

Calendar No. 18

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**H. R. 2**

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IN THE SENATE OF THE UNITED STATES

JANUARY 14, 2009

Received

JANUARY 16, 2009

Read twice and placed on the calendar

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**AN ACT**

To amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECUR-**  
2 **RITY ACT; REFERENCES; TABLE OF CON-**  
3 **TENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Children’s Health Insurance Program Reauthorization  
6 Act of 2009”.

7 (b) **AMENDMENTS TO SOCIAL SECURITY ACT.**—Ex-  
8 cept as otherwise specifically provided, whenever in this  
9 Act an amendment is expressed in terms of an amendment  
10 to or repeal of a section or other provision, the reference  
11 shall be considered to be made to that section or other  
12 provision of the Social Security Act.

13 (c) **REFERENCES TO CHIP; MEDICAID; SEC-**  
14 **RETARY.**—In this Act:

15 (1) **CHIP.**—The term “CHIP” means the  
16 State Children’s Health Insurance Program estab-  
17 lished under title XXI of the Social Security Act (42  
18 U.S.C. 1397aa et seq.).

19 (2) **MEDICAID.**—The term “Medicaid” means  
20 the program for medical assistance established under  
21 title XIX of the Social Security Act (42 U.S.C. 1396  
22 et seq.).

23 (3) **SECRETARY.**—The term “Secretary” means  
24 the Secretary of Health and Human Services.

25 (d) **TABLE OF CONTENTS.**—The table of contents of  
26 this Act is as follows:

- Sec. 1. Short title; amendments to Social Security Act; references; table of contents.
- Sec. 2. Purpose.
- Sec. 3. General effective date; exception for State legislation; contingent effective date; reliance on law.

## TITLE I—FINANCING

### Subtitle A—Funding

- Sec. 101. Extension of CHIP.
- Sec. 102. Allotments for States and territories for fiscal years 2009 through 2013.
- Sec. 103. Child Enrollment Contingency Fund.
- Sec. 104. CHIP performance bonus payment to offset additional enrollment costs resulting from enrollment and retention efforts.
- Sec. 105. Two-year initial availability of CHIP allotments.
- Sec. 106. Redistribution of unused allotments.
- Sec. 107. Option for qualifying States to receive the enhanced portion of the CHIP matching rate for Medicaid coverage of certain children.
- Sec. 108. One-time appropriation.
- Sec. 109. Improving funding for the territories under CHIP and Medicaid.

### Subtitle B—Focus on Low-Income Children and Pregnant Women

- Sec. 111. State option to cover low-income pregnant women under CHIP through a State plan amendment.
- Sec. 112. Phase-out of coverage for nonpregnant childless adults under CHIP; conditions for coverage of parents.
- Sec. 113. Elimination of counting Medicaid child presumptive eligibility costs against title XXI allotment.
- Sec. 114. Limitation on matching rate for States that propose to cover children with effective family income that exceeds 300 percent of the poverty line.
- Sec. 115. State authority under Medicaid.

## TITLE II—OUTREACH AND ENROLLMENT

### Subtitle A—Outreach and Enrollment Activities

- Sec. 201. Grants and enhanced administrative funding for outreach and enrollment.
- Sec. 202. Increased outreach and enrollment of Indians.
- Sec. 203. State option to rely on findings from an Express Lane agency to conduct simplified eligibility determinations.

### Subtitle B—Reducing Barriers to Enrollment

- Sec. 211. Verification of declaration of citizenship or nationality for purposes of eligibility for Medicaid and CHIP.
- Sec. 212. Reducing administrative barriers to enrollment.
- Sec. 213. Model of Interstate coordinated enrollment and coverage process.
- Sec. 214. Permitting States to ensure coverage without a 5-year delay of certain children and pregnant women under the Medicaid program and CHIP.

TITLE III—REDUCING BARRIERS TO PROVIDING PREMIUM ASSISTANCE

Subtitle A—Additional State Option for Providing Premium Assistance

- Sec. 301. Additional State option for providing premium assistance.  
 Sec. 302. Outreach, education, and enrollment assistance.

Subtitle B—Coordinating Premium Assistance With Private Coverage

- Sec. 311. Special enrollment period under group health plans in case of termination of Medicaid or CHIP coverage or eligibility for assistance in purchase of employment-based coverage; coordination of coverage.

TITLE IV—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES

- Sec. 401. Child health quality improvement activities for children enrolled in Medicaid or CHIP.  
 Sec. 402. Improved availability of public information regarding enrollment of children in CHIP and Medicaid.  
 Sec. 403. Application of certain managed care quality safeguards to CHIP.

TITLE V—IMPROVING ACCESS TO BENEFITS

- Sec. 501. Dental benefits.  
 Sec. 502. Mental health parity in CHIP plans.  
 Sec. 503. Application of prospective payment system for services provided by Federally-qualified health centers and rural health clinics.  
 Sec. 504. Premium grace period.  
 Sec. 505. Clarification of coverage of services provided through school-based health centers.

TITLE VI—PROGRAM INTEGRITY AND OTHER MISCELLANEOUS PROVISIONS

Subtitle A—Program Integrity and Data Collection

- Sec. 601. Payment error rate measurement (“PERM”).  
 Sec. 602. Improving data collection.  
 Sec. 603. Updated Federal evaluation of CHIP.  
 Sec. 604. Access to records for IG and GAO audits and evaluations.  
 Sec. 605. No Federal funding for illegal aliens.

Subtitle B—Miscellaneous Health Provisions

- Sec. 611. Deficit Reduction Act technical corrections.  
 Sec. 612. References to title XXI.  
 Sec. 613. Prohibiting initiation of new health opportunity account demonstration programs.  
 Sec. 614. Adjustment in computation of Medicaid FMAP to disregard an extraordinary employer pension contribution.  
 Sec. 615. Clarification treatment of regional medical center.  
 Sec. 616. Extension of Medicaid DSH allotments for Tennessee and Hawaii.

Subtitle C—Other Provisions

- Sec. 621. Outreach regarding health insurance options available to children.

Sec. 622. Sense of the Senate regarding access to affordable and meaningful health insurance coverage.

Sec. 623. Limitation on Medicare exception to the prohibition on certain physician referrals for hospitals.

#### TITLE VII—REVENUE PROVISIONS

Sec. 701. Increase in excise tax rate on tobacco products.

Sec. 702. Administrative improvements.

Sec. 703. Treasury study concerning magnitude of tobacco smuggling in the United States.

Sec. 704. Time for payment of corporate estimated taxes.

### 1 **SEC. 2. PURPOSE.**

2       It is the purpose of this Act to provide dependable  
3 and stable funding for children’s health insurance under  
4 titles XXI and XIX of the Social Security Act in order  
5 to enroll all six million uninsured children who are eligible,  
6 but not enrolled, for coverage today through such titles.

### 7 **SEC. 3. GENERAL EFFECTIVE DATE; EXCEPTION FOR STATE** 8                   **LEGISLATION; CONTINGENT EFFECTIVE** 9                   **DATE; RELIANCE ON LAW.**

10       (a) **GENERAL EFFECTIVE DATE.**—Unless otherwise  
11 provided in this Act, subject to subsections (b) through  
12 (d), this Act (and the amendments made by this Act) shall  
13 take effect on April 1, 2009, and shall apply to child  
14 health assistance and medical assistance provided on or  
15 after that date.

16       (b) **EXCEPTION FOR STATE LEGISLATION.**—In the  
17 case of a State plan under title XIX or State child health  
18 plan under XXI of the Social Security Act, which the Sec-  
19 retary of Health and Human Services determines requires  
20 State legislation in order for the respective plan to meet

1 one or more additional requirements imposed by amend-  
2 ments made by this Act, the respective plan shall not be  
3 regarded as failing to comply with the requirements of  
4 such title solely on the basis of its failure to meet such  
5 an additional requirement before the first day of the first  
6 calendar quarter beginning after the close of the first reg-  
7 ular session of the State legislature that begins after the  
8 date of enactment of this Act. For purposes of the pre-  
9 vious sentence, in the case of a State that has a 2-year  
10 legislative session, each year of the session shall be consid-  
11 ered to be a separate regular session of the State legisla-  
12 ture.

13 (c) COORDINATION OF CHIP FUNDING FOR FISCAL  
14 YEAR 2009.—Notwithstanding any other provision of law,  
15 insofar as funds have been appropriated under section  
16 2104(a)(11), 2104(k), or 2104(l) of the Social Security  
17 Act, as amended by section 201 of Public Law 110–173,  
18 to provide allotments to States under CHIP for fiscal year  
19 2009—

20 (1) any amounts that are so appropriated that  
21 are not so allotted and obligated before April 1,  
22 2009, are rescinded; and

23 (2) any amount provided for CHIP allotments  
24 to a State under this Act (and the amendments  
25 made by this Act) for such fiscal year shall be re-

1       duced by the amount of such appropriations so allot-  
2       ted and obligated before such date.

3       (d) **RELIANCE ON LAW.**—With respect to amend-  
4       ments made by this Act (other than title VII) that become  
5       effective as of a date—

6               (1) such amendments are effective as of such  
7       date whether or not regulations implementing such  
8       amendments have been issued; and

9               (2) Federal financial participation for medical  
10       assistance or child health assistance furnished under  
11       title XIX or XXI, respectively, of the Social Security  
12       Act on or after such date by a State in good faith  
13       reliance on such amendments before the date of pro-  
14       mulgation of final regulations, if any, to carry out  
15       such amendments (or before the date of guidance, if  
16       any, regarding the implementation of such amend-  
17       ments) shall not be denied on the basis of the  
18       State’s failure to comply with such regulations or  
19       guidance.

## 20                   **TITLE I—FINANCING**

### 21                   **Subtitle A—Funding**

#### 22       **SEC. 101. EXTENSION OF CHIP.**

23       Section 2104(a) (42 U.S.C. 1397dd(a)) is amended—

24               (1) in paragraph (10), by striking “and” at the  
25       end;

1           (2) by amending paragraph (11), by striking  
2           “each of fiscal years 2008 and 2009” and inserting  
3           “fiscal year 2008”; and

4           (3) by adding at the end the following new  
5           paragraphs:

6           “(12) for fiscal year 2009, \$10,562,000,000;

7           “(13) for fiscal year 2010, \$12,520,000,000;

8           “(14) for fiscal year 2011, \$13,459,000,000;

9           “(15) for fiscal year 2012, \$14,982,000,000;

10          and

11           “(16) for fiscal year 2013, for purposes of mak-  
12          ing 2 semi-annual allotments—

13                   “(A) \$3,000,000,000 for the period begin-  
14                   ning on October 1, 2012, and ending on March  
15                   31, 2013, and

16                   “(B) \$3,000,000,000 for the period begin-  
17                   ning on April 1, 2013, and ending on Sep-  
18                   tember 30, 2013.”.

19 **SEC. 102. ALLOTMENTS FOR STATES AND TERRITORIES**  
20 **FOR FISCAL YEARS 2009 THROUGH 2013.**

21          Section 2104 (42 U.S.C. 1397dd) is amended—

22           (1) in subsection (b)(1), by striking “subsection  
23          (d)” and inserting “subsections (d) and (m)”;



1           (2) in subsection (c)(1), by striking “subsection  
2           (d)” and inserting “subsections (d) and (m)(4)”;  
3           and

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

6           “(m) ALLOTMENTS FOR FISCAL YEARS 2009  
7 THROUGH 2013.—

8           “(1) FOR FISCAL YEAR 2009.—

9           “(A) FOR THE 50 STATES AND THE DIS-  
10 TRICT OF COLUMBIA.—Subject to the suc-  
11 ceeding provisions of this paragraph and para-  
12 graph (4), the Secretary shall allot for fiscal  
13 year 2009 from the amount made available  
14 under subsection (a)(12), to each of the 50  
15 States and the District of Columbia 110 per-  
16 cent of the highest of the following amounts for  
17 such State or District:

18           “(i) The total Federal payments to  
19 the State under this title for fiscal year  
20 2008, multiplied by the allotment increase  
21 factor determined under paragraph (5) for  
22 fiscal year 2009.

23           “(ii) The amount allotted to the State  
24 for fiscal year 2008 under subsection (b),  
25 multiplied by the allotment increase factor

1           determined under paragraph (5) for fiscal  
2           year 2009.

3           “(iii) The projected total Federal pay-  
4           ments to the State under this title for fis-  
5           cal year 2009, as determined on the basis  
6           of the February 2009 projections certified  
7           by the State to the Secretary by not later  
8           than March 31, 2009.

9           “(B) FOR THE COMMONWEALTHS AND  
10          TERRITORIES.—Subject to the succeeding provi-  
11          sions of this paragraph and paragraph (4), the  
12          Secretary shall allot for fiscal year 2009 from  
13          the amount made available under subsection  
14          (a)(12) to each of the commonwealths and ter-  
15          ritories described in subsection (c)(3) an  
16          amount equal to the highest amount of Federal  
17          payments to the commonwealth or territory  
18          under this title for any fiscal year occurring  
19          during the period of fiscal years 1999 through  
20          2008, multiplied by the allotment increase fac-  
21          tor determined under paragraph (5) for fiscal  
22          year 2009, except that subparagraph (B) there-  
23          of shall be applied by substituting ‘the United  
24          States’ for ‘the State’.

1           “(C) ADJUSTMENT FOR QUALIFYING  
2 STATES.—In the case of a qualifying State de-  
3 scribed in paragraph (2) of section 2105(g), the  
4 Secretary shall permit the State to submit a re-  
5 vised projection described in subparagraph  
6 (A)(iii) in order to take into account changes in  
7 such projections attributable to the application  
8 of paragraph (4) of such section.

9           “(2) FOR FISCAL YEARS 2010 THROUGH 2012.—

10           “(A) IN GENERAL.—Subject to paragraphs  
11 (4) and (6), from the amount made available  
12 under paragraphs (13) through (15) of sub-  
13 section (a) for each of fiscal years 2010  
14 through 2012, respectively, the Secretary shall  
15 compute a State allotment for each State (in-  
16 cluding the District of Columbia and each com-  
17 monwealth and territory) for each such fiscal  
18 year as follows:

19           “(i) GROWTH FACTOR UPDATE FOR  
20 FISCAL YEAR 2010.—For fiscal year 2010,  
21 the allotment of the State is equal to the  
22 sum of—

23           “(I) the amount of the State al-  
24 lotment under paragraph (1) for fiscal  
25 year 2009; and

1                   “(II) the amount of any pay-  
2                   ments made to the State under sub-  
3                   section (k), (l), or (n) for fiscal year  
4                   2009,

5                   multiplied by the allotment increase factor  
6                   under paragraph (5) for fiscal year 2010.

7                   “(ii) REBASING IN FISCAL YEAR  
8                   2011.—For fiscal year 2011, the allotment  
9                   of the State is equal to the Federal pay-  
10                  ments to the State that are attributable to  
11                  (and countable towards) the total amount  
12                  of allotments available under this section  
13                  to the State in fiscal year 2010 (including  
14                  payments made to the State under sub-  
15                  section (n) for fiscal year 2010 as well as  
16                  amounts redistributed to the State in fiscal  
17                  year 2010), multiplied by the allotment in-  
18                  crease factor under paragraph (5) for fis-  
19                  cal year 2011.

20                  “(iii) GROWTH FACTOR UPDATE FOR  
21                  FISCAL YEAR 2012.—For fiscal year 2012,  
22                  the allotment of the State is equal to the  
23                  sum of—

1                   “(I) the amount of the State al-  
2                   lotment under clause (ii) for fiscal  
3                   year 2011; and

4                   “(II) the amount of any pay-  
5                   ments made to the State under sub-  
6                   section (n) for fiscal year 2011,  
7                   multiplied by the allotment increase factor  
8                   under paragraph (5) for fiscal year 2012.

9                   “(3) FOR FISCAL YEAR 2013.—

10                   “(A) FIRST HALF.—Subject to paragraphs  
11                   (4) and (6), from the amount made available  
12                   under subparagraph (A) of paragraph (16) of  
13                   subsection (a) for the semi-annual period de-  
14                   scribed in such paragraph, increased by the  
15                   amount of the appropriation for such period  
16                   under section 108 of the Children’s Health In-  
17                   surance Program Reauthorization Act of 2009,  
18                   the Secretary shall compute a State allotment  
19                   for each State (including the District of Colum-  
20                   bia and each commonwealth and territory) for  
21                   such semi-annual period in an amount equal to  
22                   the first half ratio (described in subparagraph  
23                   (D)) of the amount described in subparagraph  
24                   (C).

1           “(B) SECOND HALF.—Subject to para-  
2           graphs (4) and (6), from the amount made  
3           available under subparagraph (B) of paragraph  
4           (16) of subsection (a) for the semi-annual pe-  
5           riod described in such paragraph, the Secretary  
6           shall compute a State allotment for each State  
7           (including the District of Columbia and each  
8           commonwealth and territory) for such semi-an-  
9           nual period in an amount equal to the amount  
10          made available under such subparagraph, multi-  
11          plied by the ratio of—

12                   “(i) the amount of the allotment to  
13                   such State under subparagraph (A); to

14                   “(ii) the total of the amount of all of  
15                   the allotments made available under such  
16                   subparagraph.

17          “(C) FULL YEAR AMOUNT BASED ON  
18          REBASED AMOUNT.—The amount described in  
19          this subparagraph for a State is equal to the  
20          Federal payments to the State that are attrib-  
21          utable to (and countable towards) the total  
22          amount of allotments available under this sec-  
23          tion to the State in fiscal year 2012 (including  
24          payments made to the State under subsection  
25          (n) for fiscal year 2012 as well as amounts re-

1 distributed to the State in fiscal year 2012),  
2 multiplied by the allotment increase factor  
3 under paragraph (5) for fiscal year 2013.

4 “(D) FIRST HALF RATIO.—The first half  
5 ratio described in this subparagraph is the ratio  
6 of—

7 “(i) the sum of—

8 “(I) the amount made available  
9 under subsection (a)(16)(A); and

10 “(II) the amount of the appro-  
11 priation for such period under section  
12 108 of the Children’s Health Insur-  
13 ance Program Reauthorization Act of  
14 2009; to

15 “(ii) the sum of the—

16 “(I) amount described in clause  
17 (i); and

18 “(II) the amount made available  
19 under subsection (a)(16)(B).

20 “(4) PRORATION RULE.—If, after the applica-  
21 tion of this subsection without regard to this para-  
22 graph, the sum of the allotments determined under  
23 paragraph (1), (2), or (3) for a fiscal year (or, in  
24 the case of fiscal year 2013, for a semi-annual pe-  
25 riod in such fiscal year) exceeds the amount avail-

1       able under subsection (a) for such fiscal year or pe-  
2       riod, the Secretary shall reduce each allotment for  
3       any State under such paragraph for such fiscal year  
4       or period on a proportional basis.

5               “(5) ALLOTMENT INCREASE FACTOR.—The al-  
6       lotment increase factor under this paragraph for a  
7       fiscal year is equal to the product of the following:

8               “(A) PER CAPITA HEALTH CARE GROWTH  
9       FACTOR.—1 plus the percentage increase in the  
10       projected per capita amount of National Health  
11       Expenditures from the calendar year in which  
12       the previous fiscal year ends to the calendar  
13       year in which the fiscal year involved ends, as  
14       most recently published by the Secretary before  
15       the beginning of the fiscal year.

16              “(B) CHILD POPULATION GROWTH FAC-  
17       TOR.—1 plus the percentage increase (if any) in  
18       the population of children in the State from  
19       July 1 in the previous fiscal year to July 1 in  
20       the fiscal year involved, as determined by the  
21       Secretary based on the most recent published  
22       estimates of the Bureau of the Census before  
23       the beginning of the fiscal year involved, plus 1  
24       percentage point.



1           “(6) INCREASE IN ALLOTMENT TO ACCOUNT  
2 FOR APPROVED PROGRAM EXPANSIONS.—In the case  
3 of one of the 50 States or the District of Columbia  
4 that—

5           “(A) has submitted to the Secretary, and  
6 has approved by the Secretary, a State plan  
7 amendment or waiver request relating to an ex-  
8 pansion of eligibility for children or benefits  
9 under this title that becomes effective for a fis-  
10 cal year (beginning with fiscal year 2010 and  
11 ending with fiscal year 2013); and

12           “(B) has submitted to the Secretary, be-  
13 fore the August 31 preceding the beginning of  
14 the fiscal year, a request for an expansion allot-  
15 ment adjustment under this paragraph for such  
16 fiscal year that specifies—

17           “(i) the additional expenditures that  
18 are attributable to the eligibility or benefit  
19 expansion provided under the amendment  
20 or waiver described in subparagraph (A),  
21 as certified by the State and submitted to  
22 the Secretary by not later than August 31  
23 preceding the beginning of the fiscal year;  
24 and

1                   “(ii) the extent to which such addi-  
2                   tional expenditures are projected to exceed  
3                   the allotment of the State or District for  
4                   the year,  
5                   subject to paragraph (4), the amount of the allot-  
6                   ment of the State or District under this subsection  
7                   for such fiscal year shall be increased by the excess  
8                   amount described in subparagraph (B)(i). A State or  
9                   District may only obtain an increase under this  
10                  paragraph for an allotment for fiscal year 2010 or  
11                  fiscal year 2012.

12                  “(7) AVAILABILITY OF AMOUNTS FOR SEMI-AN-  
13                  NUAL PERIODS IN FISCAL YEAR 2013.—Each semi-  
14                  annual allotment made under paragraph (3) for a  
15                  period in fiscal year 2013 shall remain available for  
16                  expenditure under this title for periods after the end  
17                  of such fiscal year in the same manner as if the al-  
18                  lotment had been made available for the entire fiscal  
19                  year.”.

20 **SEC. 103. CHILD ENROLLMENT CONTINGENCY FUND.**

21                  Section 2104 (42 U.S.C. 1397dd), as amended by  
22                  section 102, is amended by adding at the end the following  
23                  new subsection:

24                  “(n) CHILD ENROLLMENT CONTINGENCY FUND.—

1           “(1) ESTABLISHMENT.—There is hereby estab-  
2           lished in the Treasury of the United States a fund  
3           which shall be known as the ‘Child Enrollment Con-  
4           tingency Fund’ (in this subsection referred to as the  
5           ‘Fund’). Amounts in the Fund shall be available  
6           without further appropriations for payments under  
7           this subsection.

8           “(2) DEPOSITS INTO FUND.—

9           “(A) INITIAL AND SUBSEQUENT APPRO-  
10           PRIATIONS.—Subject to subparagraphs (B) and  
11           (D), out of any money in the Treasury of the  
12           United States not otherwise appropriated, there  
13           are appropriated to the Fund—

14                   “(i) for fiscal year 2009, an amount  
15                   equal to 20 percent of the amount made  
16                   available under paragraph (12) of sub-  
17                   section (a) for the fiscal year; and

18                   “(ii) for each of fiscal years 2010  
19                   through 2012 (and for each of the semi-  
20                   annual allotment periods for fiscal year  
21                   2013), such sums as are necessary for  
22                   making payments to eligible States for  
23                   such fiscal year or period, but not in excess  
24                   of the aggregate cap described in subpara-  
25                   graph (B).

1           “(B) AGGREGATE CAP.—The total amount  
2 available for payment from the Fund for each  
3 of fiscal years 2010 through 2012 (and for each  
4 of the semi-annual allotment periods for fiscal  
5 year 2013), taking into account deposits made  
6 under subparagraph (C), shall not exceed 20  
7 percent of the amount made available under  
8 subsection (a) for the fiscal year or period.

9           “(C) INVESTMENT OF FUND.—The Sec-  
10 retary of the Treasury shall invest, in interest  
11 bearing securities of the United States, such  
12 currently available portions of the Fund as are  
13 not immediately required for payments from the  
14 Fund. The income derived from these invest-  
15 ments constitutes a part of the Fund.

16           “(D) AVAILABILITY OF EXCESS FUNDS  
17 FOR PERFORMANCE BONUSES.—Any amounts  
18 in excess of the aggregate cap described in sub-  
19 paragraph (B) for a fiscal year or period shall  
20 be made available for purposes of carrying out  
21 section 2105(a)(3) for any succeeding fiscal  
22 year and the Secretary of the Treasury shall re-  
23 duce the amount in the Fund by the amount so  
24 made available.

1           “(3) CHILD ENROLLMENT CONTINGENCY FUND  
2       PAYMENTS.—

3           “(A) IN GENERAL.—If a State’s expendi-  
4       tures under this title in fiscal year 2009, fiscal  
5       year 2010, fiscal year 2011, fiscal year 2012, or  
6       a semi-annual allotment period for fiscal year  
7       2013, exceed the total amount of allotments  
8       available under this section to the State in the  
9       fiscal year or period (determined without regard  
10      to any redistribution it receives under sub-  
11      section (f) that is available for expenditure dur-  
12      ing such fiscal year or period, but including any  
13      carryover from a previous fiscal year) and if the  
14      average monthly unduplicated number of chil-  
15      dren enrolled under the State plan under this  
16      title (including children receiving health care  
17      coverage through funds under this title pursu-  
18      ant to a waiver under section 1115) during  
19      such fiscal year or period exceeds its target av-  
20      erage number of such enrollees (as determined  
21      under subparagraph (B)) for that fiscal year or  
22      period, subject to subparagraph (D), the Sec-  
23      retary shall pay to the State from the Fund an  
24      amount equal to the product of—

1           “(i) the amount by which such aver-  
2           age monthly caseload exceeds such target  
3           number of enrollees; and

4           “(ii) the projected per capita expendi-  
5           tures under the State child health plan (as  
6           determined under subparagraph (C) for  
7           the fiscal year), multiplied by the enhanced  
8           FMAP (as defined in section 2105(b)) for  
9           the State and fiscal year involved (or in  
10          which the period occurs).

11          “(B) TARGET AVERAGE NUMBER OF CHILD  
12          ENROLLEES.—In this paragraph, the target av-  
13          erage number of child enrollees for a State—

14               “(i) for fiscal year 2009 is equal to  
15               the monthly average unduplicated number  
16               of children enrolled in the State child  
17               health plan under this title (including such  
18               children receiving health care coverage  
19               through funds under this title pursuant to  
20               a waiver under section 1115) during fiscal  
21               year 2008 increased by the population  
22               growth for children in that State for the  
23               year ending on June 30, 2007 (as esti-  
24               mated by the Bureau of the Census) plus  
25               1 percentage point; or

1           “(ii) for a subsequent fiscal year (or  
2           semi-annual period occurring in a fiscal  
3           year) is equal to the target average num-  
4           ber of child enrollees for the State for the  
5           previous fiscal year increased by the child  
6           population growth factor described in sub-  
7           section (m)(5)(B) for the State for the  
8           prior fiscal year.

9           “(C) PROJECTED PER CAPITA EXPENDI-  
10          TURES.—For purposes of subparagraph (A)(ii),  
11          the projected per capita expenditures under a  
12          State child health plan—

13               “(i) for fiscal year 2009 is equal to  
14               the average per capita expenditures (in-  
15               cluding both State and Federal financial  
16               participation) under such plan for the tar-  
17               geted low-income children counted in the  
18               average monthly caseload for purposes of  
19               this paragraph during fiscal year 2008, in-  
20               creased by the annual percentage increase  
21               in the projected per capita amount of Na-  
22               tional Health Expenditures (as estimated  
23               by the Secretary) for 2009; or

24               “(ii) for a subsequent fiscal year (or  
25               semi-annual period occurring in a fiscal

1           year) is equal to the projected per capita  
2           expenditures under such plan for the pre-  
3           vious fiscal year (as determined under  
4           clause (i) or this clause) increased by the  
5           annual percentage increase in the projected  
6           per capita amount of National Health Ex-  
7           penditures (as estimated by the Secretary)  
8           for the year in which such subsequent fis-  
9           cal year ends.

10           “(D) PRORATION RULE.—If the amounts  
11           available for payment from the Fund for a fis-  
12           cal year or period are less than the total  
13           amount of payments determined under subpara-  
14           graph (A) for the fiscal year or period, the  
15           amount to be paid under such subparagraph to  
16           each eligible State shall be reduced proportion-  
17           ally.

18           “(E) TIMELY PAYMENT; RECONCILI-  
19           ATION.—Payment under this paragraph for a  
20           fiscal year or period shall be made before the  
21           end of the fiscal year or period based upon the  
22           most recent data for expenditures and enroll-  
23           ment and the provisions of subsection (e) of  
24           section 2105 shall apply to payments under this



1 subsection in the same manner as they apply to  
2 payments under such section.

3 “(F) CONTINUED REPORTING.—For pur-  
4 poses of this paragraph and subsection (f), the  
5 State shall submit to the Secretary the State’s  
6 projected Federal expenditures, even if the  
7 amount of such expenditures exceeds the total  
8 amount of allotments available to the State in  
9 such fiscal year or period.

10 “(G) APPLICATION TO COMMONWEALTHS  
11 AND TERRITORIES.—No payment shall be made  
12 under this paragraph to a commonwealth or  
13 territory described in subsection (c)(3) until  
14 such time as the Secretary determines that  
15 there are in effect methods, satisfactory to the  
16 Secretary, for the collection and reporting of re-  
17 liable data regarding the enrollment of children  
18 described in subparagraphs (A) and (B) in  
19 order to accurately determine the common-  
20 wealth’s or territory’s eligibility for, and  
21 amount of payment, under this paragraph.”.

1 **SEC. 104. CHIP PERFORMANCE BONUS PAYMENT TO OFF-**  
2 **SET ADDITIONAL ENROLLMENT COSTS RE-**  
3 **SULTING FROM ENROLLMENT AND RETEN-**  
4 **TION EFFORTS.**

5 Section 2105(a) (42 U.S.C. 1397ee(a)) is amended  
6 by adding at the end the following new paragraphs:

7 “(3) PERFORMANCE BONUS PAYMENT TO OFF-  
8 SET ADDITIONAL MEDICAID AND CHIP CHILD EN-  
9 ROLLMENT COSTS RESULTING FROM ENROLLMENT  
10 AND RETENTION EFFORTS.—

11 “(A) IN GENERAL.—In addition to the  
12 payments made under paragraph (1), for each  
13 fiscal year (beginning with fiscal year 2009 and  
14 ending with fiscal year 2013), the Secretary  
15 shall pay from amounts made available under  
16 subparagraph (E), to each State that meets the  
17 condition under paragraph (4) for the fiscal  
18 year, an amount equal to the amount described  
19 in subparagraph (B) for the State and fiscal  
20 year. The payment under this paragraph shall  
21 be made, to a State for a fiscal year, as a single  
22 payment not later than the last day of the first  
23 calendar quarter of the following fiscal year.

24 “(B) AMOUNT FOR ABOVE BASELINE MED-  
25 ICAID CHILD ENROLLMENT COSTS.—Subject to  
26 subparagraph (E), the amount described in this

1           subparagraph for a State for a fiscal year is  
2           equal to the sum of the following amounts:

3                   “(i) FIRST TIER ABOVE BASELINE  
4                   MEDICAID ENROLLEES.—An amount equal  
5                   to the number of first tier above baseline  
6                   child enrollees (as determined under sub-  
7                   paragraph (C)(i)) under title XIX for the  
8                   State and fiscal year, multiplied by 15 per-  
9                   cent of the projected per capita State Med-  
10                  icaid expenditures (as determined under  
11                  subparagraph (D)) for the State and fiscal  
12                  year under title XIX.

13                  “(ii) SECOND TIER ABOVE BASELINE  
14                  MEDICAID ENROLLEES.—An amount equal  
15                  to the number of second tier above baseline  
16                  child enrollees (as determined under sub-  
17                  paragraph (C)(ii)) under title XIX for the  
18                  State and fiscal year, multiplied by 62.5  
19                  percent of the projected per capita State  
20                  Medicaid expenditures (as determined  
21                  under subparagraph (D)) for the State and  
22                  fiscal year under title XIX.

23                  “(C) NUMBER OF FIRST AND SECOND TIER  
24                  ABOVE BASELINE CHILD ENROLLEES; BASELINE

1 NUMBER OF CHILD ENROLLEES.—For purposes  
2 of this paragraph:

3 “(i) FIRST TIER ABOVE BASELINE  
4 CHILD ENROLLEES.—The number of first  
5 tier above baseline child enrollees for a  
6 State for a fiscal year under title XIX is  
7 equal to the number (if any, as determined  
8 by the Secretary) by which—

9 “(I) the monthly average  
10 unduplicated number of qualifying  
11 children (as defined in subparagraph  
12 (F)) enrolled during the fiscal year  
13 under the State plan under title XIX,  
14 respectively; exceeds

15 “(II) the baseline number of en-  
16 rollees described in clause (iii) for the  
17 State and fiscal year under title XIX,  
18 respectively;

19 but not to exceed 10 percent of the base-  
20 line number of enrollees described in sub-  
21 clause (II).

22 “(ii) SECOND TIER ABOVE BASELINE  
23 CHILD ENROLLEES.—The number of sec-  
24 ond tier above baseline child enrollees for  
25 a State for a fiscal year under title XIX is

1 equal to the number (if any, as determined  
2 by the Secretary) by which—

3 “(I) the monthly average  
4 unduplicated number of qualifying  
5 children (as defined in subparagraph  
6 (F)) enrolled during the fiscal year  
7 under title XIX as described in clause  
8 (i)(I); exceeds

9 “(II) the sum of the baseline  
10 number of child enrollees described in  
11 clause (iii) for the State and fiscal  
12 year under title XIX, as described in  
13 clause (i)(II), and the maximum num-  
14 ber of first tier above baseline child  
15 enrollees for the State and fiscal year  
16 under title XIX, as determined under  
17 clause (i).

18 “(iii) BASELINE NUMBER OF CHILD  
19 ENROLLEES.—Subject to subparagraph  
20 (H), the baseline number of child enrollees  
21 for a State under title XIX—

22 “(I) for fiscal year 2009 is equal  
23 to the monthly average unduplicated  
24 number of qualifying children enrolled  
25 in the State plan under title XIX dur-

1           ing fiscal year 2007 increased by the  
2           population growth for children in that  
3           State from 2007 to 2008 (as esti-  
4           mated by the Bureau of the Census)  
5           plus 4 percentage points, and further  
6           increased by the population growth  
7           for children in that State from 2008  
8           to 2009 (as estimated by the Bureau  
9           of the Census) plus 4 percentage  
10          points;

11                 “(II) for each of fiscal years  
12                 2010, 2011, and 2012, is equal to the  
13                 baseline number of child enrollees for  
14                 the State for the previous fiscal year  
15                 under title XIX, increased by the pop-  
16                 ulation growth for children in that  
17                 State from the calendar year in which  
18                 the respective fiscal year begins to the  
19                 succeeding calendar year (as esti-  
20                 mated by the Bureau of the Census)  
21                 plus 3.5 percentage points;

22                 “(III) for each of fiscal years  
23                 2013, 2014, and 2015, is equal to the  
24                 baseline number of child enrollees for  
25                 the State for the previous fiscal year

1 under title XIX, increased by the pop-  
2 ulation growth for children in that  
3 State from the calendar year in which  
4 the respective fiscal year begins to the  
5 succeeding calendar year (as esti-  
6 mated by the Bureau of the Census)  
7 plus 3 percentage points; and

8 “(IV) for a subsequent fiscal year  
9 is equal to the baseline number of  
10 child enrollees for the State for the  
11 previous fiscal year under title XIX,  
12 increased by the population growth  
13 for children in that State from the  
14 calendar year in which the fiscal year  
15 involved begins to the succeeding cal-  
16 endar year (as estimated by the Bu-  
17 reau of the Census) plus 2 percentage  
18 points.

19 “(D) PROJECTED PER CAPITA STATE MED-  
20 ICAID EXPENDITURES.—For purposes of sub-  
21 paragraph (B), the projected per capita State  
22 Medicaid expenditures for a State and fiscal  
23 year under title XIX is equal to the average per  
24 capita expenditures (including both State and  
25 Federal financial participation) for children

1 under the State plan under such title, including  
2 under waivers but not including such children  
3 eligible for assistance by virtue of the receipt of  
4 benefits under title XVI, for the most recent  
5 fiscal year for which actual data are available  
6 (as determined by the Secretary), increased (for  
7 each subsequent fiscal year up to and including  
8 the fiscal year involved) by the annual percent-  
9 age increase in per capita amount of National  
10 Health Expenditures (as estimated by the Sec-  
11 retary) for the calendar year in which the re-  
12 spective subsequent fiscal year ends and multi-  
13 plied by a State matching percentage equal to  
14 100 percent minus the Federal medical assist-  
15 ance percentage (as defined in section 1905(b))  
16 for the fiscal year involved.

17 “(E) AMOUNTS AVAILABLE FOR PAY-  
18 MENTS.—

19 “(i) INITIAL APPROPRIATION.—Out of  
20 any money in the Treasury not otherwise  
21 appropriated, there are appropriated  
22 \$3,225,000,000 for fiscal year 2009 for  
23 making payments under this paragraph, to  
24 be available until expended.



1           “(ii) TRANSFERS.—Notwithstanding  
2 any other provision of this title, the fol-  
3 lowing amounts shall also be available,  
4 without fiscal year limitation, for making  
5 payments under this paragraph:

6                   “(I) UNOBLIGATED NATIONAL  
7 ALLOTMENT.—

8                           “(aa) FISCAL YEARS 2009  
9 THROUGH 2012.—As of December  
10 31 of fiscal year 2009, and as of  
11 December 31 of each succeeding  
12 fiscal year through fiscal year  
13 2012, the portion, if any, of the  
14 amount appropriated under sub-  
15 section (a) for such fiscal year  
16 that is unobligated for allotment  
17 to a State under subsection (m)  
18 for such fiscal year or set aside  
19 under subsection (a)(3) or (b)(2)  
20 of section 2111 for such fiscal  
21 year.

22                           “(bb) FIRST HALF OF FIS-  
23 CAL YEAR 2013.—As of December  
24 31 of fiscal year 2013, the por-  
25 tion, if any, of the sum of the

1 amounts appropriated under sub-  
2 section (a)(16)(A) and under sec-  
3 tion 108 of the Children’s Health  
4 Insurance Reauthorization Act of  
5 2009 for the period beginning on  
6 October 1, 2012, and ending on  
7 March 31, 2013, that is unobli-  
8 gated for allotment to a State  
9 under subsection (m) for such  
10 fiscal year or set aside under  
11 subsection (b)(2) of section 2111  
12 for such fiscal year.

13 “(cc) SECOND HALF OF FIS-  
14 CAL YEAR 2013.—As of June 30  
15 of fiscal year 2013, the portion,  
16 if any, of the amount appro-  
17 priated under subsection  
18 (a)(16)(B) for the period begin-  
19 ning on April 1, 2013, and end-  
20 ing on September 30, 2013, that  
21 is unobligated for allotment to a  
22 State under subsection (m) for  
23 such fiscal year or set aside  
24 under subsection (b)(2) of section  
25 2111 for such fiscal year.

1                   “(II) UNEXPENDED ALLOT-  
2                   MENTS NOT USED FOR REDISTRIBU-  
3                   TION.—As of November 15 of each of  
4                   fiscal years 2010 through 2013, the  
5                   total amount of allotments made to  
6                   States under section 2104 for the sec-  
7                   ond preceding fiscal year (third pre-  
8                   ceding fiscal year in the case of the  
9                   fiscal year 2006, 2007, and 2008 al-  
10                  lotments) that is not expended or re-  
11                  distributed under section 2104(f) dur-  
12                  ing the period in which such allot-  
13                  ments are available for obligation.

14                  “(III) EXCESS CHILD ENROLL-  
15                  MENT CONTINGENCY FUNDS.—As of  
16                  October 1 of each of fiscal years 2010  
17                  through 2013, any amount in excess  
18                  of the aggregate cap applicable to the  
19                  Child Enrollment Contingency Fund  
20                  for the fiscal year under section  
21                  2104(n).

22                  “(IV) UNEXPENDED TRANSI-  
23                  TIONAL COVERAGE BLOCK GRANT FOR  
24                  NONPREGNANT CHILDLESS ADULTS.—  
25                  As of October 1, 2011, any amounts

1 set aside under section 2111(a)(3)  
2 that are not expended by September  
3 30, 2011.

4 “(iii) PROPORTIONAL REDUCTION.—If  
5 the sum of the amounts otherwise payable  
6 under this paragraph for a fiscal year ex-  
7 ceeds the amount available for the fiscal  
8 year under this subparagraph, the amount  
9 to be paid under this paragraph to each  
10 State shall be reduced proportionally.

11 “(F) QUALIFYING CHILDREN DEFINED.—  
12 For purposes of this subsection, the term  
13 ‘qualifying children’ means children who meet  
14 the eligibility criteria (including income, cat-  
15 egorical eligibility, age, and immigration status  
16 criteria) in effect as of July 1, 2008, for enroll-  
17 ment under title XIX, taking into account cri-  
18 teria applied as of such date under title XIX  
19 pursuant to a waiver under section 1115. Such  
20 term does not include any children for whom  
21 the State has made an election to provide med-  
22 ical assistance under section 1903(v)(4).

23 “(G) APPLICATION TO COMMONWEALTHS  
24 AND TERRITORIES.—The provisions of subpara-  
25 graph (G) of section 2104(n)(3) shall apply

1 with respect to payment under this paragraph  
2 in the same manner as such provisions apply to  
3 payment under such section.

4 “(H) APPLICATION TO STATES THAT IM-  
5 PLEMENT A MEDICAID EXPANSION FOR CHIL-  
6 DREN AFTER FISCAL YEAR 2008.—In the case of  
7 a State that provides coverage under section  
8 115 of the Children’s Health Insurance Pro-  
9 gram Reauthorization Act of 2009 for any fis-  
10 cal year after fiscal year 2008—

11 “(i) any child enrolled in the State  
12 plan under title XIX through the applica-  
13 tion of such an election shall be dis-  
14 regarded from the determination for the  
15 State of the monthly average unduplicated  
16 number of qualifying children enrolled in  
17 such plan during the first 3 fiscal years in  
18 which such an election is in effect; and

19 “(ii) in determining the baseline num-  
20 ber of child enrollees for the State for any  
21 fiscal year subsequent to such first 3 fiscal  
22 years, the baseline number of child enroll-  
23 ees for the State under title XIX for the  
24 third of such fiscal years shall be the  
25 monthly average unduplicated number of

1           qualifying children enrolled in the State  
2           plan under title XIX for such third fiscal  
3           year.

4           “(4) ENROLLMENT AND RETENTION PROVI-  
5           SIONS FOR CHILDREN.—For purposes of paragraph  
6           (3)(A), a State meets the condition of this para-  
7           graph for a fiscal year if it is implementing at least  
8           4 of the following enrollment and retention provi-  
9           sions (treating each subparagraph as a separate en-  
10          rollment and retention provision) throughout the en-  
11          tire fiscal year:

12           “(A) CONTINUOUS ELIGIBILITY.—The  
13          State has elected the option of continuous eligi-  
14          bility for a full 12 months for all children de-  
15          scribed in section 1902(e)(12) under title XIX  
16          under 19 years of age, as well as applying such  
17          policy under its State child health plan under  
18          this title.

19           “(B) LIBERALIZATION OF ASSET REQUIRE-  
20          MENTS.—The State meets the requirement  
21          specified in either of the following clauses:

22           “(i) ELIMINATION OF ASSET TEST.—  
23          The State does not apply any asset or re-  
24          source test for eligibility for children under  
25          title XIX or this title.

1                   “(ii) ADMINISTRATIVE VERIFICATION  
2                   OF ASSETS.—The State—

3                   “(I) permits a parent or care-  
4                   taker relative who is applying on be-  
5                   half of a child for medical assistance  
6                   under title XIX or child health assist-  
7                   ance under this title to declare and  
8                   certify by signature under penalty of  
9                   perjury information relating to family  
10                  assets for purposes of determining  
11                  and redetermining financial eligibility;  
12                  and

13                  “(II) takes steps to verify assets  
14                  through means other than by requir-  
15                  ing documentation from parents and  
16                  applicants except in individual cases  
17                  of discrepancies or where otherwise  
18                  justified.

19                  “(C) ELIMINATION OF IN-PERSON INTER-  
20                  VIEW REQUIREMENT.—The State does not re-  
21                  quire an application of a child for medical as-  
22                  sistance under title XIX (or for child health as-  
23                  sistance under this title), including an applica-  
24                  tion for renewal of such assistance, to be made  
25                  in person nor does the State require a face-to-

1 face interview, unless there are discrepancies or  
2 individual circumstances justifying an in-person  
3 application or face-to-face interview.

4 “(D) USE OF JOINT APPLICATION FOR  
5 MEDICAID AND CHIP.—The application form  
6 and supplemental forms (if any) and informa-  
7 tion verification process is the same for pur-  
8 poses of establishing and renewing eligibility for  
9 children for medical assistance under title XIX  
10 and child health assistance under this title.

11 “(E) AUTOMATIC RENEWAL (USE OF AD-  
12 MINISTRATIVE RENEWAL).—

13 “(i) IN GENERAL.—The State pro-  
14 vides, in the case of renewal of a child’s  
15 eligibility for medical assistance under title  
16 XIX or child health assistance under this  
17 title, a pre-printed form completed by the  
18 State based on the information available to  
19 the State and notice to the parent or care-  
20 taker relative of the child that eligibility of  
21 the child will be renewed and continued  
22 based on such information unless the State  
23 is provided other information. Nothing in  
24 this clause shall be construed as preventing  
25 a State from verifying, through electronic



1 and other means, the information so pro-  
2 vided.

3 “(ii) SATISFACTION THROUGH DEM-  
4 ONSTRATED USE OF EX PARTE PROCESS.—  
5 A State shall be treated as satisfying the  
6 requirement of clause (i) if renewal of eli-  
7 gibility of children under title XIX or this  
8 title is determined without any require-  
9 ment for an in-person interview, unless  
10 sufficient information is not in the State’s  
11 possession and cannot be acquired from  
12 other sources (including other State agen-  
13 cies) without the participation of the appli-  
14 cant or the applicant’s parent or caretaker  
15 relative.

16 “(F) PRESUMPTIVE ELIGIBILITY FOR  
17 CHILDREN.—The State is implementing section  
18 1920A under title XIX as well as, pursuant to  
19 section 2107(e)(1), under this title.

20 “(G) EXPRESS LANE.—The State is imple-  
21 menting the option described in section  
22 1902(e)(13) under title XIX as well as, pursu-  
23 ant to section 2107(e)(1), under this title.”.

1 **SEC. 105. TWO-YEAR INITIAL AVAILABILITY OF CHIP AL-**  
2 **LOTMENTS.**

3 Section 2104(e) (42 U.S.C. 1397dd(e)) is amended  
4 to read as follows:

5 “(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

6 “(1) IN GENERAL.—Except as provided in para-  
7 graph (2), amounts allotted to a State pursuant to  
8 this section—

9 “(A) for each of fiscal years 1998 through  
10 2008, shall remain available for expenditure by  
11 the State through the end of the second suc-  
12 ceeding fiscal year; and

13 “(B) for fiscal year 2009 and each fiscal  
14 year thereafter, shall remain available for ex-  
15 penditure by the State through the end of the  
16 succeeding fiscal year.

17 “(2) AVAILABILITY OF AMOUNTS REDISTRIB-  
18 UTED.—Amounts redistributed to a State under sub-  
19 section (f) shall be available for expenditure by the  
20 State through the end of the fiscal year in which  
21 they are redistributed.”.

22 **SEC. 106. REDISTRIBUTION OF UNUSED ALLOTMENTS.**

23 (a) BEGINNING WITH FISCAL YEAR 2007.—

24 (1) IN GENERAL.—Section 2104(f) (42 U.S.C.  
25 1397dd(f)) is amended—

1 (A) by striking “The Secretary” and in-  
2 serting the following:

3 “(1) IN GENERAL.—The Secretary”;

4 (B) by striking “States that have fully ex-  
5 pended the amount of their allotments under  
6 this section.” and inserting “States that the  
7 Secretary determines with respect to the fiscal  
8 year for which unused allotments are available  
9 for redistribution under this subsection, are  
10 shortfall States described in paragraph (2) for  
11 such fiscal year, but not to exceed the amount  
12 of the shortfall described in paragraph (2)(A)  
13 for each such State (as may be adjusted under  
14 paragraph (2)(C)).”; and

15 (C) by adding at the end the following new  
16 paragraph:

17 “(2) SHORTFALL STATES DESCRIBED.—

18 “(A) IN GENERAL.—For purposes of para-  
19 graph (1), with respect to a fiscal year, a short-  
20 fall State described in this subparagraph is a  
21 State with a State child health plan approved  
22 under this title for which the Secretary esti-  
23 mates on the basis of the most recent data  
24 available to the Secretary, that the projected ex-

1           penditures under such plan for the State for the  
2           fiscal year will exceed the sum of—

3                   “(i) the amount of the State’s allot-  
4                   ments for any preceding fiscal years that  
5                   remains available for expenditure and that  
6                   will not be expended by the end of the im-  
7                   mediately preceding fiscal year;

8                   “(ii) the amount (if any) of the child  
9                   enrollment contingency fund payment  
10                  under subsection (n); and

11                  “(iii) the amount of the State’s allot-  
12                  ment for the fiscal year.

13                  “(B) PRORATION RULE.—If the amounts  
14                  available for redistribution under paragraph (1)  
15                  for a fiscal year are less than the total amounts  
16                  of the estimated shortfalls determined for the  
17                  year under subparagraph (A), the amount to be  
18                  redistributed under such paragraph for each  
19                  shortfall State shall be reduced proportionally.

20                  “(C) RETROSPECTIVE ADJUSTMENT.—The  
21                  Secretary may adjust the estimates and deter-  
22                  minations made under paragraph (1) and this  
23                  paragraph with respect to a fiscal year as nec-  
24                  essary on the basis of the amounts reported by  
25                  States not later than November 30 of the suc-

1           ceeding fiscal year, as approved by the Sec-  
2           retary.”.

3           (2) EFFECTIVE DATE.—The amendments made  
4           by paragraph (1) shall apply to redistribution of al-  
5           lotments made for fiscal year 2007 and subsequent  
6           fiscal years.

7           (b) REDISTRIBUTION OF UNUSED ALLOTMENTS FOR  
8 FISCAL YEAR 2006.—Section 2104(k) (42 U.S.C.  
9 1397dd(k)) is amended—

10           (1) in the subsection heading, by striking “THE  
11           FIRST 2 QUARTERS OF”;

12           (2) in paragraph (1), by striking “the first 2  
13           quarters of”; and

14           (3) in paragraph (6)—

15           (A) by striking “the first 2 quarters of”;

16           and

17           (B) by striking “March 31” and inserting  
18           “September 30”.

19 **SEC. 107. OPTION FOR QUALIFYING STATES TO RECEIVE**  
20 **THE ENHANCED PORTION OF THE CHIP**  
21 **MATCHING RATE FOR MEDICAID COVERAGE**  
22 **OF CERTAIN CHILDREN.**

23           (a) IN GENERAL.—Section 2105(g) (42 U.S.C.  
24 1397ee(g)) is amended—

1 (1) in paragraph (1)(A), as amended by section  
2 201(b)(1) of Public Law 110–173—

3 (A) by inserting “subject to paragraph  
4 (4),” after “Notwithstanding any other provi-  
5 sion of law,”; and

6 (B) by striking “2008, or 2009” and in-  
7 serting “or 2008”; and

8 (2) by adding at the end the following new  
9 paragraph:

10 “(4) OPTION FOR ALLOTMENTS FOR FISCAL  
11 YEARS 2009 THROUGH 2013.—

12 “(A) PAYMENT OF ENHANCED PORTION OF  
13 MATCHING RATE FOR CERTAIN EXPENDI-  
14 TURES.—In the case of expenditures described  
15 in subparagraph (B), a qualifying State (as de-  
16 fined in paragraph (2)) may elect to be paid  
17 from the State’s allotment made under section  
18 2104 for any of fiscal years 2009 through 2013  
19 (insofar as the allotment is available to the  
20 State under subsections (e) and (m) of such  
21 section) an amount each quarter equal to the  
22 additional amount that would have been paid to  
23 the State under title XIX with respect to such  
24 expenditures if the enhanced FMAP (as deter-  
25 mined under subsection (b)) had been sub-

1           stituted for the Federal medical assistance per-  
2           centage (as defined in section 1905(b)).

3           “(B) EXPENDITURES DESCRIBED.—For  
4           purposes of subparagraph (A), the expenditures  
5           described in this subparagraph are expenditures  
6           made after the date of the enactment of this  
7           paragraph and during the period in which funds  
8           are available to the qualifying State for use  
9           under subparagraph (A), for the provision of  
10          medical assistance to individuals residing in the  
11          State who are eligible for medical assistance  
12          under the State plan under title XIX or under  
13          a waiver of such plan and who have not at-  
14          tained age 19 (or, if a State has so elected  
15          under the State plan under title XIX, age 20  
16          or 21), and whose family income equals or ex-  
17          ceeds 133 percent of the poverty line but does  
18          not exceed the Medicaid applicable income  
19          level.”.

20          (b) REPEAL OF LIMITATION ON AVAILABILITY OF  
21 FISCAL YEAR 2009 ALLOTMENTS.—Paragraph (2) of sec-  
22 tion 201(b) of the Medicare, Medicaid, and SCHIP Exten-  
23 sion Act of 2007 (Public Law 110-173) is repealed.

1 **SEC. 108. ONE-TIME APPROPRIATION.**

2       There is appropriated to the Secretary, out of any  
3 money in the Treasury not otherwise appropriated,  
4 \$11,406,000,000 to accompany the allotment made for the  
5 period beginning on October 1, 2012, and ending on  
6 March 31, 2013, under section 2104(a)(16)(A) of the So-  
7 cial Security Act (42 U.S.C. 1397dd(a)(16)(A)) (as added  
8 by section 101), to remain available until expended. Such  
9 amount shall be used to provide allotments to States under  
10 paragraph (3) of section 2104(m) of the Social Security  
11 Act (42 U.S.C. 1397dd(i)), as added by section 102, for  
12 the first 6 months of fiscal year 2013 in the same manner  
13 as allotments are provided under subsection (a)(16)(A) of  
14 such section 2104 and subject to the same terms and con-  
15 ditions as apply to the allotments provided from such sub-  
16 section (a)(16)(A).

17 **SEC. 109. IMPROVING FUNDING FOR THE TERRITORIES**  
18 **UNDER CHIP AND MEDICAID.**

19       (a) REMOVAL OF FEDERAL MATCHING PAYMENTS  
20 FOR DATA REPORTING SYSTEMS FROM THE OVERALL  
21 LIMIT ON PAYMENTS TO TERRITORIES UNDER TITLE  
22 XIX.—Section 1108(g) (42 U.S.C. 1308(g)) is amended  
23 by adding at the end the following new paragraph:

24               “(4) EXCLUSION OF CERTAIN EXPENDITURES  
25 FROM PAYMENT LIMITS.—With respect to fiscal  
26 years beginning with fiscal year 2009, if Puerto



1 Rico, the Virgin Islands, Guam, the Northern Mar-  
2 iana Islands, or American Samoa qualify for a pay-  
3 ment under subparagraph (A)(i), (B), or (F) of sec-  
4 tion 1903(a)(3) for a calendar quarter of such fiscal  
5 year, the payment shall not be taken into account in  
6 applying subsection (f) (as increased in accordance  
7 with paragraphs (1), (2), and (3) of this subsection)  
8 to such commonwealth or territory for such fiscal  
9 year.”.

10 (b) GAO STUDY AND REPORT.—Not later than Sep-  
11 tember 30, 2010, the Comptroller General of the United  
12 States shall submit a report to the Committee on Finance  
13 of the Senate and the Committee on Energy and Com-  
14 merce of the House of Representatives regarding Federal  
15 funding under Medicaid and CHIP for Puerto Rico, the  
16 United States Virgin Islands, Guam, American Samoa,  
17 and the Northern Mariana Islands. The report shall in-  
18 clude the following:

19 (1) An analysis of all relevant factors with re-  
20 spect to—

21 (A) eligible Medicaid and CHIP popu-  
22 lations in such commonwealths and territories;

23 (B) historical and projected spending needs  
24 of such commonwealths and territories and the

1 ability of capped funding streams to respond to  
2 those spending needs;

3 (C) the extent to which Federal poverty  
4 guidelines are used by such commonwealths and  
5 territories to determine Medicaid and CHIP eli-  
6 gibility; and

7 (D) the extent to which such common-  
8 wealths and territories participate in data col-  
9 lection and reporting related to Medicaid and  
10 CHIP, including an analysis of territory partici-  
11 pation in the Current Population Survey versus  
12 the American Community Survey.

13 (2) Recommendations regarding methods for  
14 the collection and reporting of reliable data regard-  
15 ing the enrollment under Medicaid and CHIP of  
16 children in such commonwealths and territories.

17 (3) Recommendations for improving Federal  
18 funding under Medicaid and CHIP for such com-  
19 monwealths and territories.

1     **Subtitle B—Focus on Low-Income**  
 2     **Children and Pregnant Women**

3     **SEC. 111. STATE OPTION TO COVER LOW-INCOME PREG-**  
 4                   **NANT WOMEN UNDER CHIP THROUGH A**  
 5                   **STATE PLAN AMENDMENT.**

6           (a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et  
 7 seq.), as amended by section 112(a), is amended by adding  
 8 at the end the following new section:

9     **“SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-IN-**  
 10                   **COME PREGNANT WOMEN THROUGH A STATE**  
 11                   **PLAN AMENDMENT.**

12           “(a) IN GENERAL.—Subject to the succeeding provi-  
 13 sions of this section, a State may elect through an amend-  
 14 ment to its State child health plan under section 2102 to  
 15 provide pregnancy-related assistance under such plan for  
 16 targeted low-income pregnant women.

17           “(b) CONDITIONS.—A State may only elect the option  
 18 under subsection (a) if the following conditions are satis-  
 19 fied:

20                   “(1) MINIMUM INCOME ELIGIBILITY LEVELS  
 21                   FOR PREGNANT WOMEN AND CHILDREN.—The State  
 22                   has established an income eligibility level—

23                           “(A) for pregnant women under subsection  
 24                   (a)(10)(A)(i)(III),     (a)(10)(A)(i)(IV),     or  
 25                   (l)(1)(A) of section 1902 that is at least 185

1           percent (or such higher percent as the State  
2           has in effect with regard to pregnant women  
3           under this title) of the poverty line applicable to  
4           a family of the size involved, but in no case  
5           lower than the percent in effect under any such  
6           subsection as of July 1, 2008; and

7           “(B) for children under 19 years of age  
8           under this title (or title XIX) that is at least  
9           200 percent of the poverty line applicable to a  
10          family of the size involved.

11          “(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR  
12          PREGNANT WOMEN LOWER THAN THE STATE’S MED-  
13          ICAID LEVEL.—The State does not apply an effective  
14          income level for pregnant women under the State  
15          plan amendment that is lower than the effective in-  
16          come level (expressed as a percent of the poverty line  
17          and considering applicable income disregards) speci-  
18          fied under subsection (a)(10)(A)(i)(III),  
19          (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on  
20          the date of enactment of this paragraph to be eligi-  
21          ble for medical assistance as a pregnant woman.

22          “(3) NO COVERAGE FOR HIGHER INCOME PREG-  
23          NANT WOMEN WITHOUT COVERING LOWER INCOME  
24          PREGNANT WOMEN.—The State does not provide  
25          coverage for pregnant women with higher family in-

1       come without covering pregnant women with a lower  
2       family income.

3               “(4) APPLICATION OF REQUIREMENTS FOR  
4       COVERAGE OF TARGETED LOW-INCOME CHILDREN.—  
5       The State provides pregnancy-related assistance for  
6       targeted low-income pregnant women in the same  
7       manner, and subject to the same requirements, as  
8       the State provides child health assistance for tar-  
9       geted low-income children under the State child  
10      health plan, and in addition to providing child health  
11      assistance for such women.

12              “(5) NO PREEXISTING CONDITION EXCLUSION  
13      OR WAITING PERIOD.—The State does not apply any  
14      exclusion of benefits for pregnancy-related assistance  
15      based on any preexisting condition or any waiting  
16      period (including any waiting period imposed to  
17      carry out section 2102(b)(3)(C)) for receipt of such  
18      assistance.

19              “(6) APPLICATION OF COST-SHARING PROTEC-  
20      TION.—The State provides pregnancy-related assist-  
21      ance to a targeted low-income woman consistent  
22      with the cost-sharing protections under section  
23      2103(e) and applies the limitation on total annual  
24      aggregate cost sharing imposed under paragraph

1 (3)(B) of such section to the family of such a  
2 woman.

3 “(7) NO WAITING LIST FOR CHILDREN.—The  
4 State does not impose, with respect to the enroll-  
5 ment under the State child health plan of targeted  
6 low-income children during the quarter, any enroll-  
7 ment cap or other numerical limitation on enroll-  
8 ment, any waiting list, any procedures designed to  
9 delay the consideration of applications for enroll-  
10 ment, or similar limitation with respect to enroll-  
11 ment.

12 “(c) OPTION TO PROVIDE PRESUMPTIVE ELIGI-  
13 BILITY.—A State that elects the option under subsection  
14 (a) and satisfies the conditions described in subsection (b)  
15 may elect to apply section 1920 (relating to presumptive  
16 eligibility for pregnant women) to the State child health  
17 plan in the same manner as such section applies to the  
18 State plan under title XIX.

19 “(d) DEFINITIONS.—For purposes of this section:

20 “(1) PREGNANCY-RELATED ASSISTANCE.—The  
21 term ‘pregnancy-related assistance’ has the meaning  
22 given the term ‘child health assistance’ in section  
23 2110(a) with respect to an individual during the pe-  
24 riod described in paragraph (2)(A).

1           “(2) TARGETED LOW-INCOME PREGNANT  
2 WOMAN.—The term ‘targeted low-income pregnant  
3 woman’ means an individual—

4           “(A) during pregnancy and through the  
5 end of the month in which the 60-day period  
6 (beginning on the last day of her pregnancy)  
7 ends;

8           “(B) whose family income exceeds 185 per-  
9 cent (or, if higher, the percent applied under  
10 subsection (b)(1)(A)) of the poverty line appli-  
11 cable to a family of the size involved, but does  
12 not exceed the income eligibility level estab-  
13 lished under the State child health plan under  
14 this title for a targeted low-income child; and

15           “(C) who satisfies the requirements of  
16 paragraphs (1)(A), (1)(C), (2), and (3) of sec-  
17 tion 2110(b) in the same manner as a child ap-  
18 plying for child health assistance would have to  
19 satisfy such requirements.

20           “(e) AUTOMATIC ENROLLMENT FOR CHILDREN  
21 BORN TO WOMEN RECEIVING PREGNANCY-RELATED AS-  
22 SISTANCE.—If a child is born to a targeted low-income  
23 pregnant woman who was receiving pregnancy-related as-  
24 sistance under this section on the date of the child’s birth,  
25 the child shall be deemed to have applied for child health

1 assistance under the State child health plan and to have  
2 been found eligible for such assistance under such plan  
3 or to have applied for medical assistance under title XIX  
4 and to have been found eligible for such assistance under  
5 such title, as appropriate, on the date of such birth and  
6 to remain eligible for such assistance until the child at-  
7 tains 1 year of age. During the period in which a child  
8 is deemed under the preceding sentence to be eligible for  
9 child health or medical assistance, the child health or med-  
10 ical assistance eligibility identification number of the  
11 mother shall also serve as the identification number of the  
12 child, and all claims shall be submitted and paid under  
13 such number (unless the State issues a separate identifica-  
14 tion number for the child before such period expires).

15 “(f) STATES PROVIDING ASSISTANCE THROUGH  
16 OTHER OPTIONS.—

17 “(1) CONTINUATION OF OTHER OPTIONS FOR  
18 PROVIDING ASSISTANCE.—The option to provide as-  
19 sistance in accordance with the preceding sub-  
20 sections of this section shall not limit any other op-  
21 tion for a State to provide—

22 “(A) child health assistance through the  
23 application of sections 457.10, 457.350(b)(2),  
24 457.622(c)(5), and 457.626(a)(3) of title 42,  
25 Code of Federal Regulations (as in effect after



1 the final rule adopted by the Secretary and set  
2 forth at 67 Fed. Reg. 61956–61974 (October 2,  
3 2002)), or

4 “(B) pregnancy-related services through  
5 the application of any waiver authority (as in  
6 effect on June 1, 2008).

7 “(2) CLARIFICATION OF AUTHORITY TO PRO-  
8 VIDE POSTPARTUM SERVICES.—Any State that pro-  
9 vides child health assistance under any authority de-  
10 scribed in paragraph (1) may continue to provide  
11 such assistance, as well as postpartum services,  
12 through the end of the month in which the 60-day  
13 period (beginning on the last day of the pregnancy)  
14 ends, in the same manner as such assistance and  
15 postpartum services would be provided if provided  
16 under the State plan under title XIX, but only if the  
17 mother would otherwise satisfy the eligibility re-  
18 quirements that apply under the State child health  
19 plan (other than with respect to age) during such  
20 period.

21 “(3) NO INFERENCE.—Nothing in this sub-  
22 section shall be construed—

23 “(A) to infer congressional intent regard-  
24 ing the legality or illegality of the content of the  
25 sections specified in paragraph (1)(A); or

1           “(B) to modify the authority to provide  
2           pregnancy-related services under a waiver speci-  
3           fied in paragraph (1)(B).”.

4           (b) ADDITIONAL CONFORMING AMENDMENTS.—

5           (1) NO COST SHARING FOR PREGNANCY-RE-  
6           LATED BENEFITS.—Section 2103(e)(2) (42 U.S.C.  
7           1397cc(e)(2)) is amended—

8           (A) in the heading, by inserting “**OR**  
9           **PREGNANCY-RELATED ASSISTANCE**” after  
10           “**PREVENTIVE SERVICES**”; and

11           (B) by inserting before the period at the  
12           end the following: “or for pregnancy-related as-  
13           sistance”.

14           (2) NO WAITING PERIOD.—Section  
15           2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)) is  
16           amended—

17           (A) in clause (i), by striking “, and” at the  
18           end and inserting a semicolon;

19           (B) in clause (ii), by striking the period at  
20           the end and inserting “; and”; and

21           (C) by adding at the end the following new  
22           clause:

23           “(iii) may not apply a waiting period  
24           (including a waiting period to carry out  
25           paragraph (3)(C)) in the case of a targeted

1 low-income pregnant woman provided preg-  
 2 nancy-related assistance under section  
 3 2112.”.

4 **SEC. 112. PHASE-OUT OF COVERAGE FOR NONPREGNANT**  
 5 **CHILDLESS ADULTS UNDER CHIP; CONDI-**  
 6 **TIONS FOR COVERAGE OF PARENTS.**

7 (a) PHASE-OUT RULES.—

8 (1) IN GENERAL.—Title XXI (42 U.S.C.  
 9 1397aa et seq.) is amended by adding at the end the  
 10 following new section:

11 **“SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT**  
 12 **CHILDLESS ADULTS; CONDITIONS FOR COV-**  
 13 **ERAGE OF PARENTS.**

14 **“(a) TERMINATION OF COVERAGE FOR NONPREG-**  
 15 **NANT CHILDLESS ADULTS.—**

16 **“(1) NO NEW CHIP WAIVERS; AUTOMATIC EX-**  
 17 **TENSIONS AT STATE OPTION THROUGH FISCAL YEAR**  
 18 **2010.—Notwithstanding section 1115 or any other**  
 19 **provision of this title, except as provided in this sub-**  
 20 **section—**

21 **“(A) the Secretary shall not on or after the**  
 22 **date of the enactment of the Children’s Health**  
 23 **Insurance Program Reauthorization Act of**  
 24 **2009, approve or renew a waiver, experimental,**  
 25 **pilot, or demonstration project that would allow**

1 funds made available under this title to be used  
2 to provide child health assistance or other  
3 health benefits coverage to a nonpregnant child-  
4 less adult; and

5 “(B) notwithstanding the terms and condi-  
6 tions of an applicable existing waiver, the provi-  
7 sions of paragraphs (2) and (3) shall apply for  
8 purposes of any period beginning on or after  
9 October 1, 2010, in determining the period to  
10 which the waiver applies, the individuals eligible  
11 to be covered by the waiver, and the amount of  
12 the Federal payment under this title.

13 “(2) TERMINATION OF CHIP COVERAGE UNDER  
14 APPLICABLE EXISTING WAIVERS AT THE END OF  
15 FISCAL YEAR 2010.—

16 “(A) IN GENERAL.—No funds shall be  
17 available under this title for child health assist-  
18 ance or other health benefits coverage that is  
19 provided to a nonpregnant childless adult under  
20 an applicable existing waiver after September  
21 30, 2010.

22 “(B) EXTENSION UPON STATE RE-  
23 QUEST.—If an applicable existing waiver de-  
24 scribed in subparagraph (A) would otherwise  
25 expire before October 1, 2010, and the State

1 requests an extension of such waiver, the Sec-  
2 retary shall grant such an extension, but only  
3 through September 30, 2011.

4 “(C) APPLICATION OF ENHANCED FMAP.—  
5 The enhanced FMAP determined under section  
6 2105(b) shall apply to expenditures under an  
7 applicable existing waiver for the provision of  
8 child health assistance or other health benefits  
9 coverage to a nonpregnant childless adult dur-  
10 ing fiscal year 2010.

11 “(3) OPTIONAL 1-YEAR TRANSITIONAL COV-  
12 ERAGE BLOCK GRANT FUNDED FROM STATE ALLOT-  
13 MENT.—Subject to paragraph (4)(B), each State for  
14 which coverage under an applicable existing waiver  
15 is terminated under paragraph (2)(A) may elect to  
16 provide nonpregnant childless adults who were pro-  
17 vided child health assistance or health benefits cov-  
18 erage under the applicable existing waiver at any  
19 time during fiscal year 2010 with such assistance or  
20 coverage during fiscal year 2011, as if the authority  
21 to provide such assistance or coverage under an ap-  
22 plicable existing waiver was extended through that  
23 fiscal year, but subject to the following terms and  
24 conditions:

1           “(A) BLOCK GRANT SET ASIDE FROM  
2 STATE ALLOTMENT.—The Secretary shall set  
3 aside for the State an amount equal to the Fed-  
4 eral share of the State’s projected expenditures  
5 under the applicable existing waiver for pro-  
6 viding child health assistance or health benefits  
7 coverage to all nonpregnant childless adults  
8 under such waiver for fiscal year 2010 (as cer-  
9 tified by the State and submitted to the Sec-  
10 retary by not later than August 31, 2010, and  
11 without regard to whether any such individual  
12 lost coverage during fiscal year 2010 and was  
13 later provided child health assistance or other  
14 health benefits coverage under the waiver in  
15 that fiscal year), increased by the annual ad-  
16 justment for fiscal year 2011 determined under  
17 section 2104(m)(5)(A). The Secretary may ad-  
18 just the amount set aside under the preceding  
19 sentence, as necessary, on the basis of the ex-  
20 penditure data for fiscal year 2010 reported by  
21 States on CMS Form 64 or CMS Form 21 not  
22 later than November 30, 2010, but in no case  
23 shall the Secretary adjust such amount after  
24 December 31, 2010.

1           “(B) NO COVERAGE FOR NONPREGNANT  
2 CHILDLESS ADULTS WHO WERE NOT COVERED  
3 DURING FISCAL YEAR 2010.—

4           “(i) FMAP APPLIED TO EXPENDI-  
5 TURES.—The Secretary shall pay the State  
6 for each quarter of fiscal year 2011, from  
7 the amount set aside under subparagraph  
8 (A), an amount equal to the Federal med-  
9 ical assistance percentage (as determined  
10 under section 1905(b) without regard to  
11 clause (4) of such section) of expenditures  
12 in the quarter for providing child health  
13 assistance or other health benefits coverage  
14 to a nonpregnant childless adult but only  
15 if such adult was enrolled in the State pro-  
16 gram under this title during fiscal year  
17 2010 (without regard to whether the indi-  
18 vidual lost coverage during fiscal year  
19 2010 and was reenrolled in that fiscal year  
20 or in fiscal year 2011).

21           “(ii) FEDERAL PAYMENTS LIMITED  
22 TO AMOUNT OF BLOCK GRANT SET-  
23 ASIDE.—No payments shall be made to a  
24 State for expenditures described in this  
25 subparagraph after the total amount set

1           aside under subparagraph (A) for fiscal  
2           year 2011 has been paid to the State.

3           “(4) STATE OPTION TO APPLY FOR MEDICAID  
4           WAIVER TO CONTINUE COVERAGE FOR NONPREG-  
5           NANT CHILDLESS ADULTS.—

6           “(A) IN GENERAL.—Each State for which  
7           coverage under an applicable existing waiver is  
8           terminated under paragraph (2)(A) may sub-  
9           mit, not later than June 30, 2011, an applica-  
10          tion to the Secretary for a waiver under section  
11          1115 of the State plan under title XIX to pro-  
12          vide medical assistance to a nonpregnant child-  
13          less adult whose coverage is so terminated (in  
14          this subsection referred to as a ‘Medicaid non-  
15          pregnant childless adults waiver’).

16          “(B) DEADLINE FOR APPROVAL.—The  
17          Secretary shall make a decision to approve or  
18          deny an application for a Medicaid nonpregnant  
19          childless adults waiver submitted under sub-  
20          paragraph (A) within 90 days of the date of the  
21          submission of the application. If no decision has  
22          been made by the Secretary as of September  
23          30, 2011, on the application of a State for a  
24          Medicaid nonpregnant childless adults waiver  
25          that was submitted to the Secretary by June



1           30, 2011, the application shall be deemed ap-  
2           proved.

3           “(C) STANDARD FOR BUDGET NEU-  
4           TRALITY.—The budget neutrality requirement  
5           applicable with respect to expenditures for med-  
6           ical assistance under a Medicaid nonpregnant  
7           childless adults waiver shall—

8                   “(i) in the case of fiscal year 2012,  
9                   allow expenditures for medical assistance  
10                  under title XIX for all such adults to not  
11                  exceed the total amount of payments made  
12                  to the State under paragraph (3)(B) for  
13                  fiscal year 2011, increased by the percent-  
14                  age increase (if any) in the projected nomi-  
15                  nal per capita amount of National Health  
16                  Expenditures for calendar year 2012 over  
17                  2011, as most recently published by the  
18                  Secretary; and

19                   “(ii) in the case of any succeeding fis-  
20                   cal year, allow such expenditures to not ex-  
21                   ceed the amount in effect under this sub-  
22                   paragraph for the preceding fiscal year, in-  
23                   creased by the percentage increase (if any)  
24                   in the projected nominal per capita amount  
25                   of National Health Expenditures for the

1           calendar year that begins during the fiscal  
2           year involved over the preceding calendar  
3           year, as most recently published by the  
4           Secretary.

5           “(b) RULES AND CONDITIONS FOR COVERAGE OF  
6 PARENTS OF TARGETED LOW-INCOME CHILDREN.—

7           “(1) TWO-YEAR TRANSITION PERIOD; AUTO-  
8           MATIC EXTENSION AT STATE OPTION THROUGH FIS-  
9           CAL YEAR 2011.—

10           “(A) NO NEW CHIP WAIVERS.—Notwith-  
11           standing section 1115 or any other provision of  
12           this title, except as provided in this sub-  
13           section—

14           “(i) the Secretary shall not on or after  
15           the date of the enactment of the Children’s  
16           Health Insurance Program Reauthoriza-  
17           tion Act of 2009 approve or renew a waiv-  
18           er, experimental, pilot, or demonstration  
19           project that would allow funds made avail-  
20           able under this title to be used to provide  
21           child health assistance or other health ben-  
22           efits coverage to a parent of a targeted  
23           low-income child; and

24           “(ii) notwithstanding the terms and  
25           conditions of an applicable existing waiver,

1           the provisions of paragraphs (2) and (3)  
2           shall apply for purposes of any fiscal year  
3           beginning on or after October 1, 2011, in  
4           determining the period to which the waiver  
5           applies, the individuals eligible to be cov-  
6           ered by the waiver, and the amount of the  
7           Federal payment under this title.

8           “(B) EXTENSION UPON STATE RE-  
9           QUEST.—If an applicable existing waiver de-  
10          scribed in subparagraph (A) would otherwise  
11          expire before October 1, 2011, and the State  
12          requests an extension of such waiver, the Sec-  
13          retary shall grant such an extension, but only,  
14          subject to paragraph (2)(A), through Sep-  
15          tember 30, 2011.

16          “(C) APPLICATION OF ENHANCED FMAP.—  
17          The enhanced FMAP determined under section  
18          2105(b) shall apply to expenditures under an  
19          applicable existing waiver for the provision of  
20          child health assistance or other health benefits  
21          coverage to a parent of a targeted low-income  
22          child during the third and fourth quarters of  
23          fiscal year 2009 and during fiscal years 2010  
24          and 2011.

1           “(2) RULES FOR FISCAL YEARS 2012 THROUGH  
2           2013.—

3           “(A) PAYMENTS FOR COVERAGE LIMITED  
4           TO BLOCK GRANT FUNDED FROM STATE ALLOT-  
5           MENT.—Any State that provides child health  
6           assistance or health benefits coverage under an  
7           applicable existing waiver for a parent of a tar-  
8           geted low-income child may elect to continue to  
9           provide such assistance or coverage through fis-  
10          cal year 2012 or 2013, subject to the same  
11          terms and conditions that applied under the ap-  
12          plicable existing waiver, unless otherwise modi-  
13          fied in subparagraph (B).

14          “(B) TERMS AND CONDITIONS.—

15                 “(i) BLOCK GRANT SET ASIDE FROM  
16                 STATE ALLOTMENT.—If the State makes  
17                 an election under subparagraph (A), the  
18                 Secretary shall set aside for the State for  
19                 each such fiscal year an amount equal to  
20                 the Federal share of 110 percent of the  
21                 State’s projected expenditures under the  
22                 applicable existing waiver for providing  
23                 child health assistance or health benefits  
24                 coverage to all parents of targeted low-in-  
25                 come children enrolled under such waiver

1 for the fiscal year (as certified by the State  
2 and submitted to the Secretary by not  
3 later than August 31 of the preceding fis-  
4 cal year). In the case of fiscal year 2013,  
5 the set aside for any State shall be com-  
6 puted separately for each period described  
7 in subparagraphs (A) and (B) of section  
8 2104(a)(16) and any reduction in the allot-  
9 ment for either such period under section  
10 2104(m)(4) shall be allocated on a pro  
11 rata basis to such set aside.

12 “(ii) PAYMENTS FROM BLOCK  
13 GRANT.—The Secretary shall pay the State  
14 from the amount set aside under clause (i)  
15 for the fiscal year, an amount for each  
16 quarter of such fiscal year equal to the ap-  
17 plicable percentage determined under  
18 clause (iii) or (iv) for expenditures in the  
19 quarter for providing child health assist-  
20 ance or other health benefits coverage to a  
21 parent of a targeted low-income child.

22 “(iii) ENHANCED FMAP ONLY IN FIS-  
23 CAL YEAR 2012 FOR STATES WITH SIGNIFI-  
24 CANT CHILD OUTREACH OR THAT ACHIEVE  
25 CHILD COVERAGE BENCHMARKS; FMAP

1 FOR ANY OTHER STATES.—For purposes  
2 of clause (ii), the applicable percentage for  
3 any quarter of fiscal year 2012 is equal  
4 to—

5 “(I) the enhanced FMAP deter-  
6 mined under section 2105(b) in the  
7 case of a State that meets the out-  
8 reach or coverage benchmarks de-  
9 scribed in any of subparagraph (A),  
10 (B), or (C) of paragraph (3) for fiscal  
11 year 2011; or

12 “(II) the Federal medical assist-  
13 ance percentage (as determined under  
14 section 1905(b) without regard to  
15 clause (4) of such section) in the case  
16 of any other State.

17 “(iv) AMOUNT OF FEDERAL MATCH-  
18 ING PAYMENT IN 2013.—For purposes of  
19 clause (ii), the applicable percentage for  
20 any quarter of fiscal year 2013 is equal  
21 to—

22 “(I) the REMAP percentage if—

23 “(aa) the applicable percent-  
24 age for the State under clause

1 (iii) was the enhanced FMAP for  
2 fiscal year 2012; and

3 “(bb) the State met either of  
4 the coverage benchmarks de-  
5 scribed in subparagraph (B) or  
6 (C) of paragraph (3) for 2012; or

7 “(II) the Federal medical assist-  
8 ance percentage (as so determined) in  
9 the case of any State to which sub-  
10 clause (I) does not apply.

11 For purposes of subclause (I), the REMAP  
12 percentage is the percentage which is the  
13 sum of such Federal medical assistance  
14 percentage and a number of percentage  
15 points equal to one-half of the difference  
16 between such Federal medical assistance  
17 percentage and such enhanced FMAP.

18 “(v) NO FEDERAL PAYMENTS OTHER  
19 THAN FROM BLOCK GRANT SET ASIDE.—  
20 No payments shall be made to a State for  
21 expenditures described in clause (ii) after  
22 the total amount set aside under clause (i)  
23 for a fiscal year has been paid to the  
24 State.

1           “(vi) NO INCREASE IN INCOME ELIGI-  
2           BILITY LEVEL FOR PARENTS.—No pay-  
3           ments shall be made to a State from the  
4           amount set aside under clause (i) for a fis-  
5           cal year for expenditures for providing  
6           child health assistance or health benefits  
7           coverage to a parent of a targeted low-in-  
8           come child whose family income exceeds  
9           the income eligibility level applied under  
10          the applicable existing waiver to parents of  
11          targeted low-income children on the date of  
12          enactment of the Children’s Health Insur-  
13          ance Program Reauthorization Act of  
14          2009.

15           “(3) OUTREACH OR COVERAGE BENCH-  
16          MARKS.—For purposes of paragraph (2), the out-  
17          reach or coverage benchmarks described in this  
18          paragraph are as follows:

19           “(A) SIGNIFICANT CHILD OUTREACH CAM-  
20          PAIGN.—The State—

21           “(i) was awarded a grant under sec-  
22          tion 2113 for fiscal year 2011;

23           “(ii) implemented 1 or more of the en-  
24          rollment and retention provisions described



1 in section 2105(a)(4) for such fiscal year;

2 or

3 “(iii) has submitted a specific plan for  
4 outreach for such fiscal year.

5 “(B) HIGH-PERFORMING STATE.—The  
6 State, on the basis of the most timely and accu-  
7 rate published estimates of the Bureau of the  
8 Census, ranks in the lowest  $\frac{1}{3}$  of States in  
9 terms of the State’s percentage of low-income  
10 children without health insurance.

11 “(C) STATE INCREASING ENROLLMENT OF  
12 LOW-INCOME CHILDREN.—The State qualified  
13 for a performance bonus payment under section  
14 2105(a)(3)(B) for the most recent fiscal year  
15 applicable under such section.

16 “(4) RULES OF CONSTRUCTION.—Nothing in  
17 this subsection shall be construed as prohibiting a  
18 State from submitting an application to the Sec-  
19 retary for a waiver under section 1115 of the State  
20 plan under title XIX to provide medical assistance to  
21 a parent of a targeted low-income child that was  
22 provided child health assistance or health benefits  
23 coverage under an applicable existing waiver.

24 “(c) APPLICABLE EXISTING WAIVER.—For purposes  
25 of this section—

1           “(1) IN GENERAL.—The term ‘applicable exist-  
2           ing waiver’ means a waiver, experimental, pilot, or  
3           demonstration project under section 1115, grand-  
4           fathered under section 6102(c)(3) of the Deficit Re-  
5           duction Act of 2005, or otherwise conducted under  
6           authority that—

7                   “(A) would allow funds made available  
8                   under this title to be used to provide child  
9                   health assistance or other health benefits cov-  
10                  erage to—

11                           “(i) a parent of a targeted low-income  
12                           child;

13                           “(ii) a nonpregnant childless adult; or

14                           “(iii) individuals described in both  
15                           clauses (i) and (ii); and

16                           “(B) was in effect during fiscal year 2009.

17           “(2) DEFINITIONS.—

18                   “(A) PARENT.—The term ‘parent’ includes  
19                   a caretaker relative (as such term is used in  
20                   carrying out section 1931) and a legal guard-  
21                   ian.

22                   “(B) NONPREGNANT CHILDLESS ADULT.—  
23                   The term ‘nonpregnant childless adult’ has the  
24                   meaning given such term by section 2107(f).”.

25           (2) CONFORMING AMENDMENTS.—

1 (A) Section 2107(f) (42 U.S.C. 1397gg(f))

2 is amended—

3 (i) by striking “, the Secretary” and

4 inserting “:

5 “(1) The Secretary”;

6 (ii) in the first sentence, by inserting

7 “or a parent (as defined in section

8 2111(c)(2)(A)), who is not pregnant, of a

9 targeted low-income child” before the pe-

10 riod;

11 (iii) by striking the second sentence;

12 and

13 (iv) by adding at the end the following

14 new paragraph:

15 “(2) The Secretary may not approve, extend,

16 renew, or amend a waiver, experimental, pilot, or

17 demonstration project with respect to a State after

18 the date of enactment of the Children’s Health In-

19 surance Program Reauthorization Act of 2009 that

20 would waive or modify the requirements of section

21 2111.”.

22 (B) Section 6102(c) of the Deficit Reduc-

23 tion Act of 2005 (Public Law 109–171; 120

24 Stat. 131) is amended by striking “Nothing”

25 and inserting “Subject to section 2111 of the

1 Social Security Act, as added by section 112 of  
2 the Children’s Health Insurance Program Re-  
3 authorization Act of 2009, nothing”.

4 (b) GAO STUDY AND REPORT.—

5 (1) IN GENERAL.—The Comptroller General of  
6 the United States shall conduct a study of wheth-  
7 er—

8 (A) the coverage of a parent, a caretaker  
9 relative (as such term is used in carrying out  
10 section 1931), or a legal guardian of a targeted  
11 low-income child under a State health plan  
12 under title XXI of the Social Security Act in-  
13 creases the enrollment of, or the quality of care  
14 for, children, and

15 (B) such parents, relatives, and legal  
16 guardians who enroll in such a plan are more  
17 likely to enroll their children in such a plan or  
18 in a State plan under title XIX of such Act.

19 (2) REPORT.—Not later than 2 years after the  
20 date of the enactment of this Act, the Comptroller  
21 General shall report the results of the study to the  
22 Committee on Finance of the Senate and the Com-  
23 mittee on Energy and Commerce of the House of  
24 Representatives, including recommendations (if any)  
25 for changes in legislation.

1 **SEC. 113. ELIMINATION OF COUNTING MEDICAID CHILD**  
2 **PRESUMPTIVE ELIGIBILITY COSTS AGAINST**  
3 **TITLE XXI ALLOTMENT.**

4 (a) IN GENERAL.—Section 2105(a)(1) (42 U.S.C.  
5 1397ee(a)(1)) is amended—

6 (1) in the matter preceding subparagraph (A),  
7 by striking “(or, in the case of expenditures de-  
8 scribed in subparagraph (B), the Federal medical  
9 assistance percentage (as defined in the first sen-  
10 tence of section 1905(b)))”; and

11 (2) by striking subparagraph (B) and inserting  
12 the following new subparagraph:

13 “(B) [reserved]”.

14 (b) AMENDMENTS TO MEDICAID.—

15 (1) ELIGIBILITY OF A NEWBORN.—Section  
16 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended in  
17 the first sentence by striking “so long as the child  
18 is a member of the woman’s household and the  
19 woman remains (or would remain if pregnant) eligi-  
20 ble for such assistance”.

21 (2) APPLICATION OF QUALIFIED ENTITIES TO  
22 PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN  
23 UNDER MEDICAID.—Section 1920(b) (42 U.S.C.  
24 1396r–1(b)) is amended by adding after paragraph  
25 (2) the following flush sentence:

1 “The term ‘qualified provider’ also includes a qualified en-  
2 tity, as defined in section 1920A(b)(3).”.

3 **SEC. 114. LIMITATION ON MATCHING RATE FOR STATES**  
4 **THAT PROPOSE TO COVER CHILDREN WITH**  
5 **EFFECTIVE FAMILY INCOME THAT EXCEEDS**  
6 **300 PERCENT OF THE POVERTY LINE.**

7 (a) FMAP APPLIED TO EXPENDITURES.—Section  
8 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at  
9 the end the following new paragraph:

10 “(8) LIMITATION ON MATCHING RATE FOR EX-  
11 PENDITURES FOR CHILD HEALTH ASSISTANCE PRO-  
12 VIDED TO CHILDREN WHOSE EFFECTIVE FAMILY IN-  
13 COME EXCEEDS 300 PERCENT OF THE POVERTY  
14 LINE.—

15 “(A) FMAP APPLIED TO EXPENDI-  
16 TURES.—Except as provided in subparagraph  
17 (B), for fiscal years beginning with fiscal year  
18 2009, the Federal medical assistance percent-  
19 age (as determined under section 1905(b) with-  
20 out regard to clause (4) of such section) shall  
21 be substituted for the enhanced FMAP under  
22 subsection (a)(1) with respect to any expendi-  
23 tures for providing child health assistance or  
24 health benefits coverage for a targeted low-in-  
25 come child whose effective family income would

1           exceed 300 percent of the poverty line but for  
2           the application of a general exclusion of a block  
3           of income that is not determined by type of ex-  
4           pense or type of income.

5           “(B)   EXCEPTION.—Subparagraph   (A)  
6           shall not apply to any State that, on the date  
7           of enactment of the Children’s Health Insur-  
8           ance Program Reauthorization Act of 2009, has  
9           an approved State plan amendment or waiver to  
10          provide, or has enacted a State law to submit  
11          a State plan amendment to provide, expendi-  
12          tures described in such subparagraph under the  
13          State child health plan.”.

14          (b)   RULE OF CONSTRUCTION.—Nothing in the  
15          amendments made by this section shall be construed as—

16               (1) changing any income eligibility level for chil-  
17               dren under title XXI of the Social Security Act; or

18               (2) changing the flexibility provided States  
19               under such title to establish the income eligibility  
20               level for targeted low-income children under a State  
21               child health plan and the methodologies used by the  
22               State to determine income or assets under such  
23               plan.

1 **SEC. 115. STATE AUTHORITY UNDER MEDICAID.**

2 Notwithstanding any other provision of law, including  
3 the fourth sentence of subsection (b) of section 1905 of  
4 the Social Security Act (42 U.S.C. 1396d) or subsection  
5 (u) of such section, at State option, the Secretary shall  
6 provide the State with the Federal medical assistance per-  
7 centage determined for the State for Medicaid with respect  
8 to expenditures described in section 1905(u)(2)(A) of such  
9 Act or otherwise made to provide medical assistance under  
10 Medicaid to a child who could be covered by the State  
11 under CHIP.

12 **TITLE II—OUTREACH AND**  
13 **ENROLLMENT**  
14 **Subtitle A—Outreach and**  
15 **Enrollment Activities**

16 **SEC. 201. GRANTS AND ENHANCED ADMINISTRATIVE FUND-**  
17 **ING FOR OUTREACH AND ENROLLMENT.**

18 (a) GRANTS.—Title XXI (42 U.S.C. 1397aa et seq.),  
19 as amended by section 111, is amended by adding at the  
20 end the following:

21 **“SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLL-**  
22 **MENT.**

23 **“(a) OUTREACH AND ENROLLMENT GRANTS; NA-**  
24 **TIONAL CAMPAIGN.—**

25 **“(1) IN GENERAL.—**From the amounts appro-  
26 **priated under subsection (g), subject to paragraph**



1 (2), the Secretary shall award grants to eligible enti-  
2 ties during the period of fiscal years 2009 through  
3 2013 to conduct outreach and enrollment efforts  
4 that are designed to increase the enrollment and  
5 participation of eligible children under this title and  
6 title XIX.

7 “(2) TEN PERCENT SET ASIDE FOR NATIONAL  
8 ENROLLMENT CAMPAIGN.—An amount equal to 10  
9 percent of such amounts shall be used by the Sec-  
10 retary for expenditures during such period to carry  
11 out a national enrollment campaign in accordance  
12 with subsection (h).

13 “(b) PRIORITY FOR AWARD OF GRANTS.—

14 “(1) IN GENERAL.—In awarding grants under  
15 subsection (a), the Secretary shall give priority to el-  
16 igible entities that—

17 “(A) propose to target geographic areas  
18 with high rates of—

19 “(i) eligible but unenrolled children,  
20 including such children who reside in rural  
21 areas; or

22 “(ii) racial and ethnic minorities and  
23 health disparity populations, including  
24 those proposals that address cultural and  
25 linguistic barriers to enrollment; and

1           “(B) submit the most demonstrable evi-  
2           dence required under paragraphs (1) and (2) of  
3           subsection (c).

4           “(2) TEN PERCENT SET ASIDE FOR OUTREACH  
5           TO INDIAN CHILDREN.—An amount equal to 10 per-  
6           cent of the funds appropriated under subsection (g)  
7           shall be used by the Secretary to award grants to  
8           Indian Health Service providers and urban Indian  
9           organizations receiving funds under title V of the In-  
10          dian Health Care Improvement Act (25 U.S.C. 1651  
11          et seq.) for outreach to, and enrollment of, children  
12          who are Indians.

13          “(c) APPLICATION.—An eligible entity that desires to  
14          receive a grant under subsection (a) shall submit an appli-  
15          cation to the Secretary in such form and manner, and con-  
16          taining such information, as the Secretary may decide.  
17          Such application shall include—

18                 “(1) evidence demonstrating that the entity in-  
19                 cludes members who have access to, and credibility  
20                 with, ethnic or low-income populations in the com-  
21                 munities in which activities funded under the grant  
22                 are to be conducted;

23                 “(2) evidence demonstrating that the entity has  
24                 the ability to address barriers to enrollment, such as  
25                 lack of awareness of eligibility, stigma concerns and

1 punitive fears associated with receipt of benefits,  
2 and other cultural barriers to applying for and re-  
3 ceiving child health assistance or medical assistance;

4 “(3) specific quality or outcomes performance  
5 measures to evaluate the effectiveness of activities  
6 funded by a grant awarded under this section; and

7 “(4) an assurance that the eligible entity  
8 shall—

9 “(A) conduct an assessment of the effec-  
10 tiveness of such activities against the perform-  
11 ance measures;

12 “(B) cooperate with the collection and re-  
13 porting of enrollment data and other informa-  
14 tion in order for the Secretary to conduct such  
15 assessments; and

16 “(C) in the case of an eligible entity that  
17 is not the State, provide the State with enroll-  
18 ment data and other information as necessary  
19 for the State to make necessary projections of  
20 eligible children and pregnant women.

21 “(d) DISSEMINATION OF ENROLLMENT DATA AND  
22 INFORMATION DETERMINED FROM EFFECTIVENESS AS-  
23 SESSMENTS; ANNUAL REPORT.—The Secretary shall—

1           “(1) make publicly available the enrollment  
2 data and information collected and reported in ac-  
3 cordance with subsection (c)(4)(B); and

4           “(2) submit an annual report to Congress on  
5 the outreach and enrollment activities conducted  
6 with funds appropriated under this section.

7           “(e) MAINTENANCE OF EFFORT FOR STATES  
8 AWARDED GRANTS; NO STATE MATCH REQUIRED.—In  
9 the case of a State that is awarded a grant under this  
10 section—

11           “(1) the State share of funds expended for out-  
12 reach and enrollment activities under the State child  
13 health plan shall not be less than the State share of  
14 such funds expended in the fiscal year preceding the  
15 first fiscal year for which the grant is awarded; and

16           “(2) no State matching funds shall be required  
17 for the State to receive a grant under this section.

18           “(f) DEFINITIONS.—In this section:

19           “(1) ELIGIBLE ENTITY.—The term ‘eligible en-  
20 tity’ means any of the following:

21           “(A) A State with an approved child health  
22 plan under this title.

23           “(B) A local government.

24           “(C) An Indian tribe or tribal consortium,  
25 a tribal organization, an urban Indian organiza-

1           tion receiving funds under title V of the Indian  
2           Health Care Improvement Act (25 U.S.C. 1651  
3           et seq.), or an Indian Health Service provider.

4           “(D) A Federal health safety net organiza-  
5           tion.

6           “(E) A national, State, local, or commu-  
7           nity-based public or nonprofit private organiza-  
8           tion, including organizations that use commu-  
9           nity health workers or community-based doula  
10          programs.

11          “(F) A faith-based organization or con-  
12          sortia, to the extent that a grant awarded to  
13          such an entity is consistent with the require-  
14          ments of section 1955 of the Public Health  
15          Service Act (42 U.S.C. 300x-65) relating to a  
16          grant award to nongovernmental entities.

17          “(G) An elementary or secondary school.

18          “(2) FEDERAL HEALTH SAFETY NET ORGANI-  
19          ZATION.—The term ‘Federal health safety net orga-  
20          nization’ means—

21                 “(A) a Federally-qualified health center (as  
22                 defined in section 1905(l)(2)(B));

23                 “(B) a hospital defined as a dispropor-  
24                 tionate share hospital for purposes of section  
25                 1923;

1           “(C) a covered entity described in section  
2           340B(a)(4) of the Public Health Service Act  
3           (42 U.S.C. 256b(a)(4)); and

4           “(D) any other entity or consortium that  
5           serves children under a federally funded pro-  
6           gram, including the special supplemental nutri-  
7           tion program for women, infants, and children  
8           (WIC) established under section 17 of the Child  
9           Nutrition Act of 1966 (42 U.S.C. 1786), the  
10          Head Start and Early Head Start programs  
11          under the Head Start Act (42 U.S.C. 9801 et  
12          seq.), the school lunch program established  
13          under the Richard B. Russell National School  
14          Lunch Act, and an elementary or secondary  
15          school.

16          “(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANI-  
17          ZATION; URBAN INDIAN ORGANIZATION.—The terms  
18          ‘Indian’, ‘Indian tribe’, ‘tribal organization’, and  
19          ‘urban Indian organization’ have the meanings given  
20          such terms in section 4 of the Indian Health Care  
21          Improvement Act (25 U.S.C. 1603).

22          “(4) COMMUNITY HEALTH WORKER.—The term  
23          ‘community health worker’ means an individual who  
24          promotes health or nutrition within the community  
25          in which the individual resides—

1           “(A) by serving as a liaison between com-  
2           munities and health care agencies;

3           “(B) by providing guidance and social as-  
4           sistance to community residents;

5           “(C) by enhancing community residents’  
6           ability to effectively communicate with health  
7           care providers;

8           “(D) by providing culturally and linguis-  
9           tically appropriate health or nutrition edu-  
10          cation;

11          “(E) by advocating for individual and com-  
12          munity health or nutrition needs; and

13          “(F) by providing referral and followup  
14          services.

15          “(g) APPROPRIATION.—There is appropriated, out of  
16 any money in the Treasury not otherwise appropriated,  
17 \$100,000,000 for the period of fiscal years 2009 through  
18 2013, for the purpose of awarding grants under this sec-  
19 tion. Amounts appropriated and paid under the authority  
20 of this section shall be in addition to amounts appro-  
21 priated under section 2104 and paid to States in accord-  
22 ance with section 2105, including with respect to expendi-  
23 tures for outreach activities in accordance with subsections  
24 (a)(1)(D)(iii) and (c)(2)(C) of that section.

1       “(h) NATIONAL ENROLLMENT CAMPAIGN.—From  
2 the amounts made available under subsection (a)(2), the  
3 Secretary shall develop and implement a national enroll-  
4 ment campaign to improve the enrollment of underserved  
5 child populations in the programs established under this  
6 title and title XIX. Such campaign may include—

7               “(1) the establishment of partnerships with the  
8 Secretary of Education and the Secretary of Agri-  
9 culture to develop national campaigns to link the eli-  
10 gibility and enrollment systems for the assistance  
11 programs each Secretary administers that often  
12 serve the same children;

13               “(2) the integration of information about the  
14 programs established under this title and title XIX  
15 in public health awareness campaigns administered  
16 by the Secretary;

17               “(3) increased financial and technical support  
18 for enrollment hotlines maintained by the Secretary  
19 to ensure that all States participate in such hotlines;

20               “(4) the establishment of joint public awareness  
21 outreach initiatives with the Secretary of Education  
22 and the Secretary of Labor regarding the impor-  
23 tance of health insurance to building strong commu-  
24 nities and the economy;



1           “(5) the development of special outreach mate-  
2           rials for Native Americans or for individuals with  
3           limited English proficiency; and

4           “(6) such other outreach initiatives as the Sec-  
5           retary determines would increase public awareness of  
6           the programs under this title and title XIX.

7           “(i) GRANTS FOR OUTREACH AND ENROLLMENT OF  
8           NATIVE AMERICAN BENEFICIARIES.—

9           “(1) IN GENERAL.—To overcome language and  
10          cultural barriers to program access by Native Ameri-  
11          cans, the Secretary shall establish grant programs to  
12          conduct outreach and enrollment efforts to increase  
13          the enrollment and participation of eligible individ-  
14          uals in programs of the Social Security Act (42  
15          U.S.C. 1397aa et seq.) and other Federal health and  
16          social service programs.

17          “(2) USE OF TRIBAL BENEFITS-COUNSELORS  
18          MODEL.—The grant program under this subsection  
19          shall incorporate expansion and stabilization of the  
20          tribal benefits-counselors model developed in the  
21          State of Washington to overcome language and cul-  
22          tural barriers to Federal programs.

23          “(3) RECIPIENTS.—In order to qualify for a  
24          grant under this subsection, an applicant shall be a  
25          national, nonprofit organization with successful and

1 verifiable experience in assisting Native Americans  
2 access Federal programs.

3 “(4) REPORT.—At the end of the period of  
4 funding provided under subsection (f), the Secretary  
5 shall submit to Congress a report on the grants  
6 made under this subsection, including the efficacy of  
7 outreach efforts and the cost effectiveness of  
8 projects funded by such grants in improving access  
9 to Federal programs by Native Americans.”.

10 (b) ENHANCED ADMINISTRATIVE FUNDING FOR  
11 TRANSLATION OR INTERPRETATION SERVICES UNDER  
12 CHIP AND MEDICAID.—

13 (1) CHIP.—Section 2105(a)(1) (42 U.S.C.  
14 1397ee(a)(1)), as amended by section 113, is  
15 amended—

16 (A) in the matter preceding subparagraph  
17 (A), by inserting “(or, in the case of expendi-  
18 tures described in subparagraph (D)(iv), the  
19 higher of 75 percent or the sum of the en-  
20 hanced FMAP plus 5 percentage points)” after  
21 “enhanced FMAP”; and

22 (B) in subparagraph (D)—

23 (i) in clause (iii), by striking “and” at  
24 the end;

1 (ii) by redesignating clause (iv) as  
2 clause (v); and

3 (iii) by inserting after clause (iii) the  
4 following new clause:

5 “(iv) for translation or interpretation  
6 services in connection with the enrollment  
7 of, retention of, and use of services under  
8 this title by, individuals for whom English  
9 is not their primary language (as found  
10 necessary by the Secretary for the proper  
11 and efficient administration of the State  
12 plan); and”.

13 (2) MEDICAID.—

14 (A) USE OF MEDICAID FUNDS.—Section  
15 1903(a)(2) (42 U.S.C. 1396b(a)(2)) is amended  
16 by adding at the end the following new sub-  
17 paragraph:

18 “(E) an amount equal to 75 percent of so much  
19 of the sums expended during such quarter (as found  
20 necessary by the Secretary for the proper and effi-  
21 cient administration of the State plan) as are attrib-  
22 utable to translation or interpretation services in  
23 connection with the enrollment of, retention of, and  
24 use of services under this title by, children of fami-

1 lies for whom English is not the primary language;  
2 plus”.

3 (B) USE OF COMMUNITY HEALTH WORK-  
4 ERS FOR OUTREACH ACTIVITIES.—

5 (i) IN GENERAL.—Section 2102(c)(1)  
6 of such Act (42 U.S.C. 1397bb(c)(1)) is  
7 amended by inserting “(through commu-  
8 nity health workers and others)” after  
9 “Outreach”.

10 (ii) IN FEDERAL EVALUATION.—Sec-  
11 tion 2108(c)(3)(B) of such Act (42 U.S.C.  
12 1397hh(c)(3)(B)) is amended by inserting  
13 “(such as through community health work-  
14 ers and others)” after “including prac-  
15 tices”.

16 **SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF IN-**  
17 **DIANS.**

18 (a) IN GENERAL.—Section 1139 (42 U.S.C. 1320b-  
19 9) is amended to read as follows:

20 **“SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF,**  
21 **HEALTH CARE FOR INDIANS UNDER TITLES**  
22 **XIX AND XXI.**

23 “(a) AGREEMENTS WITH STATES FOR MEDICAID  
24 AND CHIP OUTREACH ON OR NEAR RESERVATIONS TO

1 INCREASE THE ENROLLMENT OF INDIANS IN THOSE  
2 PROGRAMS.—

3           “(1) IN GENERAL.—In order to improve the ac-  
4           cess of Indians residing on or near a reservation to  
5           obtain benefits under the Medicaid and State chil-  
6           dren’s health insurance programs established under  
7           titles XIX and XXI, the Secretary shall encourage  
8           the State to take steps to provide for enrollment on  
9           or near the reservation. Such steps may include out-  
10          reach efforts such as the outstationing of eligibility  
11          workers, entering into agreements with the Indian  
12          Health Service, Indian Tribes, Tribal Organizations,  
13          and Urban Indian Organizations to provide out-  
14          reach, education regarding eligibility and benefits,  
15          enrollment, and translation services when such serv-  
16          ices are appropriate.

17          “(2) CONSTRUCTION.—Nothing in paragraph  
18          (1) shall be construed as affecting arrangements en-  
19          tered into between States and the Indian Health  
20          Service, Indian Tribes, Tribal Organizations, or  
21          Urban Indian Organizations for such Service,  
22          Tribes, or Organizations to conduct administrative  
23          activities under such titles.

24          “(b) REQUIREMENT TO FACILITATE COOPERA-  
25          TION.—The Secretary, acting through the Centers for

1 Medicare & Medicaid Services, shall take such steps as are  
2 necessary to facilitate cooperation with, and agreements  
3 between, States and the Indian Health Service, Indian  
4 Tribes, Tribal Organizations, or Urban Indian Organiza-  
5 tions with respect to the provision of health care items  
6 and services to Indians under the programs established  
7 under title XIX or XXI.

8       “(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN  
9 HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN IN-  
10 DIAN ORGANIZATION.—In this section, the terms ‘Indian’,  
11 ‘Indian Tribe’, ‘Indian Health Program’, ‘Tribal Organi-  
12 zation’, and ‘Urban Indian Organization’ have the mean-  
13 ings given those terms in section 4 of the Indian Health  
14 Care Improvement Act.”.

15       (b) NONAPPLICATION OF 10 PERCENT LIMIT ON  
16 OUTREACH AND CERTAIN OTHER EXPENDITURES.—Sec-  
17 tion 2105(e)(2) (42 U.S.C. 1397ee(e)(2)) is amended by  
18 adding at the end the following:

19               “(C) NONAPPLICATION TO CERTAIN EX-  
20 PENDITURES.—The limitation under subpara-  
21 graph (A) shall not apply with respect to the  
22 following expenditures:

23                       “(i) EXPENDITURES TO INCREASE  
24                       OUTREACH TO, AND THE ENROLLMENT OF,  
25                       INDIAN CHILDREN UNDER THIS TITLE AND

1 TITLE xix.—Expenditures for outreach ac-  
2 tivities to families of Indian children likely  
3 to be eligible for child health assistance  
4 under the plan or medical assistance under  
5 the State plan under title XIX (or under  
6 a waiver of such plan), to inform such  
7 families of the availability of, and to assist  
8 them in enrolling their children in, such  
9 plans, including such activities conducted  
10 under grants, contracts, or agreements en-  
11 tered into under section 1139(a).”.

12 **SEC. 203. STATE OPTION TO RELY ON FINDINGS FROM AN**  
13 **EXPRESS LANE AGENCY TO CONDUCT SIM-**  
14 **PLIFIED ELIGIBILITY DETERMINATIONS.**

15 (a) APPLICATION UNDER MEDICAID AND CHIP PRO-  
16 GRAMS.—

17 (1) MEDICAID.—Section 1902(e) (42 U.S.C.  
18 1396a(e)) is amended by adding at the end the fol-  
19 lowing:

20 “(13) EXPRESS LANE OPTION.—

21 “(A) IN GENERAL.—

22 “(i) OPTION TO USE A FINDING FROM AN  
23 EXPRESS LANE AGENCY.—At the option of the  
24 State, the State plan may provide that in deter-  
25 mining eligibility under this title for a child (as

1 defined in subparagraph (G)), the State may  
2 rely on a finding made within a reasonable pe-  
3 riod (as determined by the State) from an Ex-  
4 press Lane agency (as defined in subparagraph  
5 (F)) when it determines whether a child satis-  
6 fies one or more components of eligibility for  
7 medical assistance under this title. The State  
8 may rely on a finding from an Express Lane  
9 agency notwithstanding any differences in  
10 budget unit, disregard, deeming or other meth-  
11 odology, if the following requirements are met:

12 “(I) PROHIBITION ON DETERMINING  
13 CHILDREN INELIGIBLE FOR COVERAGE.—

14 If a finding from an Express Lane agency  
15 would result in a determination that a  
16 child does not satisfy an eligibility require-  
17 ment for medical assistance under this title  
18 and for child health assistance under title  
19 XXI, the State shall determine eligibility  
20 for assistance using its regular procedures.

21 “(II) NOTICE REQUIREMENT.—For  
22 any child who is found eligible for medical  
23 assistance under the State plan under this  
24 title or child health assistance under title  
25 XXI and who is subject to premiums based



1 on an Express Lane agency’s finding of  
2 such child’s income level, the State shall  
3 provide notice that the child may qualify  
4 for lower premium payments if evaluated  
5 by the State using its regular policies and  
6 of the procedures for requesting such an  
7 evaluation.

8 “(III) COMPLIANCE WITH SCREEN  
9 AND ENROLL REQUIREMENT.—The State  
10 shall satisfy the requirements under sub-  
11 paragraphs (A) and (B) of section  
12 2102(b)(3) (relating to screen and enroll)  
13 before enrolling a child in child health as-  
14 sistance under title XXI. At its option, the  
15 State may fulfill such requirements in ac-  
16 cordance with either option provided under  
17 subparagraph (C) of this paragraph.

18 “(IV) VERIFICATION OF CITIZENSHIP,  
19 NATIONALITY STATUS, OR QUALIFIED  
20 ALIEN STATUS.—The State shall satisfy  
21 the requirements of sections 1137(d) and  
22 1902(a)(46)(B) for verifications of citizen-  
23 ship, nationality status, or qualified alien  
24 status.

1                   “(V) CODING.—The State meets the  
2 requirements of subparagraph (E).

3                   “(ii) OPTION TO APPLY TO RENEWALS AND  
4 REDETERMINATIONS.—The State may apply the  
5 provisions of this paragraph when conducting  
6 initial determinations of eligibility, redetermina-  
7 tions of eligibility, or both, as described in the  
8 State plan.

9                   “(B) RULES OF CONSTRUCTION.—Nothing in  
10 this paragraph shall be construed—

11                   “(i) to relieve a State of the obligation to  
12 determine components of eligibility that are not  
13 the subject of an Express Lane agency’s find-  
14 ing, as described in subparagraph (A);

15                   “(ii) to limit or prohibit a State from tak-  
16 ing any actions otherwise permitted under this  
17 title or title XXI in determining eligibility for  
18 or enrolling children into medical assistance  
19 under this title or child health assistance under  
20 title XXI; or

21                   “(iii) to modify the limitations in section  
22 1902(a)(5) concerning the agencies that may  
23 make a determination of eligibility for medical  
24 assistance under this title.

1           “(C) OPTIONS FOR SATISFYING THE SCREEN  
2           AND ENROLL REQUIREMENT.—

3           “(i) IN GENERAL.—With respect to a child  
4           whose eligibility for medical assistance under  
5           this title or for child health assistance under  
6           title XXI has been evaluated by a State agency  
7           using an income finding from an Express Lane  
8           agency, a State may carry out its duties under  
9           subparagraphs (A) and (B) of section  
10          2102(b)(3) (relating to screen and enroll) in ac-  
11          cordance with either clause (ii) or clause (iii).

12          “(ii) ESTABLISHING A SCREENING  
13          THRESHOLD.—

14          “(I) IN GENERAL.—Under this clause,  
15          the State establishes a screening threshold  
16          set as a percentage of the Federal poverty  
17          level that exceeds the highest income  
18          threshold applicable under this title to the  
19          child by a minimum of 30 percentage  
20          points or, at State option, a higher number  
21          of percentage points that reflects the value  
22          (as determined by the State and described  
23          in the State plan) of any differences be-  
24          tween income methodologies used by the  
25          program administered by the Express Lane

1 agency and the methodologies used by the  
2 State in determining eligibility for medical  
3 assistance under this title.

4 “(II) CHILDREN WITH INCOME NOT  
5 ABOVE THRESHOLD.—If the income of a  
6 child does not exceed the screening thresh-  
7 old, the child is deemed to satisfy the in-  
8 come eligibility criteria for medical assist-  
9 ance under this title regardless of whether  
10 such child would otherwise satisfy such cri-  
11 teria.

12 “(III) CHILDREN WITH INCOME  
13 ABOVE THRESHOLD.—If the income of a  
14 child exceeds the screening threshold, the  
15 child shall be considered to have an income  
16 above the Medicaid applicable income level  
17 described in section 2110(b)(4) and to sat-  
18 isfy the requirement under section  
19 2110(b)(1)(C) (relating to the requirement  
20 that CHIP matching funds be used only  
21 for children not eligible for Medicaid). If  
22 such a child is enrolled in child health as-  
23 sistance under title XXI, the State shall  
24 provide the parent, guardian, or custodial  
25 relative with the following:

1           “(aa) Notice that the child may  
2           be eligible to receive medical assist-  
3           ance under the State plan under this  
4           title if evaluated for such assistance  
5           under the State’s regular procedures  
6           and notice of the process through  
7           which a parent, guardian, or custodial  
8           relative can request that the State  
9           evaluate the child’s eligibility for med-  
10          ical assistance under this title using  
11          such regular procedures.

12           “(bb) A description of differences  
13          between the medical assistance pro-  
14          vided under this title and child health  
15          assistance under title XXI, including  
16          differences in cost-sharing require-  
17          ments and covered benefits.

18           “(iii) TEMPORARY ENROLLMENT IN CHIP  
19          PENDING SCREEN AND ENROLL.—

20           “(I) IN GENERAL.—Under this clause,  
21          a State enrolls a child in child health as-  
22          sistance under title XXI for a temporary  
23          period if the child appears eligible for such  
24          assistance based on an income finding by  
25          an Express Lane agency.

1           “(II) DETERMINATION OF ELIGI-  
2           BILITY.—During such temporary enroll-  
3           ment period, the State shall determine the  
4           child’s eligibility for child health assistance  
5           under title XXI or for medical assistance  
6           under this title in accordance with this  
7           clause.

8           “(III) PROMPT FOLLOW UP.—In mak-  
9           ing such a determination, the State shall  
10          take prompt action to determine whether  
11          the child should be enrolled in medical as-  
12          sistance under this title or child health as-  
13          sistance under title XXI pursuant to sub-  
14          paragraphs (A) and (B) of section  
15          2102(b)(3) (relating to screen and enroll).

16          “(IV) REQUIREMENT FOR SIMPLIFIED  
17          DETERMINATION.—In making such a de-  
18          termination, the State shall use procedures  
19          that, to the maximum feasible extent, re-  
20          duce the burden imposed on the individual  
21          of such determination. Such procedures  
22          may not require the child’s parent, guard-  
23          ian, or custodial relative to provide or  
24          verify information that already has been  
25          provided to the State agency by an Ex-

1 press Lane agency or another source of in-  
2 formation unless the State agency has rea-  
3 son to believe the information is erroneous.

4 “(V) AVAILABILITY OF CHIP MATCH-  
5 ING FUNDS DURING TEMPORARY ENROLL-  
6 MENT PERIOD.—Medical assistance for  
7 items and services that are provided to a  
8 child enrolled in title XXI during a tem-  
9 porary enrollment period under this clause  
10 shall be treated as child health assistance  
11 under such title.

12 “(D) OPTION FOR AUTOMATIC ENROLLMENT.—

13 “(i) IN GENERAL.—The State may initiate  
14 and determine eligibility for medical assistance  
15 under the State Medicaid plan or for child  
16 health assistance under the State CHIP plan  
17 without a program application from, or on be-  
18 half of, the child based on data obtained from  
19 sources other than the child (or the child’s fam-  
20 ily), but a child can only be automatically en-  
21 rolled in the State Medicaid plan or the State  
22 CHIP plan if the child or the family affirma-  
23 tively consents to being enrolled through affir-  
24 mation and signature on an Express Lane

1 agency application, if the requirement of clause  
2 (ii) is met.

3 “(ii) INFORMATION REQUIREMENT.—The  
4 requirement of this clause is that the State in-  
5 forms the parent, guardian, or custodial relative  
6 of the child of the services that will be covered,  
7 appropriate methods for using such services,  
8 premium or other cost sharing charges (if any)  
9 that apply, medical support obligations (under  
10 section 1912(a)) created by enrollment (if appli-  
11 cable), and the actions the parent, guardian, or  
12 relative must take to maintain enrollment and  
13 renew coverage.

14 “(E) CODING; APPLICATION TO ENROLLMENT  
15 ERROR RATES.—

16 “(i) IN GENERAL.—For purposes of sub-  
17 paragraph (A)(iv), the requirement of this sub-  
18 paragraph for a State is that the State agrees  
19 to—

20 “(I) assign such codes as the Sec-  
21 retary shall require to the children who are  
22 enrolled in the State Medicaid plan or the  
23 State CHIP plan through reliance on a  
24 finding made by an Express Lane agency



1 for the duration of the State’s election  
2 under this paragraph;

3 “(II) annually provide the Secretary  
4 with a statistically valid sample (that is ap-  
5 proved by Secretary) of the children en-  
6 rolled in such plans through reliance on  
7 such a finding by conducting a full Med-  
8 icaid eligibility review of the children iden-  
9 tified for such sample for purposes of de-  
10 termining an eligibility error rate (as de-  
11 scribed in clause (iv)) with respect to the  
12 enrollment of such children (and shall not  
13 include such children in any data or sam-  
14 ples used for purposes of complying with a  
15 Medicaid Eligibility Quality Control  
16 (MEQC) review or a payment error rate  
17 measurement (PERM) requirement);

18 “(III) submit the error rate deter-  
19 mined under subclause (II) to the Sec-  
20 retary;

21 “(IV) if such error rate exceeds 3 per-  
22 cent for either of the first 2 fiscal years in  
23 which the State elects to apply this para-  
24 graph, demonstrate to the satisfaction of  
25 the Secretary the specific corrective actions

1 implemented by the State to improve upon  
2 such error rate; and

3 “(V) if such error rate exceeds 3 per-  
4 cent for any fiscal year in which the State  
5 elects to apply this paragraph, a reduction  
6 in the amount otherwise payable to the  
7 State under section 1903(a) for quarters  
8 for that fiscal year, equal to the total  
9 amount of erroneous excess payments de-  
10 termined for the fiscal year only with re-  
11 spect to the children included in the sam-  
12 ple for the fiscal year that are in excess of  
13 a 3 percent error rate with respect to such  
14 children.

15 “(ii) NO PUNITIVE ACTION BASED ON  
16 ERROR RATE.—The Secretary shall not apply  
17 the error rate derived from the sample under  
18 clause (i) to the entire population of children  
19 enrolled in the State Medicaid plan or the State  
20 CHIP plan through reliance on a finding made  
21 by an Express Lane agency, or to the popu-  
22 lation of children enrolled in such plans on the  
23 basis of the State’s regular procedures for de-  
24 termining eligibility, or penalize the State on  
25 the basis of such error rate in any manner

1 other than the reduction of payments provided  
2 for under clause (i)(V).

3 “(iii) RULE OF CONSTRUCTION.—Nothing  
4 in this paragraph shall be construed as relieving  
5 a State that elects to apply this paragraph from  
6 being subject to a penalty under section  
7 1903(u), for payments made under the State  
8 Medicaid plan with respect to ineligible individ-  
9 uals and families that are determined to exceed  
10 the error rate permitted under that section (as  
11 determined without regard to the error rate de-  
12 termined under clause (i)(II)).

13 “(iv) ERROR RATE DEFINED.—In this sub-  
14 paragraph, the term ‘error rate’ means the rate  
15 of erroneous excess payments for medical as-  
16 sistance (as defined in section 1903(u)(1)(D))  
17 for the period involved, except that such pay-  
18 ments shall be limited to individuals for which  
19 eligibility determinations are made under this  
20 paragraph and except that in applying this  
21 paragraph under title XXI, there shall be sub-  
22 stituted for references to provisions of this title  
23 corresponding provisions within title XXI.

24 “(F) EXPRESS LANE AGENCY.—

1           “(i) IN GENERAL.—In this paragraph, the  
2 term ‘Express Lane agency’ means a public  
3 agency that—

4           “(I) is determined by the State Med-  
5 icaid agency or the State CHIP agency (as  
6 applicable) to be capable of making the de-  
7 terminations of one or more eligibility re-  
8 quirements described in subparagraph  
9 (A)(i);

10          “(II) is identified in the State Med-  
11 icaid plan or the State CHIP plan; and

12          “(III) notifies the child’s family—

13           “(aa) of the information which  
14 shall be disclosed in accordance with  
15 this paragraph;

16           “(bb) that the information dis-  
17 closed will be used solely for purposes  
18 of determining eligibility for medical  
19 assistance under the State Medicaid  
20 plan or for child health assistance  
21 under the State CHIP plan; and

22           “(cc) that the family may elect to  
23 not have the information disclosed for  
24 such purposes; and

1 “(IV) enters into, or is subject to, an  
2 interagency agreement to limit the disclo-  
3 sure and use of the information disclosed.

4 “(ii) INCLUSION OF SPECIFIC PUBLIC  
5 AGENCIES.—Such term includes the following:

6 “(I) A public agency that determines  
7 eligibility for assistance under any of the  
8 following:

9 “(aa) The temporary assistance  
10 for needy families program funded  
11 under part A of title IV.

12 “(bb) A State program funded  
13 under part D of title IV.

14 “(cc) The State Medicaid plan.

15 “(dd) The State CHIP plan.

16 “(ee) The Food and Nutrition  
17 Act of 2008 (7 U.S.C. 2011 et seq.).

18 “(ff) The Head Start Act (42  
19 U.S.C. 9801 et seq.).

20 “(gg) The Richard B. Russell  
21 National School Lunch Act (42  
22 U.S.C. 1751 et seq.).

23 “(hh) The Child Nutrition Act of  
24 1966 (42 U.S.C. 1771 et seq.).

1           “(ii) The Child Care and Devel-  
2           opment Block Grant Act of 1990 (42  
3           U.S.C. 9858 et seq.).

4           “(jj) The Stewart B. McKinney  
5           Homeless Assistance Act (42 U.S.C.  
6           11301 et seq.).

7           “(kk) The United States Housing  
8           Act of 1937 (42 U.S.C. 1437 et seq.).

9           “(ll) The Native American Hous-  
10          ing Assistance and Self-Determination  
11          Act of 1996 (25 U.S.C. 4101 et seq.).

12          “(II) A State-specified governmental  
13          agency that has fiscal liability or legal re-  
14          sponsibility for the accuracy of the eligi-  
15          bility determination findings relied on by  
16          the State.

17          “(III) A public agency that is subject  
18          to an interagency agreement limiting the  
19          disclosure and use of the information dis-  
20          closed for purposes of determining eligi-  
21          bility under the State Medicaid plan or the  
22          State CHIP plan.

23          “(iii) EXCLUSIONS.—Such term does not  
24          include an agency that determines eligibility for  
25          a program established under the Social Services

1 Block Grant established under title XX or a  
2 private, for-profit organization.

3 “(iv) RULES OF CONSTRUCTION.—Nothing  
4 in this paragraph shall be construed as—

5 “(I) exempting a State Medicaid  
6 agency from complying with the require-  
7 ments of section 1902(a)(4) relating to  
8 merit-based personnel standards for em-  
9 ployees of the State Medicaid agency and  
10 safeguards against conflicts of interest); or

11 “(II) authorizing a State Medicaid  
12 agency that elects to use Express Lane  
13 agencies under this subparagraph to use  
14 the Express Lane option to avoid com-  
15 plying with such requirements for purposes  
16 of making eligibility determinations under  
17 the State Medicaid plan.

18 “(v) ADDITIONAL DEFINITIONS.—In this  
19 paragraph:

20 “(I) STATE.—The term ‘State’ means  
21 1 of the 50 States or the District of Co-  
22 lumbia.

23 “(II) STATE CHIP AGENCY.—The  
24 term ‘State CHIP agency’ means the State

1 agency responsible for administering the  
2 State CHIP plan.

3 “(III) STATE CHIP PLAN.—The term  
4 ‘State CHIP plan’ means the State child  
5 health plan established under title XXI  
6 and includes any waiver of such plan.

7 “(IV) STATE MEDICAID AGENCY.—  
8 The term ‘State Medicaid agency’ means  
9 the State agency responsible for admin-  
10 istering the State Medicaid plan.

11 “(V) STATE MEDICAID PLAN.—The  
12 term ‘State Medicaid plan’ means the  
13 State plan established under title XIX and  
14 includes any waiver of such plan.

15 “(G) CHILD DEFINED.—For purposes of this  
16 paragraph, the term ‘child’ means an individual  
17 under 19 years of age, or, at the option of a State,  
18 such higher age, not to exceed 21 years of age, as  
19 the State may elect.

20 “(H) APPLICATION.—This paragraph shall not  
21 apply to with respect to eligibility determinations  
22 made after September 30, 2013.”.

23 (2) CHIP.—Section 2107(e)(1) (42 U.S.C.  
24 1397gg(e)(1)) is amended by redesignating subpara-  
25 graphs (B), (C), and (D) as subparagraphs (C), (D),



1 and (E), respectively, and by inserting after sub-  
2 paragraph (A) the following new subparagraph:

3 “(B) Section 1902(e)(13) (relating to the  
4 State option to rely on findings from an Ex-  
5 press Lane agency to help evaluate a child’s eli-  
6 gibility for medical assistance).”.

7 (b) EVALUATION AND REPORT.—

8 (1) EVALUATION.—The Secretary shall con-  
9 duct, by grant, contract, or interagency agreement,  
10 a comprehensive, independent evaluation of the op-  
11 tion provided under the amendments made by sub-  
12 section (a). Such evaluation shall include an analysis  
13 of the effectiveness of the option, and shall include—

14 (A) obtaining a statistically valid sample of  
15 the children who were enrolled in the State  
16 Medicaid plan or the State CHIP plan through  
17 reliance on a finding made by an Express Lane  
18 agency and determining the percentage of chil-  
19 dren who were erroneously enrolled in such  
20 plans;

21 (B) determining whether enrolling children  
22 in such plans through reliance on a finding  
23 made by an Express Lane agency improves the  
24 ability of a State to identify and enroll low-in-

1           come, uninsured children who are eligible but  
2           not enrolled in such plans;

3           (C) evaluating the administrative costs or  
4           savings related to identifying and enrolling chil-  
5           dren in such plans through reliance on such  
6           findings, and the extent to which such costs dif-  
7           fer from the costs that the State otherwise  
8           would have incurred to identify and enroll low-  
9           income, uninsured children who are eligible but  
10          not enrolled in such plans; and

11          (D) any recommendations for legislative or  
12          administrative changes that would improve the  
13          effectiveness of enrolling children in such plans  
14          through reliance on such findings.

15          (2) REPORT TO CONGRESS.—Not later than  
16          September 30, 2012, the Secretary shall submit a  
17          report to Congress on the results of the evaluation  
18          under paragraph (1).

19          (3) FUNDING.—

20                 (A) IN GENERAL.—Out of any funds in the  
21                 Treasury not otherwise appropriated, there is  
22                 appropriated to the Secretary to carry out the  
23                 evaluation under this subsection \$5,000,000 for  
24                 the period of fiscal years 2009 through 2012.

1           (B) BUDGET AUTHORITY.—Subparagraph  
2           (A) constitutes budget authority in advance of  
3           appropriations Act and represents the obliga-  
4           tion of the Federal Government to provide for  
5           the payment of such amount to conduct the  
6           evaluation under this subsection.

7           (c) ELECTRONIC TRANSMISSION OF INFORMATION.—  
8           Section 1902 (42 U.S.C. 1396a) is amended by adding  
9           at the end the following new subsection:

10          “(dd) ELECTRONIC TRANSMISSION OF INFORMA-  
11          TION.—If the State agency determining eligibility for med-  
12          ical assistance under this title or child health assistance  
13          under title XXI verifies an element of eligibility based on  
14          information from an Express Lane Agency (as defined in  
15          subsection (e)(13)(F)), or from another public agency,  
16          then the applicant’s signature under penalty of perjury  
17          shall not be required as to such element. Any signature  
18          requirement for an application for medical assistance may  
19          be satisfied through an electronic signature, as defined in  
20          section 1710(1) of the Government Paperwork Elimini-  
21          nation Act (44 U.S.C. 3504 note). The requirements of  
22          subparagraphs (A) and (B) of section 1137(d)(2) may be  
23          met through evidence in digital or electronic form.”.

24          (d) AUTHORIZATION OF INFORMATION DISCLO-  
25          SURE.—

1           (1) IN GENERAL.—Title XIX is amended by  
2           adding at the end the following new section:

3   **“SEC. 1942. AUTHORIZATION TO RECEIVE RELEVANT IN-**  
4                           **FORMATION.**

5           “(a) IN GENERAL.—Notwithstanding any other pro-  
6   vision of law, a Federal or State agency or private entity  
7   in possession of the sources of data directly relevant to  
8   eligibility determinations under this title (including eligi-  
9   bility files maintained by Express Lane agencies described  
10  in section 1902(e)(13)(F), information described in para-  
11  graph (2) or (3) of section 1137(a), vital records informa-  
12  tion about births in any State, and information described  
13  in sections 453(i) and 1902(a)(25)(I)) is authorized to  
14  convey such data or information to the State agency ad-  
15  ministering the State plan under this title, to the extent  
16  such conveyance meets the requirements of subsection (b).

17           “(b) REQUIREMENTS FOR CONVEYANCE.—Data or  
18  information may be conveyed pursuant to subsection (a)  
19  only if the following requirements are met:

20           “(1) The individual whose circumstances are  
21   described in the data or information (or such indi-  
22   vidual’s parent, guardian, caretaker relative, or au-  
23   thorized representative) has either provided advance  
24   consent to disclosure or has not objected to disclo-

1 sure after receiving advance notice of disclosure and  
2 a reasonable opportunity to object.

3 “(2) Such data or information are used solely  
4 for the purposes of—

5 “(A) identifying individuals who are eligi-  
6 ble or potentially eligible for medical assistance  
7 under this title and enrolling or attempting to  
8 enroll such individuals in the State plan; and

9 “(B) verifying the eligibility of individuals  
10 for medical assistance under the State plan.

11 “(3) An interagency or other agreement, con-  
12 sistent with standards developed by the Secretary—

13 “(A) prevents the unauthorized use, disclo-  
14 sure, or modification of such data and other-  
15 wise meets applicable Federal requirements  
16 safeguarding privacy and data security; and

17 “(B) requires the State agency admin-  
18 istering the State plan to use the data and in-  
19 formation obtained under this section to seek to  
20 enroll individuals in the plan.

21 “(c) PENALTIES FOR IMPROPER DISCLOSURE.—

22 “(1) CIVIL MONEY PENALTY.—A private entity  
23 described in the subsection (a) that publishes, dis-  
24 closes, or makes known in any manner, or to any ex-  
25 tent not authorized by Federal law, any information

1       obtained under this section is subject to a civil  
2       money penalty in an amount equal to \$10,000 for  
3       each such unauthorized publication or disclosure.  
4       The provisions of section 1128A (other than sub-  
5       sections (a) and (b) and the second sentence of sub-  
6       section (f)) shall apply to a civil money penalty  
7       under this paragraph in the same manner as such  
8       provisions apply to a penalty or proceeding under  
9       section 1128A(a).

10           “(2) CRIMINAL PENALTY.—A private entity de-  
11       scribed in the subsection (a) that willfully publishes,  
12       discloses, or makes known in any manner, or to any  
13       extent not authorized by Federal law, any informa-  
14       tion obtained under this section shall be fined not  
15       more than \$10,000 or imprisoned not more than 1  
16       year, or both, for each such unauthorized publication  
17       or disclosure.

18           “(d) RULE OF CONSTRUCTION.—The limitations and  
19       requirements that apply to disclosure pursuant to this sec-  
20       tion shall not be construed to prohibit the conveyance or  
21       disclosure of data or information otherwise permitted  
22       under Federal law (without regard to this section).”.

23           (2) CONFORMING AMENDMENT TO TITLE XXI.—  
24       Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as

1 amended by subsection (a)(2), is amended by adding  
2 at the end the following new subparagraph:

3 “(F) Section 1942 (relating to authoriza-  
4 tion to receive data directly relevant to eligi-  
5 bility determinations).”.

6 (3) CONFORMING AMENDMENT TO PROVIDE AC-  
7 CESS TO DATA ABOUT ENROLLMENT IN INSURANCE  
8 FOR PURPOSES OF EVALUATING APPLICATIONS AND  
9 FOR CHIP.—Section 1902(a)(25)(I)(i) (42 U.S.C.  
10 1396a(a)(25)(I)(i)) is amended—

11 (A) by inserting “(and, at State option, in-  
12 dividuals who apply or whose eligibility for med-  
13 ical assistance is being evaluated in accordance  
14 with section 1902(e)(13)(D))” after “with re-  
15 spect to individuals who are eligible”; and

16 (B) by inserting “under this title (and, at  
17 State option, child health assistance under title  
18 XXI)” after “the State plan”.

19 (e) AUTHORIZATION FOR STATES ELECTING EX-  
20 PRESS LANE OPTION TO RECEIVE CERTAIN DATA DI-  
21 RECTLY RELEVANT TO DETERMINING ELIGIBILITY AND  
22 CORRECT AMOUNT OF ASSISTANCE.—The Secretary shall  
23 enter into such agreements as are necessary to permit a  
24 State that elects the Express Lane option under section  
25 1902(e)(13) of the Social Security Act to receive data di-

1 rectly relevant to eligibility determinations and deter-  
2 mining the correct amount of benefits under a State child  
3 health plan under CHIP or a State plan under Medicaid  
4 from the following:

5 (1) The National Directory of New Hires estab-  
6 lished under section 453(i) of the Social Security  
7 Act (42 U.S.C. 653(i)).

8 (2) Data regarding enrollment in insurance that  
9 may help to facilitate outreach and enrollment under  
10 the State Medicaid plan, the State CHIP plan, and  
11 such other programs as the Secretary may specify.

12 (f) EFFECTIVE DATE.—The amendments made by  
13 this section are effective on the date of the enactment of  
14 this Act.

## 15 **Subtitle B—Reducing Barriers to** 16 **Enrollment**

### 17 **SEC. 211. VERIFICATION OF DECLARATION OF CITIZENSHIP** 18 **OR NATIONALITY FOR PURPOSES OF ELIGI-** 19 **BILITY FOR MEDICAID AND CHIP.**

20 (a) ALTERNATIVE STATE PROCESS FOR  
21 VERIFICATION OF DECLARATION OF CITIZENSHIP OR NA-  
22 TIONALITY FOR PURPOSES OF ELIGIBILITY FOR MED-  
23 ICAID.—

24 (1) ALTERNATIVE TO DOCUMENTATION RE-  
25 QUIREMENT.—



1           (A) IN GENERAL.—Section 1902 (42  
2 U.S.C. 1396a), as amended by section 203(c),  
3 is amended—

4           (i) in subsection (a)(46)—

5           (I) by inserting “(A)” after  
6 “(46)”;

7           (II) by adding “and” after the  
8 semicolon; and

9           (III) by adding at the end the  
10 following new subparagraph:

11           “(B) provide, with respect to an individual de-  
12 claring to be a citizen or national of the United  
13 States for purposes of establishing eligibility under  
14 this title, that the State shall satisfy the require-  
15 ments of—

16           “(i) section 1903(x); or

17           “(ii) subsection (ee);”; and

18           (ii) by adding at the end the following  
19 new subsection:

20           “(ee)(1) For purposes of subsection (a)(46)(B)(ii),  
21 the requirements of this subsection with respect to an indi-  
22 vidual declaring to be a citizen or national of the United  
23 States for purposes of establishing eligibility under this  
24 title, are, in lieu of requiring the individual to present sat-  
25 isfactory documentary evidence of citizenship or nation-

1 ality under section 1903(x) (if the individual is not de-  
2 scribed in paragraph (2) of that section), as follows:

3           “(A) The State submits the name and social se-  
4           curity number of the individual to the Commissioner  
5           of Social Security as part of the program established  
6           under paragraph (2).

7           “(B) If the State receives notice from the Com-  
8           missioner of Social Security that the name or social  
9           security number, or the declaration of citizenship or  
10          nationality, of the individual is inconsistent with in-  
11          formation in the records maintained by the Commis-  
12          sioner—

13                 “(i) the State makes a reasonable effort to  
14                 identify and address the causes of such incon-  
15                 sistency, including through typographical or  
16                 other clerical errors, by contacting the indi-  
17                 vidual to confirm the accuracy of the name or  
18                 social security number submitted or declaration  
19                 of citizenship or nationality and by taking such  
20                 additional actions as the Secretary, through  
21                 regulation or other guidance, or the State may  
22                 identify, and continues to provide the individual  
23                 with medical assistance while making such ef-  
24                 fort; and

1           “(ii) in the case such inconsistency is not  
2 resolved under clause (i), the State—

3           “(I) notifies the individual of such  
4 fact;

5           “(II) provides the individual with a  
6 period of 90 days from the date on which  
7 the notice required under subclause (I) is  
8 received by the individual to either present  
9 satisfactory documentary evidence of citi-  
10 zenship or nationality (as defined in sec-  
11 tion 1903(x)(3)) or resolve the inconsist-  
12 ency with the Commissioner of Social Se-  
13 curity (and continues to provide the indi-  
14 vidual with medical assistance during such  
15 90-day period); and

16           “(III) disenrolls the individual from  
17 the State plan under this title within 30  
18 days after the end of such 90-day period if  
19 no such documentary evidence is presented  
20 or if such inconsistency is not resolved.

21           “(2)(A) Each State electing to satisfy the require-  
22 ments of this subsection for purposes of section  
23 1902(a)(46)(B) shall establish a program under which the  
24 State submits at least monthly to the Commissioner of So-  
25 cial Security for comparison of the name and social secu-

1 rity number, of each individual newly enrolled in the State  
2 plan under this title that month who is not described in  
3 section 1903(x)(2) and who declares to be a United States  
4 citizen or national, with information in records maintained  
5 by the Commissioner.

6 “(B) In establishing the State program under this  
7 paragraph, the State may enter into an agreement with  
8 the Commissioner of Social Security—

9 “(i) to provide, through an on-line system or  
10 otherwise, for the electronic submission of, and re-  
11 sponse to, the information submitted under subpara-  
12 graph (A) for an individual enrolled in the State  
13 plan under this title who declares to be citizen or na-  
14 tional on at least a monthly basis; or

15 “(ii) to provide for a determination of the con-  
16 sistency of the information submitted with the infor-  
17 mation maintained in the records of the Commis-  
18 sioner through such other method as agreed to by  
19 the State and the Commissioner and approved by  
20 the Secretary, provided that such method is no more  
21 burdensome for individuals to comply with than any  
22 burdens that may apply under a method described in  
23 clause (i).

24 “(C) The program established under this paragraph  
25 shall provide that, in the case of any individual who is

1 required to submit a social security number to the State  
2 under subparagraph (A) and who is unable to provide the  
3 State with such number, shall be provided with at least  
4 the reasonable opportunity to present satisfactory docu-  
5 mentary evidence of citizenship or nationality (as defined  
6 in section 1903(x)(3)) as is provided under clauses (i) and  
7 (ii) of section 1137(d)(4)(A) to an individual for the sub-  
8 mittal to the State of evidence indicating a satisfactory  
9 immigration status.

10       “(3)(A) The State agency implementing the plan ap-  
11 proved under this title shall, at such times and in such  
12 form as the Secretary may specify, provide information on  
13 the percentage each month that the inconsistent submis-  
14 sions bears to the total submissions made for comparison  
15 for such month. For purposes of this subparagraph, a  
16 name, social security number, or declaration of citizenship  
17 or nationality of an individual shall be treated as incon-  
18 sistent and included in the determination of such percent-  
19 age only if—

20               “(i) the information submitted by the individual  
21 is not consistent with information in records main-  
22 tained by the Commissioner of Social Security;

23               “(ii) the inconsistency is not resolved by the  
24 State;

1           “(iii) the individual was provided with a reason-  
2           able period of time to resolve the inconsistency with  
3           the Commissioner of Social Security or provide satis-  
4           factory documentation of citizenship status and did  
5           not successfully resolve such inconsistency; and

6           “(iv) payment has been made for an item or  
7           service furnished to the individual under this title.

8           “(B) If, for any fiscal year, the average monthly per-  
9           centage determined under subparagraph (A) is greater  
10          than 3 percent—

11           “(i) the State shall develop and adopt a correc-  
12           tive plan to review its procedures for verifying the  
13           identities of individuals seeking to enroll in the State  
14           plan under this title and to identify and implement  
15           changes in such procedures to improve their accu-  
16           racy; and

17           “(ii) pay to the Secretary an amount equal to  
18           the amount which bears the same ratio to the total  
19           payments under the State plan for the fiscal year for  
20           providing medical assistance to individuals who pro-  
21           vided inconsistent information as the number of in-  
22           dividuals with inconsistent information in excess of  
23           3 percent of such total submitted bears to the total  
24           number of individuals with inconsistent information.

1       “(C) The Secretary may waive, in certain limited  
2 cases, all or part of the payment under subparagraph  
3 (B)(ii) if the State is unable to reach the allowable error  
4 rate despite a good faith effort by such State.

5       “(D) Subparagraphs (A) and (B) shall not apply to  
6 a State for a fiscal year if there is an agreement described  
7 in paragraph (2)(B) in effect as of the close of the fiscal  
8 year that provides for the submission on a real-time basis  
9 of the information described in such paragraph.

10       “(4) Nothing in this subsection shall affect the rights  
11 of any individual under this title to appeal any  
12 disenrollment from a State plan.”.

13                       (B) COSTS OF IMPLEMENTING AND MAIN-  
14                       TAINING SYSTEM.—Section 1903(a)(3) (42  
15                       U.S.C. 1396b(a)(3)) is amended—

16                       (i) by striking “plus” at the end of  
17                       subparagraph (E) and inserting “and”,  
18                       and

19                       (ii) by adding at the end the following  
20                       new subparagraph:

21                       “(F)(i) 90 percent of the sums expended  
22                       during the quarter as are attributable to the de-  
23                       sign, development, or installation of such  
24                       mechanized verification and information re-  
25                       trieval systems as the Secretary determines are

1 necessary to implement section 1902(ee) (in-  
2 cluding a system described in paragraph (2)(B)  
3 thereof), and

4 “(ii) 75 percent of the sums expended dur-  
5 ing the quarter as are attributable to the oper-  
6 ation of systems to which clause (i) applies,  
7 plus”.

8 (2) LIMITATION ON WAIVER AUTHORITY.—Not-  
9 withstanding any provision of section 1115 of the  
10 Social Security Act (42 U.S.C. 1315), or any other  
11 provision of law, the Secretary may not waive the re-  
12 quirements of section 1902(a)(46)(B) of such Act  
13 (42 U.S.C. 1396a(a)(46)(B)) with respect to a  
14 State.

15 (3) CONFORMING AMENDMENTS.—Section 1903  
16 (42 U.S.C. 1396b) is amended—

17 (A) in subsection (i)(22), by striking “sub-  
18 section (x)” and inserting “section  
19 1902(a)(46)(B)”; and

20 (B) in subsection (x)(1), by striking “sub-  
21 section (i)(22)” and inserting “section  
22 1902(a)(46)(B)(i)”.

23 (4) APPROPRIATION.—Out of any money in the  
24 Treasury of the United States not otherwise appro-  
25 priated, there are appropriated to the Commissioner



1 of Social Security \$5,000,000 to remain available  
2 until expended to carry out the Commissioner's re-  
3 sponsibilities under section 1902(ee) of the Social  
4 Security Act, as added by subsection (a).

5 (b) CLARIFICATION OF REQUIREMENTS RELATING  
6 TO PRESENTATION OF SATISFACTORY DOCUMENTARY  
7 EVIDENCE OF CITIZENSHIP OR NATIONALITY.—

8 (1) ACCEPTANCE OF DOCUMENTARY EVIDENCE  
9 ISSUED BY A FEDERALLY RECOGNIZED INDIAN  
10 TRIBE.—Section 1903(x)(3)(B) (42 U.S.C.  
11 1396b(x)(3)(B)) is amended—

12 (A) by redesignating clause (v) as clause  
13 (vi); and

14 (B) by inserting after clause (iv), the fol-  
15 lowing new clause:

16 “(v)(I) Except as provided in subclause (II), a  
17 document issued by a federally recognized Indian  
18 tribe evidencing membership or enrollment in, or af-  
19 filiation with, such tribe (such as a tribal enrollment  
20 card or certificate of degree of Indian blood).

21 “(II) With respect to those federally recognized  
22 Indian tribes located within States having an inter-  
23 national border whose membership includes individ-  
24 uals who are not citizens of the United States, the  
25 Secretary shall, after consulting with such tribes,

1 issue regulations authorizing the presentation of  
2 such other forms of documentation (including tribal  
3 documentation, if appropriate) that the Secretary  
4 determines to be satisfactory documentary evidence  
5 of citizenship or nationality for purposes of satis-  
6 fying the requirement of this subsection.”.

7 (2) REQUIREMENT TO PROVIDE REASONABLE  
8 OPPORTUNITY TO PRESENT SATISFACTORY DOCU-  
9 MENTARY EVIDENCE.—Section 1903(x) (42 U.S.C.  
10 1396b(x)) is amended by adding at the end the fol-  
11 lowing new paragraph:

12 “(4) In the case of an individual declaring to be a  
13 citizen or national of the United States with respect to  
14 whom a State requires the presentation of satisfactory  
15 documentary evidence of citizenship or nationality under  
16 section 1902(a)(46)(B)(i), the individual shall be provided  
17 at least the reasonable opportunity to present satisfactory  
18 documentary evidence of citizenship or nationality under  
19 this subsection as is provided under clauses (i) and (ii)  
20 of section 1137(d)(4)(A) to an individual for the submittal  
21 to the State of evidence indicating a satisfactory immigra-  
22 tion status.”.

23 (3) CHILDREN BORN IN THE UNITED STATES  
24 TO MOTHERS ELIGIBLE FOR MEDICAID.—

1 (A) CLARIFICATION OF RULES.—Section  
2 1903(x) (42 U.S.C. 1396b(x)), as amended by  
3 paragraph (2), is amended—

4 (i) in paragraph (2)—

5 (I) in subparagraph (C), by strik-  
6 ing “or” at the end;

7 (II) by redesignating subpara-  
8 graph (D) as subparagraph (E); and

9 (III) by inserting after subpara-  
10 graph (C) the following new subpara-  
11 graph:

12 “(D) pursuant to the application of section  
13 1902(e)(4) (and, in the case of an individual who is  
14 eligible for medical assistance on such basis, the in-  
15 dividual shall be deemed to have provided satisfac-  
16 tory documentary evidence of citizenship or nation-  
17 ality and shall not be required to provide further  
18 documentary evidence on any date that occurs dur-  
19 ing or after the period in which the individual is eli-  
20 gible for medical assistance on such basis); or”;

21 (ii) by adding at the end the following  
22 new paragraph:

23 “(5) Nothing in subparagraph (A) or (B) of section  
24 1902(a)(46), the preceding paragraphs of this subsection,  
25 or the Deficit Reduction Act of 2005, including section

1 6036 of such Act, shall be construed as changing the re-  
2 quirement of section 1902(e)(4) that a child born in the  
3 United States to an alien mother for whom medical assist-  
4 ance for the delivery of such child is available as treatment  
5 of an emergency medical condition pursuant to subsection  
6 (v) shall be deemed eligible for medical assistance during  
7 the first year of such child’s life.”.

8 (B) STATE REQUIREMENT TO ISSUE SEPA-  
9 RATE IDENTIFICATION NUMBER.—Section  
10 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended  
11 by adding at the end the following new sen-  
12 tence: “Notwithstanding the preceding sentence,  
13 in the case of a child who is born in the United  
14 States to an alien mother for whom medical as-  
15 sistance for the delivery of the child is made  
16 available pursuant to section 1903(v), the State  
17 immediately shall issue a separate identification  
18 number for the child upon notification by the  
19 facility at which such delivery occurred of the  
20 child’s birth.”.

21 (4) TECHNICAL AMENDMENTS.—Section  
22 1903(x)(2) (42 U.S.C. 1396b(x)) is amended—

23 (A) in subparagraph (B)—

1 (i) by realigning the left margin of the  
2 matter preceding clause (i) 2 ems to the  
3 left; and

4 (ii) by realigning the left margins of  
5 clauses (i) and (ii), respectively, 2 ems to  
6 the left; and

7 (B) in subparagraph (C)—

8 (i) by realigning the left margin of the  
9 matter preceding clause (i) 2 ems to the  
10 left; and

11 (ii) by realigning the left margins of  
12 clauses (i) and (ii), respectively, 2 ems to  
13 the left.

14 (c) APPLICATION OF DOCUMENTATION SYSTEM TO  
15 CHIP.—

16 (1) IN GENERAL.—Section 2105(c) (42 U.S.C.  
17 1397ee(c)), as amended by section 114(a), is amend-  
18 ed by adding at the end the following new para-  
19 graph:

20 “(9) CITIZENSHIP DOCUMENTATION REQUIRE-  
21 MENTS.—

22 “(A) IN GENERAL.—No payment may be  
23 made under this section with respect to an indi-  
24 vidual who has, or is, declared to be a citizen  
25 or national of the United States for purposes of

1 establishing eligibility under this title unless the  
2 State meets the requirements of section  
3 1902(a)(46)(B) with respect to the individual.

4 “(B) ENHANCED PAYMENTS.—Notwith-  
5 standing subsection (b), the enhanced FMAP  
6 with respect to payments under subsection (a)  
7 for expenditures described in clause (i) or (ii) of  
8 section 1903(a)(3)(F) necessary to comply with  
9 subparagraph (A) shall in no event be less than  
10 90 percent and 75 percent, respectively.”.

11 (2) NONAPPLICATION OF ADMINISTRATIVE EX-  
12 PENDITURES CAP.—Section 2105(c)(2)(C) (42  
13 U.S.C. 1397ee(c)(2)(C)), as amended by section  
14 202(b), is amended by adding at the end the fol-  
15 lowing:

16 “(ii) EXPENDITURES TO COMPLY  
17 WITH CITIZENSHIP OR NATIONALITY  
18 VERIFICATION REQUIREMENTS.—Expendi-  
19 tures necessary for the State to comply  
20 with paragraph (9)(A).”.

21 (d) EFFECTIVE DATE.—

22 (1) IN GENERAL.—

23 (A) IN GENERAL.—Except as provided in  
24 subparagraph (B), the amendments made by

1           this section shall take effect on October 1,  
2           2009.

3           (B)    TECHNICAL    AMENDMENTS.—The  
4           amendments made by—

5                   (i) paragraphs (1), (2), and (3) of  
6                   subsection (b) shall take effect as if in-  
7                   cluded in the enactment of section 6036 of  
8                   the Deficit Reduction Act of 2005 (Public  
9                   Law 109–171; 120 Stat. 80); and

10                   (ii) paragraph (4) of subsection (b)  
11                   shall take effect as if included in the enact-  
12                   ment of section 405 of division B of the  
13                   Tax Relief and Health Care Act of 2006  
14                   (Public Law 109–432; 120 Stat. 2996).

15           (2)    RESTORATION OF ELIGIBILITY.—In the  
16           case of an individual who, during the period that  
17           began on July 1, 2006, and ends on October 1,  
18           2009, was determined to be ineligible for medical as-  
19           sistance under a State Medicaid plan, including any  
20           waiver of such plan, solely as a result of the applica-  
21           tion of subsections (i)(22) and (x) of section 1903  
22           of the Social Security Act (as in effect during such  
23           period), but who would have been determined eligible  
24           for such assistance if such subsections, as amended  
25           by subsection (b), had applied to the individual, a

1 State may deem the individual to be eligible for such  
2 assistance as of the date that the individual was de-  
3 termined to be ineligible for such medical assistance  
4 on such basis.

5 (3) SPECIAL TRANSITION RULE FOR INDIANS.—  
6 During the period that begins on July 1, 2006, and  
7 ends on the effective date of final regulations issued  
8 under subclause (II) of section 1903(x)(3)(B)(v) of  
9 the Social Security Act (42 U.S.C.  
10 1396b(x)(3)(B)(v)) (as added by subsection  
11 (b)(1)(B)), an individual who is a member of a fed-  
12 erally-recognized Indian tribe described in subclause  
13 (II) of that section who presents a document de-  
14 scribed in subclause (I) of such section that is issued  
15 by such Indian tribe, shall be deemed to have pre-  
16 sented satisfactory evidence of citizenship or nation-  
17 ality for purposes of satisfying the requirement of  
18 subsection (x) of section 1903 of such Act.

19 **SEC. 212. REDUCING ADMINISTRATIVE BARRIERS TO EN-**  
20 **ROLLMENT.**

21 Section 2102(b) (42 U.S.C. 1397bb(b)) is amended—

22 (1) by redesignating paragraph (4) as para-  
23 graph (5); and

24 (2) by inserting after paragraph (3) the fol-  
25 lowing new paragraph:



1           “(4) REDUCTION OF ADMINISTRATIVE BAR-  
2           RIERS TO ENROLLMENT.—

3           “(A) IN GENERAL.—Subject to subpara-  
4           graph (B), the plan shall include a description  
5           of the procedures used to reduce administrative  
6           barriers to the enrollment of children and preg-  
7           nant women who are eligible for medical assist-  
8           ance under title XIX or for child health assist-  
9           ance or health benefits coverage under this title.  
10          Such procedures shall be established and re-  
11          vised as often as the State determines appro-  
12          priate to take into account the most recent in-  
13          formation available to the State identifying  
14          such barriers.

15          “(B) DEEMED COMPLIANCE IF JOINT AP-  
16          PLICATION AND RENEWAL PROCESS THAT PER-  
17          MITS APPLICATION OTHER THAN IN PERSON.—  
18          A State shall be deemed to comply with sub-  
19          paragraph (A) if the State’s application and re-  
20          newal forms and supplemental forms (if any)  
21          and information verification process is the same  
22          for purposes of establishing and renewing eligi-  
23          bility for children and pregnant women for  
24          medical assistance under title XIX and child  
25          health assistance under this title, and such

1 process does not require an application to be  
2 made in person or a face-to-face interview.”.

3 **SEC. 213. MODEL OF INTERSTATE COORDINATED ENROLL-**  
4 **MENT AND COVERAGE PROCESS.**

5 (a) IN GENERAL.—In order to assure continuity of  
6 coverage of low-income children under the Medicaid pro-  
7 gram and the State Children’s Health Insurance Program  
8 (CHIP), not later than 18 months after the date of the  
9 enactment of this Act, the Secretary of Health and  
10 Human Services, in consultation with State Medicaid and  
11 CHIP directors and organizations representing program  
12 beneficiaries, shall develop a model process for the coordi-  
13 nation of the enrollment, retention, and coverage under  
14 such programs of children who, because of migration of  
15 families, emergency evacuations, natural or other disas-  
16 ters, public health emergencies, educational needs, or oth-  
17 erwise, frequently change their State of residency or other-  
18 wise are temporarily located outside of the State of their  
19 residency.

20 (b) REPORT TO CONGRESS.—After development of  
21 such model process, the Secretary of Health and Human  
22 Services shall submit to Congress a report describing addi-  
23 tional steps or authority needed to make further improve-  
24 ments to coordinate the enrollment, retention, and cov-

1 erage under CHIP and Medicaid of children described in  
2 subsection (a).

3 **SEC. 214. PERMITTING STATES TO ENSURE COVERAGE**  
4 **WITHOUT A 5-YEAR DELAY OF CERTAIN CHIL-**  
5 **DREN AND PREGNANT WOMEN UNDER THE**  
6 **MEDICAID PROGRAM AND CHIP.**

7 (a) PURPOSE.—In order to promote the health of  
8 needy children and pregnant women residing lawfully in  
9 the United States, States should be permitted to waive  
10 certain restrictions which result in a 5-year delay for cov-  
11 erage of necessary health services for such children and  
12 women under the Medicaid program and CHIP.

13 (b) MEDICAID PROGRAM.—Section 1903(v) of the  
14 Social Security Act (42 U.S.C. 1396b(v)) is amended—

15 (1) in paragraph (1), by striking “paragraph  
16 (2)” and inserting “paragraphs (2) and (4)”; and

17 (2) by adding at the end the following new  
18 paragraph:

19 “(4)(A) A State may elect (in a plan amendment  
20 under this title) to provide, notwithstanding sections  
21 401(a), 402(b), 403, and 421 of Public Law 104–193,  
22 medical assistance under a State plan under this title to  
23 children and pregnant women who are lawfully residing  
24 in the United States (including battered individuals de-

1 scribed in section 431(c) of such Act) and are otherwise  
2 eligible for such assistance.

3 “(B) Such election may be made only with respect  
4 to either or both of the following categories of individuals:

5 “(i) Children.

6 “(ii) Pregnant women.

7 “(C) In this paragraph:

8 “(i) The term ‘pregnant women’ means  
9 women during pregnancy (and during the 60-  
10 day period beginning on the last day of the  
11 pregnancy).

12 “(ii) The term ‘children’ means individuals  
13 under age 19 (or such higher age as the State  
14 has elected under section 1902(l)(1)(D)), in-  
15 cluding optional targeted low-income children  
16 described in section 1905(u)(2)(B).”.

17 (c) CHIP.—Section 2107(e)(1) of such Act (42  
18 U.S.C. 1397gg(e)(1)), as amended by section 203(a)(2)  
19 and 203(d)(2), is amended by redesignating subpara-  
20 graphs (E) and (F) as subparagraphs (F) and (G), respec-  
21 tively and by inserting after subparagraph (D) the fol-  
22 lowing new subparagraph:

23 “(E) Paragraph (4) of section 1903(v), in-  
24 sofar as it relates to the category of children or  
25 pregnant women (as such terms are defined in

1 such paragraph), but only if the State has elect-  
2 ed to apply such paragraph with respect to such  
3 category of children or pregnant women under  
4 title XIX and only if, in the case of pregnant  
5 women, the State has elected the option under  
6 section 2111 to provide assistance for pregnant  
7 women under this title.”.

8 (d) CONFORMING AMENDMENT.—Section 423(d)(1)  
9 of Public Law 104-193 is amended by inserting before the  
10 period the following: “and medical or child health assist-  
11 ance furnished under section 1903(v)(4) or 2107(e)(1)(E),  
12 respectively, of the Social Security Act”.

13 (e) EFFECTIVE DATE.—The amendments made by  
14 this section take effect on the date of the enactment of  
15 this Act.

16 **TITLE III—REDUCING BARRIERS**  
17 **TO PROVIDING PREMIUM AS-**  
18 **SISTANCE**

19 **Subtitle A—Additional State Op-**  
20 **tion for Providing Premium As-**  
21 **sistance**

22 **SEC. 301. ADDITIONAL STATE OPTION FOR PROVIDING**  
23 **PREMIUM ASSISTANCE.**

24 (a) CHIP.—

1           (1) IN GENERAL.—Section 2105(c) (42 U.S.C.  
2           1397ee(c)), as amended by sections 114(a) and  
3           211(c), is amended by adding at the end the fol-  
4           lowing:

5           “(10) STATE OPTION TO OFFER PREMIUM AS-  
6           SISTANCE.—

7           “(A) IN GENERAL.—A State may elect to  
8           offer a premium assistance subsidy (as defined  
9           in subparagraph (C)) for qualified employer-  
10          sponsored coverage (as defined in subparagraph  
11          (B)) to all targeted low-income children who are  
12          eligible for child health assistance under the  
13          plan and have access to such coverage in ac-  
14          cordance with the requirements of this para-  
15          graph. No subsidy shall be provided to a tar-  
16          geted low-income child under this paragraph  
17          unless the child (or the child’s parent) volun-  
18          tarily elects to receive such a subsidy. A State  
19          may not require such an election as a condition  
20          of receipt of child health assistance.

21          “(B) QUALIFIED EMPLOYER-SPONSORED  
22          COVERAGE.—

23                 “(i) IN GENERAL.—Subject to clause  
24                 (ii), in this paragraph, the term ‘qualified  
25                 employer-sponsored coverage’ means a

1 group health plan or health insurance cov-  
2 erage offered through an employer—

3 “(I) that qualifies as creditable  
4 coverage as a group health plan under  
5 section 2701(c)(1) of the Public  
6 Health Service Act;

7 “(II) for which the employer con-  
8 tribution toward any premium for  
9 such coverage is at least 40 percent;  
10 and

11 “(III) that is offered to all indi-  
12 viduals in a manner that would be  
13 considered a nondiscriminatory eligi-  
14 bility classification for purposes of  
15 paragraph (3)(A)(ii) of section 105(h)  
16 of the Internal Revenue Code of 1986  
17 (but determined without regard to  
18 clause (i) of subparagraph (B) of such  
19 paragraph).

20 “(ii) EXCEPTION.—Such term does  
21 not include coverage consisting of—

22 “(I) benefits provided under a  
23 health flexible spending arrangement  
24 (as defined in section 106(c)(2) of the  
25 Internal Revenue Code of 1986); or

1           “(II) a high deductible health  
2           plan (as defined in section 223(e)(2)  
3           of such Code), without regard to  
4           whether the plan is purchased in con-  
5           junction with a health savings account  
6           (as defined under section 223(d) of  
7           such Code).

8           “(C) PREMIUM ASSISTANCE SUBSIDY.—

9           “(i) IN GENERAL.—In this paragraph,  
10          the term ‘premium assistance subsidy’  
11          means, with respect to a targeted low-in-  
12          come child, the amount equal to the dif-  
13          ference between the employee contribution  
14          required for enrollment only of the em-  
15          ployee under qualified employer-sponsored  
16          coverage and the employee contribution re-  
17          quired for enrollment of the employee and  
18          the child in such coverage, less any appli-  
19          cable premium cost-sharing applied under  
20          the State child health plan (subject to the  
21          limitations imposed under section 2103(e),  
22          including the requirement to count the  
23          total amount of the employee contribution  
24          required for enrollment of the employee  
25          and the child in such coverage toward the



1 annual aggregate cost-sharing limit applied  
2 under paragraph (3)(B) of such section).

3 “(ii) STATE PAYMENT OPTION.—A  
4 State may provide a premium assistance  
5 subsidy either as reimbursement to an em-  
6 ployee for out-of-pocket expenditures or,  
7 subject to clause (iii), directly to the em-  
8 ployee’s employer.

9 “(iii) EMPLOYER OPT-OUT.—An em-  
10 ployer may notify a State that it elects to  
11 opt-out of being directly paid a premium  
12 assistance subsidy on behalf of an em-  
13 ployee. In the event of such a notification,  
14 an employer shall withhold the total  
15 amount of the employee contribution re-  
16 quired for enrollment of the employee and  
17 the child in the qualified employer-spon-  
18 sored coverage and the State shall pay the  
19 premium assistance subsidy directly to the  
20 employee.

21 “(iv) TREATMENT AS CHILD HEALTH  
22 ASSISTANCE.—Expenditures for the provi-  
23 sion of premium assistance subsidies shall  
24 be considered child health assistance de-  
25 scribed in paragraph (1)(C) of subsection

1 (a) for purposes of making payments  
2 under that subsection.

3 “(D) APPLICATION OF SECONDARY PAYOR  
4 RULES.—The State shall be a secondary payor  
5 for any items or services provided under the  
6 qualified employer-sponsored coverage for which  
7 the State provides child health assistance under  
8 the State child health plan.

9 “(E) REQUIREMENT TO PROVIDE SUPPLE-  
10 MENTAL COVERAGE FOR BENEFITS AND COST-  
11 SHARING PROTECTION PROVIDED UNDER THE  
12 STATE CHILD HEALTH PLAN.—

13 “(i) IN GENERAL.—Notwithstanding  
14 section 2110(b)(1)(C), the State shall pro-  
15 vide for each targeted low-income child en-  
16 rolled in qualified employer-sponsored cov-  
17 erage, supplemental coverage consisting  
18 of—

19 “(I) items or services that are  
20 not covered, or are only partially cov-  
21 ered, under the qualified employer-  
22 sponsored coverage; and

23 “(II) cost-sharing protection con-  
24 sistent with section 2103(e).

1           “(ii) RECORD KEEPING REQUIRE-  
2           MENTS.—For purposes of carrying out  
3           clause (i), a State may elect to directly pay  
4           out-of-pocket expenditures for cost-sharing  
5           imposed under the qualified employer-spon-  
6           sored coverage and collect or not collect all  
7           or any portion of such expenditures from  
8           the parent of the child.

9           “(F) APPLICATION OF WAITING PERIOD  
10          IMPOSED UNDER THE STATE.—Any waiting pe-  
11          riod imposed under the State child health plan  
12          prior to the provision of child health assistance  
13          to a targeted low-income child under the State  
14          plan shall apply to the same extent to the provi-  
15          sion of a premium assistance subsidy for the  
16          child under this paragraph.

17          “(G) OPT-OUT PERMITTED FOR ANY  
18          MONTH.—A State shall establish a process for  
19          permitting the parent of a targeted low-income  
20          child receiving a premium assistance subsidy to  
21          disenroll the child from the qualified employer-  
22          sponsored coverage and enroll the child in, and  
23          receive child health assistance under, the State  
24          child health plan, effective on the first day of  
25          any month for which the child is eligible for

1 such assistance and in a manner that ensures  
2 continuity of coverage for the child.

3 “(H) APPLICATION TO PARENTS.—If a  
4 State provides child health assistance or health  
5 benefits coverage to parents of a targeted low-  
6 income child in accordance with section  
7 2111(b), the State may elect to offer a pre-  
8 mium assistance subsidy to a parent of a tar-  
9 geted low-income child who is eligible for such  
10 a subsidy under this paragraph in the same  
11 manner as the State offers such a subsidy for  
12 the enrollment of the child in qualified em-  
13 ployer-sponsored coverage, except that—

14 “(i) the amount of the premium as-  
15 sistance subsidy shall be increased to take  
16 into account the cost of the enrollment of  
17 the parent in the qualified employer-spon-  
18 sored coverage or, at the option of the  
19 State if the State determines it cost-effec-  
20 tive, the cost of the enrollment of the  
21 child’s family in such coverage; and

22 “(ii) any reference in this paragraph  
23 to a child is deemed to include a reference  
24 to the parent or, if applicable under clause  
25 (i), the family of the child.

1                   “(I) ADDITIONAL STATE OPTION FOR PRO-  
2                   VIDING PREMIUM ASSISTANCE.—

3                   “(i) IN GENERAL.—A State may es-  
4                   tablish an employer-family premium assist-  
5                   ance purchasing pool for employers with  
6                   less than 250 employees who have at least  
7                   1 employee who is a pregnant woman eligi-  
8                   ble for assistance under the State child  
9                   health plan (including through the applica-  
10                  tion of an option described in section  
11                  2112(f)) or a member of a family with at  
12                  least 1 targeted low-income child and to  
13                  provide a premium assistance subsidy  
14                  under this paragraph for enrollment in  
15                  coverage made available through such pool.

16                  “(ii) ACCESS TO CHOICE OF COV-  
17                  ERAGE.—A State that elects the option  
18                  under clause (i) shall identify and offer ac-  
19                  cess to not less than 2 private health plans  
20                  that are health benefits coverage that is  
21                  equivalent to the benefits coverage in a  
22                  benchmark benefit package described in  
23                  section 2103(b) or benchmark-equivalent  
24                  coverage that meets the requirements of

1 section 2103(a)(2) for employees described  
2 in clause (i).

3 “(iii) CLARIFICATION OF PAYMENT  
4 FOR ADMINISTRATIVE EXPENDITURES.—

5 Nothing in this subparagraph shall be con-  
6 strued as permitting payment under this  
7 section for administrative expenditures at-  
8 tributable to the establishment or oper-  
9 ation of such pool, except to the extent  
10 that such payment would otherwise be per-  
11 mitted under this title.

12 “(J) NO EFFECT ON PREMIUM ASSISTANCE  
13 WAIVER PROGRAMS.—Nothing in this para-  
14 graph shall be construed as limiting the author-  
15 ity of a State to offer premium assistance under  
16 section 1906 or 1906A, a waiver described in  
17 paragraph (2)(B) or (3), a waiver approved  
18 under section 1115, or other authority in effect  
19 prior to the date of enactment of the Children’s  
20 Health Insurance Program Reauthorization Act  
21 of 2009.

22 “(K) NOTICE OF AVAILABILITY.—If a  
23 State elects to provide premium assistance sub-  
24 sidies in accordance with this paragraph, the  
25 State shall—

1           “(i) include on any application or en-  
2           rollment form for child health assistance a  
3           notice of the availability of premium assist-  
4           ance subsidies for the enrollment of tar-  
5           geted low-income children in qualified em-  
6           ployer-sponsored coverage;

7           “(ii) provide, as part of the applica-  
8           tion and enrollment process under the  
9           State child health plan, information de-  
10          scribing the availability of such subsidies  
11          and how to elect to obtain such a subsidy;  
12          and

13          “(iii) establish such other procedures  
14          as the State determines necessary to en-  
15          sure that parents are fully informed of the  
16          choices for receiving child health assistance  
17          under the State child health plan or  
18          through the receipt of premium assistance  
19          subsidies.

20          “(L) APPLICATION TO QUALIFIED EM-  
21          PLOYER-SPONSORED BENCHMARK COVERAGE.—

22          If a group health plan or health insurance cov-  
23          erage offered through an employer is certified  
24          by an actuary as health benefits coverage that  
25          is equivalent to the benefits coverage in a

1 benchmark benefit package described in section  
2 2103(b) or benchmark-equivalent coverage that  
3 meets the requirements of section 2103(a)(2),  
4 the State may provide premium assistance sub-  
5 sidies for enrollment of targeted low-income  
6 children in such group health plan or health in-  
7 surance coverage in the same manner as such  
8 subsidies are provided under this paragraph for  
9 enrollment in qualified employer-sponsored cov-  
10 erage, but without regard to the requirement to  
11 provide supplemental coverage for benefits and  
12 cost-sharing protection provided under the  
13 State child health plan under subparagraph  
14 (E).

15 “(M) SATISFACTION OF COST-EFFECTIVE-  
16 NESS TEST.—Premium assistance subsidies for  
17 qualified employer-sponsored coverage offered  
18 under this paragraph shall be deemed to meet  
19 the requirement of subparagraph (A) of para-  
20 graph (3).”.

21 (2) DETERMINATION OF COST-EFFECTIVENESS  
22 FOR PREMIUM ASSISTANCE OR PURCHASE OF FAM-  
23 ILY COVERAGE.—

24 (A) IN GENERAL.—Section 2105(c)(3)(A)  
25 (42 U.S.C. 1397ee(c)(3)(A)) is amended by



1 striking “relative to” and all that follows  
2 through the comma and inserting “relative to

3 “(i) the amount of expenditures under  
4 the State child health plan, including ad-  
5 ministrative expenditures, that the State  
6 would have made to provide comparable  
7 coverage of the targeted low-income child  
8 involved or the family involved (as applica-  
9 ble); or

10 “(ii) the aggregate amount of expendi-  
11 tures that the State would have made  
12 under the State child health plan, includ-  
13 ing administrative expenditures, for pro-  
14 viding coverage under such plan for all  
15 such children or families.”.

16 (B) NONAPPLICATION TO PREVIOUSLY AP-  
17 PROVED COVERAGE.—The amendment made by  
18 subparagraph (A) shall not apply to coverage  
19 the purchase of which has been approved by the  
20 Secretary under section 2105(c)(3) of the Social  
21 Security Act prior to the date of enactment of  
22 this Act.

23 (b) MEDICAID.—Title XIX is amended by inserting  
24 after section 1906 the following new section:

1 “PREMIUM ASSISTANCE OPTION FOR CHILDREN

2 “SEC. 1906A. (a) IN GENERAL.—A State may elect  
3 to offer a premium assistance subsidy (as defined in sub-  
4 section (c)) for qualified employer-sponsored coverage (as  
5 defined in subsection (b)) to all individuals under age 19  
6 who are entitled to medical assistance under this title (and  
7 to the parent of such an individual) who have access to  
8 such coverage if the State meets the requirements of this  
9 section.

10 “(b) QUALIFIED EMPLOYER-SPONSORED COV-  
11 ERAGE.—

12 “(1) IN GENERAL.—Subject to paragraph (2)),  
13 in this paragraph, the term ‘qualified employer-spon-  
14 sored coverage’ means a group health plan or health  
15 insurance coverage offered through an employer—

16 “(A) that qualifies as creditable coverage  
17 as a group health plan under section 2701(c)(1)  
18 of the Public Health Service Act;

19 “(B) for which the employer contribution  
20 toward any premium for such coverage is at  
21 least 40 percent; and

22 “(C) that is offered to all individuals in a  
23 manner that would be considered a nondiscrim-  
24 inatory eligibility classification for purposes of  
25 paragraph (3)(A)(ii) of section 105(h) of the

1 Internal Revenue Code of 1986 (but determined  
2 without regard to clause (i) of subparagraph  
3 (B) of such paragraph).

4 “(2) EXCEPTION.—Such term does not include  
5 coverage consisting of—

6 “(A) benefits provided under a health flexi-  
7 ble spending arrangement (as defined in section  
8 106(c)(2) of the Internal Revenue Code of  
9 1986); or

10 “(B) a high deductible health plan (as de-  
11 fined in section 223(c)(2) of such Code), with-  
12 out regard to whether the plan is purchased in  
13 conjunction with a health savings account (as  
14 defined under section 223(d) of such Code).

15 “(3) TREATMENT AS THIRD PARTY LIABIL-  
16 ITY.—The State shall treat the coverage provided  
17 under qualified employer-sponsored coverage as a  
18 third party liability under section 1902(a)(25).

19 “(c) PREMIUM ASSISTANCE SUBSIDY.—In this sec-  
20 tion, the term ‘premium assistance subsidy’ means the  
21 amount of the employee contribution for enrollment in the  
22 qualified employer-sponsored coverage by the individual  
23 under age 19 or by the individual’s family. Premium as-  
24 sistance subsidies under this section shall be considered,

1 for purposes of section 1903(a), to be a payment for med-  
2 ical assistance.

3 “(d) VOLUNTARY PARTICIPATION.—

4 “(1) EMPLOYERS.—Participation by an em-  
5 ployer in a premium assistance subsidy offered by a  
6 State under this section shall be voluntary. An em-  
7 ployer may notify a State that it elects to opt-out of  
8 being directly paid a premium assistance subsidy on  
9 behalf of an employee.

10 “(2) BENEFICIARIES.—No subsidy shall be pro-  
11 vided to an individual under age 19 under this sec-  
12 tion unless the individual (or the individual’s parent)  
13 voluntarily elects to receive such a subsidy. A State  
14 may not require such an election as a condition of  
15 receipt of medical assistance. State may not require,  
16 as a condition of an individual under age 19 (or the  
17 individual’s parent) being or remaining eligible for  
18 medical assistance under this title, apply for enroll-  
19 ment in qualified employer-sponsored coverage under  
20 this section.

21 “(3) OPT-OUT PERMITTED FOR ANY MONTH.—

22 A State shall establish a process for permitting the  
23 parent of an individual under age 19 receiving a pre-  
24 mium assistance subsidy to disenroll the individual  
25 from the qualified employer-sponsored coverage.

1       “(e) REQUIREMENT TO PAY PREMIUMS AND COST-  
2 SHARING AND PROVIDE SUPPLEMENTAL COVERAGE.—In  
3 the case of the participation of an individual under age  
4 19 (or the individual’s parent) in a premium assistance  
5 subsidy under this section for qualified employer-spon-  
6 sored coverage, the State shall provide for payment of all  
7 enrollee premiums for enrollment in such coverage and all  
8 deductibles, coinsurance, and other cost-sharing obliga-  
9 tions for items and services otherwise covered under the  
10 State plan under this title (exceeding the amount other-  
11 wise permitted under section 1916 or, if applicable, section  
12 1916A). The fact that an individual under age 19 (or a  
13 parent) elects to enroll in qualified employer-sponsored  
14 coverage under this section shall not change the individ-  
15 ual’s (or parent’s) eligibility for medical assistance under  
16 the State plan, except insofar as section 1902(a)(25) pro-  
17 vides that payments for such assistance shall first be made  
18 under such coverage.”.

19       (c) GAO STUDY AND REPORT.—Not later than Janu-  
20 ary 1, 2010, the Comptroller General of the United States  
21 shall study cost and coverage issues relating to any State  
22 premium assistance programs for which Federal matching  
23 payments are made under title XIX or XXI of the Social  
24 Security Act, including under waiver authority, and shall  
25 submit a report to the Committee on Finance of the Sen-

1 ate and the Committee on Energy and Commerce of the  
2 House of Representatives on the results of such study.

3 **SEC. 302. OUTREACH, EDUCATION, AND ENROLLMENT AS-**  
4 **SISTANCE.**

5 (a) REQUIREMENT TO INCLUDE DESCRIPTION OF  
6 OUTREACH, EDUCATION, AND ENROLLMENT EFFORTS  
7 RELATED TO PREMIUM ASSISTANCE SUBSIDIES IN STATE  
8 CHILD HEALTH PLAN.—Section 2102(c) (42 U.S.C.  
9 1397bb(c)) is amended by adding at the end the following  
10 new paragraph:

11 “(3) PREMIUM ASSISTANCE SUBSIDIES.—In the  
12 case of a State that provides for premium assistance  
13 subsidies under the State child health plan in ac-  
14 cordance with paragraph (2)(B), (3), or (10) of sec-  
15 tion 2105(c), or a waiver approved under section  
16 1115, outreach, education, and enrollment assistance  
17 for families of children likely to be eligible for such  
18 subsidies, to inform such families of the availability  
19 of, and to assist them in enrolling their children in,  
20 such subsidies, and for employers likely to provide  
21 coverage that is eligible for such subsidies, including  
22 the specific, significant resources the State intends  
23 to apply to educate employers about the availability  
24 of premium assistance subsidies under the State  
25 child health plan.”.

1 (b) NONAPPLICATION OF 10 PERCENT LIMIT ON  
2 OUTREACH AND CERTAIN OTHER EXPENDITURES.—Sec-  
3 tion 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as  
4 amended by section 211(c)(2), is amended by adding at  
5 the end the following new clause:

6 “(iii) EXPENDITURES FOR OUTREACH  
7 TO INCREASE THE ENROLLMENT OF CHIL-  
8 DREN UNDER THIS TITLE AND TITLE XIX  
9 THROUGH PREMIUM ASSISTANCE SUB-  
10 SIDIES.—Expenditures for outreach activi-  
11 ties to families of children likely to be eligi-  
12 ble for premium assistance subsidies in ac-  
13 cordance with paragraph (2)(B), (3), or  
14 (10), or a waiver approved under section  
15 1115, to inform such families of the avail-  
16 ability of, and to assist them in enrolling  
17 their children in, such subsidies, and to  
18 employers likely to provide qualified em-  
19 ployer-sponsored coverage (as defined in  
20 subparagraph (B) of such paragraph), but  
21 not to exceed an amount equal to 1.25 per-  
22 cent of the maximum amount permitted to  
23 be expended under subparagraph (A) for  
24 items described in subsection (a)(1)(D).”.

1 **Subtitle B—Coordinating Premium**  
2 **Assistance With Private Coverage**

3 **SEC. 311. SPECIAL ENROLLMENT PERIOD UNDER GROUP**  
4 **HEALTH PLANS IN CASE OF TERMINATION OF**  
5 **MEDICAID OR CHIP COVERAGE OR ELIGI-**  
6 **BILITY FOR ASSISTANCE IN PURCHASE OF**  
7 **EMPLOYMENT-BASED COVERAGE; COORDINA-**  
8 **TION OF COVERAGE.**

9 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF  
10 1986.—Section 9801(f) of the Internal Revenue Code of  
11 1986 (relating to special enrollment periods) is amended  
12 by adding at the end the following new paragraph:

13 “(3) SPECIAL RULES RELATING TO MEDICAID  
14 AND CHIP.—

15 “(A) IN GENERAL.—A group health plan  
16 shall permit an employee who is eligible, but  
17 not enrolled, for coverage under the terms of  
18 the plan (or a dependent of such an employee  
19 if the dependent is eligible, but not enrolled, for  
20 coverage under such terms) to enroll for cov-  
21 erage under the terms of the plan if either of  
22 the following conditions is met:

23 “(i) TERMINATION OF MEDICAID OR  
24 CHIP COVERAGE.—The employee or de-  
25 pendent is covered under a Medicaid plan



1 under title XIX of the Social Security Act  
2 or under a State child health plan under  
3 title XXI of such Act and coverage of the  
4 employee or dependent under such a plan  
5 is terminated as a result of loss of eligi-  
6 bility for such coverage and the employee  
7 requests coverage under the group health  
8 plan not later than 60 days after the date  
9 of termination of such coverage.

10 “(ii) ELIGIBILITY FOR EMPLOYMENT  
11 ASSISTANCE UNDER MEDICAID OR CHIP.—

12 The employee or dependent becomes eligi-  
13 ble for assistance, with respect to coverage  
14 under the group health plan under such  
15 Medicaid plan or State child health plan  
16 (including under any waiver or demonstra-  
17 tion project conducted under or in relation  
18 to such a plan), if the employee requests  
19 coverage under the group health plan not  
20 later than 60 days after the date the em-  
21 ployee or dependent is determined to be el-  
22 igible for such assistance.

23 “(B) EMPLOYEE OUTREACH AND DISCLO-  
24 SURE.—

1           “(i) OUTREACH TO EMPLOYEES RE-  
2           GARDING AVAILABILITY OF MEDICAID AND  
3           CHIP COVERAGE.—

4                   “(I) IN GENERAL.—Each em-  
5           ployer that maintains a group health  
6           plan in a State that provides medical  
7           assistance under a State Medicaid  
8           plan under title XIX of the Social Se-  
9           curity Act, or child health assistance  
10          under a State child health plan under  
11          title XXI of such Act, in the form of  
12          premium assistance for the purchase  
13          of coverage under a group health  
14          plan, shall provide to each employee a  
15          written notice informing the employee  
16          of potential opportunities then cur-  
17          rently available in the State in which  
18          the employee resides for premium as-  
19          sistance under such plans for health  
20          coverage of the employee or the em-  
21          ployee’s dependents. For purposes of  
22          compliance with this clause, the em-  
23          ployer may use any State-specific  
24          model notice developed in accordance  
25          with section 701(f)(3)(B)(i)(II) of the

1 Employee Retirement Income Security  
2 Act of 1974 (29 U.S.C.  
3 1181(f)(3)(B)(i)(II)).

4 “(II) OPTION TO PROVIDE CON-  
5 CURRENT WITH PROVISION OF PLAN  
6 MATERIALS TO EMPLOYEE.—An em-  
7 ployer may provide the model notice  
8 applicable to the State in which an  
9 employee resides concurrent with the  
10 furnishing of materials notifying the  
11 employee of health plan eligibility,  
12 concurrent with materials provided to  
13 the employee in connection with an  
14 open season or election process con-  
15 ducted under the plan, or concurrent  
16 with the furnishing of the summary  
17 plan description as provided in section  
18 104(b) of the Employee Retirement  
19 Income Security Act of 1974 (29  
20 U.S.C. 1024).

21 “(ii) DISCLOSURE ABOUT GROUP  
22 HEALTH PLAN BENEFITS TO STATES FOR  
23 MEDICAID AND CHIP ELIGIBLE INDIVID-  
24 UALS.—In the case of a participant or ben-  
25 efiary of a group health plan who is cov-

1           ered under a Medicaid plan of a State  
2           under title XIX of the Social Security Act  
3           or under a State child health plan under  
4           title XXI of such Act, the plan adminis-  
5           trator of the group health plan shall dis-  
6           close to the State, upon request, informa-  
7           tion about the benefits available under the  
8           group health plan in sufficient specificity,  
9           as determined under regulations of the  
10          Secretary of Health and Human Services  
11          in consultation with the Secretary that re-  
12          quire use of the model coverage coordina-  
13          tion disclosure form developed under sec-  
14          tion 311(b)(1)(C) of the Children’s Health  
15          Insurance Program Reauthorization Act of  
16          2009, so as to permit the State to make a  
17          determination (under paragraph (2)(B),  
18          (3), or (10) of section 2105(c) of the So-  
19          cial Security Act or otherwise) concerning  
20          the cost-effectiveness of the State pro-  
21          viding medical or child health assistance  
22          through premium assistance for the pur-  
23          chase of coverage under such group health  
24          plan and in order for the State to provide  
25          supplemental benefits required under para-

1 graph (10)(E) of such section or other au-  
2 thority.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) AMENDMENTS TO EMPLOYEE RETIREMENT  
5 INCOME SECURITY ACT.—

6 (A) IN GENERAL.—Section 701(f) of the  
7 Employee Retirement Income Security Act of  
8 1974 (29 U.S.C. 1181(f)) is amended by adding  
9 at the end the following new paragraph:

10 “(3) SPECIAL RULES FOR APPLICATION IN CASE  
11 OF MEDICAID AND CHIP.—

12 “(A) IN GENERAL.—A group health plan,  
13 and a health insurance issuer offering group  
14 health insurance coverage in connection with a  
15 group health plan, shall permit an employee  
16 who is eligible, but not enrolled, for coverage  
17 under the terms of the plan (or a dependent of  
18 such an employee if the dependent is eligible,  
19 but not enrolled, for coverage under such  
20 terms) to enroll for coverage under the terms of  
21 the plan if either of the following conditions is  
22 met:

23 “(i) TERMINATION OF MEDICAID OR  
24 CHIP COVERAGE.—The employee or de-  
25 pendent is covered under a Medicaid plan

1 under title XIX of the Social Security Act  
2 or under a State child health plan under  
3 title XXI of such Act and coverage of the  
4 employee or dependent under such a plan  
5 is terminated as a result of loss of eligi-  
6 bility for such coverage and the employee  
7 requests coverage under the group health  
8 plan (or health insurance coverage) not  
9 later than 60 days after the date of termi-  
10 nation of such coverage.

11 “(ii) ELIGIBILITY FOR EMPLOYMENT  
12 ASSISTANCE UNDER MEDICAID OR CHIP.—

13 The employee or dependent becomes eligi-  
14 ble for assistance, with respect to coverage  
15 under the group health plan or health in-  
16 surance coverage, under such Medicaid  
17 plan or State child health plan (including  
18 under any waiver or demonstration project  
19 conducted under or in relation to such a  
20 plan), if the employee requests coverage  
21 under the group health plan or health in-  
22 surance coverage not later than 60 days  
23 after the date the employee or dependent is  
24 determined to be eligible for such assist-  
25 ance.

1                   “(B) COORDINATION WITH MEDICAID AND  
2                   CHIP.—

3                   “(i) OUTREACH TO EMPLOYEES RE-  
4                   GARDING AVAILABILITY OF MEDICAID AND  
5                   CHIP COVERAGE.—

6                   “(I) IN GENERAL.—Each em-  
7                   ployer that maintains a group health  
8                   plan in a State that provides medical  
9                   assistance under a State Medicaid  
10                  plan under title XIX of the Social Se-  
11                  curity Act, or child health assistance  
12                  under a State child health plan under  
13                  title XXI of such Act, in the form of  
14                  premium assistance for the purchase  
15                  of coverage under a group health  
16                  plan, shall provide to each employee a  
17                  written notice informing the employee  
18                  of potential opportunities then cur-  
19                  rently available in the State in which  
20                  the employee resides for premium as-  
21                  sistance under such plans for health  
22                  coverage of the employee or the em-  
23                  ployee’s dependents.

24                  “(II) MODEL NOTICE.—Not later  
25                  than 1 year after the date of enact-

1           ment of the Children’s Health Insur-  
2           ance Program Reauthorization Act of  
3           2009, the Secretary and the Secretary  
4           of Health and Human Services, in  
5           consultation with Directors of State  
6           Medicaid agencies under title XIX of  
7           the Social Security Act and Directors  
8           of State CHIP agencies under title  
9           XXI of such Act, shall jointly develop  
10          national and State-specific model no-  
11          tices for purposes of subparagraph  
12          (A). The Secretary shall provide em-  
13          ployers with such model notices so as  
14          to enable employers to timely comply  
15          with the requirements of subpara-  
16          graph (A). Such model notices shall  
17          include information regarding how an  
18          employee may contact the State in  
19          which the employee resides for addi-  
20          tional information regarding potential  
21          opportunities for such premium assist-  
22          ance, including how to apply for such  
23          assistance.

24                                   “(III) OPTION TO PROVIDE CON-  
25                                   CURRENT WITH PROVISION OF PLAN



1 MATERIALS TO EMPLOYEE.—An em-  
2 ployer may provide the model notice  
3 applicable to the State in which an  
4 employee resides concurrent with the  
5 furnishing of materials notifying the  
6 employee of health plan eligibility,  
7 concurrent with materials provided to  
8 the employee in connection with an  
9 open season or election process con-  
10 ducted under the plan, or concurrent  
11 with the furnishing of the summary  
12 plan description as provided in section  
13 104(b).

14 “(ii) DISCLOSURE ABOUT GROUP  
15 HEALTH PLAN BENEFITS TO STATES FOR  
16 MEDICAID AND CHIP ELIGIBLE INDIVID-  
17 UALS.—In the case of a participant or ben-  
18 efiary of a group health plan who is cov-  
19 ered under a Medicaid plan of a State  
20 under title XIX of the Social Security Act  
21 or under a State child health plan under  
22 title XXI of such Act, the plan adminis-  
23 trator of the group health plan shall dis-  
24 close to the State, upon request, informa-  
25 tion about the benefits available under the

1 group health plan in sufficient specificity,  
2 as determined under regulations of the  
3 Secretary of Health and Human Services  
4 in consultation with the Secretary that re-  
5 quire use of the model coverage coordina-  
6 tion disclosure form developed under sec-  
7 tion 311(b)(1)(C) of the Children’s Health  
8 Insurance Program Reauthorization Act of  
9 2009, so as to permit the State to make a  
10 determination (under paragraph (2)(B),  
11 (3), or (10) of section 2105(c) of the So-  
12 cial Security Act or otherwise) concerning  
13 the cost-effectiveness of the State pro-  
14 viding medical or child health assistance  
15 through premium assistance for the pur-  
16 chase of coverage under such group health  
17 plan and in order for the State to provide  
18 supplemental benefits required under para-  
19 graph (10)(E) of such section or other au-  
20 thority.”.

21 (B) CONFORMING AMENDMENT.—Section  
22 102(b) of the Employee Retirement Income Se-  
23 curity Act of 1974 (29 U.S.C. 1022(b)) is  
24 amended—

1 (i) by striking “and the remedies”  
 2 and inserting “, the remedies”; and

3 (ii) by inserting before the period the  
 4 following: “, and if the employer so elects  
 5 for purposes of complying with section  
 6 701(f)(3)(B)(i), the model notice applicable  
 7 to the State in which the participants and  
 8 beneficiaries reside”.

9 (C) WORKING GROUP TO DEVELOP MODEL  
 10 COVERAGE COORDINATION DISCLOSURE  
 11 FORM.—

12 (i) MEDICAID, CHIP, AND EMPLOYER-  
 13 SPONSORED COVERAGE COORDINATION  
 14 WORKING GROUP.—

15 (I) IN GENERAL.—Not later than  
 16 60 days after the date of enactment of  
 17 this Act, the Secretary of Health and  
 18 Human Services and the Secretary of  
 19 Labor shall jointly establish a Med-  
 20 icaid, CHIP, and Employer-Sponsored  
 21 Coverage Coordination Working  
 22 Group (in this subparagraph referred  
 23 to as the “Working Group”). The  
 24 purpose of the Working Group shall  
 25 be to develop the model coverage co-

1 ordination disclosure form described  
2 in subclause (II) and to identify the  
3 impediments to the effective coordina-  
4 tion of coverage available to families  
5 that include employees of employers  
6 that maintain group health plans and  
7 members who are eligible for medical  
8 assistance under title XIX of the So-  
9 cial Security Act or child health as-  
10 sistance or other health benefits cov-  
11 erage under title XXI of such Act.

12 (II) MODEL COVERAGE COORDI-  
13 NATION DISCLOSURE FORM DE-  
14 SCRIBED.—The model form described  
15 in this subclause is a form for plan  
16 administrators of group health plans  
17 to complete for purposes of permitting  
18 a State to determine the availability  
19 and cost-effectiveness of the coverage  
20 available under such plans to employ-  
21 ees who have family members who are  
22 eligible for premium assistance offered  
23 under a State plan under title XIX or  
24 XXI of such Act and to allow for co-  
25 ordination of coverage for enrollees of

1 such plans. Such form shall provide  
2 the following information in addition  
3 to such other information as the  
4 Working Group determines appro-  
5 priate:

6 (aa) A determination of  
7 whether the employee is eligible  
8 for coverage under the group  
9 health plan.

10 (bb) The name and contract  
11 information of the plan adminis-  
12 trator of the group health plan.

13 (cc) The benefits offered  
14 under the plan.

15 (dd) The premiums and  
16 cost-sharing required under the  
17 plan.

18 (ee) Any other information  
19 relevant to coverage under the  
20 plan.

21 (ii) MEMBERSHIP.—The Working  
22 Group shall consist of not more than 30  
23 members and shall be composed of rep-  
24 resentatives of—

25 (I) the Department of Labor;

1 (II) the Department of Health  
2 and Human Services;

3 (III) State directors of the Med-  
4 icaid program under title XIX of the  
5 Social Security Act;

6 (IV) State directors of the State  
7 Children’s Health Insurance Program  
8 under title XXI of the Social Security  
9 Act;

10 (V) employers, including owners  
11 of small businesses and their trade or  
12 industry representatives and certified  
13 human resource and payroll profes-  
14 sionals;

15 (VI) plan administrators and  
16 plan sponsors of group health plans  
17 (as defined in section 607(1) of the  
18 Employee Retirement Income Security  
19 Act of 1974);

20 (VII) health insurance issuers;  
21 and

22 (VIII) children and other bene-  
23 ficiaries of medical assistance under  
24 title XIX of the Social Security Act or  
25 child health assistance or other health

1 benefits coverage under title XXI of  
2 such Act.

3 (iii) COMPENSATION.—The members  
4 of the Working Group shall serve without  
5 compensation.

6 (iv) ADMINISTRATIVE SUPPORT.—The  
7 Department of Health and Human Serv-  
8 ices and the Department of Labor shall  
9 jointly provide appropriate administrative  
10 support to the Working Group, including  
11 technical assistance. The Working Group  
12 may use the services and facilities of either  
13 such Department, with or without reim-  
14 bursement, as jointly determined by such  
15 Departments.

16 (v) REPORT.—

17 (I) REPORT BY WORKING GROUP  
18 TO THE SECRETARIES.—Not later  
19 than 18 months after the date of the  
20 enactment of this Act, the Working  
21 Group shall submit to the Secretary of  
22 Labor and the Secretary of Health  
23 and Human Services the model form  
24 described in clause (i)(II) along with a  
25 report containing recommendations

1 for appropriate measures to address  
2 the impediments to the effective co-  
3 ordination of coverage between group  
4 health plans and the State plans  
5 under titles XIX and XXI of the So-  
6 cial Security Act.

7 (II) REPORT BY SECRETARIES TO  
8 THE CONGRESS.—Not later than 2  
9 months after receipt of the report  
10 pursuant to subclause (I), the Secre-  
11 taries shall jointly submit a report to  
12 each House of the Congress regarding  
13 the recommendations contained in the  
14 report under such subclause.

15 (vi) TERMINATION.—The Working  
16 Group shall terminate 30 days after the  
17 date of the issuance of its report under  
18 clause (v).

19 (D) EFFECTIVE DATES.—The Secretary of  
20 Labor and the Secretary of Health and Human  
21 Services shall develop the initial model notices  
22 under section 701(f)(3)(B)(i)(II) of the Em-  
23 ployee Retirement Income Security Act of 1974,  
24 and the Secretary of Labor shall provide such  
25 notices to employers, not later than the date



1           that is 1 year after the date of enactment of  
2           this Act, and each employer shall provide the  
3           initial annual notices to such employer’s em-  
4           ployees beginning with the first plan year that  
5           begins after the date on which such initial  
6           model notices are first issued. The model cov-  
7           erage coordination disclosure form developed  
8           under subparagraph (C) shall apply with re-  
9           spect to requests made by States beginning  
10          with the first plan year that begins after the  
11          date on which such model coverage coordination  
12          disclosure form is first issued.

13                   (E) ENFORCEMENT.—Section 502 of the  
14          Employee Retirement Income Security Act of  
15          1974 (29 U.S.C. 1132) is amended—

16                           (i) in subsection (a)(6), by striking  
17                           “or (8)” and inserting “(8), or (9)”; and

18                           (ii) in subsection (c), by redesignating  
19                           paragraph (9) as paragraph (10), and by  
20                           inserting after paragraph (8) the following:

21           “(9)(A) The Secretary may assess a civil penalty  
22          against any employer of up to \$100 a day from the date  
23          of the employer’s failure to meet the notice requirement  
24          of section 701(f)(3)(B)(i)(I). For purposes of this sub-

1 paragraph, each violation with respect to any single em-  
2 ployee shall be treated as a separate violation.

3 “(B) The Secretary may assess a civil penalty against  
4 any plan administrator of up to \$100 a day from the date  
5 of the plan administrator’s failure to timely provide to any  
6 State the information required to be disclosed under sec-  
7 tion 701(f)(3)(B)(ii). For purposes of this subparagraph,  
8 each violation with respect to any single participant or  
9 beneficiary shall be treated as a separate violation.”.

10 (2) AMENDMENTS TO PUBLIC HEALTH SERVICE  
11 ACT.—Section 2701(f) of the Public Health Service  
12 Act (42 U.S.C. 300gg(f)) is amended by adding at  
13 the end the following new paragraph:

14 “(3) SPECIAL RULES FOR APPLICATION IN CASE  
15 OF MEDICAID AND CHIP.—

16 “(A) IN GENERAL.—A group health plan,  
17 and a health insurance issuer offering group  
18 health insurance coverage in connection with a  
19 group health plan, shall permit an employee  
20 who is eligible, but not enrolled, for coverage  
21 under the terms of the plan (or a dependent of  
22 such an employee if the dependent is eligible,  
23 but not enrolled, for coverage under such  
24 terms) to enroll for coverage under the terms of

1 the plan if either of the following conditions is  
2 met:

3 “(i) TERMINATION OF MEDICAID OR  
4 CHIP COVERAGE.—The employee or de-  
5 pendent is covered under a Medicaid plan  
6 under title XIX of the Social Security Act  
7 or under a State child health plan under  
8 title XXI of such Act and coverage of the  
9 employee or dependent under such a plan  
10 is terminated as a result of loss of eligi-  
11 bility for such coverage and the employee  
12 requests coverage under the group health  
13 plan (or health insurance coverage) not  
14 later than 60 days after the date of termi-  
15 nation of such coverage.

16 “(ii) ELIGIBILITY FOR EMPLOYMENT  
17 ASSISTANCE UNDER MEDICAID OR CHIP.—  
18 The employee or dependent becomes eligi-  
19 ble for assistance, with respect to coverage  
20 under the group health plan or health in-  
21 surance coverage, under such Medicaid  
22 plan or State child health plan (including  
23 under any waiver or demonstration project  
24 conducted under or in relation to such a  
25 plan), if the employee requests coverage

1 under the group health plan or health in-  
2 surance coverage not later than 60 days  
3 after the date the employee or dependent is  
4 determined to be eligible for such assist-  
5 ance.

6 “(B) COORDINATION WITH MEDICAID AND  
7 CHIP.—

8 “(i) OUTREACH TO EMPLOYEES RE-  
9 GARDING AVAILABILITY OF MEDICAID AND  
10 CHIP COVERAGE.—

11 “(I) IN GENERAL.—Each em-  
12 ployer that maintains a group health  
13 plan in a State that provides medical  
14 assistance under a State Medicaid  
15 plan under title XIX of the Social Se-  
16 curity Act, or child health assistance  
17 under a State child health plan under  
18 title XXI of such Act, in the form of  
19 premium assistance for the purchase  
20 of coverage under a group health  
21 plan, shall provide to each employee a  
22 written notice informing the employee  
23 of potential opportunities then cur-  
24 rently available in the State in which  
25 the employee resides for premium as-

1           sistance under such plans for health  
2           coverage of the employee or the em-  
3           ployee’s dependents. For purposes of  
4           compliance with this subclause, the  
5           employer may use any State-specific  
6           model notice developed in accordance  
7           with section 701(f)(3)(B)(i)(II) of the  
8           Employee Retirement Income Security  
9           Act of 1974 (29 U.S.C.  
10          1181(f)(3)(B)(i)(II)).

11           “(II) OPTION TO PROVIDE CON-  
12          CURRENT WITH PROVISION OF PLAN  
13          MATERIALS TO EMPLOYEE.—An em-  
14          ployer may provide the model notice  
15          applicable to the State in which an  
16          employee resides concurrent with the  
17          furnishing of materials notifying the  
18          employee of health plan eligibility,  
19          concurrent with materials provided to  
20          the employee in connection with an  
21          open season or election process con-  
22          ducted under the plan, or concurrent  
23          with the furnishing of the summary  
24          plan description as provided in section

1           104(b) of the Employee Retirement  
2           Income Security Act of 1974.

3           “(ii) DISCLOSURE ABOUT GROUP  
4           HEALTH PLAN BENEFITS TO STATES FOR  
5           MEDICAID AND CHIP ELIGIBLE INDIVID-  
6           UALS.—In the case of an enrollee in a  
7           group health plan who is covered under a  
8           Medicaid plan of a State under title XIX  
9           of the Social Security Act or under a State  
10          child health plan under title XXI of such  
11          Act, the plan administrator of the group  
12          health plan shall disclose to the State,  
13          upon request, information about the bene-  
14          fits available under the group health plan  
15          in sufficient specificity, as determined  
16          under regulations of the Secretary of  
17          Health and Human Services in consulta-  
18          tion with the Secretary that require use of  
19          the model coverage coordination disclosure  
20          form developed under section 311(b)(1)(C)  
21          of the Children’s Health Insurance Reau-  
22          thorization Act of 2009, so as to permit  
23          the State to make a determination (under  
24          paragraph (2)(B), (3), or (10) of section  
25          2105(c) of the Social Security Act or oth-

erwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.”.

**TITLE IV—STRENGTHENING  
QUALITY OF CARE AND  
HEALTH OUTCOMES**

**SEC. 401. CHILD HEALTH QUALITY IMPROVEMENT ACTIVITIES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.**

(a) DEVELOPMENT OF CHILD HEALTH QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1139 the following new section:

**“SEC. 1139A. CHILD HEALTH QUALITY MEASURES.**

“(a) DEVELOPMENT OF AN INITIAL CORE SET OF HEALTH CARE QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

“(1) IN GENERAL.—Not later than January 1, 2010, the Secretary shall identify and publish for general comment an initial, recommended core set of

1 child health quality measures for use by State pro-  
2 grams administered under titles XIX and XXI,  
3 health insurance issuers and managed care entities  
4 that enter into contracts with such programs, and  
5 providers of items and services under such pro-  
6 grams.

7 “(2) IDENTIFICATION OF INITIAL CORE MEAS-  
8 URES.—In consultation with the individuals and en-  
9 tities described in subsection (b)(3), the Secretary  
10 shall identify existing quality of care measures for  
11 children that are in use under public and privately  
12 sponsored health care coverage arrangements, or  
13 that are part of reporting systems that measure both  
14 the presence and duration of health insurance cov-  
15 erage over time.

16 “(3) RECOMMENDATIONS AND DISSEMINA-  
17 TION.—Based on such existing and identified meas-  
18 ures, the Secretary shall publish an initial core set  
19 of child health quality measures that includes (but  
20 is not limited to) the following:

21 “(A) The duration of children’s health in-  
22 surance coverage over a 12-month time period.

23 “(B) The availability and effectiveness of a  
24 full range of—



1           “(i) preventive services, treatments,  
2           and services for acute conditions, including  
3           services to promote healthy birth, prevent  
4           and treat premature birth, and detect the  
5           presence or risk of physical or mental con-  
6           ditions that could adversely affect growth  
7           and development; and

8           “(ii) treatments to correct or amelio-  
9           rate the effects of physical and mental con-  
10          ditions, including chronic conditions, in in-  
11          fants, young children, school-age children,  
12          and adolescents.

13          “(C) The availability of care in a range of  
14          ambulatory and inpatient health care settings  
15          in which such care is furnished.

16          “(D) The types of measures that, taken to-  
17          gether, can be used to estimate the overall na-  
18          tional quality of health care for children, includ-  
19          ing children with special needs, and to perform  
20          comparative analyses of pediatric health care  
21          quality and racial, ethnic, and socioeconomic  
22          disparities in child health and health care for  
23          children.

24          “(4) ENCOURAGE VOLUNTARY AND STANDARD-  
25          IZED REPORTING.—Not later than 2 years after the

1 date of enactment of the Children’s Health Insur-  
2 ance Program Reauthorization Act of 2009, the Sec-  
3 retary, in consultation with States, shall develop a  
4 standardized format for reporting information and  
5 procedures and approaches that encourage States to  
6 use the initial core measurement set to voluntarily  
7 report information regarding the quality of pediatric  
8 health care under titles XIX and XXI.

9 “(5) ADOPTION OF BEST PRACTICES IN IMPLE-  
10 MENTING QUALITY PROGRAMS.—The Secretary shall  
11 disseminate information to States regarding best  
12 practices among States with respect to measuring  
13 and reporting on the quality of health care for chil-  
14 dren, and shall facilitate the adoption of such best  
15 practices. In developing best practices approaches,  
16 the Secretary shall give particular attention to State  
17 measurement techniques that ensure the timeliness  
18 and accuracy of provider reporting, encourage pro-  
19 vider reporting compliance, encourage successful  
20 quality improvement strategies, and improve effi-  
21 ciency in data collection using health information  
22 technology.

23 “(6) REPORTS TO CONGRESS.—Not later than  
24 January 1, 2011, and every 3 years thereafter, the  
25 Secretary shall report to Congress on—

1           “(A) the status of the Secretary’s efforts  
2 to improve—

3                   “(i) quality related to the duration  
4 and stability of health insurance coverage  
5 for children under titles XIX and XXI;

6                   “(ii) the quality of children’s health  
7 care under such titles, including preventive  
8 health services, health care for acute condi-  
9 tions, chronic health care, and health serv-  
10 ices to ameliorate the effects of physical  
11 and mental conditions and to aid in growth  
12 and development of infants, young chil-  
13 dren, school-age children, and adolescents  
14 with special health care needs; and

15                   “(iii) the quality of children’s health  
16 care under such titles across the domains  
17 of quality, including clinical quality, health  
18 care safety, family experience with health  
19 care, health care in the most integrated  
20 setting, and elimination of racial, ethnic,  
21 and socioeconomic disparities in health and  
22 health care;

23           “(B) the status of voluntary reporting by  
24 States under titles XIX and XXI, utilizing the  
25 initial core quality measurement set; and

1           “(C) any recommendations for legislative  
2           changes needed to improve the quality of care  
3           provided to children under titles XIX and XXI,  
4           including recommendations for quality reporting  
5           by States.

6           “(7) TECHNICAL ASSISTANCE.—The Secretary  
7           shall provide technical assistance to States to assist  
8           them in adopting and utilizing core child health  
9           quality measures in administering the State plans  
10          under titles XIX and XXI.

11          “(8) DEFINITION OF CORE SET.—In this sec-  
12          tion, the term ‘core set’ means a group of valid, reli-  
13          able, and evidence-based quality measures that,  
14          taken together—

15                 “(A) provide information regarding the  
16                 quality of health coverage and health care for  
17                 children;

18                 “(B) address the needs of children  
19                 throughout the developmental age span; and

20                 “(C) allow purchasers, families, and health  
21                 care providers to understand the quality of care  
22                 in relation to the preventive needs of children,  
23                 treatments aimed at managing and resolving  
24                 acute conditions, and diagnostic and treatment  
25                 services whose purpose is to correct or amelio-

1           rate physical, mental, or developmental condi-  
2           tions that could, if untreated or poorly treated,  
3           become chronic.

4           “(b) ADVANCING AND IMPROVING PEDIATRIC QUAL-  
5   ITY MEASURES.—

6           “(1) ESTABLISHMENT OF PEDIATRIC QUALITY  
7   MEASURES PROGRAM.—Not later than January 1,  
8   2011, the Secretary shall establish a pediatric qual-  
9   ity measures program to—

10           “(A) improve and strengthen the initial  
11   core child health care quality measures estab-  
12   lished by the Secretary under subsection (a);

13           “(B) expand on existing pediatric quality  
14   measures used by public and private health care  
15   purchasers and advance the development of  
16   such new and emerging quality measures; and

17           “(C) increase the portfolio of evidence-  
18   based, consensus pediatric quality measures  
19   available to public and private purchasers of  
20   children’s health care services, providers, and  
21   consumers.

22           “(2) EVIDENCE-BASED MEASURES.—The meas-  
23   ures developed under the pediatric quality measures  
24   program shall, at a minimum, be—

1           “(A) evidence-based and, where appro-  
2           priate, risk adjusted;

3           “(B) designed to identify and eliminate ra-  
4           cial and ethnic disparities in child health and  
5           the provision of health care;

6           “(C) designed to ensure that the data re-  
7           quired for such measures is collected and re-  
8           ported in a standard format that permits com-  
9           parison of quality and data at a State, plan,  
10          and provider level;

11          “(D) periodically updated; and

12          “(E) responsive to the child health needs,  
13          services, and domains of health care quality de-  
14          scribed in clauses (i), (ii), and (iii) of subsection  
15          (a)(6)(A).

16          “(3) PROCESS FOR PEDIATRIC QUALITY MEAS-  
17          URES PROGRAM.—In identifying gaps in existing pe-  
18          diatric quality measures and establishing priorities  
19          for development and advancement of such measures,  
20          the Secretary shall consult with—

21                 “(A) States;

22                 “(B) pediatricians, children’s hospitals,  
23                 and other primary and specialized pediatric  
24                 health care professionals (including members of  
25                 the allied health professions) who specialize in

1 the care and treatment of children, particularly  
2 children with special physical, mental, and de-  
3 velopmental health care needs;

4 “(C) dental professionals, including pedi-  
5 atric dental professionals;

6 “(D) health care providers that furnish  
7 primary health care to children and families  
8 who live in urban and rural medically under-  
9 served communities or who are members of dis-  
10 tinct population sub-groups at heightened risk  
11 for poor health outcomes;

12 “(E) national organizations representing  
13 children, including children with disabilities and  
14 children with chronic conditions;

15 “(F) national organizations representing  
16 consumers and purchasers of children’s health  
17 care;

18 “(G) national organizations and individuals  
19 with expertise in pediatric health quality meas-  
20 urement; and

21 “(H) voluntary consensus standards set-  
22 ting organizations and other organizations in-  
23 volved in the advancement of evidence-based  
24 measures of health care.

1           “(4) DEVELOPING, VALIDATING, AND TESTING  
2           A PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—  
3           As part of the program to advance pediatric quality  
4           measures, the Secretary shall—

5                   “(A) award grants and contracts for the  
6                   development, testing, and validation of new,  
7                   emerging, and innovative evidence-based meas-  
8                   ures for children’s health care services across  
9                   the domains of quality described in clauses (i),  
10                  (ii), and (iii) of subsection (a)(6)(A); and

11                  “(B) award grants and contracts for—

12                           “(i) the development of consensus on  
13                           evidence-based measures for children’s  
14                           health care services;

15                           “(ii) the dissemination of such meas-  
16                           ures to public and private purchasers of  
17                           health care for children; and

18                           “(iii) the updating of such measures  
19                           as necessary.

20           “(5) REVISING, STRENGTHENING, AND IMPROV-  
21           ING INITIAL CORE MEASURES.—Beginning no later  
22           than January 1, 2013, and annually thereafter, the  
23           Secretary shall publish recommended changes to the  
24           core measures described in subsection (a) that shall  
25           reflect the testing, validation, and consensus process



1 for the development of pediatric quality measures  
2 described in subsection paragraphs (1) through (4).

3 “(6) DEFINITION OF PEDIATRIC QUALITY  
4 MEASURE.—In this subsection, the term ‘pediatric  
5 quality measure’ means a measurement of clinical  
6 care that is capable of being examined through the  
7 collection and analysis of relevant information, that  
8 is developed in order to assess 1 or more aspects of  
9 pediatric health care quality in various institutional  
10 and ambulatory health care settings, including the  
11 structure of the clinical care system, the process of  
12 care, the outcome of care, or patient experiences in  
13 care.

14 “(7) CONSTRUCTION.—Nothing in this section  
15 shall be construed as supporting the restriction of  
16 coverage, under title XIX or XXI or otherwise, to  
17 only those services that are evidence-based.

18 “(c) ANNUAL STATE REPORTS REGARDING STATE-  
19 SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER  
20 MEDICAID OR CHIP.—

21 “(1) ANNUAL STATE REPORTS.—Each State  
22 with a State plan approved under title XIX or a  
23 State child health plan approved under title XXI  
24 shall annually report to the Secretary on the—

1           “(A) State-specific child health quality  
2           measures applied by the States under such  
3           plans, including measures described in subpara-  
4           graphs (A) and (B) of subsection (a)(6); and

5           “(B) State-specific information on the  
6           quality of health care furnished to children  
7           under such plans, including information col-  
8           lected through external quality reviews of man-  
9           aged care organizations under section 1932 of  
10          the Social Security Act (42 U.S.C. 1396u-4)  
11          and benchmark plans under sections 1937 and  
12          2103 of such Act (42 U.S.C. 1396u-7, 1397ee).

13          “(2) PUBLICATION.—Not later than September  
14          30, 2010, and annually thereafter, the Secretary  
15          shall collect, analyze, and make publicly available the  
16          information reported by States under paragraph (1).

17          “(d) DEMONSTRATION PROJECTS FOR IMPROVING  
18          THE QUALITY OF CHILDREN’S HEALTH CARE AND THE  
19          USE OF HEALTH INFORMATION TECHNOLOGY.—

20          “(1) IN GENERAL.—During the period of fiscal  
21          years 2009 through 2013, the Secretary shall award  
22          not more than 10 grants to States and child health  
23          providers to conduct demonstration projects to  
24          evaluate promising ideas for improving the quality of

1 children’s health care provided under title XIX or  
2 XXI, including projects to—

3 “(A) experiment with, and evaluate the use  
4 of, new measures of the quality of children’s  
5 health care under such titles (including testing  
6 the validity and suitability for reporting of such  
7 measures);

8 “(B) promote the use of health information  
9 technology in care delivery for children under  
10 such titles;

11 “(C) evaluate provider-based models which  
12 improve the delivery of children’s health care  
13 services under such titles, including care man-  
14 agement for children with chronic conditions  
15 and the use of evidence-based approaches to im-  
16 prove the effectiveness, safety, and efficiency of  
17 health care services for children; or

18 “(D) demonstrate the impact of the model  
19 electronic health record format for children de-  
20 veloped and disseminated under subsection (f)  
21 on improving pediatric health, including the ef-  
22 fects of chronic childhood health conditions, and  
23 pediatric health care quality as well as reducing  
24 health care costs.

1           “(2) REQUIREMENTS.—In awarding grants  
2 under this subsection, the Secretary shall ensure  
3 that—

4           “(A) only 1 demonstration project funded  
5 under a grant awarded under this subsection  
6 shall be conducted in a State; and

7           “(B) demonstration projects funded under  
8 grants awarded under this subsection shall be  
9 conducted evenly between States with large  
10 urban areas and States with large rural areas.

11           “(3) AUTHORITY FOR MULTISTATE  
12 PROJECTS.—A demonstration project conducted with  
13 a grant awarded under this subsection may be con-  
14 ducted on a multistate basis, as needed.

15           “(4) FUNDING.—\$20,000,000 of the amount  
16 appropriated under subsection (i) for a fiscal year  
17 shall be used to carry out this subsection.

18           “(e) CHILDHOOD OBESITY DEMONSTRATION  
19 PROJECT.—

20           “(1) AUTHORITY TO CONDUCT DEMONSTRA-  
21 TION.—The Secretary, in consultation with the Ad-  
22 ministrator of the Centers for Medicare & Medicaid  
23 Services, shall conduct a demonstration project to  
24 develop a comprehensive and systematic model for  
25 reducing childhood obesity by awarding grants to eli-

1       gible entities to carry out such project. Such model  
2       shall—

3               “(A) identify, through self-assessment, be-  
4               havioral risk factors for obesity among children;

5               “(B) identify, through self-assessment,  
6               needed clinical preventive and screening benefits  
7               among those children identified as target indi-  
8               viduals on the basis of such risk factors;

9               “(C) provide ongoing support to such tar-  
10              get individuals and their families to reduce risk  
11              factors and promote the appropriate use of pre-  
12              ventive and screening benefits; and

13              “(D) be designed to improve health out-  
14              comes, satisfaction, quality of life, and appro-  
15              priate use of items and services for which med-  
16              ical assistance is available under title XIX or  
17              child health assistance is available under title  
18              XXI among such target individuals.

19              “(2) ELIGIBILITY ENTITIES.—For purposes of  
20              this subsection, an eligible entity is any of the fol-  
21              lowing:

22                      “(A) A city, county, or Indian tribe.

23                      “(B) A local or tribal educational agency.

24                      “(C) An accredited university, college, or  
25              community college.

1           “(D) A Federally-qualified health center.

2           “(E) A local health department.

3           “(F) A health care provider.

4           “(G) A community-based organization.

5           “(H) Any other entity determined appro-  
6           priate by the Secretary, including a consortia or  
7           partnership of entities described in any of sub-  
8           paragraphs (A) through (G).

9           “(3) USE OF FUNDS.—An eligible entity award-  
10          ed a grant under this subsection shall use the funds  
11          made available under the grant to—

12           “(A) carry out community-based activities  
13          related to reducing childhood obesity, including  
14          by—

15           “(i) forming partnerships with enti-  
16          ties, including schools and other facilities  
17          providing recreational services, to establish  
18          programs for after school and weekend  
19          community activities that are designed to  
20          reduce childhood obesity;

21           “(ii) forming partnerships with  
22          daycare facilities to establish programs  
23          that promote healthy eating behaviors and  
24          physical activity; and

1           “(iii) developing and evaluating com-  
2           munity educational activities targeting  
3           good nutrition and promoting healthy eat-  
4           ing behaviors;

5           “(B) carry out age-appropriate school-  
6           based activities that are designed to reduce  
7           childhood obesity, including by—

8                   “(i) developing and testing edu-  
9                   cational curricula and intervention pro-  
10                  grams designed to promote healthy eating  
11                  behaviors and habits in youth, which may  
12                  include—

13                           “(I) after hours physical activity  
14                           programs; and

15                           “(II) science-based interventions  
16                           with multiple components to prevent  
17                           eating disorders including nutritional  
18                           content, understanding and respond-  
19                           ing to hunger and satiety, positive  
20                           body image development, positive self-  
21                           esteem development, and learning life  
22                           skills (such as stress management,  
23                           communication skills, problemsolving  
24                           and decisionmaking skills), as well as  
25                           consideration of cultural and develop-

1                   mental issues, and the role of family,  
2                   school, and community;

3                   “(ii) providing education and training  
4                   to educational professionals regarding how  
5                   to promote a healthy lifestyle and a  
6                   healthy school environment for children;

7                   “(iii) planning and implementing a  
8                   healthy lifestyle curriculum or program  
9                   with an emphasis on healthy eating behav-  
10                  iors and physical activity; and

11                  “(iv) planning and implementing  
12                  healthy lifestyle classes or programs for  
13                  parents or guardians, with an emphasis on  
14                  healthy eating behaviors and physical ac-  
15                  tivity for children;

16                  “(C) carry out educational, counseling,  
17                  promotional, and training activities through the  
18                  local health care delivery systems including  
19                  by—

20                  “(i) promoting healthy eating behav-  
21                  iors and physical activity services to treat  
22                  or prevent eating disorders, being over-  
23                  weight, and obesity;



1           “(ii) providing patient education and  
2           counseling to increase physical activity and  
3           promote healthy eating behaviors;

4           “(iii) training health professionals on  
5           how to identify and treat obese and over-  
6           weight individuals which may include nu-  
7           trition and physical activity counseling;  
8           and

9           “(iv) providing community education  
10          by a health professional on good nutrition  
11          and physical activity to develop a better  
12          understanding of the relationship between  
13          diet, physical activity, and eating disorders,  
14          obesity, or being overweight; and

15          “(D) provide, through qualified health pro-  
16          fessionals, training and supervision for commu-  
17          nity health workers to—

18               “(i) educate families regarding the re-  
19               lationship between nutrition, eating habits,  
20               physical activity, and obesity;

21               “(ii) educate families about effective  
22               strategies to improve nutrition, establish  
23               healthy eating patterns, and establish ap-  
24               propriate levels of physical activity; and

1                   “(iii) educate and guide parents re-  
2                   garding the ability to model and commu-  
3                   nicate positive health behaviors.

4                   “(4) PRIORITY.—In awarding grants under  
5                   paragraph (1), the Secretary shall give priority to  
6                   awarding grants to eligible entities—

7                   “(A) that demonstrate that they have pre-  
8                   viously applied successfully for funds to carry  
9                   out activities that seek to promote individual  
10                  and community health and to prevent the inci-  
11                  dence of chronic disease and that can cite pub-  
12                  lished and peer-reviewed research dem-  
13                  onstrating that the activities that the entities  
14                  propose to carry out with funds made available  
15                  under the grant are effective;

16                  “(B) that will carry out programs or ac-  
17                  tivities that seek to accomplish a goal or goals  
18                  set by the State in the Healthy People 2010  
19                  plan of the State;

20                  “(C) that provide non-Federal contribu-  
21                  tions, either in cash or in-kind, to the costs of  
22                  funding activities under the grants;

23                  “(D) that develop comprehensive plans  
24                  that include a strategy for extending program  
25                  activities developed under grants in the years

1 following the fiscal years for which they receive  
2 grants under this subsection;

3 “(E) located in communities that are medi-  
4 cally underserved, as determined by the Sec-  
5 retary;

6 “(F) located in areas in which the average  
7 poverty rate is at least 150 percent or higher of  
8 the average poverty rate in the State involved,  
9 as determined by the Secretary; and

10 “(G) that submit plans that exhibit multi-  
11 sectoral, cooperative conduct that includes the  
12 involvement of a broad range of stakeholders,  
13 including—

14 “(i) community-based organizations;

15 “(ii) local governments;

16 “(iii) local educational agencies;

17 “(iv) the private sector;

18 “(v) State or local departments of  
19 health;

20 “(vi) accredited colleges, universities,  
21 and community colleges;

22 “(vii) health care providers;

23 “(viii) State and local departments of  
24 transportation and city planning; and

1                   “(ix) other entities determined appro-  
2                   priate by the Secretary.

3                   “(5) PROGRAM DESIGN.—

4                   “(A) INITIAL DESIGN.—Not later than 1  
5                   year after the date of enactment of the Chil-  
6                   dren’s Health Insurance Program Reauthoriza-  
7                   tion Act of 2009, the Secretary shall design the  
8                   demonstration project. The demonstration  
9                   should draw upon promising, innovative models  
10                  and incentives to reduce behavioral risk factors.  
11                  The Administrator of the Centers for Medicare  
12                  & Medicaid Services shall consult with the Di-  
13                  rector of the Centers for Disease Control and  
14                  Prevention, the Director of the Office of Minor-  
15                  ity Health, the heads of other agencies in the  
16                  Department of Health and Human Services,  
17                  and such professional organizations, as the Sec-  
18                  retary determines to be appropriate, on the de-  
19                  sign, conduct, and evaluation of the demonstra-  
20                  tion.

21                  “(B) NUMBER AND PROJECT AREAS.—Not  
22                  later than 2 years after the date of enactment  
23                  of the Children’s Health Insurance Program  
24                  Reauthorization Act of 2009, the Secretary  
25                  shall award 1 grant that is specifically designed

1 to determine whether programs similar to pro-  
2 grams to be conducted by other grantees under  
3 this subsection should be implemented with re-  
4 spect to the general population of children who  
5 are eligible for child health assistance under  
6 State child health plans under title XXI in  
7 order to reduce the incidence of childhood obe-  
8 sity among such population.

9 “(6) REPORT TO CONGRESS.—Not later than 3  
10 years after the date the Secretary implements the  
11 demonstration project under this subsection, the  
12 Secretary shall submit to Congress a report that de-  
13 scribes the project, evaluates the effectiveness and  
14 cost effectiveness of the project, evaluates the bene-  
15 ficiary satisfaction under the project, and includes  
16 any such other information as the Secretary deter-  
17 mines to be appropriate.

18 “(7) DEFINITIONS.—In this subsection:

19 “(A) FEDERALLY-QUALIFIED HEALTH  
20 CENTER.—The term ‘Federally-qualified health  
21 center’ has the meaning given that term in sec-  
22 tion 1905(l)(2)(B).

23 “(B) INDIAN TRIBE.—The term ‘Indian  
24 tribe’ has the meaning given that term in sec-

1           tion 4 of the Indian Health Care Improvement  
2           Act (25 U.S.C. 1603).

3           “(C) SELF-ASSESSMENT.—The term ‘self-  
4           assessment’ means a form that—

5                   “(i) includes questions regarding—

6                           “(I) behavioral risk factors;

7                           “(II) needed preventive and  
8                           screening services; and

9                           “(III) target individuals’ pref-  
10                           erences for receiving follow-up infor-  
11                           mation;

12                           “(ii) is assessed using such computer  
13                           generated assessment programs; and

14                           “(iii) allows for the provision of such  
15                           ongoing support to the individual as the  
16                           Secretary determines appropriate.

17           “(D) ONGOING SUPPORT.—The term ‘on-  
18           going support’ means—

19                           “(i) to provide any target individual  
20                           with information, feedback, health coach-  
21                           ing, and recommendations regarding—

22                                   “(I) the results of a self-assess-  
23                                   ment given to the individual;

24                                   “(II) behavior modification based  
25                                   on the self-assessment; and

1                   “(III) any need for clinical pre-  
2                   ventive and screening services or  
3                   treatment including medical nutrition  
4                   therapy;

5                   “(ii) to provide any target individual  
6                   with referrals to community resources and  
7                   programs available to assist the target in-  
8                   dividual in reducing health risks; and

9                   “(iii) to provide the information de-  
10                  scribed in clause (i) to a health care pro-  
11                  vider, if designated by the target individual  
12                  to receive such information.

13                  “(8) AUTHORIZATION OF APPROPRIATIONS.—  
14                  There is authorized to be appropriated to carry out  
15                  this subsection, \$25,000,000 for the period of fiscal  
16                  years 2009 through 2013.

17                  “(f) DEVELOPMENT OF MODEL ELECTRONIC  
18 HEALTH RECORD FORMAT FOR CHILDREN ENROLLED IN  
19 MEDICAID OR CHIP.—

20                  “(1) IN GENERAL.—Not later than January 1,  
21                  2010, the Secretary shall establish a program to en-  
22                  courage the development and dissemination of a  
23                  model electronic health record format for children  
24                  enrolled in the State plan under title XIX or the  
25                  State child health plan under title XXI that is—

1           “(A) subject to State laws, accessible to  
2           parents, caregivers, and other consumers for  
3           the sole purpose of demonstrating compliance  
4           with school or leisure activity requirements,  
5           such as appropriate immunizations or physicals;

6           “(B) designed to allow interoperable ex-  
7           changes that conform with Federal and State  
8           privacy and security requirements;

9           “(C) structured in a manner that permits  
10          parents and caregivers to view and understand  
11          the extent to which the care their children re-  
12          ceive is clinically appropriate and of high qual-  
13          ity; and

14          “(D) capable of being incorporated into,  
15          and otherwise compatible with, other standards  
16          developed for electronic health records.

17          “(2) FUNDING.—\$5,000,000 of the amount ap-  
18          propriated under subsection (i) for a fiscal year shall  
19          be used to carry out this subsection.

20          “(g) STUDY OF PEDIATRIC HEALTH AND HEALTH  
21          CARE QUALITY MEASURES.—

22          “(1) IN GENERAL.—Not later than July 1,  
23          2010, the Institute of Medicine shall study and re-  
24          port to Congress on the extent and quality of efforts  
25          to measure child health status and the quality of



1 health care for children across the age span and in  
2 relation to preventive care, treatments for acute con-  
3 ditions, and treatments aimed at ameliorating or  
4 correcting physical, mental, and developmental con-  
5 ditions in children. In conducting such study and  
6 preparing such report, the Institute of Medicine  
7 shall—

8 “(A) consider all of the major national  
9 population-based reporting systems sponsored  
10 by the Federal Government that are currently  
11 in place, including reporting requirements  
12 under Federal grant programs and national  
13 population surveys and estimates conducted di-  
14 rectly by the Federal Government;

15 “(B) identify the information regarding  
16 child health and health care quality that each  
17 system is designed to capture and generate, the  
18 study and reporting periods covered by each  
19 system, and the extent to which the information  
20 so generated is made widely available through  
21 publication;

22 “(C) identify gaps in knowledge related to  
23 children’s health status, health disparities  
24 among subgroups of children, the effects of so-  
25 cial conditions on children’s health status and

1 use and effectiveness of health care, and the re-  
2 lationship between child health status and fam-  
3 ily income, family stability and preservation,  
4 and children’s school readiness and educational  
5 achievement and attainment; and

6 “(D) make recommendations regarding im-  
7 proving and strengthening the timeliness, qual-  
8 ity, and public transparency and accessibility of  
9 information about child health and health care  
10 quality.

11 “(2) FUNDING.—Up to \$1,000,000 of the  
12 amount appropriated under subsection (i) for a fis-  
13 cal year shall be used to carry out this subsection.

14 “(h) RULE OF CONSTRUCTION.—Notwithstanding  
15 any other provision in this section, no evidence based qual-  
16 ity measure developed, published, or used as a basis of  
17 measurement or reporting under this section may be used  
18 to establish an irrebuttable presumption regarding either  
19 the medical necessity of care or the maximum permissible  
20 coverage for any individual child who is eligible for and  
21 receiving medical assistance under title XIX or child  
22 health assistance under title XXI.

23 “(i) APPROPRIATION.—Out of any funds in the  
24 Treasury not otherwise appropriated, there is appro-  
25 priated for each of fiscal years 2009 through 2013,

1 \$45,000,000 for the purpose of carrying out this section  
2 (other than subsection (e)). Funds appropriated under  
3 this subsection shall remain available until expended.”.

4 (b) INCREASED MATCHING RATE FOR COLLECTING  
5 AND REPORTING ON CHILD HEALTH MEASURES.—Sec-  
6 tion 1903(a)(3)(A) (42 U.S.C. 1396b(a)(3)(A)), is amend-  
7 ed—

8 (1) by striking “and” at the end of clause (i);  
9 and

10 (2) by adding at the end the following new  
11 clause:

12 “(iii) an amount equal to the Federal med-  
13 ical assistance percentage (as defined in section  
14 1905(b)) of so much of the sums expended dur-  
15 ing such quarter (as found necessary by the  
16 Secretary for the proper and efficient adminis-  
17 tration of the State plan) as are attributable to  
18 such developments or modifications of systems  
19 of the type described in clause (i) as are nec-  
20 essary for the efficient collection and reporting  
21 on child health measures; and”.

1 **SEC. 402. IMPROVED AVAILABILITY OF PUBLIC INFORMA-**  
2 **TION REGARDING ENROLLMENT OF CHIL-**  
3 **DREN IN CHIP AND MEDICAID.**

4 (a) INCLUSION OF PROCESS AND ACCESS MEASURES  
5 IN ANNUAL STATE REPORTS.—Section 2108 (42 U.S.C.  
6 1397hh) is amended—

7 (1) in subsection (a), in the matter preceding  
8 paragraph (1), by striking “The State” and insert-  
9 ing “Subject to subsection (e), the State”; and

10 (2) by adding at the end the following new sub-  
11 section:

12 “(e) INFORMATION REQUIRED FOR INCLUSION IN  
13 STATE ANNUAL REPORT.—The State shall include the fol-  
14 lowing information in the annual report required under  
15 subsection (a):

16 “(1) Eligibility criteria, enrollment, and reten-  
17 tion data (including data with respect to continuity  
18 of coverage or duration of benefits).

19 “(2) Data regarding the extent to which the  
20 State uses process measures with respect to deter-  
21 mining the eligibility of children under the State  
22 child health plan, including measures such as 12-  
23 month continuous eligibility, self-declaration of in-  
24 come for applications or renewals, or presumptive  
25 eligibility.

1           “(3) Data regarding denials of eligibility and  
2 redeterminations of eligibility.

3           “(4) Data regarding access to primary and spe-  
4 cialty services, access to networks of care, and care  
5 coordination provided under the State child health  
6 plan, using quality care and consumer satisfaction  
7 measures included in the Consumer Assessment of  
8 Healthcare Providers and Systems (CAHPS) survey.

9           “(5) If the State provides child health assist-  
10 ance in the form of premium assistance for the pur-  
11 chase of coverage under a group health plan, data  
12 regarding the provision of such assistance, including  
13 the extent to which employer-sponsored health insur-  
14 ance coverage is available for children eligible for  
15 child health assistance under the State child health  
16 plan, the range of the monthly amount of such as-  
17 sistance provided on behalf of a child or family, the  
18 number of children or families provided such assist-  
19 ance on a monthly basis, the income of the children  
20 or families provided such assistance, the benefits  
21 and cost-sharing protection provided under the State  
22 child health plan to supplement the coverage pur-  
23 chased with such premium assistance, the effective  
24 strategies the State engages in to reduce any admin-  
25 istrative barriers to the provision of such assistance,

1 and, the effects, if any, of the provision of such as-  
2 sistance on preventing the coverage provided under  
3 the State child health plan from substituting for cov-  
4 erage provided under employer-sponsored health in-  
5 surance offered in the State.

6 “(6) To the extent applicable, a description of  
7 any State activities that are designed to reduce the  
8 number of uncovered children in the State, including  
9 through a State health insurance connector program  
10 or support for innovative private health coverage ini-  
11 tiatives.”.

12 (b) STANDARDIZED REPORTING FORMAT.—

13 (1) IN GENERAL.—Not later than 1 year after  
14 the date of enactment of this Act, the Secretary  
15 shall specify a standardized format for States to use  
16 for reporting the information required under section  
17 2108(e) of the Social Security Act, as added by sub-  
18 section (a)(2).

19 (2) TRANSITION PERIOD FOR STATES.—Each  
20 State that is required to submit a report under sub-  
21 section (a) of section 2108 of the Social Security Act  
22 that includes the information required under sub-  
23 section (e) of such section may use up to 3 reporting  
24 periods to transition to the reporting of such infor-

1       mation in accordance with the standardized format  
2       specified by the Secretary under paragraph (1).

3       (c) ADDITIONAL FUNDING FOR THE SECRETARY TO  
4 IMPROVE TIMELINESS OF DATA REPORTING AND ANAL-  
5 YSIS FOR PURPOSES OF DETERMINING ENROLLMENT IN-  
6 CREASES UNDER MEDICAID AND CHIP.—

7           (1) APPROPRIATION.—There is appropriated,  
8       out of any money in the Treasury not otherwise ap-  
9       propriated, \$5,000,000 to the Secretary for fiscal  
10      year 2009 for the purpose of improving the timeli-  
11      ness of the data reported and analyzed from the  
12      Medicaid Statistical Information System (MSIS) for  
13      purposes of providing more timely data on enroll-  
14      ment and eligibility of children under Medicaid and  
15      CHIP and to provide guidance to States with re-  
16      spect to any new reporting requirements related to  
17      such improvements. Amounts appropriated under  
18      this paragraph shall remain available until expended.

19           (2) REQUIREMENTS.—The improvements made  
20      by the Secretary under paragraph (1) shall be de-  
21      signed and implemented (including with respect to  
22      any necessary guidance for States to report such in-  
23      formation in a complete and expeditious manner) so  
24      that, beginning no later than October 1, 2009, data  
25      regarding the enrollment of low-income children (as

1 defined in section 2110(c)(4) of the Social Security  
2 Act (42 U.S.C. 1397jj(c)(4)) of a State enrolled in  
3 the State plan under Medicaid or the State child  
4 health plan under CHIP with respect to a fiscal year  
5 shall be collected and analyzed by the Secretary  
6 within 6 months of submission.

7 (d) GAO STUDY AND REPORT ON ACCESS TO PRI-  
8 MARY AND SPECIALITY SERVICES.—

9 (1) IN GENERAL.—The Comptroller General of  
10 the United States shall conduct a study of children’s  
11 access to primary and specialty services under Med-  
12 icaid and CHIP, including—

13 (A) the extent to which providers are will-  
14 ing to treat children eligible for such programs;

15 (B) information on such children’s access  
16 to networks of care;

17 (C) geographic availability of primary and  
18 specialty services under such programs;

19 (D) the extent to which care coordination  
20 is provided for children’s care under Medicaid  
21 and CHIP; and

22 (E) as appropriate, information on the de-  
23 gree of availability of services for children under  
24 such programs.



1           (2) REPORT.—Not later than 2 years after the  
2           date of enactment of this Act, the Comptroller Gen-  
3           eral shall submit a report to the Committee on Fi-  
4           nance of the Senate and the Committee on Energy  
5           and Commerce of the House of Representatives on  
6           the study conducted under paragraph (1) that in-  
7           cludes recommendations for such Federal and State  
8           legislative and administrative changes as the Comp-  
9           troller General determines are necessary to address  
10          any barriers to access to children’s care under Med-  
11          icaid and CHIP that may exist.

12 **SEC. 403. APPLICATION OF CERTAIN MANAGED CARE**  
13                                   **QUALITY SAFEGUARDS TO CHIP.**

14          (a) IN GENERAL.—Section 2103(f) of Social Security  
15          Act (42 U.S.C. 1397bb(f)) is amended by adding at the  
16          end the following new paragraph:

17                   “(3) COMPLIANCE WITH MANAGED CARE RE-  
18                   QUIREMENTS.—The State child health plan shall  
19                   provide for the application of subsections (a)(4),  
20                   (a)(5), (b), (c), (d), and (e) of section 1932 (relating  
21                   to requirements for managed care) to coverage,  
22                   State agencies, enrollment brokers, managed care  
23                   entities, and managed care organizations under this  
24                   title in the same manner as such subsections apply

1 to coverage and such entities and organizations  
2 under title XIX.”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall apply to contract years for health  
5 plans beginning on or after July 1, 2009.

6 **TITLE V—IMPROVING ACCESS**  
7 **TO BENEFITS**

8 **SEC. 501. DENTAL BENEFITS.**

9 (a) COVERAGE.—

10 (1) IN GENERAL.—Section 2103 (42 U.S.C.  
11 1397cc) is amended—

12 (A) in subsection (a)—

13 (i) in the matter before paragraph  
14 (1), by striking “subsection (c)(5)” and in-  
15 sserting “paragraphs (5) and (7) of sub-  
16 section (c)”;

17 (ii) in paragraph (1), by inserting “at  
18 least” after “that is”; and

19 (B) in subsection (c)—

20 (i) by redesignating paragraph (5) as  
21 paragraph (7); and

22 (ii) by inserting after paragraph (4),  
23 the following:

24 “(5) DENTAL BENEFITS.—

1           “(A) IN GENERAL.—The child health as-  
2           sistance provided to a targeted low-income child  
3           shall include coverage of dental services nec-  
4           essary to prevent disease and promote oral  
5           health, restore oral structures to health and  
6           function, and treat emergency conditions.

7           “(B) PERMITTING USE OF DENTAL  
8           BENCHMARK PLANS BY CERTAIN STATES.—A  
9           State may elect to meet the requirement of sub-  
10          paragraph (A) through dental coverage that is  
11          equivalent to a benchmark dental benefit pack-  
12          age described in subparagraph (C).

13          “(C) BENCHMARK DENTAL BENEFIT PACK-  
14          AGES.—The benchmark dental benefit packages  
15          are as follows:

16               “(i) FEHBP CHILDREN’S DENTAL  
17               COVERAGE.—A dental benefits plan under  
18               chapter 89A of title 5, United States Code,  
19               that has been selected most frequently by  
20               employees seeking dependent coverage,  
21               among such plans that provide such de-  
22               pendent coverage, in either of the previous  
23               2 plan years.

24               “(ii) STATE EMPLOYEE DEPENDENT  
25               DENTAL COVERAGE.—A dental benefits

1 plan that is offered and generally available  
2 to State employees in the State involved  
3 and that has been selected most frequently  
4 by employees seeking dependent coverage,  
5 among such plans that provide such de-  
6 pendent coverage, in either of the previous  
7 2 plan years.

8 “(iii) COVERAGE OFFERED THROUGH  
9 COMMERCIAL DENTAL PLAN.—A dental  
10 benefits plan that has the largest insured  
11 commercial, non-medicare enrollment of  
12 dependent covered lives of such plans that  
13 is offered in the State involved.”.

14 (2) ASSURING ACCESS TO CARE.—Section  
15 2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended  
16 by inserting “and services described in section  
17 2103(c)(5)” after “emergency services”.

18 (3) EFFECTIVE DATE.—The amendments made  
19 by paragraph (1) shall apply to coverage of items  
20 and services furnished on or after October 1, 2009.

21 (b) DENTAL EDUCATION FOR PARENTS OF  
22 NEWBORNS.—The Secretary shall develop and implement,  
23 through entities that fund or provide perinatal care serv-  
24 ices to targeted low-income children under a State child  
25 health plan under title XXI of the Social Security Act,

1 a program to deliver oral health educational materials that  
2 inform new parents about risks for, and prevention of,  
3 early childhood caries and the need for a dental visit with-  
4 in their newborn’s first year of life.

5 (c) PROVISION OF DENTAL SERVICES THROUGH  
6 FQHCs.—

7 (1) MEDICAID.—Section 1902(a) (42 U.S.C.  
8 1396a(a)) is amended—

9 (A) by striking “and” at the end of para-  
10 graph (70);

11 (B) by striking the period at the end of  
12 paragraph (71) and inserting “; and”; and

13 (C) by inserting after paragraph (71) the  
14 following new paragraph:

15 “(72) provide that the State will not prevent a  
16 Federally-qualified health center from entering into  
17 contractual relationships with private practice dental  
18 providers in the provision of Federally-qualified  
19 health center services.”.

20 (2) CHIP.—Section 2107(e)(1) (42 U.S.C.  
21 1397g(e)(1)), as amended by subsections (a)(2) and  
22 (d)(2) of section 203, is amended by inserting after  
23 subparagraph (B) the following new subparagraph  
24 (and redesignating the succeeding subparagraphs ac-  
25 cordingly):

1           “(C) Section 1902(a)(72) (relating to lim-  
2           iting FQHC contracting for provision of dental  
3           services).”.

4           (3) EFFECTIVE DATE.—The amendments made  
5           by this subsection shall take effect on January 1,  
6           2009.

7           (d) REPORTING INFORMATION ON DENTAL  
8 HEALTH.—

9           (1) MEDICAID.—Section 1902(a)(43)(D)(iii)  
10          (42 U.S.C. 1396a(a)(43)(D)(iii)) is amended by in-  
11          serting “and other information relating to the provi-  
12          sion of dental services to such children described in  
13          section 2108(e)” after “receiving dental services,”.

14          (2) CHIP.—Section 2108 (42 U.S.C. 1397hh)  
15          is amended by adding at the end the following new  
16          subsection:

17          “(e) INFORMATION ON DENTAL CARE FOR CHIL-  
18 DREN.—

19                 “(1) IN GENERAL.—Each annual report under  
20                 subsection (a) shall include the following information  
21                 with respect to care and services described in section  
22                 1905(r)(3) provided to targeted low-income children  
23                 enrolled in the State child health plan under this  
24                 title at any time during the year involved:

1           “(A) The number of enrolled children by  
2           age grouping used for reporting purposes under  
3           section 1902(a)(43).

4           “(B) For children within each such age  
5           grouping, information of the type contained in  
6           questions 12(a)–(c) of CMS Form 416 (that  
7           consists of the number of enrolled targeted low  
8           income children who receive any, preventive, or  
9           restorative dental care under the State plan).

10           “(C) For the age grouping that includes  
11           children 8 years of age, the number of such  
12           children who have received a protective sealant  
13           on at least one permanent molar tooth.

14           “(2) INCLUSION OF INFORMATION ON ENROLL-  
15           EES IN MANAGED CARE PLANS.—The information  
16           under paragraph (1) shall include information on  
17           children who are enrolled in managed care plans and  
18           other private health plans and contracts with such  
19           plans under this title shall provide for the reporting  
20           of such information by such plans to the State.”.

21           “(3) EFFECTIVE DATE.—The amendments made  
22           by this subsection shall be effective for annual re-  
23           ports submitted for years beginning after date of en-  
24           actment.

1 (e) IMPROVED ACCESSIBILITY OF DENTAL PROVIDER  
2 INFORMATION TO ENROLLEES UNDER MEDICAID AND  
3 CHIP.—The Secretary shall—

4 (1) work with States, pediatric dentists, and  
5 other dental providers (including providers that are,  
6 or are affiliated with, a school of dentistry) to in-  
7 clude, not later than 6 months after the date of the  
8 enactment of this Act, on the Insure Kids Now  
9 website (<http://www.insurekidsnow.gov/>) and hotline  
10 (1–877–KIDS–NOW) (or on any successor websites  
11 or hotlines) a current and accurate list of all such  
12 dentists and providers within each State that provide  
13 dental services to children enrolled in the State plan  
14 (or waiver) under Medicaid or the State child health  
15 plan (or waiver) under CHIP, and shall ensure that  
16 such list is updated at least quarterly; and

17 (2) work with States to include, not later than  
18 6 months after the date of the enactment of this  
19 Act, a description of the dental services provided  
20 under each State plan (or waiver) under Medicaid  
21 and each State child health plan (or waiver) under  
22 CHIP on such Insure Kids Now website, and shall  
23 ensure that such list is updated at least annually.

24 (f) INCLUSION OF STATUS OF EFFORTS TO IMPROVE  
25 DENTAL CARE IN REPORTS ON THE QUALITY OF CHIL-



1 DREN'S HEALTH CARE UNDER MEDICAID AND CHIP.—  
2 Section 1139A(a), as added by section 401(a), is amend-  
3 ed—

4 (1) in paragraph (3)(B)(ii), by inserting “and,  
5 with respect to dental care, conditions requiring the  
6 restoration of teeth, relief of pain and infection, and  
7 maintenance of dental health” after “chronic condi-  
8 tions”; and

9 (2) in paragraph (6)(A)(ii), by inserting “dental  
10 care,” after “preventive health services,”.

11 (g) GAO STUDY AND REPORT.—

12 (1) STUDY.—The Comptroller General of the  
13 United States shall provide for a study that exam-  
14 ines—

15 (A) access to dental services by children in  
16 underserved areas;

17 (B) children's access to oral health care,  
18 including preventive and restorative services,  
19 under Medicaid and CHIP, including—

20 (i) the extent to which dental pro-  
21 viders are willing to treat children eligible  
22 for such programs;

23 (ii) information on such children's ac-  
24 cess to networks of care, including such

1 networks that serve special needs children;  
2 and

3 (iii) geographic availability of oral  
4 health care, including preventive and re-  
5 storative services, under such programs;  
6 and

7 (C) the feasibility and appropriateness of  
8 using qualified mid-level dental health pro-  
9 viders, in coordination with dentists, to improve  
10 access for children to oral health services and  
11 public health overall.

12 (2) REPORT.—Not later than 18 months year  
13 after the date of the enactment of this Act, the  
14 Comptroller General shall submit to Congress a re-  
15 port on the study conducted under paragraph (1).  
16 The report shall include recommendations for such  
17 Federal and State legislative and administrative  
18 changes as the Comptroller General determines are  
19 necessary to address any barriers to access to oral  
20 health care, including preventive and restorative  
21 services, under Medicaid and CHIP that may exist.

22 **SEC. 502. MENTAL HEALTH PARITY IN CHIP PLANS.**

23 (a) ASSURANCE OF PARITY.—Section 2103(c) (42  
24 U.S.C. 1397cc(c)), as amended by section 501(a)(1)(B),  
25 is amended by inserting after paragraph (5), the following:

1 “(6) MENTAL HEALTH SERVICES PARITY.—

2 “(A) IN GENERAL.—In the case of a State  
3 child health plan that provides both medical  
4 and surgical benefits and mental health or sub-  
5 stance use disorder benefits, such plan shall en-  
6 sure that the financial requirements and treat-  
7 ment limitations applicable to such mental  
8 health or substance use disorder benefits com-  
9 ply with the requirements of section 2705(a) of  
10 the Public Health Service Act in the same man-  
11 ner as such requirements apply to a group  
12 health plan.

13 “(B) DEEMED COMPLIANCE.—To the ex-  
14 tent that a State child health plan includes cov-  
15 erage with respect to an individual described in  
16 section 1905(a)(4)(B) and covered under the  
17 State plan under section 1902(a)(10)(A) of the  
18 services described in section 1905(a)(4)(B) (re-  
19 lating to early and periodic screening, diag-  
20 nostic, and treatment services defined in section  
21 1905(r)) and provided in accordance with sec-  
22 tion 1902(a)(43), such plan shall be deemed to  
23 satisfy the requirements of subparagraph (A).”.

24 (b) CONFORMING AMENDMENTS.—Section 2103 (42  
25 U.S.C. 1397cc) is amended—

1 (1) in subsection (a), as amended by section  
2 501(a)(1)(A)(i), in the matter preceding paragraph  
3 (1), by inserting “, (6),” after “(5)”; and

4 (2) in subsection (c)(2), by striking subpara-  
5 graph (B) and redesignating subparagraphs (C) and  
6 (D) as subparagraphs (B) and (C), respectively.

7 **SEC. 503. APPLICATION OF PROSPECTIVE PAYMENT SYS-**  
8 **TEM FOR SERVICES PROVIDED BY FEDER-**  
9 **ALLY-QUALIFIED HEALTH CENTERS AND**  
10 **RURAL HEALTH CLINICS.**

11 (a) APPLICATION OF PROSPECTIVE PAYMENT SYS-  
12 TEM.—

13 (1) IN GENERAL.—Section 2107(e)(1) (42  
14 U.S.C. 1397gg(e)(1)), as amended by section  
15 501(c)(2) is amended by inserting after subpara-  
16 graph (C) the following new subparagraph (and re-  
17 designating the succeeding subparagraphs accord-  
18 ingly):

19 “(D) Section 1902(bb) (relating to pay-  
20 ment for services provided by Federally-quali-  
21 fied health centers and rural health clinics).”.

22 (2) EFFECTIVE DATE.—The amendment made  
23 by paragraph (1) shall apply to services provided on  
24 or after October 1, 2009.

25 (b) TRANSITION GRANTS.—

1           (1) APPROPRIATION.—Out of any funds in the  
2 Treasury not otherwise appropriated, there is appro-  
3 priated to the Secretary for fiscal year 2009,  
4 \$5,000,000, to remain available until expended, for  
5 the purpose of awarding grants to States with State  
6 child health plans under CHIP that are operated  
7 separately from the State Medicaid plan under title  
8 XIX of the Social Security Act (including any waiver  
9 of such plan), or in combination with the State Med-  
10 icaid plan, for expenditures related to transitioning  
11 to compliance with the requirement of section  
12 2107(e)(1)(D) of the Social Security Act (as added  
13 by subsection (a)) to apply the prospective payment  
14 system established under section 1902(bb) of the  
15 such Act (42 U.S.C. 1396a(bb)) to services provided  
16 by Federally-qualified health centers and rural  
17 health clinics.

18           (2) MONITORING AND REPORT.—The Secretary  
19 shall monitor the impact of the application of such  
20 prospective payment system on the States described  
21 in paragraph (1) and, not later than October 1,  
22 2011, shall report to Congress on any effect on ac-  
23 cess to benefits, provider payment rates, or scope of  
24 benefits offered by such States as a result of the ap-  
25 plication of such payment system.

1 **SEC. 504. PREMIUM GRACE PERIOD.**

2 (a) IN GENERAL.—Section 2103(e)(3) (42 U.S.C.  
3 1397cc(e)(3)) is amended by adding at the end the fol-  
4 lowing new subparagraph:

5 “(C) PREMIUM GRACE PERIOD.—The State  
6 child health plan—

7 “(i) shall afford individuals enrolled  
8 under the plan a grace period of at least  
9 30 days from the beginning of a new cov-  
10 erage period to make premium payments  
11 before the individual’s coverage under the  
12 plan may be terminated; and

13 “(ii) shall provide to such an indi-  
14 vidual, not later than 7 days after the first  
15 day of such grace period, notice—

16 “(I) that failure to make a pre-  
17 mium payment within the grace pe-  
18 riod will result in termination of cov-  
19 erage under the State child health  
20 plan; and

21 “(II) of the individual’s right to  
22 challenge the proposed termination  
23 pursuant to the applicable Federal  
24 regulations.

25 For purposes of clause (i), the term ‘new cov-  
26 erage period’ means the month immediately fol-

1           lowing the last month for which the premium  
2           has been paid.”.

3           (b) **EFFECTIVE DATE.**—The amendment made by  
4 subsection (a) shall apply to new coverage periods begin-  
5 ning on or after the date of the enactment of this Act.

6 **SEC. 505. CLARIFICATION OF COVERAGE OF SERVICES**  
7                   **PROVIDED THROUGH SCHOOL-BASED**  
8                   **HEALTH CENTERS.**

9           Section 2103(c) (42 U.S.C. 1397cc(c)), as amended  
10 by section 501(a)(1)(B), is amended by adding at the end  
11 the following new paragraph:

12                   “(8) **AVAILABILITY OF COVERAGE FOR ITEMS**  
13           **AND SERVICES FURNISHED THROUGH SCHOOL-**  
14           **BASED HEALTH CENTERS.**—Nothing in this title  
15           shall be construed as limiting a State’s ability to  
16           provide child health assistance for covered items and  
17           services that are furnished through school-based  
18           health centers.”.

1 **TITLE VI—PROGRAM INTEGRITY**  
2 **AND OTHER MISCELLANEOUS**  
3 **PROVISIONS**

4 **Subtitle A—Program Integrity and**  
5 **Data Collection**

6 **SEC. 601. PAYMENT ERROR RATE MEASUREMENT (“PERM”).**

7 (a) EXPENDITURES RELATED TO COMPLIANCE WITH  
8 REQUIREMENTS.—

9 (1) ENHANCED PAYMENTS.—Section 2105(c)  
10 (42 U.S.C. 1397ee(c)), as amended by section  
11 301(a), is amended by adding at the end the fol-  
12 lowing new paragraph:

13 “(11) ENHANCED PAYMENTS.—Notwith-  
14 standing subsection (b), the enhanced FMAP with  
15 respect to payments under subsection (a) for ex-  
16 penditures related to the administration of the pay-  
17 ment error rate measurement (PERM) requirements  
18 applicable to the State child health plan in accord-  
19 ance with the Improper Payments Information Act  
20 of 2002 and parts 431 and 457 of title 42, Code of  
21 Federal Regulations (or any related or successor  
22 guidance or regulations) shall in no event be less  
23 than 90 percent.”.

24 (2) EXCLUSION OF FROM CAP ON ADMINISTRA-  
25 TIVE EXPENDITURES.—Section 2105(c)(2)(C) (42



1 U.S.C. 1397ee(c)(2)C)), as amended by section  
2 302(b)), is amended by adding at the end the fol-  
3 lowing:

4 “(iv) PAYMENT ERROR RATE MEAS-  
5 UREMENT (PERM) EXPENDITURES.—Ex-  
6 penditures related to the administration of  
7 the payment error rate measurement  
8 (PERM) requirements applicable to the  
9 State child health plan in accordance with  
10 the Improper Payments Information Act of  
11 2002 and parts 431 and 457 of title 42,  
12 Code of Federal Regulations (or any re-  
13 lated or successor guidance or regula-  
14 tions).”.

15 (b) FINAL RULE REQUIRED TO BE IN EFFECT FOR  
16 ALL STATES.—Notwithstanding parts 431 and 457 of  
17 title 42, Code of Federal Regulations (as in effect on the  
18 date of enactment of this Act), the Secretary shall not cal-  
19 culate or publish any national or State-specific error rate  
20 based on the application of the payment error rate meas-  
21 urement (in this section referred to as “PERM”) require-  
22 ments to CHIP until after the date that is 6 months after  
23 the date on which a new final rule (in this section referred  
24 to as the “new final rule”) promulgated after the date of  
25 the enactment of this Act and implementing such require-

1 ments in accordance with the requirements of subsection  
2 (c) is in effect for all States. Any calculation of a national  
3 error rate or a State specific error rate after such new  
4 final rule in effect for all States may only be inclusive of  
5 errors, as defined in such new final rule or in guidance  
6 issued within a reasonable time frame after the effective  
7 date for such new final rule that includes detailed guid-  
8 ance for the specific methodology for error determinations.

9 (c) REQUIREMENTS FOR NEW FINAL RULE.—For  
10 purposes of subsection (b), the requirements of this sub-  
11 section are that the new final rule implementing the  
12 PERM requirements shall—

13 (1) include—

14 (A) clearly defined criteria for errors for  
15 both States and providers;

16 (B) a clearly defined process for appealing  
17 error determinations by—

18 (i) review contractors; or

19 (ii) the agency and personnel de-  
20 scribed in section 431.974(a)(2) of title 42,  
21 Code of Federal Regulations, as in effect  
22 on September 1, 2007, responsible for the  
23 development, direction, implementation,  
24 and evaluation of eligibility reviews and as-  
25 sociated activities; and

1 (C) clearly defined responsibilities and  
2 deadlines for States in implementing any cor-  
3 rective action plans; and

4 (2) provide that the payment error rate deter-  
5 mined for a State shall not take into account pay-  
6 ment errors resulting from the State's verification of  
7 an applicant's self-declaration or self-certification of  
8 eligibility for, and the correct amount of, medical as-  
9 sistance or child health assistance, if the State proc-  
10 ess for verifying an applicant's self-declaration or  
11 self-certification satisfies the requirements for such  
12 process applicable under regulations promulgated by  
13 the Secretary or otherwise approved by the Sec-  
14 retary.

15 (d) OPTION FOR APPLICATION OF DATA FOR STATES  
16 IN FIRST APPLICATION CYCLE UNDER THE INTERIM  
17 FINAL RULE.—After the new final rule implementing the  
18 PERM requirements in accordance with the requirements  
19 of subsection (c) is in effect for all States, a State for  
20 which the PERM requirements were first in effect under  
21 an interim final rule for fiscal year 2007 or under a final  
22 rule for fiscal year 2008 may elect to accept any payment  
23 error rate determined in whole or in part for the State  
24 on the basis of data for that fiscal year or may elect to  
25 not have any payment error rate determined on the basis

1 of such data and, instead, shall be treated as if fiscal year  
2 2010 or fiscal year 2011 were the first fiscal year for  
3 which the PERM requirements apply to the State.

4 (e) HARMONIZATION OF MEQC AND PERM.—

5 (1) REDUCTION OF REDUNDANCIES.—The Sec-  
6 retary shall review the Medicaid Eligibility Quality  
7 Control (in this subsection referred to as the  
8 “MEQC”) requirements with the PERM require-  
9 ments and coordinate consistent implementation of  
10 both sets of requirements, while reducing  
11 redundancies.

12 (2) STATE OPTION TO APPLY PERM DATA.—A  
13 State may elect, for purposes of determining the er-  
14 roneous excess payments for medical assistance ratio  
15 applicable to the State for a fiscal year under section  
16 1903(u) of the Social Security Act (42 U.S.C.  
17 1396b(u)) to substitute data resulting from the ap-  
18 plication of the PERM requirements to the State  
19 after the new final rule implementing such require-  
20 ments is in effect for all States for data obtained  
21 from the application of the MEQC requirements to  
22 the State with respect to a fiscal year.

23 (3) STATE OPTION TO APPLY MEQC DATA.—For  
24 purposes of satisfying the requirements of subpart Q  
25 of part 431 of title 42, Code of Federal Regulations,

1 relating to Medicaid eligibility reviews, a State may  
2 elect to substitute data obtained through MEQC re-  
3 views conducted in accordance with section 1903(u)  
4 of the Social Security Act (42 U.S.C. 1396b(u)) for  
5 data required for purposes of PERM requirements,  
6 but only if the State MEQC reviews are based on a  
7 broad, representative sample of Medicaid applicants  
8 or enrollees in the States.

9 (f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC  
10 SAMPLE SIZES.—The Secretary shall establish State-spe-  
11 cific sample sizes for application of the PERM require-  
12 ments with respect to State child health plans for fiscal  
13 years beginning with fiscal year 2009, on the basis of such  
14 information as the Secretary determines appropriate. In  
15 establishing such sample sizes, the Secretary shall, to the  
16 greatest extent practicable—

17 (1) minimize the administrative cost burden on  
18 States under Medicaid and CHIP; and

19 (2) maintain State flexibility to manage such  
20 programs.

21 **SEC. 602. IMPROVING DATA COLLECTION.**

22 (a) INCREASED APPROPRIATION.—Section  
23 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by strik-  
24 ing “\$10,000,000 for fiscal year 2000” and inserting  
25 “\$20,000,000 for fiscal year 2009”.

1 (b) USE OF ADDITIONAL FUNDS.—Section 2109(b)  
2 (42 U.S.C. 1397ii(b)), as amended by subsection (a), is  
3 amended—

4 (1) by redesignating paragraph (2) as para-  
5 graph (4); and

6 (2) by inserting after paragraph (1), the fol-  
7 lowing new paragraphs:

8 “(2) ADDITIONAL REQUIREMENTS.—In addition  
9 to making the adjustments required to produce the  
10 data described in paragraph (1), with respect to  
11 data collection occurring for fiscal years beginning  
12 with fiscal year 2009, in appropriate consultation  
13 with the Secretary of Health and Human Services,  
14 the Secretary of Commerce shall do the following:

15 “(A) Make appropriate adjustments to the  
16 Current Population Survey to develop more ac-  
17 curate State-specific estimates of the number of  
18 children enrolled in health coverage under title  
19 XIX or this title.

20 “(B) Make appropriate adjustments to the  
21 Current Population Survey to improve the sur-  
22 vey estimates used to determine the child popu-  
23 lation growth factor under section  
24 2104(m)(5)(B) and any other data necessary  
25 for carrying out this title.

1           “(C) Include health insurance survey infor-  
2 mation in the American Community Survey re-  
3 lated to children.

4           “(D) Assess whether American Community  
5 Survey estimates, once such survey data are  
6 first available, produce more reliable estimates  
7 than the Current Population Survey with re-  
8 spect to the purposes described in subparagraph  
9 (B).

10          “(E) On the basis of the assessment re-  
11 quired under subparagraph (D), recommend to  
12 the Secretary of Health and Human Services  
13 whether American Community Survey estimates  
14 should be used in lieu of, or in some combina-  
15 tion with, Current Population Survey estimates  
16 for the purposes described in subparagraph (B).

17          “(F) Continue making the adjustments de-  
18 scribed in the last sentence of paragraph (1)  
19 with respect to expansion of the sample size  
20 used in State sampling units, the number of  
21 sampling units in a State, and using an appro-  
22 priate verification element.

23          “(3) AUTHORITY FOR THE SECRETARY OF  
24 HEALTH AND HUMAN SERVICES TO TRANSITION TO  
25 THE USE OF ALL, OR SOME COMBINATION OF, ACS

1 ESTIMATES UPON RECOMMENDATION OF THE SEC-  
2 RETARY OF COMMERCE.—If, on the basis of the as-  
3 sessment required under paragraph (2)(D), the Sec-  
4 retary of Commerce recommends to the Secretary of  
5 Health and Human Services that American Commu-  
6 nity Survey estimates should be used in lieu of, or  
7 in some combination with, Current Population Sur-  
8 vey estimates for the purposes described in para-  
9 graph (2)(B), the Secretary of Health and Human  
10 Services, in consultation with the States, may pro-  
11 vide for a period during which the Secretary may  
12 transition from carrying out such purposes through  
13 the use of Current Population Survey estimates to  
14 the use of American Community Survey estimates  
15 (in lieu of, or in combination with the Current Popu-  
16 lation Survey estimates, as recommended), provided  
17 that any such transition is implemented in a manner  
18 that is designed to avoid adverse impacts upon  
19 States with approved State child health plans under  
20 this title.”.

21 **SEC. 603. UPDATED FEDERAL EVALUATION OF CHIP.**

22 Section 2108(c) (42 U.S.C. 1397hh(c)) is amended  
23 by striking paragraph (5) and inserting the following:

24 “(5) SUBSEQUENT EVALUATION USING UP-  
25 DATED INFORMATION.—



1           “(A) IN GENERAL.—The Secretary, di-  
2           rectly or through contracts or interagency  
3           agreements, shall conduct an independent sub-  
4           sequent evaluation of 10 States with approved  
5           child health plans.

6           “(B) SELECTION OF STATES AND MAT-  
7           TERS INCLUDED.—Paragraphs (2) and (3) shall  
8           apply to such subsequent evaluation in the  
9           same manner as such provisions apply to the  
10          evaluation conducted under paragraph (1).

11          “(C) SUBMISSION TO CONGRESS.—Not  
12          later than December 31, 2011, the Secretary  
13          shall submit to Congress the results of the eval-  
14          uation conducted under this paragraph.

15          “(D) FUNDING.—Out of any money in the  
16          Treasury of the United States not otherwise ap-  
17          propriated, there are appropriated \$10,000,000  
18          for fiscal year 2010 for the purpose of con-  
19          ducting the evaluation authorized under this  
20          paragraph. Amounts appropriated under this  
21          subparagraph shall remain available for expend-  
22          iture through fiscal year 2012.”.

1 **SEC. 604. ACCESS TO RECORDS FOR IG AND GAO AUDITS**  
2 **AND EVALUATIONS.**

3 Section 2108(d) (42 U.S.C. 1397hh(d)) is amended  
4 to read as follows:

5 “(d) ACCESS TO RECORDS FOR IG AND GAO AUDITS  
6 AND EVALUATIONS.—For the purpose of evaluating and  
7 auditing the program established under this title, or title  
8 XIX, the Secretary, the Office of Inspector General, and  
9 the Comptroller General shall have access to any books,  
10 accounts, records, correspondence, and other documents  
11 that are related to the expenditure of Federal funds under  
12 this title and that are in the possession, custody, or control  
13 of States receiving Federal funds under this title or polit-  
14 ical subdivisions thereof, or any grantee or contractor of  
15 such States or political subdivisions.”.

16 **SEC. 605. NO FEDERAL FUNDING FOR ILLEGAL ALIENS.**

17 Nothing in this Act allows Federal payment for indi-  
18 viduals who are not lawfully residing in the United States.  
19 Titles XI, XIX, and XXI of the Social Security Act pro-  
20 vide for the disallowance of Federal financial participation  
21 for erroneous expenditures under Medicaid and under  
22 CHIP, respectively.

1     **Subtitle B—Miscellaneous Health**  
2                     **Provisions**

3     **SEC. 611. DEFICIT REDUCTION ACT TECHNICAL CORREC-**  
4                     **TIONS.**

5             (a) CLARIFICATION OF REQUIREMENT TO PROVIDE  
6     EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK  
7     BENEFIT PACKAGES UNDER MEDICAID.—Section  
8     1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted by sec-  
9     tion 6044(a) of the Deficit Reduction Act of 2005 (Public  
10    Law 109–171, 120 Stat. 88), is amended—

11             (1) in subparagraph (A)—

12                     (A) in the matter before clause (i)—

13                             (i) by striking “Notwithstanding any  
14                             other provision of this title” and inserting  
15                             “Notwithstanding section 1902(a)(1) (re-  
16                             lating to statewideness), section  
17                             1902(a)(10)(B) (relating to comparability)  
18                             and any other provision of this title which  
19                             would be directly contrary to the authority  
20                             under this section and subject to sub-  
21                             section (E)”; and

22                             (ii) by striking “enrollment in cov-  
23                             erage that provides” and inserting “cov-  
24                             erage that”;

1 (B) in clause (i), by inserting “provides”  
2 after “(i)”; and

3 (C) by striking clause (ii) and inserting the  
4 following:

5 “(ii) for any individual described in  
6 section 1905(a)(4)(B) who is eligible under  
7 the State plan in accordance with para-  
8 graphs (10) and (17) of section 1902(a),  
9 consists of the items and services described  
10 in section 1905(a)(4)(B) (relating to early  
11 and periodic screening, diagnostic, and  
12 treatment services defined in section  
13 1905(r)) and provided in accordance with  
14 the requirements of section 1902(a)(43).”;

15 (2) in subparagraph (C)—

16 (A) in the heading, by striking “**WRAP-**  
17 **AROUND**” and inserting “**ADDITIONAL**”; and

18 (B) by striking “wrap-around or”; and

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

21 “(E) **RULE OF CONSTRUCTION.**—Nothing  
22 in this paragraph shall be construed as—

23 “(i) requiring a State to offer all or  
24 any of the items and services required by  
25 subparagraph (A)(ii) through an issuer of

1 benchmark coverage described in sub-  
2 section (b)(1) or benchmark equivalent  
3 coverage described in subsection (b)(2);

4 “(ii) preventing a State from offering  
5 all or any of the items and services re-  
6 quired by subparagraph (A)(ii) through an  
7 issuer of benchmark coverage described in  
8 subsection (b)(1) or benchmark equivalent  
9 coverage described in subsection (b)(2); or

10 “(iii) affecting a child’s entitlement to  
11 care and services described in subsections  
12 (a)(4)(B) and (r) of section 1905 and pro-  
13 vided in accordance with section  
14 1902(a)(43) whether provided through  
15 benchmark coverage, benchmark equivalent  
16 coverage, or otherwise.”.

17 (b) CORRECTION OF REFERENCE TO CHILDREN IN  
18 FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—  
19 Section 1937(a)(2)(B)(viii) (42 U.S.C. 1396u–  
20 7(a)(2)(B)(viii)), as inserted by section 6044(a) of the  
21 Deficit Reduction Act of 2005, is amended by striking  
22 “aid or assistance is made available under part B of title  
23 IV to children in foster care and individuals” and inserting  
24 “child welfare services are made available under part B  
25 of title IV on the basis of being a child in foster care or”.

1           (c) TRANSPARENCY.—Section 1937 (42 U.S.C.  
2 1396u–7), as inserted by section 6044(a) of the Deficit  
3 Reduction Act of 2005, is amended by adding at the end  
4 the following:

5           “(c) PUBLICATION OF PROVISIONS AFFECTED.—  
6 With respect to a State plan amendment to provide bench-  
7 mark benefits in accordance with subsections (a) and (b)  
8 that is approved by the Secretary, the Secretary shall pub-  
9 lish on the Internet website of the Centers for Medicare  
10 & Medicaid Services, a list of the provisions of this title  
11 that the Secretary has determined do not apply in order  
12 to enable the State to carry out the plan amendment and  
13 the reason for each such determination on the date such  
14 approval is made, and shall publish such list in the Fed-  
15 eral Register and not later than 30 days after such date  
16 of approval.”.

17           (d) EFFECTIVE DATE.—The amendments made by  
18 subsections (a), (b), and (c) of this section shall take effect  
19 as if included in the amendment made by section 6044(a)  
20 of the Deficit Reduction Act of 2005.

21 **SEC. 612. REFERENCES TO TITLE XXI.**

22           Section 704 of the Medicare, Medicaid, and SCHIP  
23 Balanced Budget Refinement Act of 1999, as enacted into  
24 law by division B of Public Law 106–113 (113 Stat.  
25 1501A–402) is repealed.

1 **SEC. 613. PROHIBITING INITIATION OF NEW HEALTH OP-**  
2 **PORTUNITY ACCOUNT DEMONSTRATION PRO-**  
3 **GRAMS.**

4 After the date of the enactment of this Act, the Sec-  
5 retary of Health and Human Services may not approve  
6 any new demonstration programs under section 1938 of  
7 the Social Security Act (42 U.S.C. 1396u–8).

8 **SEC. 614. ADJUSTMENT IN COMPUTATION OF MEDICAID**  
9 **FMAP TO DISREGARD AN EXTRAORDINARY**  
10 **EMPLOYER PENSION CONTRIBUTION.**

11 (a) IN GENERAL.—Only for purposes of computing  
12 the FMAP (as defined in subsection (e)) for a State for  
13 a fiscal year (beginning with fiscal year 2006) and apply-  
14 ing the FMAP under title XIX of the Social Security Act,  
15 any significantly disproportionate employer pension or in-  
16 surance fund contribution described in subsection (b) shall  
17 be disregarded in computing the per capita income of such  
18 State, but shall not be disregarded in computing the per  
19 capita income for the continental United States (and Alas-  
20 ka) and Hawaii.

21 (b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER  
22 PENSION AND INSURANCE FUND CONTRIBUTION.—

23 (1) IN GENERAL.—For purposes of this section,  
24 a significantly disproportionate employer pension  
25 and insurance fund contribution described in this  
26 subsection with respect to a State is any identifiable

1 employer contribution towards pension or other em-  
2 ployee insurance funds that is estimated to accrue to  
3 residents of such State for a calendar year (begin-  
4 ning with calendar year 2003) if the increase in the  
5 amount so estimated exceeds 25 percent of the total  
6 increase in personal income in that State for the  
7 year involved.

8 (2) DATA TO BE USED.—For estimating and  
9 adjustment a FMAP already calculated as of the  
10 date of the enactment of this Act for a State with  
11 a significantly disproportionate employer pension  
12 and insurance fund contribution, the Secretary shall  
13 use the personal income data set originally used in  
14 calculating such FMAP.

15 (3) SPECIAL ADJUSTMENT FOR NEGATIVE  
16 GROWTH.—If in any calendar year the total personal  
17 income growth in a State is negative, an employer  
18 pension and insurance fund contribution for the pur-  
19 poses of calculating the State's FMAP for a cal-  
20 endar year shall not exceed 125 percent of the  
21 amount of such contribution for the previous cal-  
22 endar year for the State.

23 (c) HOLD HARMLESS.—No State shall have its  
24 FMAP for a fiscal year reduced as a result of the applica-  
25 tion of this section.



1 (d) REPORT.—Not later than May 15, 2009, the Sec-  
2 retary shall submit to the Congress a report on the prob-  
3 lems presented by the current treatment of pension and  
4 insurance fund contributions in the use of Bureau of Eco-  
5 nomic Affairs calculations for the FMAP and for Medicaid  
6 and on possible alternative methodologies to mitigate such  
7 problems.

8 (e) FMAP DEFINED.—For purposes of this section,  
9 the term “FMAP” means the Federal medical assistance  
10 percentage, as defined in section 1905(b) of the Social Se-  
11 curity Act (42 U.S.C. 1396(d)).

12 **SEC. 615. CLARIFICATION TREATMENT OF REGIONAL MED-**  
13 **ICAL CENTER.**

14 (a) IN GENERAL.—Nothing in section 1903(w) of the  
15 Social Security Act (42 U.S.C. 1396b(w)) shall be con-  
16 strued by the Secretary of Health and Human Services  
17 as prohibiting a State’s use of funds as the non-Federal  
18 share of expenditures under title XIX of such Act where  
19 such funds are transferred from or certified by a publicly-  
20 owned regional medical center located in another State  
21 and described in subsection (b), so long as the Secretary  
22 determines that such use of funds is proper and in the  
23 interest of the program under title XIX.

1 (b) CENTER DESCRIBED.—A center described in this  
2 subsection is a publicly-owned regional medical center  
3 that—

4 (1) provides level 1 trauma and burn care serv-  
5 ices;

6 (2) provides level 3 neonatal care services;

7 (3) is obligated to serve all patients, regardless  
8 of ability to pay;

9 (4) is located within a Standard Metropolitan  
10 Statistical Area (SMSA) that includes at least 3  
11 States;

12 (5) provides services as a tertiary care provider  
13 for patients residing within a 125-mile radius; and

14 (6) meets the criteria for a disproportionate  
15 share hospital under section 1923 of such Act (42  
16 U.S.C. 1396r-4) in at least one State other than the  
17 State in which the center is located.

18 **SEC. 616. EXTENSION OF MEDICAID DSH ALLOTMENTS FOR**

19 **TENNESSEE AND HAWAII.**

20 Section 1923(f)(6) (42 U.S.C. 1396r-4(f)(6)), as  
21 amended by section 202 of the Medicare Improvements  
22 for Patients and Providers Act of 2008 (Public Law 110-  
23 275) is amended—

24 (1) in the paragraph heading, by striking “2009

25 AND THE FIRST CALENDAR QUARTER OF FISCAL

1 YEAR 2010” and inserting “2011 AND THE FIRST CAL-  
2 ENDAR QUARTER OF FISCAL YEAR 2012”;

3 (2) in subparagraph (A)—

4 (A) in clause (i)—

5 (i) in the second sentence—

6 (I) by striking “and 2009” and  
7 inserting “, 2009, 2010, and 2011”;  
8 and

9 (II) by striking “such portion  
10 of”; and

11 (ii) in the third sentence, by striking  
12 “2010 for the period ending on December  
13 31, 2009” and inserting “2012 for the pe-  
14 riod ending on December 31, 2011”;

15 (B) in clause (ii), by striking “or for a pe-  
16 riod in fiscal year 2010” and inserting “2010,  
17 2011, or for period in fiscal year 2012”; and

18 (C) in clause (iv)—

19 (i) in the clause heading, by striking  
20 “2009 AND THE FIRST CALENDAR QUARTER  
21 OF FISCAL YEAR 2010” and inserting “2011  
22 AND THE FIRST CALENDAR QUARTER OF  
23 FISCAL YEAR 2012”; and

24 (ii) in each of subclauses (I) and (II),  
25 by striking “ or for a period in fiscal year

1                   2010” and inserting “2010, 2011, or for a  
2                   period in fiscal year 2012”; and  
3                   (3) in subparagraph (B)—  
4                   (A) in clause (i)—  
5                   (i) in the first sentence, by striking  
6                   “2009” and inserting “2011”; and  
7                   (ii) in the second sentence, by striking  
8                   “2010 for the period ending on December  
9                   31, 2009” and inserting “2012 for the pe-  
10                  riod ending on December 31, 2011”.

## 11                   **Subtitle C—Other Provisions**

### 12                   **SEC. 621. OUTREACH REGARDING HEALTH INSURANCE OP-** 13                   **TIONS AVAILABLE TO CHILDREN.**

14                   (a) DEFINITIONS.—In this section—

15                   (1) the terms “Administration” and “Adminis-  
16                   trator” means the Small Business Administration  
17                   and the Administrator thereof, respectively;

18                   (2) the term “certified development company”  
19                   means a development company participating in the  
20                   program under title V of the Small Business Invest-  
21                   ment Act of 1958 (15 U.S.C. 695 et seq.);

22                   (3) the term “Medicaid program” means the  
23                   program established under title XIX of the Social  
24                   Security Act (42 U.S.C. 1396 et seq.);

1           (4) the term “Service Corps of Retired Execu-  
2           tives” means the Service Corps of Retired Execu-  
3           tives authorized by section 8(b)(1) of the Small  
4           Business Act (15 U.S.C. 637(b)(1));

5           (5) the term “small business concern” has the  
6           meaning given that term in section 3 of the Small  
7           Business Act (15 U.S.C. 632);

8           (6) the term “small business development cen-  
9           ter” means a small business development center de-  
10          scribed in section 21 of the Small Business Act (15  
11          U.S.C. 648);

12          (7) the term “State” has the meaning given  
13          that term for purposes of title XXI of the Social Se-  
14          curity Act (42 U.S.C. 1397aa et seq.);

15          (8) the term “State Children’s Health Insur-  
16          ance Program” means the State Children’s Health  
17          Insurance Program established under title XXI of  
18          the Social Security Act (42 U.S.C. 1397aa et seq.);

19          (9) the term “task force” means the task force  
20          established under subsection (b)(1); and

21          (10) the term “women’s business center” means  
22          a women’s business center described in section 29 of  
23          the Small Business Act (15 U.S.C. 656).

24          (b) ESTABLISHMENT OF TASK FORCE.—

1           (1) ESTABLISHMENT.—There is established a  
2 task force to conduct a nationwide campaign of edu-  
3 cation and outreach for small business concerns re-  
4 garding the availability of coverage for children  
5 through private insurance options, the Medicaid pro-  
6 gram, and the State Children’s Health Insurance  
7 Program.

8           (2) MEMBERSHIP.—The task force shall consist  
9 of the Administrator, the Secretary of Health and  
10 Human Services, the Secretary of Labor, and the  
11 Secretary of the Treasury.

12           (3) RESPONSIBILITIES.—The campaign con-  
13 ducted under this subsection shall include—

14                   (A) efforts to educate the owners of small  
15 business concerns about the value of health cov-  
16 erage for children;

17                   (B) information regarding options available  
18 to the owners and employees of small business  
19 concerns to make insurance more affordable, in-  
20 cluding Federal and State tax deductions and  
21 credits for health care-related expenses and  
22 health insurance expenses and Federal tax ex-  
23 clusion for health insurance options available  
24 under employer-sponsored cafeteria plans under

1 section 125 of the Internal Revenue Code of  
2 1986;

3 (C) efforts to educate the owners of small  
4 business concerns about assistance available  
5 through public programs; and

6 (D) efforts to educate the owners and em-  
7 ployees of small business concerns regarding  
8 the availability of the hotline operated as part  
9 of the Insure Kids Now program of the Depart-  
10 ment of Health and Human Services.

11 (4) IMPLEMENTATION.—In carrying out this  
12 subsection, the task force may—

13 (A) use any business partner of the Ad-  
14 ministration, including—

15 (i) a small business development cen-  
16 ter;

17 (ii) a certified development company;

18 (iii) a women’s business center; and

19 (iv) the Service Corps of Retired Ex-  
20 ecutives;

21 (B) enter into—

22 (i) a memorandum of understanding  
23 with a chamber of commerce; and

1                   (ii) a partnership with any appro-  
2                   priate small business concern or health ad-  
3                   vocacy group; and

4                   (C) designate outreach programs at re-  
5                   gional offices of the Department of Health and  
6                   Human Services to work with district offices of  
7                   the Administration.

8                   (5) WEBSITE.—The Administrator shall ensure  
9                   that links to information on the eligibility and enroll-  
10                  ment requirements for the Medicaid program and  
11                  State Children’s Health Insurance Program of each  
12                  State are prominently displayed on the website of  
13                  the Administration.

14                  (6) REPORT.—

15                  (A) IN GENERAL.—Not later than 2 years  
16                  after the date of enactment of this Act, and  
17                  every 2 years thereafter, the Administrator  
18                  shall submit to the Committee on Small Busi-  
19                  ness and Entrepreneurship of the Senate and  
20                  the Committee on Small Business of the House  
21                  of Representatives a report on the status of the  
22                  nationwide campaign conducted under para-  
23                  graph (1).

24                  (B) CONTENTS.—Each report submitted  
25                  under subparagraph (A) shall include a status



1 update on all efforts made to educate owners  
2 and employees of small business concerns on  
3 options for providing health insurance for chil-  
4 dren through public and private alternatives.

5 **SEC. 622. SENSE OF THE SENATE REGARDING ACCESS TO**  
6 **AFFORDABLE AND MEANINGFUL HEALTH IN-**  
7 **SURANCE COVERAGE.**

8 (a) FINDINGS.—The Senate finds the following:

9 (1) There are approximately 45 million Ameri-  
10 cans currently without health insurance.

11 (2) More than half of uninsured workers are  
12 employed by businesses with less than 25 employees  
13 or are self-employed.

14 (3) Health insurance premiums continue to rise  
15 at more than twice the rate of inflation for all con-  
16 sumer goods.

17 (4) Individuals in the small group and indi-  
18 vidual health insurance markets usually pay more  
19 for similar coverage than those in the large group  
20 market.

21 (5) The rapid growth in health insurance costs  
22 over the last few years has forced many employers,  
23 particularly small employers, to increase deductibles  
24 and co-pays or to drop coverage completely.

25 (b) SENSE OF THE SENATE.—The Senate—

1           (1) recognizes the necessity to improve afford-  
2           ability and access to health insurance for all Ameri-  
3           cans;

4           (2) acknowledges the value of building upon the  
5           existing private health insurance market; and

6           (3) affirms its intent to enact legislation this  
7           year that, with appropriate protection for con-  
8           sumers, improves access to affordable and meaning-  
9           ful health insurance coverage for employees of small  
10          businesses and individuals by—

11                   (A) facilitating pooling mechanisms, in-  
12                   cluding pooling across State lines, and

13                   (B) providing assistance to small busi-  
14                   nesses and individuals, including financial as-  
15                   sistance and tax incentives, for the purchase of  
16                   private insurance coverage.

17 **SEC. 623. LIMITATION ON MEDICARE EXCEPTION TO THE**  
18 **PROHIBITION ON CERTAIN PHYSICIAN RE-**  
19 **FERRALS FOR HOSPITALS.**

20           (a) IN GENERAL.—Section 1877 (42 U.S.C. 1395nn)  
21 is amended—

22                   (1) in subsection (d)(2)—

23                           (A) in subparagraph (A), by striking  
24                           “and” at the end;

1 (B) in subparagraph (B), by striking the  
2 period at the end and inserting “; and”; and

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

5 “(C) in the case where the entity is a hos-  
6 pital, the hospital meets the requirements of  
7 paragraph (3)(D).”;

8 (2) in subsection (d)(3)—

9 (A) in subparagraph (B), by striking  
10 “and” at the end;

11 (B) in subparagraph (C), by striking the  
12 period at the end and inserting “; and”; and

13 (C) by adding at the end the following new  
14 subparagraph:

15 “(D) the hospital meets the requirements  
16 described in subsection (i)(1).”; and

17 (3) by adding at the end the following new sub-  
18 section:

19 “(i) REQUIREMENTS FOR HOSPITALS TO QUALIFY  
20 FOR RURAL PROVIDER AND HOSPITAL EXCEPTION TO  
21 OWNERSHIP OR INVESTMENT PROHIBITION.—

22 “(1) REQUIREMENTS DESCRIBED.—For pur-  
23 poses of subsection (d)(3)(D), the requirements de-  
24 scribed in this paragraph for a hospital are as fol-  
25 lows:

1           “(A) PROVIDER AGREEMENT.—The hos-  
2           pital had—

3                   “(i) physician ownership or invest-  
4                   ment on January 1, 2009; and

5                   “(ii) a provider agreement under sec-  
6                   tion 1866 in effect on such date.

7           “(B) PROHIBITION ON PHYSICIAN OWNER-  
8           SHIP OR INVESTMENT.—The percentage of the  
9           total value of the ownership or investment in-  
10          terests held in the hospital, or in an entity  
11          whose assets include the hospital, by physician  
12          owners or investors in the aggregate does not  
13          exceed such percentage as of the date of enact-  
14          ment of this subsection.

15          “(C) PROHIBITION ON EXPANSION OF FA-  
16          CILITY CAPACITY.—Except as provided in para-  
17          graph (3), the number of operating rooms, pro-  
18          cedure rooms, and beds of the hospital at any  
19          time on or after the date of the enactment of  
20          this subsection are no greater than the number  
21          of operating rooms, procedure rooms, and beds  
22          as of such date.

23          “(D) PREVENTING CONFLICTS OF INTER-  
24          EST.—

1           “(i) The hospital submits to the Sec-  
2           retary an annual report containing a de-  
3           tailed description of—

4                   “(I) the identity of each physi-  
5                   cian owner and physician investor and  
6                   any other owners or investors of the  
7                   hospital; and

8                   “(II) the nature and extent of all  
9                   ownership and investment interests in  
10                  the hospital.

11           “(ii) The hospital has procedures in  
12           place to require that any referring physi-  
13           cian owner or investor discloses to the pa-  
14           tient being referred, by a time that permits  
15           the patient to make a meaningful decision  
16           regarding the receipt of care, as deter-  
17           mined by the Secretary—

18                   “(I) the ownership or investment  
19                   interest, as applicable, of such refer-  
20                   ring physician in the hospital; and

21                   “(II) if applicable, any such own-  
22                   ership or investment interest of the  
23                   treating physician.

24           “(iii) The hospital does not condition  
25           any physician ownership or investment in-

1           terests either directly or indirectly on the  
2           physician owner or investor making or in-  
3           fluencing referrals to the hospital or other-  
4           wise generating business for the hospital.

5           “(iv) The hospital discloses the fact  
6           that the hospital is partially owned by phy-  
7           sicians—

8                   “(I) on any public website for the  
9                   hospital; and

10                   “(II) in any public advertising  
11                   for the hospital.

12           “(E) ENSURING BONA FIDE OWNERSHIP  
13           AND INVESTMENT.—

14           “(i) Any ownership or investment in-  
15           terests that the hospital offers to a physi-  
16           cian owner or investor are not offered on  
17           more favorable terms than the terms of-  
18           fered to a person who is not a physician  
19           owner or investor.

20           “(ii) The hospital (or any investors in  
21           the hospital) does not directly or indirectly  
22           provide loans or financing for any physi-  
23           cian owner or investor in the hospital.

24           “(iii) The hospital (or any investors in  
25           the hospital) does not directly or indirectly

1           guarantee a loan, make a payment toward  
2           a loan, or otherwise subsidize a loan, for  
3           any individual physician owner or investor  
4           or group of physician owners or investors  
5           that is related to acquiring any ownership  
6           or investment interest in the hospital.

7           “(iv) Ownership or investment returns  
8           are distributed to each owner or investor in  
9           the hospital in an amount that is directly  
10          proportional to the ownership or invest-  
11          ment interest of such owner or investor in  
12          the hospital.

13          “(v) Physician owners and investors  
14          do not receive, directly or indirectly, any  
15          guaranteed receipt of or right to purchase  
16          other business interests related to the hos-  
17          pital, including the purchase or lease of  
18          any property under the control of other  
19          owners or investors in the hospital or lo-  
20          cated near the premises of the hospital.

21          “(vi) The hospital does not offer a  
22          physician owner or investor the oppor-  
23          tunity to purchase or lease any property  
24          under the control of the hospital or any  
25          other owner or investor in the hospital on

1 more favorable terms than the terms of-  
2 ferred to an individual who is not a physi-  
3 cian owner or investor.

4 “(F) PATIENT SAFETY.—The hospital has  
5 the capacity to—

6 “(i) provide assessment and initial  
7 treatment for patients; and

8 “(ii) refer and transfer patients to  
9 hospitals with the capability to treat the  
10 needs of the patient involved.

11 “(G) LIMITATION ON APPLICATION TO  
12 CERTAIN CONVERTED FACILITIES.—The hos-  
13 pital was not converted from an ambulatory  
14 surgical center to a hospital on or after the date  
15 of enactment of this subsection.

16 “(2) PUBLICATION OF INFORMATION RE-  
17 PORTED.—The Secretary shall publish, and update  
18 on an annual basis, the information submitted by  
19 hospitals under paragraph (1)(D)(i) on the public  
20 Internet website of the Centers for Medicare & Med-  
21 icaid Services.

22 “(3) EXCEPTION TO PROHIBITION ON EXPAN-  
23 SION OF FACILITY CAPACITY.—

24 “(A) PROCESS.—



1           “(i) ESTABLISHMENT.—The Secretary  
2           shall establish and implement a process  
3           under which an applicable hospital (as de-  
4           fined in subparagraph (E)) may apply for  
5           an exception from the requirement under  
6           paragraph (1)(C).

7           “(ii) OPPORTUNITY FOR COMMUNITY  
8           INPUT.—The process under clause (i) shall  
9           provide individuals and entities in the com-  
10          munity in which the applicable hospital ap-  
11          plying for an exception is located with the  
12          opportunity to provide input with respect  
13          to the application.

14          “(iii) TIMING FOR IMPLEMENTA-  
15          TION.—The Secretary shall implement the  
16          process under clause (i) on July 1, 2010.

17          “(iv) REGULATIONS.—Not later than  
18          June 1, 2010, the Secretary shall promul-  
19          gate regulations to carry out the process  
20          under clause (i).

21          “(B) FREQUENCY.—The process described  
22          in subparagraph (A) shall permit an applicable  
23          hospital to apply for an exception up to once  
24          every 2 years.

25          “(C) PERMITTED INCREASE.—

1           “(i) IN GENERAL.—Subject to clause  
2           (ii) and subparagraph (D), an applicable  
3           hospital granted an exception under the  
4           process described in subparagraph (A) may  
5           increase the number of operating rooms,  
6           procedure rooms, and beds of the applica-  
7           ble hospital above the baseline number of  
8           operating rooms, procedure rooms, and  
9           beds of the applicable hospital (or, if the  
10          applicable hospital has been granted a pre-  
11          vious exception under this paragraph,  
12          above the number of operating rooms, pro-  
13          cedure rooms, and beds of the hospital  
14          after the application of the most recent in-  
15          crease under such an exception).

16          “(ii) 100 PERCENT INCREASE LIMITA-  
17          TION.—The Secretary shall not permit an  
18          increase in the number of operating rooms,  
19          procedure rooms, and beds of an applicable  
20          hospital under clause (i) to the extent such  
21          increase would result in the number of op-  
22          erating rooms, procedure rooms, and beds  
23          of the applicable hospital exceeding 200  
24          percent of the baseline number of oper-

1           ating rooms, procedure rooms, and beds of  
2           the applicable hospital.

3           “(iii) BASELINE NUMBER OF OPER-  
4           ATING ROOMS, PROCEDURE ROOMS, AND  
5           BEDS.—In this paragraph, the term ‘base-  
6           line number of operating rooms, procedure  
7           rooms, and beds’ means the number of op-  
8           erating rooms, procedure rooms, and beds  
9           of the applicable hospital as of the date of  
10          enactment of this subsection.

11          “(D) INCREASE LIMITED TO FACILITIES  
12          ON THE MAIN CAMPUS OF THE HOSPITAL.—  
13          Any increase in the number of operating rooms,  
14          procedure rooms, and beds of an applicable hos-  
15          pital pursuant to this paragraph may only occur  
16          in facilities on the main campus of the applica-  
17          ble hospital.

18          “(E) APPLICABLE HOSPITAL.—In this  
19          paragraph, the term ‘applicable hospital’ means  
20          a hospital—

21                 “(i) that is located in a county in  
22                 which the percentage increase in the popu-  
23                 lation during the most recent 5-year period  
24                 (as of the date of the application under  
25                 subparagraph (A)) is at least 150 percent

1 of the percentage increase in the popu-  
2 lation growth of the State in which the  
3 hospital is located during that period, as  
4 estimated by Bureau of the Census and  
5 available to the Secretary;

6 “(ii) whose annual percent of total in-  
7 patient admissions that represent inpatient  
8 admissions under the program under title  
9 XIX is equal to or greater than the aver-  
10 age percent with respect to such admis-  
11 sions for all hospitals located in the county  
12 in which the hospital is located;

13 “(iii) that does not discriminate  
14 against beneficiaries of Federal health care  
15 programs and does not permit physicians  
16 practicing at the hospital to discriminate  
17 against such beneficiaries;

18 “(iv) that is located in a State in  
19 which the average bed capacity in the  
20 State is less than the national average bed  
21 capacity; and

22 “(v) that has an average bed occu-  
23 pancy rate that is greater than the average  
24 bed occupancy rate in the State in which  
25 the hospital is located.

1           “(F) PROCEDURE ROOMS.—In this sub-  
2 section, the term ‘procedure rooms’ includes  
3 rooms in which catheterizations, angiographies,  
4 angiograms, and endoscopies are performed, ex-  
5 cept such term shall not include emergency  
6 rooms or departments (exclusive of rooms in  
7 which catheterizations, angiographies,  
8 angiograms, and endoscopies are performed).

9           “(G) PUBLICATION OF FINAL DECISIONS.—Not later than 60 days after receiving  
10 a complete application under this paragraph,  
11 the Secretary shall publish in the Federal Reg-  
12 ister the final decision with respect to such ap-  
13 plication.  
14

15           “(H) LIMITATION ON REVIEW.—There  
16 shall be no administrative or judicial review  
17 under section 1869, section 1878, or otherwise  
18 of the process under this paragraph (including  
19 the establishment of such process).

20           “(4) COLLECTION OF OWNERSHIP AND INVEST-  
21 MENT INFORMATION.—For purposes of subpara-  
22 graphs (A)(i) and (B) of paragraph (1), the Sec-  
23 retary shall collect physician ownership and invest-  
24 ment information for each hospital.

1           “(5) PHYSICIAN OWNER OR INVESTOR DE-  
2           FINED.—For purposes of this subsection, the term  
3           ‘physician owner or investor’ means a physician (or  
4           an immediate family member of such physician) with  
5           a direct or an indirect ownership or investment in-  
6           terest in the hospital.

7           “(6) PATIENT SAFETY REQUIREMENT.—In the  
8           case of a hospital to which the requirements of para-  
9           graph (1) apply, insofar as the hospital described in  
10          this subsection admits a patient and does not have  
11          any physician available on the premises to provide  
12          services during all hours in which the hospital is  
13          providing services to such patient, before admitting  
14          the patient—

15                 “(A) the hospital shall disclose such fact to  
16                 a patient; and

17                 “(B) following such disclosure, the hospital  
18                 shall receive from the patient a signed acknowl-  
19                 edgment that the patient understands such fact.

20          “(7) CLARIFICATION.—Nothing in this sub-  
21          section shall be construed as preventing the Sec-  
22          retary from revoking a hospital’s provider agreement  
23          if not in compliance with regulations implementing  
24          section 1866.”.

25          (b) ENFORCEMENT.—

1           (1) ENSURING COMPLIANCE.—The Secretary of  
 2           Health and Human Services shall establish policies  
 3           and procedures to ensure compliance with the re-  
 4           quirements described in subsections (i)(1) and (i)(7)  
 5           of section 1877 of the Social Security Act, as added  
 6           by subsection (a)(3), beginning on the date such re-  
 7           quirements first apply. Such policies and procedures  
 8           may include unannounced site reviews of hospitals.

9           (2) AUDITS.—Beginning not later than July 1,  
 10          2011, the Secretary of Health and Human Services  
 11          shall conduct audits to determine if hospitals violate  
 12          the requirements referred to in paragraph (1).

13                                   **TITLE VII—REVENUE**  
 14                                   **PROVISIONS**

15   **SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO**  
 16                                   **PRODUCTS.**

17          (a) CIGARS.—

18           (1) SMALL CIGARS.—Paragraph (1) of section  
 19          5701(a) of the Internal Revenue Code of 1986 is  
 20          amended to read as follows:

21           “(1) SMALL CIGARS.—On cigars, weighing not  
 22          more than 3 pounds per thousand, the amount de-  
 23          termined in accordance with the following table:

“Cigars Removed During Calendar Year—	Tax Rate Per Thou- sand—
2009 or 2010 .....	\$12.50

“Cigars Removed During Calendar Year—	Tax Rate Per Thou- sand—
2011 or 2012 .....	\$25.00
2013 or 2014 .....	\$37.50
2015 or thereafter .....	\$50.00.”.

1           (2) LARGE CIGARS.—Paragraph (2) of section  
2           5701(a) of such Code is amended—

3                   (A) by striking “20.719 percent (18.063  
4                   percent on cigars removed during 2000 or  
5                   2001)” and inserting “52.4 percent”, and

6                   (B) by striking “\$48.75 per thousand  
7                   (\$42.50 per thousand on cigars removed during  
8                   2000 or 2001)” and inserting “40 cents per  
9                   cigar”.

10          (b) CIGARETTES.—Section 5701(b) of such Code is  
11          amended—

12                   (1) by striking “\$19.50 per thousand (\$17 per  
13                   thousand on cigarettes removed during 2000 or  
14                   2001)” in paragraph (1) and inserting “\$50.00 per  
15                   thousand”, and

16                   (2) by striking “\$40.95 per thousand (\$35.70  
17                   per thousand on cigarettes removed during 2000 or  
18                   2001)” in paragraph (2) and inserting “\$105.00 per  
19                   thousand”.

20          (c) CIGARETTE PAPERS.—Section 5701(c) of such  
21          Code is amended by striking “1.22 cents (1.06 cents on



1 cigarette papers removed during 2000 or 2001)” and in-  
2 serting “3.13 cents”.

3 (d) CIGARETTE TUBES.—Section 5701(d) of such  
4 Code is amended by striking “2.44 cents (2.13 cents on  
5 cigarette tubes removed during 2000 or 2001)” and in-  
6 serting “6.26 cents”.

7 (e) SMOKELESS TOBACCO.—Section 5701(e) of such  
8 Code is amended—

9 (1) by striking “58.5 cents (51 cents on snuff  
10 removed during 2000 or 2001)” in paragraph (1)  
11 and inserting “\$1.50”, and

12 (2) by striking “19.5 cents (17 cents on chew-  
13 ing tobacco removed during 2000 or 2001)” in para-  
14 graph (2) and inserting “50 cents”.

15 (f) PIPE TOBACCO.—Section 5701(f) of such Code is  
16 amended by striking “\$1.0969 cents (95.67 cents on pipe  
17 tobacco removed during 2000 or 2001)” and inserting  
18 “\$2.8126”.

19 (g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of  
20 such Code is amended by striking “\$1.0969 cents (95.67  
21 cents on roll-your-own tobacco removed during 2000 or  
22 2001)” and inserting “\$24.62”.

23 (h) FLOOR STOCKS TAXES.—

24 (1) IMPOSITION OF TAX.—On tobacco products  
25 (other than cigars described in section 5701(a)(2) of

1 the Internal Revenue Code of 1986) and cigarette  
2 papers and tubes manufactured in or imported into  
3 the United States which are removed before any tax  
4 increase date and held on such date for sale by any  
5 person, there is hereby imposed a tax in an amount  
6 equal to the excess of—

7 (A) the tax which would be imposed under  
8 section 5701 of such Code on the article if the  
9 article had been removed on such date, over

10 (B) the prior tax (if any) imposed under  
11 section 5701 of such Code on such article.

12 (2) CREDIT AGAINST TAX.—Each person shall  
13 be allowed as a credit against the taxes imposed by  
14 paragraph (1) an amount equal to \$500. Such credit  
15 shall not exceed the amount of taxes imposed by  
16 paragraph (1) on such date, for which such person  
17 is liable.

18 (3) LIABILITY FOR TAX AND METHOD OF PAY-  
19 MENT.—

20 (A) LIABILITY FOR TAX.—A person hold-  
21 ing tobacco products, cigarette papers, or ciga-  
22 rette tubes on any tax increase date, to which  
23 any tax imposed by paragraph (1) applies shall  
24 be liable for such tax.

1 (B) METHOD OF PAYMENT.—The tax im-  
2 posed by paragraph (1) shall be paid in such  
3 manner as the Secretary shall prescribe by reg-  
4 ulations.

5 (C) TIME FOR PAYMENT.—

6 (i) IN GENERAL.—The tax imposed by  
7 paragraph (1) shall be paid on or before  
8 August 1, 2009.

9 (ii) SPECIAL RULE FOR SMALL CI-  
10 GARS.—In the case of small cigars, the tax  
11 imposed by paragraph (1) on or after Jan-  
12 uary 1, 2011, shall be paid on or before  
13 April 1 following any tax increase date.

14 (4) ARTICLES IN FOREIGN TRADE ZONES.—

15 Notwithstanding the Act of June 18, 1934 (com-  
16 monly known as the Foreign Trade Zone Act, 48  
17 Stat. 998, 19 U.S.C. 81a et seq.) or any other provi-  
18 sion of law, any article which is located in a foreign  
19 trade zone on any tax increase date shall be subject  
20 to the tax imposed by paragraph (1) if—

21 (A) internal revenue taxes have been deter-  
22 mined, or customs duties liquidated, with re-  
23 spect to such article before such date pursuant  
24 to a request made under the 1st proviso of sec-  
25 tion 3(a) of such Act, or

1 (B) such article is held on such date under  
2 the supervision of an officer of the United  
3 States Customs and Border Protection of the  
4 Department of Homeland Security pursuant to  
5 the 2d proviso of such section 3(a).

6 (5) DEFINITIONS.—For purposes of this sub-  
7 section—

8 (A) IN GENERAL.—Any term used in this  
9 subsection which is also used in section 5702 of  
10 the Internal Revenue Code of 1986 shall have  
11 the same meaning as such term has in such  
12 section.

13 (B) TAX INCREASE DATE.—The term “tax  
14 increase date” means April 1, 2009, January 1,  
15 2011, January 1, 2013, and January 1, 2015.

16 (C) SECRETARY.—The term “Secretary”  
17 means the Secretary of the Treasury or the  
18 Secretary’s delegate.

19 (6) CONTROLLED GROUPS.—Rules similar to  
20 the rules of section 5061(e)(3) of such Code shall  
21 apply for purposes of this subsection.

22 (7) OTHER LAWS APPLICABLE.—All provisions  
23 of law, including penalties, applicable with respect to  
24 the taxes imposed by section 5701 of such Code  
25 shall, insofar as applicable and not inconsistent with

1 the provisions of this subsection, apply to the floor  
2 stocks taxes imposed by paragraph (1), to the same  
3 extent as if such taxes were imposed by such section  
4 5701. The Secretary may treat any person who bore  
5 the ultimate burden of the tax imposed by para-  
6 graph (1) as the person to whom a credit or refund  
7 under such provisions may be allowed or made.

8 (i) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to articles removed (as defined in  
10 section 5702(j) of the Internal Revenue Code of 1986)  
11 after March 31, 2009.

12 **SEC. 702. ADMINISTRATIVE IMPROVEMENTS.**

13 (a) PERMIT, INVENTORIES, REPORTS, AND RECORDS  
14 REQUIREMENTS FOR MANUFACTURERS AND IMPORTERS  
15 OF PROCESSED TOBACCO.—

16 (1) PERMIT.—

17 (A) APPLICATION.—Section 5712 of the  
18 Internal Revenue Code of 1986 is amended by  
19 inserting “or processed tobacco” after “tobacco  
20 products”.

21 (B) ISSUANCE.—Section 5713(a) of such  
22 Code is amended by inserting “or processed to-  
23 bacco” after “tobacco products”.

24 (2) INVENTORIES, REPORTS, AND PACKAGES.—

1 (A) INVENTORIES.—Section 5721 of such  
2 Code is amended by inserting “, processed to-  
3 bacco,” after “tobacco products”.

4 (B) REPORTS.—Section 5722 of such Code  
5 is amended by inserting “, processed tobacco,”  
6 after “tobacco products”.

7 (C) PACKAGES, MARKS, LABELS, AND NO-  
8 TICES.—Section 5723 of such Code is amended  
9 by inserting “, processed tobacco,” after “to-  
10 bacco products” each place it appears.

11 (3) RECORDS.—Section 5741 of such Code is  
12 amended by inserting “, processed tobacco,” after  
13 “tobacco products”.

14 (4) MANUFACTURER OF PROCESSED TO-  
15 BACCO.—Section 5702 of such Code is amended by  
16 adding at the end the following new subsection:

17 “(p) MANUFACTURER OF PROCESSED TOBACCO.—

18 “(1) IN GENERAL.—The term ‘manufacturer of  
19 processed tobacco’ means any person who processes  
20 any tobacco other than tobacco products.

21 “(2) PROCESSED TOBACCO.—The processing of  
22 tobacco shall not include the farming or growing of  
23 tobacco or the handling of tobacco solely for sale,  
24 shipment, or delivery to a manufacturer of tobacco  
25 products or processed tobacco.”.

1           (5) CONFORMING AMENDMENT.—Sections  
2           5702(j), 5702(k), and 5704(h) of such Code is  
3           amended by inserting “, or any processed tobacco,”  
4           after “nontaxpaid tobacco products or cigarette pa-  
5           pers or tubes”.

6           (6) EFFECTIVE DATE.—The amendments made  
7           by this subsection shall take effect on April 1, 2009.

8           (b) BASIS FOR DENIAL, SUSPENSION, OR REVOCAC-  
9           TION OF PERMITS.—

10           (1) DENIAL.—Paragraph (3) of section 5712 of  
11           such Code is amended to read as follows:

12           “(3) such person (including, in the case of a  
13           corporation, any officer, director, or principal stock-  
14           holder and, in the case of a partnership, a part-  
15           ner)—

16           “(A) is, by reason of his business experi-  
17           ence, financial standing, or trade connections or  
18           by reason of previous or current legal pro-  
19           ceedings involving a felony violation of any  
20           other provision of Federal criminal law relating  
21           to tobacco products, processed tobacco, ciga-  
22           rette paper, or cigarette tubes, not likely to  
23           maintain operations in compliance with this  
24           chapter,

1           “(B) has been convicted of a felony viola-  
2           tion of any provision of Federal or State crimi-  
3           nal law relating to tobacco products, processed  
4           tobacco, cigarette paper, or cigarette tubes, or

5           “(C) has failed to disclose any material in-  
6           formation required or made any material false  
7           statement in the application therefor.”.

8           (2) SUSPENSION OR REVOCATION.—Subsection  
9           (b) of section 5713 of such Code is amended to read  
10          as follows:

11          “(b) SUSPENSION OR REVOCATION.—

12           “(1) SHOW CAUSE HEARING.—If the Secretary  
13           has reason to believe that any person holding a per-  
14           mit—

15           “(A) has not in good faith complied with  
16           this chapter, or with any other provision of this  
17           title involving intent to defraud,

18           “(B) has violated the conditions of such  
19           permit,

20           “(C) has failed to disclose any material in-  
21           formation required or made any material false  
22           statement in the application for such permit,

23           “(D) has failed to maintain his premises in  
24           such manner as to protect the revenue,



1           “(E) is, by reason of previous or current  
2           legal proceedings involving a felony violation of  
3           any other provision of Federal criminal law re-  
4           lating to tobacco products, processed tobacco,  
5           cigarette paper, or cigarette tubes, not likely to  
6           maintain operations in compliance with this  
7           chapter, or

8           “(F) has been convicted of a felony viola-  
9           tion of any provision of Federal or State crimi-  
10          nal law relating to tobacco products, processed  
11          tobacco, cigarette paper, or cigarette tubes,  
12          the Secretary shall issue an order, stating the facts  
13          charged, citing such person to show cause why his  
14          permit should not be suspended or revoked.

15          “(2) ACTION FOLLOWING HEARING.—If, after  
16          hearing, the Secretary finds that such person has  
17          not shown cause why his permit should not be sus-  
18          pended or revoked, such permit shall be suspended  
19          for such period as the Secretary deems proper or  
20          shall be revoked.”.

21          “(3) EFFECTIVE DATE.—The amendments made  
22          by this subsection shall take effect on the date of the  
23          enactment of this Act.

1 (c) APPLICATION OF INTERNAL REVENUE CODE  
2 STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO  
3 EXCISE TAXES.—

4 (1) IN GENERAL.—Section 514(a) of the Tariff  
5 Act of 1930 (19 U.S.C. 1514(a)) is amended by  
6 striking “and section 520 (relating to refunds)” and  
7 inserting “section 520 (relating to refunds), and sec-  
8 tion 6501 of the Internal Revenue Code of 1986  
9 (but only with respect to taxes imposed under chap-  
10 ters 51 and 52 of such Code)”.

11 (2) EFFECTIVE DATE.—The amendment made  
12 by this subsection shall apply to articles imported  
13 after the date of the enactment of this Act.

14 (d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN  
15 TOBACCO.—

16 (1) IN GENERAL.—Section 5702(o) of the In-  
17 ternal Revenue Code of 1986 is amended by insert-  
18 ing “or cigars, or for use as wrappers thereof” be-  
19 fore the period at the end.

20 (2) EFFECTIVE DATE.—The amendment made  
21 by this subsection shall apply to articles removed (as  
22 defined in section 5702(j) of the Internal Revenue  
23 Code of 1986) after March 31, 2009.

24 (e) TIME OF TAX FOR UNLAWFULLY MANUFAC-  
25 TURED TOBACCO PRODUCTS.—

1           (1) IN GENERAL.—Section 5703(b)(2) of such  
2 Code is amended by adding at the end the following  
3 new subparagraph:

4           “(F) SPECIAL RULE FOR UNLAWFULLY  
5 MANUFACTURED TOBACCO PRODUCTS.—In the  
6 case of any tobacco products, cigarette paper,  
7 or cigarette tubes manufactured in the United  
8 States at any place other than the premises of  
9 a manufacturer of tobacco products, cigarette  
10 paper, or cigarette tubes that has filed the bond  
11 and obtained the permit required under this  
12 chapter, tax shall be due and payable imme-  
13 diately upon manufacture.”.

14           (2) EFFECTIVE DATE.—The amendment made  
15 by this subsection shall take effect on the date of the  
16 enactment of this Act.

17 (f) DISCLOSURE.—

18           (1) IN GENERAL.—Paragraph (1) of section  
19 6103(o) of such Code is amended by designating the  
20 text as subparagraph (A), moving such text 2 ems  
21 to the right, striking “Returns” and inserting “(A)  
22 IN GENERAL.—Returns”, and by inserting after sub-  
23 paragraph (A) (as so redesignated) the following  
24 new subparagraph:

1           “(B) USE IN CERTAIN PROCEEDINGS.—Re-  
2           turns and return information disclosed to a  
3           Federal agency under subparagraph (A) may be  
4           used in an action or proceeding (or in prepara-  
5           tion for such action or proceeding) brought  
6           under section 625 of the American Jobs Cre-  
7           ation Act of 2004 for the collection of any un-  
8           paid assessment or penalty arising under such  
9           Act.”.

10           (2) CONFORMING AMENDMENT.—Section  
11           6103(p)(4) of such Code is amended by striking  
12           “(o)(1)” both places it appears and inserting  
13           “(o)(1)(A)”.

14           (3) EFFECTIVE DATE.—The amendments made  
15           by this subsection shall apply on or after the date  
16           of the enactment of this Act.

17           (g) TRANSITIONAL RULE.—Any person who—

18           (1) on April 1 is engaged in business as a man-  
19           ufacturer of processed tobacco or as an importer of  
20           processed tobacco, and

21           (2) before the end of the 90-day period begin-  
22           ning on such date, submits an application under  
23           subchapter B of chapter 52 of such Code to engage  
24           in such business, may, notwithstanding such sub-  
25           chapter B, continue to engage in such business

1 pending final action on such application. Pending  
2 such final action, all provisions of such chapter 52  
3 shall apply to such applicant in the same manner  
4 and to the same extent as if such applicant were a  
5 holder of a permit under such chapter 52 to engage  
6 in such business.

7 **SEC. 703. TREASURY STUDY CONCERNING MAGNITUDE OF**  
8 **TOBACCO SMUGGLING IN THE UNITED**  
9 **STATES.**

10 Not later than one year after the date of the enact-  
11 ment of this Act, the Secretary of the Treasury shall con-  
12 duct a study concerning the magnitude of tobacco smug-  
13 gling in the United States and submit to Congress rec-  
14 ommendations for the most effective steps to reduce to-  
15 bacco smuggling. Such study shall also include a review  
16 of the loss of Federal tax receipts due to illicit tobacco  
17 trade in the United States and the role of imported to-  
18 bacco products in the illicit tobacco trade in the United  
19 States.

20 **SEC. 704. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
21 **TAXES.**

22 The percentage under subparagraph (C) of section  
23 401(1) of the Tax Increase Prevention and Reconciliation

- 1 Act of 2005 in effect on the date of the enactment of this
- 2 Act is increased by 1 percentage point.

Passed the House of Representatives January 14,  
2009.

Attest:                   LORRAINE C. MILLER,  
*Clerk.*



**Calendar No. 18**

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2**

**AN ACT**

To amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

JANUARY 16, 2009

Read twice and placed on the calendar