CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 31, 2005

Reconciliation Recommendations of the House Committee on Energy and Commerce

As approved by the House Committee on Energy and Commerce on October 28, 2005

SUMMARY

This legislation would make a variety of changes to the Medicaid program, provide funding for health and energy relief in areas affected by Hurricanes Katrina and Rita, and modify the terms of the Federal Communications Commission's (FCC's) authority to auction licenses for use of the electromagnetic spectrum. CBO estimates that enacting this legislation would increase direct spending by $2.8 billion in 2006, but would reduce direct spending by about $17 billion over the 2006-2010 period and about $53 billion over the 2006-2015 period. Enacting the legislation would not affect federal revenues.

Subtitle A would reduce net Medicaid outlays in a number of ways, most substantially by allowing states to reduce benefits and impose additional cost-sharing requirements and premiums on certain enrollees, reducing payments for prescription drugs, and tightening the rules relating to asset transfers prior to eligibility for Medicaid long-term care services. Those savings would be partly offset by an expansion of home- and community-based services and other benefit expansions. Subtitle B would provide a temporary increase in the federal matching rates for Alabama, Louisiana, and Mississippi and establish other policies directed at areas affected by Hurricane Katrina. Subtitle C would provide increased funding for the Low-Income Home Energy Assistance Program (LIHEAP). Subtitle D would amend existing law regarding the FCC's authority to auction licenses to use the electromagnetic spectrum. It would set a firm date for television broadcasters to switch from analog to digital signals, and would allow the Department of Commerce to spend some of the resulting auction proceeds for programs to assist consumers and others in making that transition.

Subtitles A, B, and C of the legislation contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Subtitle D contains both intergovernmental and private-sector mandates. CBO estimates that any resulting costs to state, local, or tribal governments would be small and would not exceed the threshold established by UMRA ($62 million in 2005, adjusted annually for inflation). Subtitles A and

B would have a significant effect on state Medicaid programs, and CBO estimates that, as a result, states would realize savings of $12 billion over the 2006-2010 period. In addition, subtitle C would provide $1 billion in additional grant funds to states for low-income energy assistance.

The Digital Television Transition Act of 2005 (subtitle D) would impose private-sector mandates on television broadcasters, manufacturers, certain retailers, cable companies, and satellite carriers. Because CBO does not have sufficient information about the existing practices of the broadcast industry, we cannot determine whether the aggregate direct cost to comply with those mandates would exceed the annual threshold established by UMRA for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the legislation is shown in Table 1. The effects of this legislation fall within budget functions 370 (commerce and housing credit), 550 (health), 600 (income security), and 950 (undistributed offsetting receipts).

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF THE RECONCILIATION RECOMMENDATIONS OF THE HOUSE COMMITTEE ON ENERGY AND COMMERCE

	By Fiscal Year, in Millions of Dollars											
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-2010	2006-2015
CHANGES IN DIRECT SPENDING												
Medicaid												
Estimated Budget Authority	-350	-1,592	-2,350	-3,288	-4,297	-5,236	-6,184	-7,172	-8,150	-9,113	-11,877	-47,731
Estimated Outlays	-440	-1,562	-2,320	-3,258	-4,297	-5,236	-6,184	-7,172	-8,150	-9,113	-11,877	-47,731
Katrina Health Care Relief												
Estimated Budget Authority	2,545	*	*	1	6	*	*	*	*	*	2,553	2,553
Estimated Outlays	2,515	45	*	-1	-6	*	*	*	*	*	2,553	2,553
Katrina and Rita Energy Relief												
Estimated Budget Authority	1,000	0	0	0	0	0	0	0	0	0	1,000	1,000
Estimated Outlays	750	230	20	0	0	0	0	0	0	0	1,000	1,000
Digital Television Transition												
Estimated Budget Authority	7	1,294	1,914	-11,547	-145	-150	-150	-150	-150	-150	-8,477	-9,227
Estimated Outlays	7	1,294	1,914	-11,997	40	5	-40	-150	-150	-150	-8,742	-9,227
Total Changes												
Estimated Budget Authority	3,202	-298	-436	-14,833	-4,436	-5,386	-6,334	-7,321	-8,301	-9,263	-16,801	-53,405
Estimated Outlays	2,832	7	-386	-15,256	-4,263	-5,231	-6,224	-7,322	-8,300	-9,263	-17,066	-53,405

NOTES: Components may not sum to totals because of rounding.

* = between -$500,000 and $500,000.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the reconciliation legislation will be enacted by the end of December 2005.

Subtitle A—Medicaid

The legislation would reduce federal Medicaid spending by an estimated $440 million in 2006, $11.9 billion over the 2006-2010 period, and $47.7 billion over the 2006-2015 period. Those savings would be achieved mostly by allowing states to trim benefits for certain enrollees, letting states impose higher cost-sharing requirements and premiums on certain enrollees, lowering payments for outpatient prescription drugs, and increasing penalties for individuals who transfer assets for less than fair market value in order to qualify for nursing home care. (The figures in this estimate represent the federal share of Medicaid and SCHIP spending unless noted otherwise.) The estimated effects of subtitle A are shown in detail in Table 2.

Chapter 1: Prescription Drugs. The provisions of this chapter would limit payments for outpatient prescription drugs, increase the rebates that Medicaid receives from drug manufacturers, and restrict states' ability to limit access to certain drugs. CBO estimates that those provisions would reduce Medicaid spending by $25 million in 2006, $2.1 billion over the 2006-2010 period, and $7.7 billion over the 2006-2015 period.

Limits on Pharmacy Reimbursement. The legislation would replace Medicaid's current payment system for outpatient prescription drugs, which is largely based on average wholesale price, with a new system based on retail average manufacturer price (RAMP). The RAMP would be the average price that manufacturers receive for sales to all retail pharmacies other than mail order pharmacies. The legislation would limit federal Medicaid payments for prescription drugs to 106 percent of RAMP for a single-source drug and 120 percent of the volume-weighted RAMP for a multiple-source drug. (The volume-weighted average would be calculated across all therapeutically equivalent and bio-equivalent forms of a drug.) The legislation also would allow the Department of Health and Human Services (HHS) to increase those payment limits based on surveys of retail prices for prescription drugs. Those limits would apply only to a drug's ingredient costs. States would continue to determine dispensing fees, except that the legislation would require dispensing fees for multiple-source drugs to be at least $8 per prescription. Those provisions would take effect on January 1, 2007.

TABLE 2. ESTIMATED BUDGETARY EFFECTS OF SUBTITLE A—MEDICAID

	Outlays in Millions of Dollars, By Fiscal Year											
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-2010	2006-2015
CHANGES IN DIRECT SPENDING												
Chapter 1: Prescription Drugs												
Limits on Pharmacy Reimbursement	0	-300	-425	-525	-650	-775	-900	-1,050	-1,200	-1,375	-1,900	-7,200
Rebates on Physician-Administered Drugs	-5	-10	-15	-20	-20	-20	-15	-15	-15	-20	-70	-155
Include Authorized Generics in Best Price	-20	-40	-45	-55	-60	-70	-80	-95	-110	-125	-220	-700
Expand Eligibility for 340B Program	*	*	*	*	*	*	*	*	*	*	*	*
Limit Use of Prior Authorization	0	20	30	35	40	45	50	55	60	70	125	405
Chapter 2: Asset Transfers												
Revisions to Penalty Period	-140	-290	-290	-350	-420	-450	-470	-490	-520	-560	-1,490	-3,980
Home Equity Provisions	-30	-90	-140	-150	-170	-180	-200	-220	-240	-270	-580	-1,690
Treatment of Large Annuities	-20	-50	-70	-70	-70	-80	-80	-80	-90	-90	-280	-700
Require States to Use "Income First" Rule	-10	-20	-20	-20	-20	-20	-20	-20	-20	-20	-90	-190
Clarify Treatment of CCRC Fees	-10	-10	-20	-20	-20	-20	-20	-30	-30	-30	-80	-210
Chapter 3: Cost Sharing and Benefits												
Increase Cost Sharing and Premiums	-70	-250	-420	-630	-880	-1,150	-1,400	-1,590	-1,720	-1,860	-2,250	-9,970
Alternative Benefit Packages	-150	-470	-780	-1,090	-1,450	-1,850	-2,310	-2,830	-3,420	-3,890	-3,940	-18,240
Additional Cost Sharing for Drugs	0	-30	-50	-70	-110	-150	-190	-220	-250	-280	-260	-1,350
Non-Emergency Care Provisions	10	20	10	0	-40	-50	-60	-70	-70	-80	0	-330
Non-Emergency Medical Transportation	15	5	-15	-30	-30	-30	-35	-35	-40	-40	-55	-235
Exemption for Women with Certain Cancers	*	*	1	1	1	1	1	1	2	2	3	11
Chapter 4: Benefit Expansions												
Home- and Community-Based Services	0	50	155	270	340	350	375	405	435	460	815	2,840
Self-Directed Services Provisions	5	15	30	40	40	45	50	50	55	60	130	390
Long-Term Care Partnership Programs	0	0	0	5	5	5	10	15	15	15	10	70
Health Opportunity Accounts	5	10	15	15	15	25	35	40	50	55	60	265
Chapter 5: Other Provisions												
Restrictions on Provider Taxes	-5	-15	-15	-190	-390	-430	-460	-500	-530	-580	-615	-3,115
Third-Party Recovery	-20	-70	-110	-140	-140	-150	-160	-170	-170	-190	-480	-1,320
Targeted Case Management Services	-30	-100	-180	-230	-220	-230	-250	-260	-280	-290	-760	-2,070
Additional Funding for the Territories	20	28	29	31	32	33	35	37	38	40	140	323
Medicaid Transformation Grants	0	50	50	0	0	0	0	0	0	0	100	100
Require Evidence of Citizenship	-5	-20	-45	-70	-80	-85	-95	-105	-110	-120	-220	-735
Payment for Emergency Services	0	-10	-15	-15	-20	-20	-20	-20	-20	-25	-60	-165
Modify Calculation of FMAPs	15	15	15	20	20	20	25	25	30	30	85	215
Non-Application to Katrina Evacuees	5	0	0	0	0	0	0	0	0	0	5	5
Total Changes in Subtitle A	-440	-1,562	-2,320	-3,258	-4,297	-5,236	-6,184	-7,172	-8,150	-9,113	-11,877	-47,731
Memorandum: Projected Medicaid Spending Under Current Law (in billions of dollars)	190.7	202.3	220.5	239.3	260.0	282.1	304.9	330.1	357.6	387.7	1,112.8	2,775.2

NOTES: Components may not sum to totals because of rounding.

Changes in budget authority would be identical to changes in estimated outlays for all provisions except those affecting non-emergency care.

CCRC = continuing care retirement community; FMAP =federal medical assistance percentage.

* = between -$500,000 and $500,000.

Based on data on average manufacturer prices (which manufacturers currently submit to HHS under Medicaid's drug rebate program) and prescription drug spending by Medicaid, as well as other data on national drug sales, CBO estimates that this provision would reduce Medicaid spending by $1.9 billion over the 2006-2010 period and by $7.2 billion over the 2006-2015 period. Those savings reflect CBO's expectation that states would raise dispensing fees to mitigate the effect of the new payment limits on pharmacies and preserve the widespread participation of pharmacies in Medicaid. The estimate also accounts for lower rebates from drug manufacturers resulting from increased use of cheaper generic drugs.

Other Provisions. The chapter also contains provisions that would: require states to collect rebates from drug manufacturers on certain drugs administered by physicians; expand the definition of the "best price"—which HHS uses in calculating the rebate that manufacturers of brand-name drugs must pay to Medicaid—to include the prices of authorized generics; allow certain children's hospitals to purchase prescription drugs at discounted prices (under section 340B of the Public Health Service Act); and make it more difficult for states to require physicians to obtain permission before prescribing drugs to treat depression and other psychiatric conditions. CBO estimates that those provisions would reduce net Medicaid spending by a total of $165 million over the 2006-2010 period and $450 million over the 2006-2015 period.

Chapter 2: Asset Transfers. The provisions of this chapter would reduce Medicaid spending by an estimated $2.5 billion over the 2006-2010 period and $6.8 billion over the 2006-2015 period, primarily by increasing penalties on individuals who transfer assets for less than fair market value in order to qualify for nursing home care and by making individuals with more than $500,000 in home equity ineligible for nursing home benefits.

Revisions to Penalty Period. Medicaid currently imposes a period of ineligibility for nursing home benefits on individuals who transfer assets for less than fair market value. The penalty period is based on the value of any assets transferred during the three years prior to application—known as the look-back period—and starts on the date the assets were transferred. Those rules have relatively little effect because any penalty period usually has expired by the time an individual applies for Medicaid.

Under this legislation, the penalty period would start when an individual becomes eligible for Medicaid and the look-back period would be extended from three years to five years. The legislation also would codify certain protections against undue hardship for individuals who transfer assets. Those changes would apply only to asset transfers that occur after enactment, so the effect of the longer look-back period would not be felt until January 1, 2009.

CBO estimates that those provisions would reduce Medicaid spending by $140 million in 2006, by $1.5 billion over five years, and by $4.0 billion over 10 years by deterring some individuals from transferring assets and thus delaying or preventing them from receiving nursing home benefits.

Treatment of Home Equity. Under current law, the value of an individual's home is not included when determining eligibility for Medicaid. The legislation would make individuals with more than $500,000 in home equity ineligible for nursing home benefits. That dollar figure would be adjusted annually for inflation starting in 2011. The prohibition would not apply if an individual's spouse, minor child, or disabled child (regardless of age) lives in the house. This provision would apply to individuals who apply for Medicaid after January 1, 2006. CBO estimates that this provision would reduce Medicaid spending by $580 million over the 2006-2010 period and by $1.7 billion over the 2006-2015 period.

Other Savings. The legislation also would: require Medicaid applicants with annuities to name the state as remainder beneficiary to the extent of Medicaid's expenditures for that individual; require states to use the same method to calculate income allowances for spouses of Medicaid nursing home residents who still live in the community; and clarify that deposits paid to continuing care retirement communities are counted when determining Medicaid eligibility. CBO estimates that those provisions would reduce Medicaid spending by $40 million in 2006, $450 million over five years, and $1.1 billion over 10 years.

Chapter 3: Cost Sharing and Benefits. This chapter contains a number of provisions that would decrease direct spending, most notably by allowing states greater flexibility in imposing cost-sharing requirements and premiums than they have under current law, and by permitting states to restrict benefits for certain enrollees. Other provisions would give states additional flexibility in setting cost-sharing limits for prescription drugs and emergency room care. In aggregate, we estimate that the provisions of this chapter would decrease Medicaid outlays by $195 million in fiscal year 2006, by $6.5 billion over the 2006-2010 period, and by $30.1 billion over the 2006-2015 period.

Increase Cost Sharing and Premiums. Current Medicaid law permits states to impose nominal cost-sharing requirements on benefits for certain beneficiaries other than children and pregnant women and narrowly limits states' ability to charge premiums. Since 1982, Medicaid regulations have limited the nominal cost-sharing amount for most services to $3 and have prohibited providers from denying services to individuals who do not pay. Although some states have permission from the Centers for Medicaid and Medicare Services (CMS) to impose premiums and cost-sharing requirements on higher-income enrollees through waivers of Medicaid law, the majority of Medicaid enrollees do not pay any cost sharing.

The legislation would permit states to subject a broader range of enrollees to cost-sharing and premium requirements. Those proposed increases in cost sharing and premiums would apply to all Medicaid beneficiaries with some exceptions, mainly children and pregnant women with family incomes below the federal poverty level. Moreover, cost sharing would not apply to preventive services for all children, pregnancy-related services, and certain other services that are exempt from cost sharing under current law. Under the legislation, states also could increase the amounts that states may charge for cost sharing. For individuals under the federal poverty level, states could increase nominal copays from $3 to $5 in fiscal year 2008, and increase that amount by medical inflation in subsequent years. There would be no limit on the amount of nominal copays for individuals with income above the federal poverty level. However, regardless of family income, aggregate cost sharing and premiums for all Medicaid individuals in a family could not exceed 5 percent of family income. Additionally, states could allow providers to deny services for lack of payment and condition benefits on prepayment of premiums.

CBO based its estimate on analysis of current state premium and cost-sharing policies, income data from the Current Population Survey, and Medicaid administrative data, and assumed that states would adopt new cost-sharing measures over a 10-year period. CBO estimates that the proposed changes in cost-sharing policy would decrease Medicaid spending by $70 million in fiscal year 2006, by $2.3 billion over the 2006-2010 period, and by $10.0 billion over the 2006-2015 period. Those savings reflect CBO's expectation of reduced utilization of services due to higher cost-sharing requirements and decreased participation in Medicaid by individuals who would be required to pay premiums.

Alternative Benefit Packages. Under current law, state Medicaid programs generally must offer the same set of benefits to all enrollees, regardless of income or eligibility category. States also must provide benefits not otherwise covered by the state's Medicaid plan to children to treat medical conditions diagnosed under the program. Some states offer reduced benefit packages under current law to certain enrollees with family incomes above the federal poverty level under waivers granted by CMS.

The legislation would allow states to scale back Medicaid benefits provided to certain groups of enrollees. States could offer reduced benefit packages only to enrollees who are in eligibility categories the state established before the date of enactment, not to new categories of enrollees. Additionally, states could not reduce benefits for certain categories of children and pregnant women that the federal government requires state Medicaid programs to cover, individuals eligible for both Medicare and Medicaid, and certain other aged and disabled enrollees who receive long-term care services, or are medically frail or have special medical needs.

The provision would require that states choosing to restrict benefits offer packages of benefits that meet certain minimum standards. The package of benefits would have to include certain basic services, such as physician and hospital coverage, and with some exceptions, would be required to be actuarially equivalent to coverage provided under a so-called benchmark benefit package. The benchmark benefit packages would be the standard Blue Cross/Blue Shield preferred-provider option in the Federal Employees Health Benefit program, a health benefit plan that is offered and generally available to state employees, and the benefits offered by the health maintenance organization with the largest commercial enrollment in the state. The legislation would allow states to offer less than actuarially equivalent benefits for certain services such as prescription drugs and mental health services and would permit payment of wrap-around coverage for other health insurance.

CBO expects that some states would be interested in providing scaled-back coverage to certain categories of individuals, primarily families with income over the poverty level and some disabled beneficiaries, and assumes that implementation would occur over a 10-year period. Based on Medicaid administrative data, and analysis of state experiences with providing limited benefit packages to poor families, CBO estimates that this provision would decrease federal spending by $150 million in fiscal year 2006, by $3.9 billion over five years, and by $18.2 billion over 10 years.

Other Provisions. Other provisions of this chapter would allow states to require cost sharing by enrollees—including those who otherwise are exempt from cost-sharing rules—for certain prescription drugs that are not preferred drugs within a class, and for nonemergency care provided in a hospital. The chapter also would provide liability protection to emergency room providers, appropriate additional funds for state development of alternative delivery networks, and loosen rules governing state provision of nonemergency transportation. Those provisions would increase federal outlays by $25 million in 2006, and would decrease spending by $312 million over the 2006-2010 period and by $1.9 billion over the 2006-2015 period, CBO estimates.

Chapter 4: Benefit Expansions. The provisions of this chapter would: allow states to expand benefits for certain individuals requiring long-term care in the community; encourage the purchase of certain kinds of long-term care insurance by allowing individuals who purchase such insurance to protect more of their assets if they eventually need nursing home care under Medicaid; and permit states to conduct demonstration projects that establish Medicaid-funded individual accounts that beneficiaries would use to pay for certain services. CBO estimates that those provisions would increase Medicaid spending by $10 million in fiscal year 2006, by $1.0 billion over the 2006-2010 period, and by $3.6 billion over the 2006-2015 period.

Home- and Community-Based Services. This provision would allow states to offer certain long-term care services to aged and disabled individuals, including those with developmental disabilities and mental retardation, who otherwise would require the level of care provided in an institution. Those services, known as home- and community-based services, could include respite care, adult day health care, and other kinds of assistance, at the option of a state. Under current law, states may provide one or more of those services to a limited number of beneficiaries with permission from CMS to waive provisions of Medicaid law. The legislation would ease certain restrictions of this process and allow states to expand coverage more easily. Based on administrative data and information from the Survey of Income and Program Participation on health insurance and disability, CBO estimates this provision would increase Medicaid spending by $815 million over the 2006-2010 period and by $2.8 billion over the 2006-2015 period.

Other Provisions. The legislation would allow states to directly provide limited Medicaid funding to certain enrollees needing long-term care in the community and would establish a demonstration program—health opportunity accounts—to allow certain families with children to pay for some of their Medicaid costs with funds provided by their state. The legislation also would repeal a moratorium on the number of states that may operate Long-Term Care Partnership Programs, which allow individuals who purchase certain kinds of long-term care insurance to protect more of their assets if they later need nursing home care under Medicaid. Four states currently operate those programs, and CBO anticipates that about a third of the remaining states would do so under the legislation. CBO estimates those provisions would increase Medicaid spending by $5 million in 2006, by $200 million over five years, and by $725 million over 10 years.

Chapter 5: Other Provisions. The provisions of this chapter with the largest budgetary impact would restrict states' ability to use revenues from taxes on health care providers as the state share of program spending, make it easier for states to avoid overpayments for Medicaid recipients who also have private health insurance, and limit coverage of targeted case management services. Overall, we estimate that enacting this chapter would reduce Medicaid spending by $1.8 billion over five years and by $6.8 billion over 10 years.

Restrictions on Provider Taxes. Many states finance part of their share of Medicaid spending by imposing taxes on health care providers. States typically impose taxes on a particular type of provider and use the revenues to increase payment rates to those same providers. In the process, states collect federal Medicaid funds for those higher payments. Federal law generally requires states to tax all providers in a class, so states typically tax classes of providers (such as hospitals or nursing homes) of which a relatively large share receive significant Medicaid payments and stand to benefit from the higher payment rates that result from the provider tax. However, the law allows states to impose taxes only on those managed care organizations (MCOs) that serve Medicaid recipients. Because that exception makes it easier for states to impose provider taxes on MCOs, several states have already imposed such taxes, and more are planning to do so.

The legislation would require any taxes on MCOs to apply to all such organizations, including those that do not enroll Medicaid recipients. This provision would take effect upon enactment but would not apply fully to states with existing taxes on MCOs until 2010. CBO anticipates that states ultimately would eliminate their taxes on MCOs under the legislation. Using CMS data on provider taxes, we estimate that the resulting savings would reduce Medicaid spending by $615 million over the 2006-2010 period and by $3.1 billion over the 2006-2015 period.

Third-Party Recovery. The legislation would strengthen Medicaid's status as payer of last resort relative to private health insurance by specifying that pharmacy benefit managers and self-insured plans are liable third parties, requiring insurers to submit eligibility and claims data for Medicaid recipients to states on a regular basis, and requiring insurers to pay claims for Medicaid recipients that are submitted within three years of the date of service. Those provisions would take effect on January 1, 2006. CBO estimates that the legislation would improve states' abilities to identify liable third parties and would increase the amounts that Medicaid recovers from insurers for recipients who also have private health insurance, thereby reducing Medicaid spending by $480 million over the 2006-2010 period and by $1.3 billion over the 2006-2015 period.

Targeted Case Management Services. Medicaid allows states to cover case management services that help recipients obtain access to medical, social, and other services and permits states to target those services to specific populations, such as disabled adults. However, current law provides little guidance on the specific types of services that Medicaid will cover, and some states have billed the program for services that are core elements of other programs, such as juvenile justice and foster care. The legislation would clarify that case management services must help recipients gain access to needed medical, social, educational, and other services and would specify that Medicaid will not cover services that are normally provided under other programs (including certain activities provided by foster care programs). This provision would take effect on January 1, 2006.

CBO estimates that this provision would reduce Medicaid spending on case management services by about 10 percent, yielding savings of $1.1 billion over the 2006-2010 period and $3.0 billion over the 2006-2015 period. Based on information provided by CMS, we anticipate that some of the case management services previously covered by Medicaid would be billed instead to the federal foster care program, raising spending by $350 million over the 2006-2010 period and $940 million over the 2006-2015 period. Together, those reductions in spending for Medicaid and increases in spending for foster care would reduce federal spending by $760 million over the 2006-2010 period and by $2.1 billion over the 2006-2015 period, CBO estimates.

Other Provisions. The remaining provisions in this chapter would: increase funding for Medicaid programs in the United States' territories; provide funds to states that make their Medicaid programs more effective and efficient; require recipients to document their U.S. citizenship; limit the amounts that MCOs must pay to certain providers of emergency services furnished to enrollees in Medicaid managed care plans; and exclude some employer pension contributions from the calculation of the federal government's share of Medicaid spending—known as the federal medical assistance percentage (FMAP). On net, CBO estimates that those provisions would increase Medicaid outlays by $45 million over the 2006-2010 period and reduce spending by $262 million over the 2006-2015 period.

Subtitle B—Katrina Health Care Relief

The legislation would increase the federal government's share of Medicaid spending to 100 percent for individuals who lived in Louisiana, Mississippi, and parts of Alabama during the week prior to August 28, 2005. Under current law, the federal government pays about 70 percent of Medicaid costs in Alabama and Louisiana and 76 percent of costs in Mississippi. The legislation also would provide full federal funding for children from those areas who are enrolled in the State Children's Health Insurance Program (SCHIP). The full federal funding would apply to services provided between August 28, 2005, and May 15, 2006. CBO estimates that these changes would increase Medicaid and SCHIP spending by $2.5 billion in 2006 (see Table 3). The acceleration of SCHIP spending would result in small offsetting reductions in spending in later years.

The legislation would appropriate $90 million in 2006 in additional funding for high-risk pools that states operate for individuals who cannot otherwise obtain health insurance. We estimate that appropriation would increase direct spending by $45 million in both 2006 and 2007.

Subtitle C—Katrina and Rita Energy Relief

Section 3301 of the legislation would appropriate $1 billion for fiscal year 2006 for the Low Income Home Energy Assistance Program. Those funds would supplement the regular appropriation for the program. CBO estimates that LIHEAP outlays would increase by $750 million in fiscal year 2006 and by $1.0 billion over the 2006-2008 period as a result of this additional funding.

TABLE 3. ESTIMATED BUDGETARY EFFECTS OF SUBTITLE B—KATRINA HEALTH CARE RELIEF

	Outlays in Millions of Dollars, By Fiscal Year											
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-2010	2006-2015
CHANGES IN DIRECT SPENDING												
Temporary FMAP Increases for Katrina Areas	2,470	*	*	-1	-6	*	*	*	*	*	2,463	2,463
State High-Risk Insurance Pools	45	45	0	0	0	0	0	0	0	0	90	90
Total Changes in Subtitle B	2,515	45	*	-1	-6	*	*	*	*	*	2,553	2,553

NOTES: Components may not sum to totals because of rounding.

FMAP = federal medical assistance percentage.

* = between -$500,000 and $500,000.

Subtitle D—Digital Television Transition

The Digital Television Transition Act of 2005 (subtitle D of this legislation) would amend existing law regarding the FCC's authority to auction licenses to use the electromagnetic spectrum, resulting in additional auction proceeds of $10 billion over the 2006-2010 period and $10.8 billion over the 2006-2015 period, CBO estimates. Under the legislation, the Department of Commerce would spend about $1 billion of those proceeds to assist consumers and others affected by the transition from analog to digital television broadcasts and another $500 million for grants to public safety agencies for communications systems. The legislation also would direct the FCC to complete various regulatory proceedings; exempt low-power television stations from certain requirements; and require television broadcasters, manufacturers, and other firms to carry out certain activities related to the digital transition. The budgetary impact of those provisions is detailed in Table 5 and discussed below.

TABLE 5. ESTIMATED BUDGETARY EFFECTS OF SUBTITLE D—DIGITAL TELEVISION

	By Fiscal Year, in Millions of Dollars											
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-2010	2006-2015
CHANGES IN DIRECT SPENDING												
Spectrum Auction Proceeds												
Estimated Budget Authority	0	1,250	1,550	-12,650	-150	-150	-150	-150	-150	-150	-10,000	-10,750
Estimated Outlays	0	1,250	1,550	-12,650	-150	-150	-150	-150	-150	-150	-10,000	-10,750
Converter Box Subsidies												
Estimated Budget Authority	5	30	350	600	5	0	0	0	0	0	990	990
Estimated Outlays	5	30	350	600	5	0	0	0	0	0	990	990
Interoperability Grants												
Estimated Budget Authority	0	0	0	500	0	0	0	0	0	0	500	500
Estimated Outlays	0	0	0	50	185	155	110	0	0	0	235	500
NYC Television Reimbursement												
Estimated Budget Authority	2	14	14	0	0	0	0	0	0	0	30	30
Estimated Outlays	2	14	14	0	0	0	0	0	0	0	30	30
Low-Power Transition Assistance												
Estimated Budget Authority	0	0	0	3	0	0	0	0	0	0	3	3
Estimated Outlays	0	0	0	3	0	0	0	0	0	0	3	3
Total Estimated Changes												
Estimated Budget Authority	7	1,294	1,914	-11,547	-145	-150	-150	-150	-150	-150	-8,477	-9,227
Estimated Outlays	7	1,294	1,914	-11,997	40	5	-40	-150	-150	-150	-8,742	-9,227
Memorandum: Proceeds from Spectrum Auctions Under Current Law												
Estimated Budget Authority	0	-7,605	-7,650	0	0	0	0	0	0	0	-15,255	-15,255
Estimated Outlays	0	-7,605	-7,650	0	0	0	0	0	0	0	-15,255	-15,255

NOTES: Components may not sum to totals because of rounding.

* = between -$500,000 and $500,000.

Changes in Spectrum Auction Authority. This legislation would permanently extend the FCC's authority to auction licenses to use the electromagnetic spectrum, which currently expires at the end of fiscal year 2007. It also would change the statutory requirements for the return and subsequent auction of licenses for frequencies now used for television channels 52 through 69. The legislation would require the existing licensees to terminate broadcasts on December 31, 2008; under current law, those licenses do not have to be returned until at least 85 percent of households are able to receive television signals in a digital format. Under this legislation, the FCC would be required to auction licenses for use of 60 megahertz of the returned spectrum by January 7, 2008.

Spectrum Auction Proceeds Under Current Law. The proposed changes would significantly increase the quantity and quality of spectrum to be auctioned in the next few years. CBO expects that, under current law, the FCC will auction 90 megahertz for advanced wireless services in 2006 or 2007 and that proceeds from that and other smaller auctions will yield about $15 billion in receipts to the Treasury (recorded in the budget as offsets to outlays) in 2007 and 2008. CBO considers it unlikely that the television licenses would be auctioned under current law because the wireless industry has shown little interest in these frequencies while there is so much uncertainty about when the spectrum would be cleared for alternative uses. In fact, recent efforts to auction encumbered television licenses have yielded very little money.

Additional Auction Proceeds Under the Legislation. By imposing a firm date for both clearing channels 52-69 and auctioning the licenses for use of that spectrum, the legislation would have the effect of making available over a three-year period (2006 through 2008) a large quantity (150 megahertz) of high-quality spectrum that could be used for various wireless applications, including voice, video, data, and broadband services.

CBO estimates that the proceeds from the auction of the 60 megahertz now used by broadcasters would most likely total between $10 billion and $15 billion, with an expected value of about $12.5 billion. But offering the wireless industry a total of 150 megahertz within a two- or three-year time period would probably result in lower bids in the 90 megahertz auction than will take place under current law. CBO estimates that increasing the total supply of spectrum would result in a $2.5 billion reduction in receipts from the auctions being held under current law. Hence, we estimate that enacting the legislation would increase net receipts from spectrum auctions by $10 billion. (As a result, CBO expects that proceeds from all auctions over the next five years would total $25 billion.)

Estimates of spectrum values are very uncertain, largely because they depend on market factors that differ among firms, technologies, and regions, all of which can vary over time. CBO's estimates of the potential proceeds from such auctions are based on a variety of methods and considerations, including assessments of potential cash flows for various applications, historical trends in auction bids, and information provided by numerous industry experts.

Proceeds from spectrum auctions are recorded in the budget after the licenses are granted to the winning bidder. Based on past experience as to the duration of large auctions and the licensing process, CBO estimates that the $12.5 billion would be recorded on the budget in fiscal year 2009.

Finally, CBO expects that extending the FCC's auction authority would increase direct spending for auction-related expenses; generate additional offsetting receipts from auctions of other spectrum licenses; and change the timing of some auctions that might occur in 2007 if the commission anticipated that its auction authority was going to expire. CBO estimates that those changes would reduce the net proceeds from auctions by about $300 million in 2008; but would increase offsetting receipts by $150 million a year over the 2009-2015 period.

Spending of Auction Proceeds. Under the legislation, some of the proceeds from the auction of licenses for the use of the returned television spectrum would be deposited in four new funds established for specified purposes. From those funds, a total of $1.5 billion would be made available for spending by the Department of Commerce:

- Assisting consumers to obtain necessary hardware (converter boxes) for converting analog television signals to digital television signals—$990 million;
- Providing grants to public safety agencies for interoperable communications systems—$500 million;
- Reimbursing television stations in New York City for certain costs associated with the digital transition—$30 million; and
- Helping low-power television stations convert to digital technology—$3 million.

Converter box program. The legislation would allow households to apply for up to two coupons valued at $40 each that could be applied toward the purchase of certain kinds of set-top boxes that convert digital broadcast signals into a signal that can be viewed on an analog television set. The coupons would be issued from January 1, 2008, through January 31, 2009; each coupon would be valid for three months, meaning that the program would terminate on April 30, 2009. Funding for the converter box program would be derived from the proceeds of the auction of the returned analog licenses, but the department could borrow up to $990 million from the Treasury in advance of the auction to begin implementing the program. Any borrowed funds would have to be repaid out of the auction proceeds. Finally, the legislation would cap administrative costs for the program at $160 million.

CBO expects that implementing the coupon program would take 18 months to two years because of the regulatory and contractual complexity of creating a new subsidy program. Key elements of the program would include: developing regulations and contracts; determining which converter boxes would be eligible for the subsidy; printing and distributing application forms; certifying participating retailers; issuing coupons to eligible households; processing and validating retailers' invoices; handling complaints from consumers and retailers; and auditing program results. Thus, we assume that the department would begin developing the program in 2006 in order to have it up and running by January 2008. Outlays for redeemed coupons would be concentrated in fiscal years 2008 and 2009.

Other programs. Funding for the other three programs also would be derived from auction proceeds, but the department would be authorized to borrow up to $30 million in advance to cover certain costs incurred by television stations in New York City for digital broadcasts prior to the completion of the Freedom Tower. Thus, we expect that spending for that program would begin in 2006 but expenditures for the interoperability grants and low-power television assistance would not begin until auction proceeds became available in fiscal year 2009. CBO estimates that outlays for these programs will follow historical patterns for similar activities.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

Subtitles A, B, and C of the legislation contain no intergovernmental mandates as defined in UMRA, but subtitle D contains such mandates. CBO estimates that the costs of complying with those mandates would not exceed the threshold established in UMRA ($62 million in 2005, adjusted annually for inflation). Provisions of subtitles A and B would have a significant effect on the way states operate the Medicaid program, and CBO estimates that, as a result, states would realize savings of $12 billion over the 2006-2010 period. Most of those savings would result from limits on reimbursements to pharmacies, revisions to asset-transfer rules, increased cost sharing, and higher federal reimbursements to states affected by Hurricane Katrina. Subtitle C also would provide an additional $1 billion to states for energy assistance to people affected by Hurricanes Katrina and Rita.

Subtitle D contains intergovernmental mandates because it would impose certain requirements on television stations—more than 40 percent of which are owned by state and local entities—and would preempt energy efficiency standards in at least two states. CBO estimates that the net costs, if any, to publicly owned television stations would be small.

Subtitle D would require public television stations to stop broadcasting their analog signals by December 31, 2008, earlier than is likely under current law. Most publicly owned television stations have already made the transition to digital television and would realize savings of up to $100,000 per station in electricity costs when they turn off their analog signals. Subtitle D also would require those stations, during the 2008 calendar year, to air two 60-second public service announcements each day about the transition to digital service. Costs to produce and distribute a 60-second public service announcement are typically quite small, and we estimate that the net impact on public television stations would not be significant.

Section 159 would preempt energy efficiency standards for convertor boxes in both California and New York and prohibit other state or local governments from passing laws that would regulate the energy consumption of the boxes. This provision would probably not impose any costs on state or local governments.

Other provisions of subtitle D would benefit state and local governments by creating a $500 million grant program to assist public safety entities in acquiring and deploying certain types of communications systems.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

The legislation contains several private-sector mandates, as defined in UMRA, on television broadcasters, manufacturers, certain retailers, cable companies, and satellite carriers. Specifically, subtitle D would impose mandates by requiring:

- Broadcast stations to cease analog television service on December 31, 2008;

- Manufacturers, retailers, broadcasters, and cable and satellite service providers to undertake specific measures to educate consumers about the transition from analog to digital broadcasting;

- Television manufacturers to include digital tuners in all sets with screens sized between 13 inches and 24 inches sold in the United States, effective March 1, 2007; and

- Cable companies and satellite carriers to carry certain video streams in a form that can be received by analog and digital televisions.

Because CBO does not have sufficient information about the existing practices of the broadcast industry, we cannot determine whether the aggregate direct cost to comply with those mandates would exceed the annual threshold established by UMRA for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

Termination of Broadcast Television Analog Licenses

Current law requires all television broadcasters to give up their analog spectrum on December 31, 2006. TV broadcasters can receive an unlimited extension of this deadline for several reasons; most notably, an extension may be granted to broadcasters until at least 85 percent of households in their service areas are capable of receiving a digital signal. Most experts agree that the 2006 deadline for vacating the analog channels will not be met by broadcasters in most markets under the current rules. Section 3403 would impose a mandate by requiring the FCC to terminate all licenses for broadcasting analog signals and requiring broadcast stations to cease analog television service on December 31, 2008, with no extensions. Because nearly all television broadcasters are already broadcasting digital signals, the direct cost of the mandate would be minimal.

Consumer Education Measures

Section 3409 would impose mandates on manufacturers, retailers, broadcasters, and providers of cable and satellite services to undertake specific measures to educate consumers about the transition from analog to digital broadcasting. The provisions of this section would require:

- Manufacturers and retail distributors of analog television receivers to display certain language warning consumers about the transition to digital;

- Multichannel video program distributors to include notices in the bills they send to their subscribers during 2008; and

- Television broadcasters to air two public service announcements daily during 2008.

This section would require manufacturers, within six months of enactment, to place a label with specific warning language on each television apparatus shipped in interstate commerce or manufactured in the United States that is not capable of receiving a digital broadcast signal. In addition, manufacturers would have to include a warning notice on the outside of the retail packaging such products. The labels and notices would include information warning consumers about the deadline on all analog broadcasts, and the need for the analog product to be connected to a converter box or cable or satellite service to receive digital signals. The legislation contains specific language to be used for labels and warning notices. As currently sold, the screens of televisions usually come with stickers attached and retail packaging usually contains some printing. According to industry sources, the direct cost of modifying such labeling to include the warning language would be small.

The legislation also would require retail distributors of television equipment not capable of receiving a digital broadcast to place signs containing the warning language in their establishments in the vicinity of the displays of such products. Retail distributors vending such products by mail, catalog, or electronic means would have to display the warning language along with the language describing the product. Based on information from the U.S. Census, more than 100,000 retail establishments sell televisions. According to industry sources, signs can be printed for up to about $5 each. The number of signs for each establishment would depend on its size and the product placement of analog televisions. The incremental cost to other retail vendors to provide the warning language for products sold by mail, catalog, or electronic means would be small. Consequently, CBO expects the direct cost to comply with this mandate would be small relative to UMRA's threshold for private-sector mandates.

In addition, this section would require distributors of multichannel video programs, who are primarily cable companies and satellite carriers, to include a notice warning consumers about the transition to digital broadcasts in the bills they send to their subscribers during 2008. Information from the industry indicates that those additional notices would most likely not increase the cost of postage for mailing out such bills, CBO expects that the direct cost to comply with this mandate would be small.

Lastly, this section would require television broadcasters to air at least two public service announcements daily, one during the 8 a.m. to 9 a.m. hour and one during the 8 p.m. to 9 p.m. hour, for one year beginning January 1, 2008. The cost of this mandate would be the cost of making the announcement and the lost net income from airing the announcements instead of what broadcasters would otherwise air. The cost to broadcasters could be substantial, depending on how this requirement would affect advertising revenue. According to some industry experts, broadcasters air a large number of public service announcements under current law and the industry could minimize the cost of the mandate by replacing other public service announcements with the announcement required by this section. However, CBO does not have sufficient information to determine the cost of this mandate.

Digital Tuners for Small Televisions

Section 3409 would require television manufacturers to include digital tuners in all sets with screens sized between 13 inches and 24 inches sold in the United States, effective March 1, 2007. Under current law, such television sets would be required to include digital tuners by July 1, 2007. Advancing the deadline by four months would be a new private-sector mandate. Based on information from industry and government sources that the inclusion of such digital tuners is already anticipated and planned, CBO expects that the direct cost of expediting the deadline would be small.

Carriage Obligations

Section 3410 would impose on cable companies and satellite carriers certain requirements related to the video stream they receive from television stations. Under the conditions outlined in the bill, those cable companies and satellite carriers would be required to carry an eligible station's primary video stream and program-related material without material degradation and to carry that stream in a format viewable on analog and digital televisions. According to industry sources, most cable providers are planning to carry both digital and analog signals when the transition to digital occurs. Therefore, the direct cost to comply with those mandates would be small.

Other Impacts

Because the legislation would set a firm date for television broadcasters to switch to an all-digital signal, households that depend on analog signals for over-the-air broadcasts will lose the use of their television sets sooner than under current law. To receive a digital signal, consumers would have to subscribe to a satellite or cable service, purchase a digital-ready television, or buy a set-top converter box. The least costly method for consumers would be to purchase a converter box. The legislation would require that part of the auction receipts be used by the Department of Commerce to "implement and administer a program through which households in the United States may obtain, upon request, up to two coupons that can be applied toward the purchase of digital-to-analog converter boxes." The value of each coupon would be $40, and the legislation would provide up to $990 million for the coupon program.

PREVIOUS CBO ESTIMATE

On October 24, 2005, CBO transmitted a cost estimate for the Digital Transition and Public Safety Act of 2005, as approved by the Senate Committee on Commerce, Science, and Transportation on October 20, 2005. The two estimates differ largely because of differences in the amount and timing of the direct spending authorized by each version and differences in the time period covered by the extension of the FCC's auction authority. The Senate legislation would also impose intergovernmental and private-sector mandates; the direct cost of those mandates would fall below the annual thresholds established by UMRA, CBO estimates.

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