposure surveillance. ▪ Provides for waivers not exceeding five-years (current law allows waivers to be renewed for up to three years). 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/19/03).
<p>Mosquito Abatement for Safety and Health Act (P.L. 108-75)</p>	<ul style="list-style-type: none"> ▪ Amends the Public Health Service Act to authorizing grants to States to: (1) coordinating mosquito control programs; and (2) assisting States to localities to conduct needs assessments for control programs and to develop plans for carrying out these programs. ▪ Requires states receiving grants to: (1) have existing or to develop a plan for coordinating control programs in the State; (2) agree to monitor control programs to ensure they are carried out in accordance with the plan; and (3) submit a report to the Secretary describing the activities under the grant and evaluating coordination efforts. ▪ Authorizes grants to localities for control programs that have: (1) conducted a needs assessment which includes an entomological survey of potential mosquito breeding areas; and (2) developed a plan for carrying out a control program. ▪ Requires each locality to provide matching funds in an amount not less than 1/3 of the cost of the program. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (8/15/03).

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
	<ul style="list-style-type: none"> ▪ Provides a waiver for the matching funds requirement in the case of extraordinary economic conditions in a locality. ▪ Permits for training and technical assistance from HHS. 	
Automatic Defibrillation in Adam’s Memory Act (P.L. 108-41)	<ul style="list-style-type: none"> ▪ Amends the Public Health Service Act to establish an information clearinghouse to increase access to defibrillation in schools. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (7/1/03).
PHARMACEUTICAL ISSUES		
Anabolic Steroid Control Act of 2004 (P.L. 108-358)	<ul style="list-style-type: none"> ▪ Amends the Anabolic Steroid Control Act of 1990 to modify the definition of "anabolic steroid" to include tetrahydrogestrinone (THG), androstenedione, and specified related chemicals. ▪ Authorizes the Attorney General, upon the recommendation of the HHS Secretary, to exempt from regulation any compound, mixture, or preparation that contains any anabolic steroid, that is intended for administration to a human being or an animal, and that does not present any significant potential for abuse because of its concentration, preparation, formulation, or delivery system. ▪ Directs the U.S. Sentencing Commission to review the federal sentencing guidelines with respect to offenses involving anabolic steroids and consider amending such guidelines to provide for increased penalties. ▪ Directs the HHS Secretary to: (1) award grants to enable public and nonprofit private entities to carry out science-based education programs in elementary and secondary schools to highlight the harmful effects of anabolic steroids; and (2) ensure that the National Survey on Drug Use and Health includes questions concerning the use of anabolic steroids. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (10/22/04).
Prescription Drug and Medicare Improvement Act of 2003 (P.L. 108-173)	[SEE MEDICARE, “PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003” FOR ADDITIONAL DETAIL.]	
Pediatric Research Equity Act of 2003 (P.L. 108-155)	<ul style="list-style-type: none"> ▪ Authorizes the Food and Drug Administration (FDA) to require drug companies to test their products specifically for use by children.¹⁵ ▪ Sunsets in 2007. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/03/03).

15 In 1997 the FDA proposed a rule, commonly known as the “Pediatric Rule,” in which the agency required drug manufacturers to guarantee the safety and effectiveness and to properly label drugs important to use in children. Last year, the U.S. District Court for the District of Columbia ruled that the FDA lacked the statutory authority to impose the rules. This legislation grants the agency

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
REPRODUCTIVE HEALTH		
Partial Birth Abortion (P.L. 108-105)	<ul style="list-style-type: none"> ▪ Bans a specific abortion techniques, dilation and extraction, or intact dilation and evacuation, sometimes referred to as “partial birth” abortions. ▪ Permits the procedures when necessary to save the life of the mother, but provides no exception for the “health” of the mother. ▪ Provides a more precise definition of the banned procedure to address concerns raised by the U.S. Supreme Court when it struck down Nebraska’s law in 2000.¹⁶ ▪ Individuals who perform the procedure illegally are subject to fines and up to two years in prison. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (11/5/03).
RURAL HEALTH		
Universal Service Fund	<ul style="list-style-type: none"> ▪ The Act exempts funds received under through universal service fees from the Antideficiency Act.¹⁷ 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (12/23/04).
STATE CHILDREN’S HEALTH INSURANCE PROGRAM		
State Children's Health Insurance Program (P.L. 108-74)	<ul style="list-style-type: none"> ▪ Extends the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program; and ▪ Allows qualifying states to use up to 20 percent of any allotment from FY 1998 to 2001 for payments. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (8/15/03).
TAX AND TRADE (HEALTH PROVISIONS)		
Working Families Tax Relief Act of 2004 (P.L. 108-311)	<p><u>Mental Health Parity</u></p> <ul style="list-style-type: none"> ▪ The “Working Families Tax Relief Act of 2004” extends the provisions of The Mental Health Parity Reauthorization Act of 2003¹⁸ through December 31, 2005. The expansions of the Mental 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (10/04/04).

the needed authority.

16 In *Stenberg v. Carhart*, the U.S. Supreme Court struck down the Nebraska law in 2002, finding the law unconstitutional, in part because it did not provide an exception for the mother’s health and in part because the law was not clear on the specific procedure that would be prohibited. The Court’s concern was that the law could be read to ban procedures that are not considered “partial birth abortions.”

17 The Federal Communications Commission (FCC) preliminarily believed that some Universal Service programs were subject to the Antideficiency Act (“ADA”). Among other things, the Antideficiency Act prohibits federal agencies from incurring “obligations” in advance or excess of cash on-hand or investments in federal securities. Under their interpretation, consumers’ phone bills would have to be increased to fund the rural school and library programs and rural health programs supported by the Universal Service Fund (USF).

18 The Mental Health Parity Reauthorization Act of 2003 was signed into law as P.L. 108-197 by President Bush (12/19/03). The law extended the provisions of the Mental Health Parity Act through December 31, 2004.

19 The Health Care Tax Credit (HCTC) is a federal tax credit established by the Trade Act of 2002 (P.L. 107-210). It provides assistance to certain individuals participating in the Trade Adjustment Assistance (TAA) program or who are receiving a payment from the Pension Benefit Guaranty Corporation (PBGC) to help them purchase health coverage. The program is a partnership between

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	<p>Health Parity Act proposed in S. 486 and H.R. 953, The Mental Health Equitable Treatment Act, were not enacted.</p> <p><u>Archer Medical Savings Accounts (MSAs)</u></p> <ul style="list-style-type: none"> ▪ Extends the authorization for Archer MSAs through December 31, 2005. ▪ Provides that the reports required by MSA trustees for 2004 are treated as timely if made within 90 days after the date of enactment. In addition, the determination of whether 2004 is a cut-off year and the publication of such determination is to be made within 120 days of the date of enactment. If 2004 is a cut-off year, the cut-off date will be the last day of the 120-day period. <p><u>Technical Corrections – Medicare Prescription Drug, Improvement, and Modernization Act of 2003</u></p> <ul style="list-style-type: none"> ▪ Additional tax relating to health savings accounts. Under present law, regular tax liability does not include the additional tax on Archer MSA distributions not used for qualified medical expenses. The provision adds to the list of the amounts the additional tax on distributions not used for qualified medical expenses under the rules relating to health savings accounts. ▪ Health Coverage Tax Credit.¹⁹ Amends present law which provides that any amount distributed from an Archer MSA will not be taken into account for purposes of determining the amount of health coverage tax credit ("HCTC") an individual is eligible to receive by adding that amounts distributed from health savings accounts are not to be taken into account for purposes of determining the amount of HCTC an individual is entitled to receive. 	
<p>Jumpstart Our Business Strength (JOBS) Act (P.L. 108-357)</p>	<p><u>Retiree Health Accounts</u></p> <ul style="list-style-type: none"> ▪ Extends the ability of employers to fund retiree health benefits through the transfer of excess pension assets. <p><u>Adds Hepatitis A Vaccine to List of Taxable Vaccines</u></p> <ul style="list-style-type: none"> ▪ Imposes an excise tax on 75 cents per dose on the manufacturer.²⁰ Effective for vaccines sold beginning on the first day of the first month beginning more than four weeks after the date of enactment. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (10/22/04).

the federal and state governments and health plan administrators. The federal government administers the program, through the

²⁰ Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following the administration of taxable vaccines. This program provides a substitute federal “no fault” system in place of state tort law and

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
	<p><u>Adds Influenza Vaccine to List of Taxable Vaccines</u></p> <ul style="list-style-type: none"> ▪ Imposes an excise tax of 75 cents per dose on any trivalent vaccine against influenza. Effective for vaccines sold or used beginning on the later of the first day of the first month beginning more than four weeks after the date of enactment or the date on which the HHS Secretary lists the vaccine for purpose of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund. <p><u>National Health Services Corp</u></p> <ul style="list-style-type: none"> ▪ Under current law, payments under the National Health Services Corps loan repayment program are taxable as income for the recipient. The proposal in a the substitute amendment would exempt these payments from tax. <p><u>Expands Coverage for Sickle Cell Disease under Medicaid</u> (Incorporates a modified version of the Sickle Cell Treatment Act of 2003 (S. 874/H.R. 1736))</p> <ul style="list-style-type: none"> ▪ Creates a new state Medicaid option to provide primary and secondary medical strategies and treatment and services for individuals who have sickle cell disease. The strategies, treatment and services include: (1) chronic blood transfusion to prevent stroke in people who have been identified as being at high risk for stroke; (2) genetic counseling and testing for people with sickle cell disease or sickle cell trait; and (3) other treatment and services to prevent people who have sickle cell disease and who have had a stroke from having another one. ▪ Provides 50 percent federal matching payments for education and other services related to the prevention and treatment of sickle cell disease. ▪ Establishes a demonstration program for the development and establishment of systemic mechanisms for the prevention and treatment of sickle cell disease. Priority will be given to federally qualified health centers that have a partnership or other arrangement or intend to have a partnership or other arrangement with a comprehensive sickle cell disease treatment center that does not receive funds from the National Institutes of Health (NIH). Authorizes funding for up to 40 entities. Authorizes \$10 million in each of FY 2005 – FY 2009. 	

private liability systems otherwise applicable to vaccine manufacturers. People immunized after September 30, 1998, with covered vaccines must go through the federal system before they can pursue civil tort actions under state law.

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	<ul style="list-style-type: none"> ▪ Directs the Administrator of the Health Resources and Services Administration (HRSA) to enter into a contract with an entity to serve as the National Coordinating Center for the demonstration program. <p>Market Reform for Tobacco Growers</p> <ul style="list-style-type: none"> ▪ Repeals the federal tobacco support program, including marketing quotas and nonrecourse marketing loans. Provides quota holders \$7.00 per pound on their 2002 quota allotment paid in equal installments over five years. Additionally, the proposal provides producers transition payments of \$3.00 per pound based on their 2002 quota levels paid in equal installments over five years. Caps payments to quota holders and growers at \$9.6 billion over fiscal years 2005 through 2009. 	
WELFARE REFORM (HEALTH PROVISIONS)		
Welfare Reform Extension, Part VIII (P.L. 108-308)	<ul style="list-style-type: none"> ▪ Extends the authorization for the Temporary Assistance for Needy Families (TANF) program and associated programs, including Transitional Medical Assistance (TMA), through 3/31/05. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (9/30/04).
TANF and Related Programs Continuation Act of 2004 (P.L. 108-262)	<ul style="list-style-type: none"> ▪ Extends the authority for Temporary Assistance for Needy Families (TANF) and related programs, including transitional medical assistance (TMA) through 9/30/04. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (6/30/04).
Welfare Reform Extension Act (P.L. 108-210)	<ul style="list-style-type: none"> ▪ Reauthorizes Temporary Assistance for Needy Families (TANF) and related programs through 6/30/04. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (3/31/04).
Act to extend the Temporary Assistance for Needy Families block grant program, and certain tax and trade programs (P.L. 108-89)	<ul style="list-style-type: none"> ▪ Extends through 3/21/04, Temporary Assistance for Needy Families (TANF) block grant; Transitional Medical Assistance (TMA), Medicaid funds for QI-1 dual-eligible premium assistance; and Medicare payments to rural hospitals equalizing their payments to those made to urban hospitals. These provisions were to expire effective 9/30/03. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (10/1/03).
Welfare Reform Extension Act of 2003 (P.L. 108-40)	<ul style="list-style-type: none"> ▪ Provides extension for funding pending the passage of Welfare Reform Reauthorization. [See: Work, Opportunity, and Responsibility for Kids Act of 2002 (H.R. 4)]. <p><u>Health Provision</u></p> <ul style="list-style-type: none"> ▪ Extends funding for the continuation of transitional medical assistance (TMA). 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (6/30/03). Effective through September 30, 2003.

ISSUE/TITLE	DESCRIPTION	LEGISLATIVE ACTION
MISCELLANEOUS HEALTH		
Assistive Technology Act of 2004 (P.L. 108-364)	<ul style="list-style-type: none"> ▪ Authorizes additional resources to strengthen existing successful state Assistive Technology programs. ▪ Provides for a minimum of \$410,000 per state. 	<ul style="list-style-type: none"> ▪ Signed into law by President Bush (10/25/04).

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